

TOWN OF WALLINGFORD, CONNECTICUT

*REGULAR TOWN COUNCIL MEETING*

Town Council Chambers

**October 9, 2012**

**RECORD OF VOTES & MINUTES**

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The Regular Meeting of the Wallingford Town Council was called to order at 6:30 P.M. The Opening Prayer was offered by Reverend Douglas R. Valentine, First Baptist Church of Wallingford, and the Pledge of Allegiance was said. Councilors in attendance as follows: Vincent Cervoni, Nick Economopoulos, Craig Fishbein, Thomas Laffin, John Letourneau, Chairman Robert F. Parisi, Rosemary Rascati, John J. Sullivan and Jason Zandri. Mayor William W. Dickinson, Jr. and Town Attorney Gerald E. Farrell, Sr. were also in attendance at the meeting.

**2.** Correspondence

*None*

**3.** Consent Agenda

**3a.** Consider and Approve Tax Refunds totaling \$7,895.001(#206 - #265)  
Acct. # 001-1000-010-1170 - Tax Collector

**3b.** Acceptance of Donation and Appropriation in the Amount of \$260  
*Youth and Social Services Special Fund* to Donations Acct # 2134002-47152  
and to Expenditures Acct # 21340100-58830 – Youth and Social Services

**3c.** Acceptance of Donation and Appropriation in the Amount of \$1,197  
from Wallingford Peer Advocates to Donations Acct # 2134002-47152  
and to Expenditures Acct # 21340100-58830 – Youth and Social Services

**3d.** Approve minutes of Regular Town Council meeting of September 25, 2012

**MOTION WAS MADE TO APPROVE CONSENT AGENDA ITEMS 3a. to 3d.**

**MADE BY: CERVONI**

**SECONDED BY: RASCATI**

**VOTE: AYE (9)**

**MOTION PASSED.**

**4.** Items Removed from the Consent Agenda

*None*

It was announced by Chairman Parisi that Item 7 was withdrawn from the agenda and will be considered at the next Town Council meeting

**5.** PUBLIC QUESTION & ANSWER PERIOD

Robert Gross, 114 Long Hill Road, asked if has been any action with regard to Incentive Housing Zone to which Chairman Parisi responded that the Town Council and Planning and Zoning Commission are working towards a Joint Meeting.

There were no other questions from the public.

6. Report from Town Engineer regarding natural gas company highway work on North Elm Street – Chairman Robert F. Parisi

*In attendance: John Thompson, Town Engineer*

Mr. Thompson presented the history of working with Yankee Gas on projects in Wallingford. He said there two components to the opening of any excavation within the public right-of-way. The first component is covered by the Code of Ordinances, which states that if there is a street excavation, there is a permitting process that sets out the procedures associated with getting a permit to excavate within the public right-of-way, the roadway itself curb-to-curb, or outside the public right-of-way in the curb area from street line to street line.

He reported that this is a very old ordinance, and Chairman Parisi is a strong proponent of updating the standards. He said that several meetings have taken place with Water-Sewer and Public Works departments discussing the process of getting everyone in general compliance with the excavation ordinance. He said what is of interest is the result of the two patches that are applied, temporary and permanent. He explained that a number of excavations are not done very well, resulting in unacceptable conditions on many of the town's roadways. He said that in the meetings they discussed how to make the situation better in their excavations.

The town has historically had problems with the excavations of Yankee Gas, he said. They don't follow the process; their quality is poor in terms of both the temporary patch and the permanent patch. To address the procedure process and product problems with both of the patches, they met with Yankee Gas. Yankee Gas always does not follow the process that is covered in the excavation Ordinance, so they discussed all of this. Importantly, they talked about a notification process to keep the roads safe for the public. He thought that they had made some headway with Yankee Gas as a result of those meetings but ultimately not all the things were followed through upon.

Councilor Cervoni asked if the town has gotten to the point where legal action has been discussed against Yankee Gas.

Mr. Thompson commented that with regard to Yankee Gas, there are inadequacies in the Ordinance. It does not get into any legal consequences. There is no mechanism for that. He outlined three (3) major projects by Yankee Gas that are presently underway in town.

- Washington Street-North Colony Road-High Street
- North Farms
- High Street-North Elm Street-Center Street

He said as the applicant, Yankee Gas asked for permits on all three projects using sub-contractors for the work. Because the status of Yankee Gas as a public utility, they are exempt from some of the regulations. He said they needed a mechanism to make the company comply with how the town wanted the work to be done. It was determined that they could not bond for work for Yankee Gas. Bonding is the mechanism that ensures that the work gets done the way the town wants it done. So they set up periodic inspections, testing, etc. for all of the three jobs. They walked the jobs to determine a process that allowed them to get a permit within the context of what was allowed.

He said that in all aspects of the job, they have had a number on resident complaints about Yankee Gas on the North Farms project, including- excavation, condition of pavement,

the way they treated the abutters, access during construction. Despite Mr. Thompson's many visits to the site, he said the job did not go well. He informed Yankee Gas that the way the job was performed was unacceptable.

Mr. Thompson said that his department is responsible for the condition of the town's roads. He takes this seriously. He said that he will try everything that he can to make sure that it's done in a way that is consistent with the town's expectations in terms of protecting the general public.

He added that all of the three projects are to provide Bristol-Myers Squibb with continuous 24-hour Yankee Gas service.

When it came time for the North Elm Street project, he reported that they walked the job with Yankee Gas. They went street to street, house to house and outlined the way the job would be done, down to where pipe would be laid. As a result, Mr. Thompson issued a street excavation permit under the provision of the Code of Ordinances. The general contractor called Mr. Thompson within the first week of work wanting to discuss a street closure. The Ordinance that addresses street closures is held jointly between the Engineering Department and the Police Department. He communicated to the general contractor that the street closure permit had to follow the standards and notifications in that emergency services, the Board of Education, bus services, abutters and lots of others of the public would all be affected.

Yankee Gas told him the following day, Friday, that they were not going to pursue the street closure. Mr. Thompson visited the North Elm Street project on Monday and saw signs on North Elm Street that said '*Road Closed. Local access only*'. He said that no vehicle could find passage on the job site, local or otherwise. He was upset with what he found and went to see Police Chief, who had no knowledge of the closure, nor did Police dispatch. He was unsuccessful after numerous attempts at various phone numbers to reach Yankee Gas. Mr. Thompson revisited the site with a Police Officer to tell the contractor to re-open the road immediately. The contractor was not happy and all communication broke down. The Police Lieutenant remained, and the site was then opened again.

Mr. Thompson reviewed the edicts of the Ordinance with Yankee Gas, stating that what was set out to occur did not happen and was violated, and unless the Ordinance is followed, the work would not continue on the site. Mr. Thompson now required a meeting with the contractor, the Police Chief and Yankee Gas to discuss for the procedures that need to be followed. They met (the town, the contractor and Yankee Gas) and reviewed everything, including what they did. They set out two pages of conditions that included notifying the Police Department, the Board of Education and the abutting property owners. They issued a permit. He said the following day both he and the Police Chief drove through the site and were shocked again of the flagrant disregard for the detour pattern that had been set up in the meeting the previous day. They did not comply. They started the communication process all over again asking what didn't they understand about the process.

Councilor Sullivan asked about recourse through the Department of Public Utility Control (DPUC). Mr. Thompson states that throughout this process because legal issues are involved, he has been speaking with Corporation Counsel, Janis Small, discussing with her the issues and the frustrations involved. He told her of his own discomfort at the disrespect, verbal challenges and disregard to what was agreed to. She had advised him with regard to what he can and cannot do legally in terms of stopping the operations. He reported that recently on one of the

streets where there was construction, a resident's furniture could not be delivered. Mr. Thompson said that he was met with disrespect when he went out to inquire why access was not being allowed. He said that Yankee Gas has not been a cooperative partner in this excavation activity. He noted that Center Street businesses are expressing concern.

Attorney Small has obtained the name of a contact at DPUC. Mr. Thompson has made a report of items that have been and are a concern, which has been forwarded to the DPUC Gas Line Agency. He had not heard from them yet.

In response to Councilor Sullivan's inquiry about an on-site project manager, Mr. Thompson said that Yankee Gas does have an individual, and he is the person who has been the obstacle. The Police Department has noted the behavior of this person. Mr. Thompson said it has been suggested to him that he visit the site only with a Police Officer. Mr. Thompson feels this would create one more level of complication for him in his attempt to carry out his job in a more simple fashion.

Councilor Sullivan reported that this is the same Yankee Gas that dug up a newly paved road in Southington. Mr. Thompson concurred and stated that the company was called to task by Southington. He noted that Yankee Gas has changed administrative officers, who have no history with the company or with the company's projects or problems; therefore, there are communication breakdowns. He said that last spring he met with about six people from all levels of Yankee Gas, the Mayor and about five department heads. Yankee Gas in effect stated what they were going to do to make Wallingford happy but they spent an hour and one-half with Yankee Gas only to discover that Yankee Gas had no understanding what was going on in the field. Mr. Thompson mentioned a project on North Plains Highway said there was a total disconnect with regard to it.

Councilor Fishbein said his relative on North Farms Road was a victim of this shoddy workmanship. The apron to their driveway was damaged by this company. He asked the Town Attorney what can the town do. Town Attorney Gerald Farrell, Sr. responded that Attorney Small has contacted the DPUC who has said they would go to the highest levels of Yankee Gas over these issues. He said they told Attorney Small that they would push this, and according to the State of Connecticut, someone would be held accountable. Councilor Fishbein said in the meantime while the town waits for the State's determination on this, we still have activity going on, and our roads are a mess. Mr. Thompson said that he is at an end point and has communicated that he will no longer tolerate the behavior of Yankee Gas. He will exercise his authority to stop all operations and will with both elements. The Chief of Police has the same authority. He wants to do it cooperatively so that our conditions are carried out.

Mr. Thompson stated that Yankee Gas believes that they are exempt bonding for their work. A bond would ensure the town of a proper job completion. Attorney Farrell stated that our town ordinances cannot conflict with State statutes. Councilor Fishbein brought to mind an ordinance about firearms in New Britain, which made the state statute more restrictive than the state right and asked why we can't do that here. Attorney Farrell said that the issue is where the state has already legislated in an area and its dictum is clear. You can't have something that goes against it. If you are in an area that hasn't been covered and you want to make it more explicit in your town, then that would be different.

Councilor Fishbein asked if this isn't the case here. He said that this is an interpretation. He said it's not clear. Yankee Gas is interpreting. That is his understanding because there is no

statute that expressly says Yankee Gas does not give bonds to municipalities. Mr. Thompson said that it does not expressly identify Yankee Gas but it does talk about public service companies, and the interpretation of Corporation Counsel was that Yankee Gas was a public service company. Yankee Gas provided the sections of the state statute as evidence to our inability to require a bond.

Mayor Dickinson offered that this is not a comfortable situation for the Town Engineer in order to accomplish something where the presence of a police officer is needed in order to ensure that the authority is recognized.

Chairman Parisi said that he included this item on the agenda because he wanted the Council to hear of this situation. He asked how the Council can be of assistance. Mr. Thompson stated that he hopes the Council will be sensitive to an amendment to the Ordinance that he is drafting.

Councilor Laffin remarked that the company is the obstacle. Councilor Zandri acknowledged the Town Engineer.

Mayor Dickinson noted that Yankee Gas has an important product to provide to the community so that they are important but that the town is also assigned duties, and we cannot and will not back down on the duties of public safety and a variety of other things in order to accommodate what was happening on North Elm Street to elsewhere.

Councilor Sullivan asked about the protocol for putting down the permanent patch so residents can know what to expect. Mr. Thompson responded that it is 90 days from the time the temporary patch is put down. He discussed some scenarios involving the seasons and the weather but generally speaking, it involves a winter to allow the area to settle before the permanent layer can go down.

Mr. Thompson said North Farms Road will be handled differently since only six years ago, the town spent over \$1 million dollars of town money on a complete rebuilding of this road from base to surface on this road. The Town of Wallingford will be requiring Yankee Gas to do half of the road where their trench is. This means from the curb out to the center line of the road for six thousand feet (6,000 feet). He added that when High Street and North Elm Street are complete, there is a similar requirement already in place. It is part of the permit to Yankee Gas, and that in the meantime before the permanent patch goes in, Yankee Gas is responsible for the temporary patch. He said if there is settlement to the temporary patch anyone can call to report it to the town in Engineering, the Mayor's Office or to Public Works. Engineering will report it to Yankee Gas. He agreed that this could go into the spring. He also added that any trench anywhere in town should be reported.

Mayor Dickinson said that generally speaking it will go way beyond those 90 days. In response to Councilor Letourneau's question, Mr. Thompson related that Yankee Gas is the permit holder, and therefore, sub-contractors cannot be bonded either. Councilor Fishbein asked about Grieb Road's permanent patch. Councilor Economopoulos asked where our residents call for problems like rats at the Covanta site. Mayor Dickinson responded stating that in the case of refuse, the Health Department should be contacted. To his understanding, Mayor Dickinson said that Covanta exterminates on a regular basis. He added that wherever there is food, there are rats but they are contained to the inside at the Covanta location.

Chairman Parisi thanked John Thompson for enlightening the Council on this important issue.

7. Discussion and Possible Action for Appointing a Town Parking Authority  
– Councilor Nick Economopoulos

Withdrawn

8. Executive Session pursuant to §1-200 (6)(D) of the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property – Mayor

**MOTION TO GO INTO EXECUTIVE SESSION PURSUANT TO §1-200 (6)(D)  
OF THE CONNECTICUT GENERAL STATUTES WITH RESPECT TO THE  
PURCHASE SALE AND/OR LEASING OF PROPERTY.**

**MADE BY: CERVONI  
SECONDED BY: RASCATI  
VOTE: AYE (9)  
MOTION PASSED.**

**MOTION TO COME OUT OF EXECUTIVE SESSION.**

**MADE BY: CERVONI  
SECONDED BY: RASCATI  
VOTE: AYE (9)  
MOTION PASSED**

**EXECUTIVE SESSION ATTENDANCE:**

**NINE (9) COUNCILORS;  
MAYOR DICKINSON  
TOWN ATTORNEY GERALD E. FARRELL.**

**TIME OF EXECUTIVE SESSION: 7:27 P.M. TO 7:45 P. M.**

**MOTION TO ADJOURN.**

**MADE BY: CERVONI  
SECONDED BY: RASCATI  
VOTE: AYE (9)  
MOTION PASSED**

Respectfully submitted,

Sandra Weekes  
Town Council Secretary

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Town Council Chairman Robert F. Parisi

Date

Town Clerk Barbara Thompson

Date