

## **EXHIBIT D**

(Transcript of May 20, 2024 Hearing before the  
Jamestown Board of Water and Sewer Commissioners)

STATE OF RHODE ISLAND  
TOWN OF JAMESTOWN

PROCEEDINGS AT HEARING           \*  
IN RE:                                   \*  
  \*  
Town Council sitting as the\*  
Board of Water and Sewer       \*  
Commissioners                    \*

Jamestown Town Hall  
93 Narragansett Avenue  
Jamestown, RI 02835  
20 May 2024

BEFORE:  
Nancy A. Beye, President  
Mary E. Meagher  
Michael White  
Randall White

PRESENT:

For the Application - Saletins and Frechettes:  
Christian S. Infantolino, Esquire  
MURPHY PRIOR & INFANTOLINO  
77 Narragansett Avenue  
Jamestown, RI 02835

For the Application - Andreonis:  
Joelle C. Rocha, Esquire  
DUFFY & SWEENEY, LTD.  
321 South Main Street, Suite 400  
Providence, RI 02903

For the Town of Jamestown:  
Peter D. Ruggiero, Esquire  
RUGGIERO BROCHU & PETRARCA  
1130 Ten Road Road, Suite D102  
North Kingstown, RI 02852

ALSO PRESENT:

Edward A. Mello, Town Administrator  
Roberta J. Fagan, Town Clerk  
Denise Jennings, Water and Sewer Clerk

**IN RE: Town Council sitting as the Board of Water  
and Sewer Commissioners.**

**20 May 2024**

COUNCILOR BEYE: Good evening, everyone.  
Thank you for coming out this evening.

At this point in time I will take roll call.

COUNCILOR MICHAEL WHITE: Mike White here.

COUNCILOR MEAGHER: Mary Meagher here.

COUNCILOR BEYE: Nancy Beye here.

COUNCILOR RANDALL WHITE: Randall White.

COUNCILOR BRINE: Eric Brine.

COUNCILOR BEYE: Thank you.

Would you, please -- I'll call the meeting to  
order at this time.

And would you, please, stand and join me in  
the Pledge of Allegiance.

(Pledge of Allegiance recited.)

COUNCILOR MEAGHER: I move to enter in as  
the Board of Water and Sewer.

COUNCILOR MICHAEL WHITE: Second.

COUNCILOR BEYE: All in favor.

(Voice vote.)

COUNCILOR BEYE: Thank you.

Okay. Onto Unfinished Business. So, as you  
know, last meeting, we had a public hearing as well

1       for the four matters, the four applicants for  
2       water.

3               At this point in time, does anyone have any  
4       questions, or I'm assuming that everyone has  
5       finished their presentation. If not, please,  
6       correct me.

7               COUNCILOR BRINE: Before you do, I'm going  
8       to step down, because I'm going to recuse myself at  
9       this point.

10              COUNCILOR BEYE: Okay. Sure. No problem.

11              COUNCILOR BRINE: I'll be back.

12              THE COURT: Okay. Does anyone like to --  
13       are we finished? Okay.

14              Do any of the councilors, any of my fellow  
15       councilors have any questions?

16              COUNCILOR RANDALL WHITE: No.

17              COUNCILOR BEYE: Okay. And, Eric, you  
18       recused; is that correct?

19              COUNCILOR BRINE: Yes.

20              COUNCILOR BEYE: Okay.

21              All right. So, I will entertain a motion --

22              COUNCILOR MEAGHER: For discussion.

23              COUNCILOR BEYE: Discussion, yes. That's  
24       it.

25              COUNCILOR RANDALL WHITE: I have. I would

1       like to speak, if I may.

2               COUNCILOR BEYE:   Sure.   Into the mic.

3               COUNCILOR RANDALL WHITE:   Sure.

4               Good evening, everybody.   Now that all four  
5       applicants for extensions and connections to the  
6       public water system from Seaview Avenue presented  
7       their evidentiary support for the requests, and we  
8       have heard testimony from some of the applicants,  
9       from their experts and from separately Michael  
10      Gray, who has been responsible for the water  
11      district since 2011, we've now reached the  
12      deliberative process.   In the deliberative process,  
13      we, as the board of commissioners, must evaluate  
14      everything we heard, make findings of what the  
15      evidence has shown, apply the relevant legal  
16      authority, and determine whether to grant or deny  
17      each of the applicants' requests.

18              I have thought hard about this issue and these  
19      issues since we spent three sessions on this.   The  
20      first on April 22, May 6, and again tonight.   I  
21      made an outline of some of the thoughts that I have  
22      had about the matters before us, and I would like  
23      to share them with you and then open it for your  
24      consideration.

25              It's clear from the presentations that the

1 application under considerations are four, each of  
2 the residents live on Seaview Avenue, and they are  
3 the Saletins at No. 14, the Andreonis at No. 10,  
4 Stephen Zimniski and Suzanne Gagnon at No. 7, and  
5 Paul and Gail Frechette at No. 19.

6 During the course of our deliberations and  
7 discussions, ultimately, we will be obliged to  
8 entertain individually for its own merits each of  
9 these applications. It's clear, however, that  
10 there are some things, some facts and  
11 circumstances, that the four applicants share, and  
12 I think it's appropriate for us to discuss those at  
13 the same time.

14 As I said, all the applications are from  
15 Seaview Avenue. At present there are no water  
16 distribution lines anywhere on Seaview Avenue, nor  
17 have there ever been since the Jamestown Water  
18 District assumed responsibility for the public  
19 water system in Jamestown in 1968.

20 The distribution main that is closest to the  
21 Seaview Avenue homes is that outside of 36 East  
22 Shore Road where a hydrant sits and has sat for a  
23 number of years, including, I believe, back as far  
24 as as 1968 and before.

25 Pursuant to a litigation settlement agreement,

1 the distribution main that is now at 36 is expected  
2 to change, and at 68 East Shore Road, when the  
3 terms of the settlement agreement are finally  
4 realized. It should be pointed out that 36 and 68  
5 East Shore Road both lie south of Seaview Avenue.  
6 Each of the four applicants would require the  
7 board's approval to extend the water distribution  
8 line in the North Rural District of which Seaview  
9 Avenue is a part and thereafter connect to the  
10 water system.

11 Now, as an aside, I submit that there is a  
12 reasonable debate about whether or not the area to  
13 the north of the island above the Urban District to  
14 the north is part of a rural district or not. For  
15 the purposes of this discussion, I would propose to  
16 the applicants the benefit of the doubt and refer  
17 to the properties as being in the Rural District,  
18 in what I call the North Rural District.

19 Notably there is not now nor has there ever  
20 been since the creation of the Jamestown Water  
21 District in 1968 a distribution main not only north  
22 of 68 East Shore Road but in the entire Rural  
23 District in the north, which extends approximately  
24 4 miles north of 68 East Shore Road. That same  
25 four miles, from about Weeden Lane north on the

1 west side of the island, also only has one main,  
2 and that's the main that connects the north  
3 reservoir to the treatment plant, but no water  
4 customers are on the public system or in the north  
5 on the west side either, as well as the east side,  
6 including especially The Shores area of town.

7 So, the things that I submit that this board  
8 has to undertake and tackle, as we consider these  
9 applications, are what the relevant rules,  
10 regulations, laws and other guidance that we should  
11 use in order to render our decisions. We had the  
12 benefit of testimony from not only the applicants  
13 in situations but from experts on their behalf who  
14 attempted to establish, through testimony, the  
15 compliance of each of the applicants with the  
16 requirements of 46-15.2(b), Section 1 through 7.

17 For the purposes of the discussion tonight and  
18 the thoughts that I have had about this I would  
19 like to focus first on what I think are very  
20 significant aspects of the background, legal  
21 guidance that includes, at a minimum, the  
22 legislation that created the water district in the  
23 first place and the rules that have been adopted by  
24 our district as a way to transact business.

25 The legislation is a special legislation that



1        was enacted by the General Assembly in 1968. The  
2        Town of Jamestown had taken upon itself the idea  
3        that it would provide public water. It had before  
4        that been provided through a private company called  
5        "The Jamestown Water Company." So, the Jamestown  
6        Town went about to approach the legislature and ask  
7        for the authority to purchase the assets of that  
8        company and to thereafter provide water in the  
9        town. They did. And the legislation -- the  
10       legislature, I should say, authorized Jamestown to  
11       make the purchase of those assets and also  
12       empowered the Town to create a Jamestown Water  
13       District.

14                Of significance to this analysis is the fact  
15       that the water assets that Jamestown bought from  
16       the Jamestown Water Company consisted of  
17       essentially the North Reservoir as the main supply  
18       of public water and a grid, a system of pipes,  
19       distribution and main pipes, in the middle of the  
20       island. It's been called various things and was  
21       back then town, not meaning the entire town, but  
22       town as in downtown, the village area, and it has  
23       now, after the rules were adopted, become known as  
24       the Urban District.

25                The Urban District, generally speaking, is

1       that area that begins around Mackerel Cove and  
2       proceeds north to just before the Newport bridge on  
3       what is now the 138 connector road.

4             In approval of Jamestown's request to not only  
5       start up a water district but to make the purchase  
6       of the private company, it's very important to --  
7       in fact, critically important, to understand that  
8       when the authority was given Jamestown was given  
9       the authorization to provide water but not to the  
10      whole island. They were given the authority to  
11      provide water consistent with what the private  
12      water company had supplied, that is water in town  
13      in the Urban District, but were not otherwise  
14      mandated, required or obliged to provide water  
15      everywhere in town. The language of the  
16      authorizing act was something to the effect of to  
17      provide water to town or any part thereof.

18            It's important for us, as a board, to keep in  
19      mind that authorization and especially the fact  
20      that that authorization did not mandate provision  
21      of water everywhere in town. As I said, it  
22      discretionarily permitted us to do that as  
23      circumstances allowed, but didn't require it.

24            Now, the authorizing legislation that I  
25      referred to addressed specifically the concept of

1 the adoption of rules and regulations and the  
2 legislation expressly provided that the board, now  
3 us, could promulgate rules for the transaction of  
4 the water district's business. And we did that.  
5 As a matter of fact, by 2009, when the last  
6 amendment to the rules were made, there had been  
7 adopted a fairly comprehensive set of rules that  
8 guides this body about how it is that people apply  
9 for and receive approval for both connections to  
10 and extensions to the water system.

11 One of the things that I would like to focus  
12 next on, having established that we have the  
13 discretion but not the obligation to provide water  
14 outside of the Urban District, is what our roles  
15 and responsibilities are pursuant to the rules that  
16 we have adopted as a board. And those are set  
17 forth very, very plainly in the rules and  
18 regulations of this body.

19 At the very beginning of the preamble to the  
20 rules, the rules provide that it is the duty of the  
21 board, us, to preserve and protect this resource,  
22 meaning the resource of potable water, which it  
23 describes as a resource necessary for public health  
24 and safety. Our duty is to preserve and protect  
25 this resource and to ensure its wise and

1 responsible use.

2 That focus can't be overstated. There is a  
3 natural tendency in a situation, such as the one we  
4 face tonight, to suggest that there are people who  
5 are presenting declarations of need with respect to  
6 the -- what they suggest is the failure of their  
7 private wells, and there is a tendency on the part  
8 of a receiving public to say "Well, isn't it the  
9 responsibility to attempt to provide everybody with  
10 water, isn't that what is required?" The simple  
11 answer is no. It's harsh, but it's no. And the  
12 reason it's no is that the water district, as I  
13 have said, is one through the legislation that  
14 enacted it, provided us with the authority to  
15 provide the water but didn't mandate that we  
16 provide it throughout the island.

17 It is also part of the original legislation,  
18 which became an exhibit in this hearing, that the  
19 water authority is -- keeps its records and  
20 accounting separate from the Town, and it is the  
21 users of the water in the water district who pay  
22 for improvement to the system and have since the  
23 creation of the water district in 1968. Therefore,  
24 in addition to having the duty to preserve and  
25 protect the important resource of public potable

1 water, the board of commissioners also has the  
2 responsibility to the users of the current water to  
3 make sure that there is sufficient water available  
4 for the use of the current users.

5 Now, in the preamble to the rules and  
6 regulations, the board, in adopting them, provided  
7 graphic historical detail of the trials and  
8 tribulations we faced since the creation in 1968.

9 The first thing that they point out, and still  
10 in the preamble to the rules, is the fact that the  
11 people and the customers that are serviced in the  
12 town don't have other options. Given the geography  
13 and geology of Jamestown and the size of the lots  
14 in town, there simply isn't an opportunity that  
15 exists elsewhere on the island for people in town  
16 to dig their own wells and provide their own water.  
17 So, in addition to the obvious, the fact that we  
18 bought a water company that had a built-in manmade  
19 grid that serviced the Urban District of the town,  
20 it made complete sense that that district was the  
21 one upon which the commission has focused over the  
22 past 55 years because it is that district where our  
23 schools are, our business community is, our public  
24 services, and the largest concentration of  
25 residences in the town.

1           And because this area of the town of Jamestown  
2           has no practical alternative to the water,  
3           municipal water system, the focus, if not  
4           preference, for the provision of water has been to  
5           users on the original grid that we purchased.

6           Also informative for our discussion tonight is  
7           the fact that preamble and the rules that this body  
8           created pointed out what was likely obvious even at  
9           the time of the purchase that even though we were  
10          however many number of people smaller in population  
11          in 1968 and had less significant development  
12          throughout the island, we nonetheless were big  
13          enough that at first blush there presented a  
14          concern, a practical concern "Is that little puddle  
15          at the north end, the North Pond, going to be  
16          enough for all of us," and it turned out that as  
17          time passed there were times when it was clearly  
18          demonstrated that it might not be.

19          The rules and regulations have imbedded in  
20          them the reality that the municipal water system,  
21          by the time of their adoption in 2009, had a well  
22          established safe yield due to the limited watershed  
23          that we have in the town and that that safe yield  
24          was regularly exceeded during the summer months for  
25          many, many years. That's even by the time of 2009.

1 They also pointed out the historical reality of how  
2 the potable water or ability to provide it to  
3 customers have been seriously threatened from time  
4 to time, and imbedded again in the rules is  
5 reference to that often talked about situation that  
6 was elaborated on by Michael Gray in his testimony  
7 about the National Guard having to come to  
8 Jamestown with trucks to fill or refill the  
9 reservoir, which had gotten in a drought period to  
10 the point of --

11 Excuse me, sir, are you -- are you okay?

12 UNIDENTIFIED SPEAKER: It's all right.

13 COUNCILOR RANDALL WHITE: Yes?

14 UNIDENTIFIED SPEAKER: I'm fine.

15 COUNCILOR RANDALL WHITE: Thanks.

16 I had gotten to the point where we needed to  
17 call in the National Guard to truck water in  
18 because the reservoir had quite nearly and simply  
19 run dry.

20 Along the way that the Town has had, the water  
21 district has had, help from our neighbors,  
22 including especially North Kingstown, who had in  
23 times of crisis has afforded their help and  
24 provided -- providing limited help with supplying  
25 potable water. And, in fact, there was a point at

1       which the board had caused to install a waterline  
2       from North Kingstown to Jamestown, which since the  
3       switch of bridges no longer lies across the newer  
4       Jamestown bridge.

5               So, what does that -- what does that all mean?  
6       What it means is that the board of water  
7       commissioners, our predecessors thought hard enough  
8       and were concerned enough about the capacity of  
9       Jamestown's water supply that they included in the  
10      preamble as a part of our obligations and our  
11      responsibilities as the board of commissioners, and  
12      they also adopted rules in accordance with those  
13      concerns.

14             Now, the first rule that I'd like to address  
15      that I think is applicable to our situation here  
16      tonight is the one that deals with whether or not  
17      extensions should be allowed in the district in  
18      which Seaview Avenue lies. Whether you call it the  
19      Rural District or something else, the simple answer  
20      is that the board, based on all the things you have  
21      just discussed, by the time of 2009, had adopted a  
22      rule that provided that water extensions to and  
23      within the Rural District, including the northern  
24      rural district in which Seaview Avenue lies,  
25      extensions were prohibited, and those -- that rule,



1       which I submit is still in effect now, suggests  
2       that there is notwithstanding the prohibition  
3       against extensions to and within the rural district  
4       of which Seaview Avenue is a part, that rule does  
5       provide a -- an exception that would allow the  
6       board, in its discretion, to allow an extension if  
7       the applicant were -- was able to show that the  
8       extension that was being proposed provided an  
9       improvement to either the quality or quantity of  
10      potable water for existing users.

11               Now, let me stop for a minute. We talked  
12      about the original legislation and the rules on  
13      this idea, and the idea of no extensions in the  
14      Rural District, according to the rules. Are those  
15      still in effect? Well, one thing I'll discuss in a  
16      while is the effect, if any, that 46-15.2 has on  
17      those rules. And I submit, respectfully, I  
18      disagree, I'm sure, with counsel for the  
19      applicants, that the rule does -- the rules that I  
20      have just talked about and the original legislation  
21      are not adversely affected by the enactment of the  
22      amendment to 46-15.2. The reason is this. The  
23      authorizing legislation, in the first place, was  
24      special legislation. That special legislation  
25      wasn't a general law that pertained to everybody.

1 It was a special law that applied only to  
2 Jamestown. And in granting us the authority and  
3 the discretion to -- but not the obligation to  
4 provide water in the town, but as circumstances  
5 allowed to other parts of the town, that special  
6 legislation and that provision can only be overcome  
7 when and if there is an express repeal, rescission,  
8 alteration, or some other legal mechanism that  
9 overrides it or nullifies it or alters it in some  
10 way.

11 I submit -- and as I said, I'll discuss  
12 46-15.2 more specifically in a minute -- that  
13 hasn't happened. There is no court case that has  
14 ever said "No, Jamestown, sorry, that original  
15 legislation was wrong. You have got to give water  
16 to everybody." No law has ever said that since  
17 that was -- that original authorization was  
18 adopted, nor, frankly, does the 46-15.2(b) section  
19 on which the applicants rely to do that. So, that  
20 provision of the authorizing legislation, in my  
21 view, still exists and still must be adhered to.

22 Separately, the rule, the rule that I have  
23 talked about that prohibits extensions in the Rural  
24 District, once again, I submit that there is no new  
25 law, including 46-15.2, or any other legal

1 provision or court decision, that modifies, alters  
2 or repeals that rule.

3 So, where are we now? Well, given those two  
4 things that I submit are still alive and well, we  
5 turn to what happened at the hearing.

6 Conspicuously, none of the four applicants  
7 addressed, at all, the provision of our rules that  
8 requires the applicant in the Rural District to  
9 demonstrate an improvement to the quality or  
10 quantity of water to the existing users. And I  
11 submit that the -- I assume that, without knowing,  
12 that the absence of testimony in that regard or  
13 presentation in that regard was not an oversight.  
14 We have competent counsel representing several of  
15 the applicants. I assume that they simply took the  
16 position that 46-15.2 controls and there wasn't  
17 need to address that. I submit otherwise, again  
18 respectfully, and say that the failure to provide  
19 any evidence that would show that the water quality  
20 for the use -- existing users would be improved by  
21 the quantity improved is a failure of the  
22 applications, and for those reasons -- for that  
23 reason, at a start, the applications should be  
24 rejected.

25 And that would apply equally to each of the

1 applications since they are all similarly situated,  
2 and not -- not one of them provided such evidence,  
3 and each is in the same Rural District, where the  
4 requirement exists.

5 (Pause.)

6 COUNCILOR RANDALL WHITE: Excuse me.

7 (Pause.)

8 COUNCILOR RANDALL WHITE: Let me talk  
9 about 46-15.2 for a minute and address the reasons  
10 that I submit the law is not applicable to the  
11 situation we face. To understand Title 46 in  
12 Chapter 15, it's important to put it in the  
13 legislative context of surrounding provisions in  
14 the General Laws. One of which is 46-15,  
15 Section 1. That section provides a legislative  
16 declaration of what Chapter 15 is all about. And  
17 in that legislative declaration, the General  
18 Assembly said, amongst other things, the General  
19 Assembly hereby finds and declares that in recent  
20 years it has become increasingly apparent that  
21 water supply management, protection, development  
22 and use must be fully integrated into all statewide  
23 plans, and the allocation of the State's water  
24 resources must be equitably decided and implemented  
25 and under a process which emphasizes, among other

1 things, the protection of existing supplies, demand  
2 the management, throughout management,  
3 conservation, et cetera.

4 Later, in a subsection, 4, of 45-15.1, the  
5 General Assembly's declaration included and said  
6 specifically that in order to -- excuse me, that  
7 the legislature said to sustain a viability of  
8 water resources dependent on natural systems, State  
9 government must play an active role in fostering  
10 and guiding the management of water resources.

11 Importantly, they include in Subsection 5 the  
12 reference that to something that goes like this:  
13 There are State and municipal departments, special  
14 districts, private firms and other agencies in the  
15 State who are capable and experienced in the design  
16 and construction, operation and financing of water  
17 supply and transmission facilities which capability  
18 and experiences must be brought to bear on the  
19 total problem water resources development. And  
20 then in the last section they say it should be the  
21 responsibility of the water resources board to  
22 continue to regulate the provisions that the  
23 declaration addresses.

24 What is the point? The point is this. The  
25 State of Rhode Island decided by the time they made

1       this declaration that the conservation and  
2       distribution of the precious commodity of potable  
3       water was sufficiently important that required the  
4       intervention and management by State authorities.  
5       There is no suggestion that the legislature, in its  
6       wisdom, thought that the municipalities were either  
7       deficient or up to no good somehow, but nonetheless  
8       they decided that was important enough that the --  
9       that the precious resources available in the State  
10      be preserved, protected and allocated in a way that  
11      made their best and most efficient use.

12           The reason I provide all of that background is  
13      that now that you get to the law in the question,  
14      46-15.2, and in the first section, Subsection (a)  
15      of that law, the legislature went through a list of  
16      things that they didn't want towns, municipalities,  
17      local water districts, like ours, doing unless they  
18      had permission from the State. They thought enough  
19      of the whole thing that they thought that State's  
20      hands needed to be in the -- involved in the  
21      management of these precious things, and they  
22      wanted to make sure that a town or local municipal  
23      water district didn't do things that might affect  
24      negatively its neighbors. All makes perfect sense.

25           You get to part (b), the critical part. This

1 is the one that on which the applicants relied.  
2 Part (b) begins by saying "Approval shall not be  
3 necessary for any man or work for the extension of  
4 supply by a municipal water supply in any territory  
5 which is not heretofore been supplied with water by  
6 the plan," et cetera. It's a long, long  
7 complicated sentence written, I think, of the  
8 appropriate parts. It's later in that same  
9 Subsection (b) that comes the magic words on which  
10 the applicants rely, and that is the claim that all  
11 applications must be reviewed by the same  
12 standards.

13 What you don't -- what the applicants don't  
14 say, in which I think is critical to the analysis  
15 of whether 46-15.2 applies to this situation, is  
16 that it says "Town, if you're going to do something  
17 in a district where you want to provide extensions,  
18 you don't need to talk to us. We'll let you do  
19 that on your own." In other words, you don't --  
20 despite of what we have said in two prior sections,  
21 you don't have to come to the State and ask us for  
22 our permission if all you want to do as a Town, as  
23 a local municipal water district, is to offer  
24 extensions to parts of the town that might not have  
25 previously been afforded them. Let -- in our case,

1 as I have made, I hope, crystally clear, the 1968  
2 legislation that created our board said you can  
3 provide water to all parts of the town, but you  
4 don't have to. And so even before you read  
5 46-15.2, the Town of Jamestown's water district was  
6 not obliged to extend or allow extensions in the  
7 northern rural district that we're talking about in  
8 this case.

9 So, when the legislature said "Okay. When you  
10 decide, if and when you decide that you want to do  
11 that you don't have to come to us, you can just do  
12 it on your own, but if you do that you have got  
13 to -- if you're going to provide extensions, and  
14 the possibility of extensions in a district that  
15 you haven't allowed them before, you have got to  
16 treat everybody the same way." I submit that's all  
17 that this law says. Basically they're saying  
18 "Jamestown," -- if you reduce it to the terms that  
19 relate to us, Jamestown, we know that you have the  
20 authority to provide extensions in the northern  
21 rural water district, but you have never done that  
22 yet. If you decide to do it, you don't have to  
23 come to us to ask about it. You can do it so long  
24 as anybody who applies for an extension gets  
25 treated like everybody else. You can't



1       arbitrarily, capriciously decide now that we have  
2       allowed extensions in the -- on Seaview Avenue, in  
3       the district it lies in, only the yellow houses or  
4       the odd numbered ones on the right side of the  
5       street can get the water. Instead, logically, they  
6       applied a standard by everyone get tested the same  
7       way and assessed the same way. And that includes,  
8       most especially, this depth of well standard onto  
9       which the applicants' presentations focused on.

10       So, I submit that this -- this law doesn't  
11       change the authorizing provision that gave us the  
12       discretion not to go into the area where Seaview  
13       Ave. lies, and the reality is haven't decided to do  
14       that. Our rules still say no extensions in that  
15       area. And until we say otherwise that extensions  
16       are allowed in that area we are perfectly free to,  
17       as we have done in our rules, to prohibit such  
18       extensions, and it's only when and if we decide  
19       otherwise that we'll be obliged to follow the  
20       mandates of reviewing all applications in the same  
21       manner.

22       Now, to add to this analysis, I would simply  
23       submit, I -- I believe in the good faith of the  
24       legislature, and the legislature knew what it was  
25       doing when it passed 46-15.2. I cannot accept the

1 proposition that the legislature would somehow,  
2 after saying how important it was for them to get  
3 involved and how critical it was for us to all get  
4 together and be sure that we're equitably and  
5 conserving and protecting our water resources that  
6 they would all of a sudden turn around and provide  
7 the interpretation that the applicants are urging,  
8 which is throw that all to the wind, who cares  
9 about conserving your water. The applicants'  
10 interpretation of this section seems to be that  
11 that even if Jamestown never says the northern  
12 rural district is now open for extension that as  
13 long as they apply for one and show that their well  
14 doesn't meet the standards of depth of well  
15 standard that they're entitled to get the water.  
16 That is not what the statute says, and the  
17 legislature, as a matter of basic statutory  
18 construction, is presumed to know what they're  
19 saying, and they're presumed to say what they mean.  
20 They don't say that. They -- and they can't  
21 expect, nor should this body expect, to treat  
22 46-15.2 as if it somehow undermines or overrules or  
23 nullifies our rules and the authorizing legislation  
24 because it simply doesn't provide that in the  
25 language. If it meant to it would have said that,

1       and it didn't say that. It didn't say "You can no  
2       longer provide water at your discretion, Jamestown,  
3       you got to give it to everybody. And you can no  
4       longer close a district to extensions in Jamestown.  
5       You have to let everybody apply for an extension.  
6       And, further, if they do apply for an extension,  
7       you have got to give it to them if their depth of  
8       well standard and the other six things listed is  
9       satisfied." That would certainly turn the logic of  
10      the State being involved in this situation on its  
11      head.

12           By adopting the interpretation being urged by  
13      the applicants, you -- we would in effect be saying  
14      "Town, in spite of these -- this business about  
15      everybody has got to conserve and we're all in this  
16      together, you're irrelevant. What is important are  
17      the individual applicants." And we won't -- as we  
18      have said in 46-15.1, we don't care whether you  
19      have experienced people to help design and plan and  
20      develop distribution grids. We're just going to  
21      let people, who have the means, apply for and get  
22      it so long as their depth of well requirements, the  
23      seven listed, are met.

24           I firmly and honestly believe that any self-  
25      respecting legislator, who was involved in the

1 creation of this very thoughtful law, would not  
2 have created a law that, in effect, renders it  
3 relevant the Town and provides instead full  
4 authority to private citizens to develop on their  
5 own, so long as they meet the standards and have  
6 the money. It just doesn't make sense.

7 I submit that the analysis that I have  
8 advanced is much more consistent with the  
9 legislative declaration and the other provisions of  
10 46-15.1 and 46-15.2, and it's the one that should  
11 apply.

12 So, I'm sorry to be so terribly time -- time  
13 stealing, but I thought about these a lot, and I  
14 think it's important that we lay out a record.

15 Are there other rules that might apply to this  
16 situation? Actually, yes. And that one of those  
17 is found in -- it's a requirement in 14 -- the rule  
18 is -- hold on a minute -- 14(a) dealing with  
19 limited water districts, and 14(b) related to rural  
20 water districts.

21 Both those sections of the rules provide that  
22 in order for an application for either a connection  
23 or an extension to be granted anywhere in town, the  
24 applicant has to show that the application is  
25 consistent with system capacity as determined by

1       the commission. Let's talk about that for a while.  
2       System capacity, as determined by the commission,  
3       understandably and logically, the applicants have  
4       urged, even though they are before us as a group,  
5       before the coincidence of all living on Seaview  
6       Avenue, each of them says "You know, as far as I'm  
7       concerned, mine is the only application before you  
8       and the only thing you should consider if you're  
9       worried about whether there is a capacity in the  
10      system is the fact that I, as an individual, and my  
11      spouse, if I have one, or anyone else who lives in  
12      the house, will only use the expected 41 gallons a  
13      day each. And so if you do the math, our use of  
14      water is a pittance and you don't really have to do  
15      the math. You can just drive by the reservoir and  
16      see, "Ahhh, what the heck. There will be enough  
17      water for us to, please, allow us to extend the  
18      line and connect."

19             In my judgment, the analysis of whether an  
20      application is consistent with system capacity,  
21      first of all, is something that is expressly  
22      provided and is determined by us, the commission.  
23      And I, for one, think it's such an important  
24      consideration that it should be looked at through a  
25      lens much, much broader than how much will any

1 individual use on a daily basis. I think we have  
2 to look at from a systemwide analysis is where are  
3 these -- where is each of these applications being  
4 sought, and what else is there now. The answer, as  
5 I said earlier in the presentation, is they're in  
6 charitably the northern rural district and there is  
7 no grid there now. There is nothing there now and  
8 there hasn't been since 1968. We have an  
9 expression that we could have developed a grid of  
10 distribution in this area, and elsewhere in the  
11 northern part of the island, but we didn't. Why?  
12 We didn't have the water. We just simply did not  
13 have sufficient water to justify it. And that's  
14 why you find it in the rules, the references I  
15 believe I belabored before, about the -- the  
16 fragile nature of our water supply and the drama  
17 that's attended it over the years.

18 So, it's do -- not whether we have enough for  
19 this individual application or that, or that, or  
20 that, referring to each of the four individuals,  
21 it's whether as a commission it makes sense for us  
22 to expand our district into an area where we  
23 haven't been before, when and if we don't have the  
24 water to justify it. So, in fairness to the  
25 applicants, we obviously can't rest on what the

1 fact and figures showed in 2009 that caused the  
2 board to promulgate laws about not having  
3 extensions in the Rural District. We have to look  
4 and update our analysis. And I submit that Michael  
5 Gray did that through his testimony, and we did --  
6 we learned that the prior water source in 1968 was  
7 the northern reservoir. The southern reservoir was  
8 part of the plan, but it didn't have much impact on  
9 water supply.

10 Since then, to the credit of the staff, such  
11 as Mr. Gray, the Town has managed to make modest  
12 improvements in the system. We have now  
13 incorporated South Pond into the calculus of how  
14 much water we have. And it still has limitations.  
15 One, the problems with South Pond was that it -- it  
16 was -- had contamination from the surrounding  
17 environment, leaves and other debris, that  
18 discolored the water. So, they came up with the  
19 idea that they would somehow attempt to cleans it,  
20 for lack of a better word, by creating a connection  
21 between the South and the North Pond and pumping  
22 water from the South Pond into the North Pond  
23 integrating it together and cleaning it up to make  
24 it potable and presentable and distributable to the  
25 users.

1           And so, modestly, there has been that  
2       improvement. But even that, as Mr. Gray testified,  
3       has limitations. The pond, the South Pond, is only  
4       available when there is enough water in it to spill  
5       over the edge, and that all too frequently isn't  
6       the case, and when it doesn't spill over the edge,  
7       there is nothing to pump to the North Pond, and  
8       we're, therefore, left with the same grace we were  
9       in is the '68 pond that North Pond is our supply.

10           Now, other modest improvements that have been  
11       attempted -- some successful, some are not -- are  
12       the digging of wells. The most successful one is  
13       JR1, a well that is in the vicinity of the North  
14       Pond, of the reservoir, and it happily has, with  
15       some regularity, increased the safe yield of our  
16       water supply. JR3, another well, was dug in the  
17       same vicinity, wasn't so productive and is  
18       contaminated and now can't be used. Several  
19       others, I think six or seven in number, which  
20       simply is not productive at all. And so what's the  
21       difference between 1968 and now? We have got JR1,  
22       and a little more production and yield from that  
23       well.

24           As you heard Mike Gray testify, however, we  
25       have, notwithstanding that improvement, not made



1 much progress at all with re -- in fact, it could  
2 be argued turning backwards with respect to the  
3 frequency with which our demand exceeds our yield.  
4 As the preamble of the rules say, that used to  
5 happen regularly during the summer months, now it  
6 happens for longer periods of time, sometimes up to  
7 three or four months a year that the yield is  
8 exceeded by the demand.

9 We also had some testimony from Mike Gray that  
10 talked about a study that was commissioned or --  
11 earlier this year, to examine what would happen  
12 given the legislature's enactment of an approval of  
13 accessory dwelling units, what would happen if  
14 those dwelling units were built out in the town as  
15 they would be allowed to do, and they would all, of  
16 course, need water, and the simple answer is that,  
17 without getting into the nitty-gritty of it,  
18 because it's something on which I personally nor do  
19 I think the board should rely in our analysis, but  
20 simply put they suggested that the extra stresses  
21 put on by the build-out of accountable not only to  
22 just general build-out but ADUs would put  
23 additional significant stresses on the Town's water  
24 supply, such that the yield would not be able to  
25 meet the demand even more often.

1           There is a tipping point. What that tipping  
2 point is, I don't know. I'm not sure that any of  
3 the experts that the applicant put forward know.  
4 And to that extent, the science of -- of dealing  
5 with capacity of water systems can be, in that  
6 regard, an art as well as a science.

7           But it's clear from Mike Gray's testimony and  
8 it's clear from the disaster that we nearly  
9 succumbed to back in the '90s that our water supply  
10 is incredibly limited and extremely fragile and  
11 it's regenerated by rain. If it doesn't rain, the  
12 level goes down. And if it continues to not rain,  
13 it continues to go down. We don't have a system of  
14 natural springs or other sources that would  
15 naturally regenerate and make us feel comfortable  
16 about having the supply be there come rain or  
17 shine, so to speak.

18           We also have the changed circumstance spoken  
19 about by Michael Gray regarding North Kingstown.  
20 In the times of our deepest troubles years ago,  
21 North Kingstown was there to provide us, on an  
22 emergency basis, with water. We now know that, at  
23 least currently, as it stands now, we don't have  
24 such a deal with North Kingstown. We're working on  
25 it. But as Michael Gray testified, there have been

1       some concerns about combining the waters of  
2       North Kingstown supply and ours and whether or not,  
3       although both are presumed satisfactory or  
4       respecting to that --

5               (Cell phone interruption.)

6               COUNCILOR RANDALL WHITE:  -- the  
7       culmination of them together was something that  
8       concerned authorities, State authorities, included  
9       enough that we have not and North Kingstown hasn't  
10      received the approval to get a deal in place that  
11      would provide us a backup again should the worst  
12      happen.

13              So, what does it mean?  Is that in spite of  
14      the modest improvements, we were qualitatively in  
15      no better position, in fact, arguably a worst  
16      position with respect to the capacity of our  
17      position to deliver water to our users than we were  
18      to 1968.  And for that reason I don't believe that  
19      we should be considering the expansion of our  
20      system into the area in which Seaview Avenue lies  
21      because we -- there would be no point for us to  
22      build a system and then simply not have the water  
23      to fill the pipes.

24              So, until -- now, having said all that, I  
25      haven't addressed and would very much like to

1 address by a human being, but I don't think it is  
2 my place, to -- to extend personal concern about  
3 the things that the applicants have put forward as  
4 their respective claims requesting the extensions  
5 and connections.

6 As I pointed out, our responsibilities are  
7 limited. We're not generalists. We are specific  
8 and our job is to -- as I pointed out through the  
9 rules and regulations, to maintain and preserve the  
10 public water supply of Jamestown for its users.

11 And for that reason, I submit that I'd like to  
12 think that either a commissioner or a town  
13 councilor wearing another hat that we would direct  
14 our energies and efforts to the legislature and to  
15 try to prevail on them, from the words that they  
16 use in this declaration, "We're all in this  
17 together." Help us out, legislature. Help us find  
18 a partner across a bridge, somehow, somewhere, that  
19 can get us and help us connect with a reliable  
20 supply of water so that I can say with a straight  
21 face and sleep at night to say that it would be  
22 safe and responsible for us to expand our district.  
23 I can't say that now for all the reasons I have  
24 laid out. And so I, for one, say that, for the  
25 reasons I've advanced, including that these

1 applications are not consistent with our systems  
2 capacity, that these applications should be denied.

3 One last thing. As to 46-15-2(b), as I laid  
4 out, I don't think it applies. I -- if my analysis  
5 is something that a reviewing authority disagrees  
6 with, they might say "No, you're wrong, Mr. White,  
7 it is applicable, and we did mean that anyone in  
8 the Rural District can apply for an extension, and  
9 they have to be tested and reviewed by the  
10 standards laid out." I submit, even in that  
11 analysis, it does not and 14-26-15(b) does not  
12 nullify the rules that had been promulgated for our  
13 district. And one of those rules, this one, the  
14 consistency with the system capacity is still one  
15 that applies. And so even if someone were to say  
16 that the -- notwithstanding your prohibition of  
17 extension in this district, if this -- if these  
18 applicants have applied, they have to be reviewed.  
19 But, once again, the statute doesn't say, could  
20 have said and somehow either overlooked or failed  
21 to say, that if you do meet those standards we have  
22 to give you water. And I relied on the authority  
23 given us in the special legislation that we do not  
24 have to do that, and I would submit that even if  
25 the circumstances I just laid out that the

1       inconsistency of these applications with the system  
2       capacity would overrule a showing that their wells  
3       were -- met the tests of 46-15.2(b), 1 through 7.

4               Once again, I apologize to everybody,  
5       including especially my fellow commissioners.  
6       There, I got it out of my system. And I appreciate  
7       your patience in hearing me.

8               I defer to my fellow commissioners for  
9       comments.

10              I -- one thing that I think is this record  
11       should include, and I'm not going to spend another  
12       minute of anybody's time to do it, but you heard  
13       the analysis and how I deal with 46-15.2. In  
14       fairness to the applicants to provide a record the  
15       applicants should definitely have a record of what  
16       their testimony and experts and arguments of  
17       counsel have presented at this hearing. I'm not  
18       prepared myself to do that right now, and I defer  
19       to my -- my colleagues to help me out.

20              Thank you very much.

21              COUNCILOR BEYE: Thank you, Randy. Thank  
22       you for laying that foundation and for doing all  
23       that research. We appreciate it.

24              Does anyone else have anything they would like  
25       to add?

1                   COUNCILOR MEAGHER: Michael is deferring  
2                   to me, or he is turning to me.

3                   And for me, the process of thinking about this  
4                   submerges from a sense of community and  
5                   understanding that we're not here on this planet  
6                   alone -- excuse me. And that even an old hermit  
7                   like -- creature like me requires and resounds in  
8                   community in being and living and working with  
9                   others. And to do that means we come to some  
10                  shared understanding how we live together. I have  
11                  said this before in relation to other issues. We  
12                  make rules and laws together and generally try to  
13                  abide by them. And it is that sense of community  
14                  that makes coming to a decision regarding these  
15                  applications simultaneously so hard and yet I think  
16                  also clear.

17                 Because we have in front of us four families,  
18                 members of our community, some year-round and some  
19                 others seasonal, but Jamestowners who find  
20                 themselves in difficult straits. My heart goes out  
21                 to you because water is essential, and your current  
22                 systems are deficient. I recognize your sense of  
23                 despair and frustration, and I recognize, too, your  
24                 efforts to fix your problem.

25                 Part of my role as a town councilor is to

1       serve as the water and sewer commissioner, but as a  
2       water and sewer commissioner I serve a different  
3       smaller community. As the water and sewer  
4       commissioner, I have a responsibility to over  
5       3,000 -- I think it's 3300 -- other residents of  
6       Jamestown, most of whom aren't here today, who  
7       aren't here in front of us, who are served by our  
8       municipal water system. They reside in the water  
9       district. My responsibility to them is what puts  
10      me here engaged in trying to figure out the  
11      consequences of a yes or no vote on these  
12      applications, the consequences to them and to the  
13      water utility that serves them.

14             And so I feel compelled to make a motion. I  
15      share Councilor White's concerns to deny an  
16      extension to these four applications.

17             I know, Miss Rocha, you specifically asked us  
18      to address your client alone, and I will, but --  
19      and I feel -- I think we will in the end. Some of  
20      my comments are general, and for the sake of time  
21      we all just want to hear them once. So, I will  
22      offer them in the context of the information that  
23      all of -- of the information that all the  
24      applicants, to a greater or lesser degree,  
25      provided, but specifically mindful of the



1       assertions

2       Miss Rocha made in making her case for the  
3       Andreonis.

4               My reasons for denying the applications are  
5       different than Randy's, somewhat similar but  
6       different. I disagree with the assertion that  
7       these properties are in the Rural Water District as  
8       has been assumed or asserted; therefore, for me,  
9       the rules governing the Board of Water and Sewer  
10      preclude our granting an extension outside of the  
11      water district.

12             My service on this board has been governed by  
13      an understanding of the geographic definition of  
14      the municipal water district as described in the  
15      water supply plan and in the rules that govern this  
16      commission. The Rural Water District exists south  
17      of Hamilton Avenue, the Urban District exists  
18      between Hamilton and Mount Hope Avenue. And though  
19      the reservoirs and the water treatment plant exists  
20      outside of the district, and as they do in many  
21      communities, the part of Jamestown that is north of  
22      the creek is not in the water district, and those  
23      residents are served by private wells.

24             But even if I'm found to be in error, or if  
25      our documentation of these boundaries is found to

1 be flawed by the Water Resources Board or the  
2 Superior Court, which are the two resources for  
3 appeal by these applicants, according to 46 -- the  
4 amendments to 46-15.2, our rules state that we may  
5 grant extension, as Randy said, in the Rural Water  
6 District only if there is a benefit to the current  
7 water users. So, those 3,000 people I described  
8 before to whom I am responsible.

9 There has been no mention by any of the  
10 applicants or their attorneys of any benefit to be  
11 derived from this extension beyond the benefit to  
12 the applicants themselves. I know that the  
13 attorneys for our applicants think that my  
14 dependence on the rules is irrelevant, that  
15 amendments to Article 46-15.2, approved by the  
16 General Assembly in 2022, make them irrelevant, and  
17 that those amendments create different criteria and  
18 different standards by which we should apply.

19 Miss Rocha describes these as the four corners  
20 of the standards of the amended statute. I'm  
21 trained in architecture, so I may be -- I may be  
22 taking your terminology a little bit too literally  
23 or figuratively, but I find the statute, these  
24 standards, sorely lack the kind of definition  
25 implied by the term "four corners." They lack the

1 kind of definition that enables the community to  
2 access the claims of the applicant and the capacity  
3 of the water supply so as to ensure the safety of  
4 all involved, those on the system and those  
5 applying to join it. That may be a term -- four  
6 corners may be a term of art for lawyers. It's a  
7 term of art also for architects.

8 But let us look at the relevant sections of  
9 the statute as amended. One requires that an  
10 extension is not prohibited by the specific  
11 language of the latest water supply system  
12 management plan. The choice of the water  
13 management plan is interesting as is the terms  
14 specific language, but that is a discussion largely  
15 semantic that could take hours.

16 I would suggest to you that our water supply  
17 plan of 2018, which is the relevant one, relies  
18 upon, is based upon, and has at its foundation the  
19 practices and rules that have been established by  
20 the water and sewer commission, specifically the  
21 rules approved in 2009, two of which I referenced.  
22 One cannot write a plan without an understanding or  
23 explication of existing conditions, whether made by  
24 man or by whomever is shaping our geography and our  
25 climate. The safe practices outlined in our 2018

1 plans are the direct result of those rules. And  
2 part of what makes me assert this is because those  
3 rules and that plan are less stringent than were  
4 the rules that were established, I believe, in  
5 1999, I think, after our town's shocking discovery  
6 that we didn't have enough water in 1994, because  
7 the 1999 rules made it nearly impossible for people  
8 whose property fronts on the waterline along  
9 Beavertail Road to connect to that waterline.  
10 These were not people seeking extensions, not  
11 seeking the creation of a new waterline as is the  
12 case here, but people who fronted on existing  
13 waterlines who were not allowed to connect. With  
14 the arrival of our new water plant conditions  
15 changed, we wasted less water, and as Randy has  
16 said, we have made other improvements in our water  
17 system, and so the rules changed, and the water  
18 plan changed. The water supply management plan of  
19 2018 depends, as I have said, upon the rules and  
20 conditions that govern the district that existed  
21 before it was written and during its tenure.

22 The statute also references the capacity of a  
23 well. The well industry standard as described in  
24 the Department of Environment Management for  
25 years -- of the -- it's known as the Well Industry

1 Standard as described in the Department of  
2 Environmental Management for yield for depth of  
3 well chart which is required by the Department of  
4 Health for dwelling units. This is the sole  
5 criteria for determining the failure of private  
6 water supply. I think it is interesting that when  
7 it comes to water and its dispositions, that is to  
8 say waste water, RI DEM has different standards by  
9 which it determines how much water the average  
10 person uses.

11 But I note that this same terminology,  
12 Department of Health standard, was used by the Town  
13 in the early 2000s to deny people seeking  
14 connections to that Beavertail waterline. As a  
15 result, there are people on Beavertail with water  
16 storage capacity in the thousands of gallons who  
17 supplement their systems regularly with purchased  
18 water. I recognize this isn't relevant to you, but  
19 it is revelatory to me about the efforts and the  
20 possibilities that residents of this town have  
21 explored to ensure themselves water, efforts that  
22 did not include extensions of the municipal water  
23 district.

24 I reference these rules for another reason,  
25 and that is because rules matter. As I said at the

1       outset, they are the mechanisms by which we live  
2       together. The rules matter to all of those who  
3       have been abiding by them for all these years,  
4       particularly to the thousands of people in  
5       Jamestown who have so dramatically reduced their  
6       water use since 1994, that water users in Jamestown  
7       use between 30 and 40 percent less water than the  
8       Rhode Island Department of Health and Rhode Island  
9       Department of Environmental Management estimate the  
10      typical person uses. Rules matter to people who  
11      have been required to install low-flow toilets,  
12      faucets, shower -- showers, washing machines, who  
13      have rain barrels collecting water so they can  
14      water their vegetables. Rules matter to an  
15      overburdened and undermanned staff at both the  
16      water and sewer department whose workers have been  
17      making extraordinary efforts to ensure our safety.  
18      And rules matter to -- as we will hear later today,  
19      to those folks who are either ignorant of them or  
20      choosing to ignore them by installing irrigation  
21      systems using Town water. Rules matter because we  
22      have learned that though we may have lots of rain  
23      in March or May, it doesn't mean we will have  
24      enough in July and August.

25               Our municipal water serve system is served

1 primarily by the collection of rain water, as Randy  
2 said. The runoff to our reservoirs from our  
3 watershed represents 80 percent of the water that  
4 serves the water district. It does not rely upon  
5 the underlying aquifer to the extent that some have  
6 suggested. But if we approve more extensions, we  
7 will have to tap into that aquifer more sizably or  
8 utilize other solutions, the cost of which is  
9 enormous.

10 We have a water district. It is defined. It  
11 does not include the entire island. The rules  
12 governing that water district and water extensions  
13 are clear. And because of them, I must vote to  
14 deny these applications.

15 COUNCILOR BEYE: Thank you, Mary.

16 Mike? Would you like to say anything?

17 COUNCILOR MICHAEL WHITE: Yes. Very  
18 quick.

19 Here we're go.

20 I don't have much to say. It's all been said.  
21 A lot.

22 What we're dealing here with is a very -- it  
23 seems like it's complicated because of all the  
24 evidence that was necessary in order to determine  
25 whether or not your wells were good enough to

1 support your water for your property. There was a  
2 lot of different arguments about various laws that  
3 we're dealing with but it's very -- what we're  
4 looking for is -- the decision that we're looking  
5 for is do we want to expand our water district.  
6 The answer is -- I think the answer is no.

7 Currently this is a single-source aquifer that  
8 we deal with here in this town. Every time we  
9 drill a well and put it into the -- pump it into  
10 the water plant there is water being taken out of  
11 the ground that would have gone to somebody up in  
12 the north end, or whatever. I mean, it's just kind  
13 of a simple thing. And we have employed this  
14 denial before in the past.

15 Again, the -- the -- many of the things that  
16 we have been arguing with over the last couple of  
17 years, especially, is the idea of the actual  
18 definition of the water district. You have heard  
19 people call Rural Water District, Urban Water  
20 District. Ultimately we will be determining the  
21 water district, which is what we have been thinking  
22 of that as really anyway. And Mary mentioned that,  
23 you know, from -- from Arnold Avenue all the way to  
24 Hamilton, probably all the way into Beavertail is  
25 the water district.



1           And in the past, there was a rural water  
2       district. It was only -- it went south. There was  
3       no water district whatsoever north. It was just  
4       north. And we called it rural because it was  
5       rural. We always think of north as rural, but  
6       basically the idea is do we want to expand the  
7       water district. And the answer is -- at -- at --  
8       no.

9           I think the problem is that one of the things  
10      that is used that -- that State law that was  
11      passed. The State law that was passed, I don't  
12      think the State has a right to deny the rights of  
13      our water users. I think they have the right to  
14      ask us -- give us the power to do that, but we have  
15      water users, we have a water district. I don't  
16      necessarily agree with the fact that the law that  
17      was passed has any -- anything at all to do with  
18      our decision. We have made these decisions before  
19      based upon long living rules as far as who is  
20      eligible for extensions of water. And we have  
21      reached this point. I -- I -- as we all feel for  
22      you folks that can't -- that can't get water and  
23      have so much difficulty with water, you're not  
24      alone here in the town of Jamestown. There's a  
25      bunch of folks out at the north end that's having

1 the same difficulties. And there is much, much  
2 difficulties as far as water on this island. And  
3 our job is to watch the water. We're not going  
4 to -- we're not the -- Jamestown, all of Jamestown  
5 Water District, we have a water district that, as  
6 commissioners, we're responsible for. In order to  
7 be responsible for those folks, we need to deny  
8 this -- this -- these questions.

9 COUNCILOR BEYE: Thank you -- excuse me --  
10 thank you, Mike. Thank you. Thank you all for  
11 that.

12 There is nothing left to say now or for me to  
13 do.

14 So, what I will do is now entertain a motion.  
15 We're going to vote on these separately.

16 COUNCILOR MEAGHER: I would also concur  
17 with Randy that we will need --

18 And, Peter, I look to you for how to proceed  
19 in terms -- I mean, it's -- in Zoning they call it  
20 "findings of fact." I don't know if that's --  
21 what's the process?

22 SOLICITOR RUGGIERO: Well, you've laid out  
23 a lot of reasoning, so you could individualize each  
24 applicant, but I think from what I heard -- and  
25 you'll have to decide to do this -- that you made

1 out your reasons, and that there are common reasons  
2 to each application. So, at some point you have to  
3 articulate what they are. You could say each of  
4 those findings are applicable to each application,  
5 but I would urge you to take an individual vote, a  
6 motion, on each application once you make the  
7 findings and conclusions.

8 COUNCILOR MEAGHER: I guess my concern is  
9 it's late. I know -- and I'm just wondering if  
10 it's possible for staff to help in terms of  
11 developing those -- those findings or --

12 SOLICITOR RUGGIERO: Well, you could -- if  
13 you wanted to, you could direct the staff to  
14 prepare a draft decision for each application based  
15 on what was stated tonight. You have a  
16 stenographic record to work from, so it's fairly  
17 easy to put something together. But you're going  
18 to have to review it and approve it.

19 COUNCILOR MEAGHER: Right. Right.

20 I guess my question to the council, I mean,  
21 what we have done is at least made clear to the  
22 applicants where we are. And it would be  
23 simply --

24 COUNCILOR BEYE: Formalize it?

25 COUNCILOR MEAGHER: Yeah, formalize it.

1 I mean, it would be just the next step at our next  
2 meeting.

3 SOLICITOR RUGGIERO: It's up to you,  
4 folks, how you want to proceed.

5 COUNCILOR MEAGHER: I mean, so -- I mean,  
6 would it be appropriate to do a general motion  
7 about, or you believe we should specifically with  
8 these sort of findings of fact be put in there?

9 SOLICITOR RUGGERIO: Well, again, I think  
10 if you wanted to incorporate the findings of each  
11 articulated, they're in the record, and make  
12 individual motions and direct the staff to draw up  
13 a decisions for each application. I feel  
14 competent. I think the board and I can work  
15 together to get you a draft decisions for each  
16 applicant here incorporating those statements you  
17 made so that when you get those letters you can  
18 edit them, revise them, do as you will with them,  
19 to make sure they're correct.

20 COUNCILOR MEAGHER: I think I would feel  
21 more comfortable with that.

22 COUNCILOR BEYE: Sure.

23 COUNCILOR RANDALL WHITE: Sorry.

24 COUNCILOR BEYE: Go ahead, Randy.

25 COUNCILOR RANDALL WHITE: All right. I

1 have a question about the thing I said at the end  
2 of what I had to say regarding providing the  
3 applicants the opportunity to have on the record  
4 the things that they presented. I'm not sure I  
5 would propose that that be part of our findings.

6 SOLICITOR RUGGIERO: Well, they're in the  
7 record now, because they made that part of their  
8 evidence. That was introduced when they did their  
9 case in chief.

10 COUNCILOR RANDALL WHITE: So, it's not  
11 necessary to --

12 SOLICITOR RUGGIERO: It's in the record  
13 already.

14 COUNCILOR RANDALL WHITE: Okay.

15 SOLICITOR RUGGIERO: Yes.

16 COUNCILOR BEYE: So, what do you think?

17 COUNCILOR MEAGHER: So, would I -- what  
18 should I do, make a motion for continuance?

19 SOLICITOR RUGGIERO: Well, first of all, I  
20 think you should probably make a motion and direct  
21 the staff and I what you would like, if you want us  
22 to do those draft decisions or not, and return them  
23 to you at your next meeting.

24 COUNCILOR MEAGHER: Yes.

25 SOLICITOR RUGGIERO: And then continue

1       this matter to then, because that's when you would  
2       make the final decision.

3               COUNCILOR MEAGHER: I think that's what --  
4       I don't know. I am speaking only for myself,  
5       that's what I feel most comfortable with. I don't  
6       know about how anybody else feels.

7               COUNCILOR BEYE: Why don't you make a  
8       motion and we'll find out.

9               COUNCILOR MEAGHER: Okay. Excellent.  
10       I would make a motion to direct the staff to  
11       come up with the draft decisions that base -- that  
12       take Randy's, everyone's thoughts about this to Ed  
13       as well as what was presented by the applicants  
14       into decisions that we can review and then vote on  
15       at our next water and sewer meeting.

16              COUNCILOR MICHAEL WHITE: Second.

17              COUNCILOR BEYE: We have a motion made and  
18       seconded. Any discussion --

19              COUNCILOR MEAGHER: Peter has something.

20              COUNCILOR BEYE: Oh.

21              SOLICITOR RUGGIERO: No. I just want to  
22       say can you declare the date.

23              TOWN CLERK FAGAN: June 17.

24              COUNCILOR MEAGHER: On June 17.

25              COUNCILOR BEYE: Okay. No discussion?

1 (Pause.)

2 COUNCILOR BEYE: All in favor.

3 (Voice Vote.)

4 COUNCILOR BEYE: Thank you.

5 Okay. Next Open Forum for water and sewer  
6 matters. If there is anyone that would like to  
7 speak on water and sewer matters? You can speak  
8 for water --

9 SOLICITOR RUGGIERO: The stenographer may  
10 be excused. She was here for the hearings.

11 -- -- --

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## C E R T I F I C A T I O N.

I, Brenda D. P. Hanna, do hereby certify that the foregoing pages are a true, accurate, and complete transcript of my notes taken at the above-entitled hearing before the Town of Jamestown Town Council sitting as the Water and Sewer Board on 20 May 2024.

IN WITNESS WHEREOF, I have hereunto set my hand this 23d day of May 2024.

---

BRENDA D. P. HANNA, NOTARY PUBLIC/  
REGISTERED PROFESSIONAL REPORTER

IN RE: 20 May 2024 Jamestown Water and Sewer  
Commission