

RTM
OCTOBER 2018
ATTACHMENTS

ITEM #17 – Condemnation Commission

Report of the Special Committee of the RTM on the Condemnation Commission

The Special Committee was formed by the RTM at the request of the Appointments Committee to examine the role(s) of the Condemnation Commission.

Summary of the Committee's work.

The Special Committee met 4 times and had the participation of the following members:

- Katherine Hynes (Legislative and Rules Committee)
- Dean C. Goss (Public Works Committee)
- Jude Collins (Condemnation Commission)
- John Eddy (Appointments Committee)
- Carl Carlson (Appointments Committee Alt.)

The section of the code which caused confusion stated that the Commission was to "*exercise all the powers and perform all the duties which were formerly confirmed or imposed by law upon the Town Highway Commission and upon the Sewer Commissioners*". These former duties were not specified, and additional duties were conferred elsewhere in the Charter.

This information was clarified via a detailed summary of the Commission's roles and responsibilities provided to the Special Committee by the Town Attorney's Office.

Since the Town Municipal Code covers only issues which relate to Highways & Drainage, Sewers, and Parking the other item of concern that arose in the committee was the whether the Town had a procedure for the taking of land for by eminent domain for a municipal project. For example: a school, firehouse, or other municipal building. This question was fielded by Mr McLaughlin at our 6/14 meeting. He explained that the process for taking of land for purposes outside what is identified in the Municipal Code is covered under the State Statutes (chapter 835) citing that in these cases, the process is the same as the manner specified for redevelopment agencies and that the Condemnation Commission may or may not have a role in these instances.

The Committee drafted an executive overview of the roles of the Condemnation Commission and 3 Process Flow Charts based upon and referenced to the Municipal Code for the edification of Appointments Committee Members, RTM members, candidates for nomination to the Condemnation Commission, as well as that of the general public.

Recommendations:

The Committee's recommendations to the RTM are threefold:

1. Amend section 157(a)2. of the Town Charter to delete the reference to duties formerly invested in the Highway Commission and Sewer Commissioners (Amendment attached)
2. Have the Town Attorney's Office Summary, Executive Overview and Flowcharts (attached) preserved to ensure that they remain an available resource to the RTM and the Appointments Committee in particular.
3. The Appointments Committee Consider the following skills when nominating for a balanced Condemnation Commission:

- Real Estate Evaluation
- Construction
- Legal Expertise
- Engineering
- Town Planning
- Public Representation

RESOLUTION OF THE SPECIAL COMMITTEE ON THE CONDEMNATION COMMISSION

BE IT RESOLVED that The Special Committee on the Condemnation Commission recommends to the Representative Town Meeting that *THE CHARTER OF THE TOWN OF GREENWICH, CONNECTICUT ARTICLE 12. - PUBLIC WORKS. Sec. 157 (a) 2. - Condemnation Commission* be amended to read as follows:

(a) Composition and authority.

1. There shall be in the Town a Commission known as the Condemnation Commission.
2. The Condemnation Commission shall exercise all the powers and perform all the duties in respect to the condemnation of land and the assessment of damages and benefits arising out of such condemnation of land, and in respect to the assessment of benefits arising out of the construction of highways and, construction or connection of sewers, and the construction of, and issues related to, public parking. No appeal shall be taken from the action of the Condemnation Commission except within thirty (30) days from the filing of its report. If, after the making of any assessments of benefits, the land upon which it is made shall be divided, the Assessor shall have the powers and duties formerly confirmed or imposed by law upon the Sewer Commissioners with respect to the apportionment of such assessments.

ADDITIONALLY, this Committee recommends that the following documents be included in a location which will remain accessible as reference tool for Appointments Committee in future years such as the RTM Rules or an Appointments Committee reference manual.

- The Overview of Condemnation Commission Roles and Responsibilities prepared for this Committee by The Town Attorney's Office
- The Executive Summary and Process Flowcharts and created by this committee,

FINALLY, the Committee recommends that the Appointments Committee consider the following skill sets when nominating members for a balanced and effective Commission:

- Real Estate Evaluation
- Construction
- Legal Expertise
- Engineering
- Town planning

Redlined Section of Proposed Amendment to Charter

(a) Composition and authority.

1. There shall be in the Town a Commission ~~to~~ known as the Condemnation Commission.
2. The Condemnation Commission shall exercise all the powers and perform all the duties ~~which were formerly confirmed or imposed by law upon the Town Highway Commission and upon the Sewer Commissioners~~ in respect to the condemnation of land and the assessment of damages and benefits arising out of such condemnation of land, and in respect to the assessment of benefits arising out of the construction of highways and, ~~the~~ construction or connection of sewers, and the construction of, and issues related to, public parking. No appeal shall be taken from the action of the Condemnation Commission except within thirty (30) days from the filing of its report. If, after the making of any assessments of benefits, the land upon which it is made shall be divided, the Assessor shall have the powers and duties formerly confirmed or imposed by law upon the Sewer Commissioners with respect to the apportionment of such assessments.

EXECUTIVE SUMMARY

POWERS AND DUTIES OF THE CONDEMNATION COMMISSION

I. General Powers

The Condemnation Commission exercises the powers and performs the duties in respect to the condemnation of land and the assessment of damages and benefits arising only out of the construction of highways, sewers and public parking. Charter Section 157.

II. Highway

Whenever the Commissioner of Public Works deems it necessary to take any land for the layout, alteration, extension, widening, change of grade or improvement of any highway in the Town and no agreement can be reached with the owners of such land as to the damages which will be sustained or the benefits which will accrue to such owners from such taking, the Commissioner of Public Works submits the matter with the proposed plan to the Condemnation Commission for action.

The Commission notifies the owners of the land of a hearing on the proposed taking. The Commission conducts a hearing and upon its finding that it is necessary to take such land the owners of such land are paid by the Town for all damages.

The assessment of such damages and of such benefits made by the Condemnation Commission is filed with the Town Clerk, and at any time thereafter the Commissioner of Public Works may commence the taking.

Any person claiming to be aggrieved by assessment of special damages or of special benefits by the Condemnation Commission may, within thirty (30) days after such assessment shall have been so filed, apply to the Superior Court for Fairfield County for a reassessment of such special damages or special benefits so far as they affect such applicant. Charter Sections 157-162.

III. Highway Drainage

When any ditch, drain, gutter or other construction is required for the purpose of draining any highway in the Town, or for any other drainage purpose, the same procedure used for takings for highway construction is followed. Charter Section 163.

IV. Sewers

Whenever the Commissioner deems it necessary to take any land, building, easement and other property for the construction of any sewer, sewerage system, sewage disposal plant or trunk sewer, and the Commissioner is unable to obtain the same by purchase at a price considered to be reasonable by the Commissioner and the Board of Estimate and Taxation, the Commissioner applies to the Condemnation Commission for the condemnation of such land, building, easement and other property required for such purpose, and for an assessment of damages. The Condemnation Commission notifies all persons claiming interests in such property of a hearing on such proposed

taking under the same provisions as are provided for the taking of any land found necessary by the Commissioner of Public Works

If the Board of Estimate and Taxation approves an appropriation for the construction of a sewer or sewerage system, the Board determines the present and future benefits and the portion of the cost to be reimbursed to the Town. The RTM in approving the appropriation may also increase the amount to be reimbursed to the Town by benefitted property owners.

All or such part of the cost of the construction of such sewer or sewerage system, which is to be assessed against the property within an area of benefit, is apportioned by the Condemnation Commission against the property in the proportion to the benefit each lot or parcel derives therefrom as outlined in the Charter.

The Condemnation Commission files in the office of the Town Clerk a detailed map of the area benefitted and its proposed apportionment and assessment of benefits with reference to the map of the benefitted area.

After making and filing such map and apportionment, the Condemnation Commission serves on each property owner a notice of the completion and filing, and the Condemnation Commission meets to hear objections and may modify and correct the same, with the final versions being filed in the office of the Town Clerk..

The Condemnation Commission assesses against each lot or parcel of land within an area of benefit the amount of the benefits apportioned to each such lot or parcel, and the assessments are set forth in the "Sewer Assessment List" with references to the map of the benefitted area, and the same is filed in the office of the Town Clerk.

Appeals of the assessment of damages or benefits may be taken to the Superior Court for Fairfield County.

In the event that any property at any time derives a material increase in benefits due to an increase in the use of a sewer or sewerage system or as a result of a connection of any sewer or sewerage system with any other sewer or sewerage system, the Condemnation Commission may make an additional assessment against such property so served or benefitted in an amount which reflects the value of the increase in benefits to such property resulting from such increased use. Charter Sections 248, 256-259.

V. Public Parking

The Condemnation Commission acts similarly in the taking of areas for public parking and the assessment of damages and benefits. Charter Sections 128, 130-133.

VI. Flood & Erosion Control

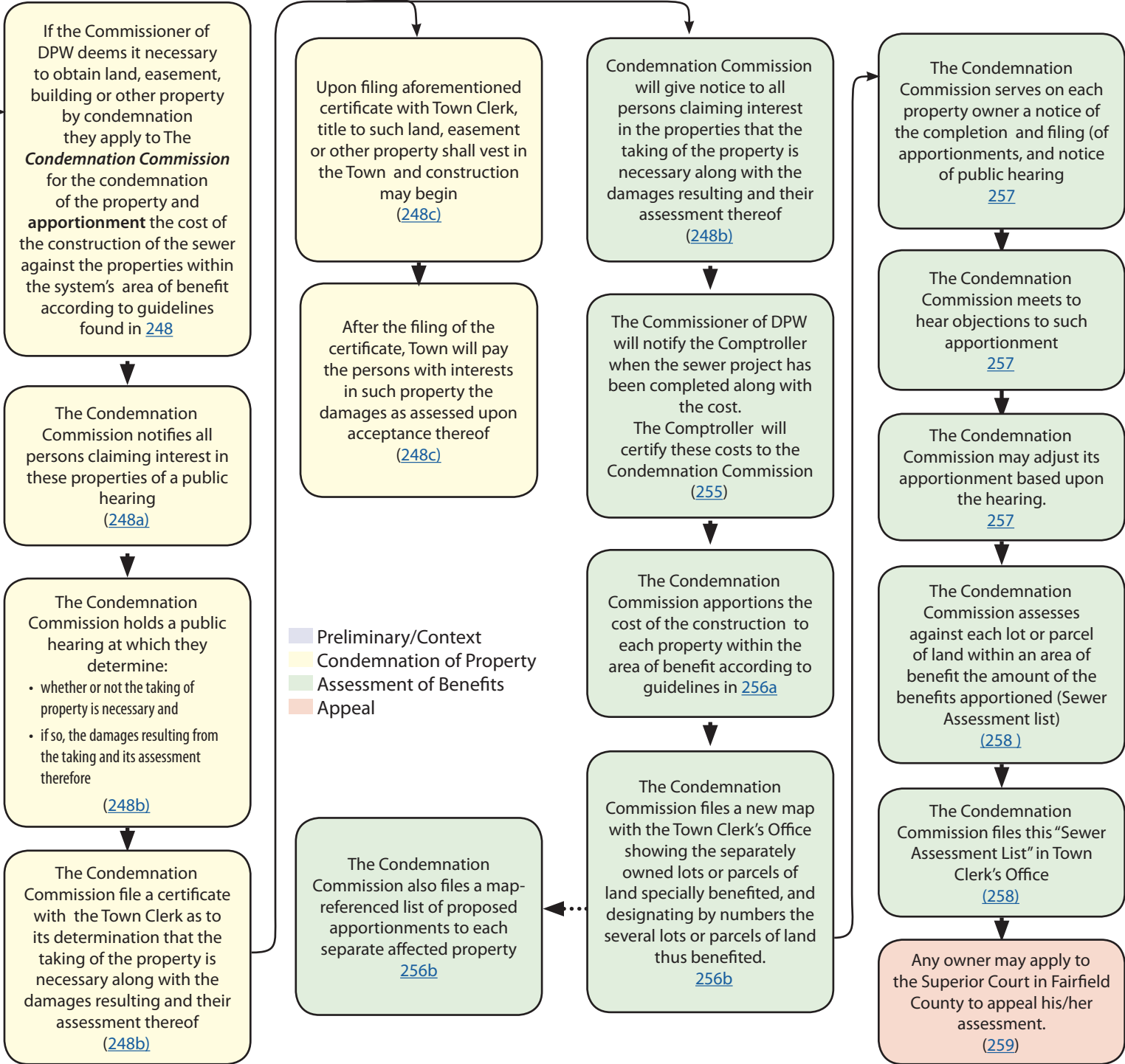
The Condemnation Commission does not exercise the power of eminent domain regarding flood control. That is exercised by the Flood and Erosion Control Board. Charter Section 47. 7/31/2018

Condemnation Process Flowchart For Property Related To SEWERS

with hyperlinks to Town Municode site

The Commissioner of the DPW applies to the BET for funding for a new sewer system or part thereof.

- The BET holds a public Hearing
- The BET establishes the following Criteria which will be used by the Condemnation Commission:
 - The **area** presently benefited by construction of the system
 - the portion of the cost which will be reimbursed to the Town by the assessment of benefits against the property within this area of present benefit;
 - The **area** which will, in the future, will benefit by construction of the system
 - the portion of the cost which will be reimbursed to the Town by the assessment of benefits against the property within this area of future benefit.
- A map and list named "Potential Sewer Benefits" outlining the properties benefitting from the construction" is created
- BET approves this map and then the Comptroller files it with the Town Clerk [\(246-247\)](#)



- Preliminary/Context
- Condemnation of Property
- Assessment of Benefits
- Appeal

Condemnation Process Flowchart For Property Related To HIGHWAY & DRAINAGE

with hyperlinks to Town Municode site

- Preliminary/Context
- Condemnation of Property
- Assessment of Benefits
- Appeal

The Commissioner (of Public Works) shall have power to lay out, alter, construct, or reconstruct, maintain or repair, widen or grade any highway within the Town whenever, in his judgment, the interests of the Town shall so require. [\(158C\)](#)

Whenever the Commissioner of Public Works shall deem it necessary to take any land for the layout, alteration, extension, widening, change of grade or improvement of any highway in the Town and cannot agree with the owners of such land as to the damages which will be sustained or the benefits which will accrue to such owners from such taking, he shall submit the matter with the plan of such land as he shall deem it necessary to take to the Condemnation Commission [\(159a\)](#)

Drainage: [\(163\)](#)

The Condemnation Commission notifies all persons claiming interest in these properties of a public hearing [\(159b\)](#)

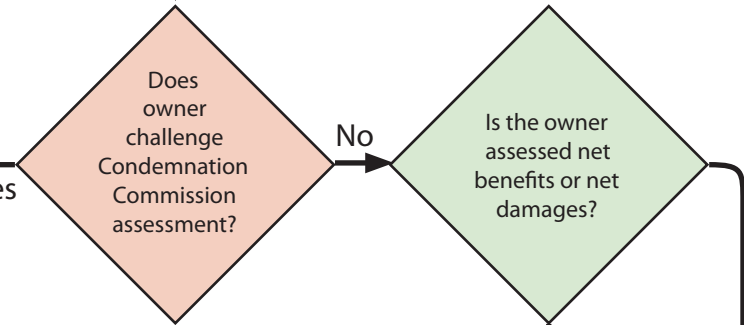
The Condemnation Commission holds a public hearing at which they determine whether or not the taking of property is necessary and [\(159b\)](#)

If it does find the taking necessary, The Condemnation Commission makes an assessment of such damages and of such benefits [\(160a\)](#)

The Condemnation Commission files its assessment of damages and benefits with the Town Clerk [\(160a\)](#)

Upon filing with Town Clerk, and at any time thereafter the physical construction of such layout, alteration, extension, widening, change of grade or other improvement may be made by the Commissioner of Public Works. [\(159a\)](#)

The Town Clerk shall give notice of such assessment to the property owners affected [\(160b\)](#)



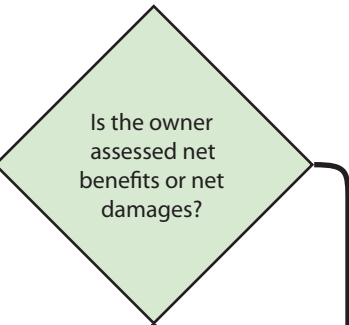
Any person claiming to be aggrieved by assessment of special damages or of special benefits by the Condemnation Commission may, at any time within thirty (30) days after such assessment shall have been so filed, apply to the Superior Court for Fairfield County [\(162a\)](#)

The owners of such land shall be paid by the Town for all damages and the Town shall receive from such owners the amount or value of all benefits resulting from such taking. [\(159b\)](#)

An appeal will not delay construction [\(162c\)](#)

The Treasurer shall pay to any land owner the damages so assessed by the Condemnation Commission or reassessed by the court as hereinafter provided, upon certification of the amount by the Town Clerk if assessed by the Condemnation Commission or by the clerk of the court if reassessed by a committee and accepted by the court as herein provided. [\(160b\)](#)

The Court appoints a Committee of "3 disinterested electors" to hear the applicant and the Condemnation Commission and decide the case [\(162b-c\)](#)



The amount of such benefits so assessed by the Condemnation Commission or reassessed by the court, as the case may be, shall constitute a lien upon the land against which such benefits were assessed until the amount thereof shall have been paid by the property owner... No such lien shall continue against such land unless notice of the same shall have been filed by the Condemnation Commission in the land records of the Town within sixty (60) days after the filing of such assessment or after the acceptance by the court of such reassessment. [\(161\)](#)

Condemnation Process Flowchart For Property Related To PUBLIC PARKING

with hyperlinks to Town Municode site

- Preliminary/Context
- Condemnation of Property
- Assessment of Benefits
- Appeal

The Town is authorized to acquire real property, which shall include improvements, easements, hereditaments and every estate and interest therein, by purchase, lease, gift or condemnation, and to improve the same, for the purpose of providing for the public parking of vehicles, after funds to cover the estimated cost of acquisition and improvement have been appropriated and allotted as hereinafter provided and as provided by law in the Town. (123)

After funds have been appropriated and allotted for the acquisition of any area for public parking, the Director of Parking Services may acquire such area by negotiation (128a)

