

TOWN OF WALLINGFORD, CONNECTICUT
TOWN COUNCIL MEETING
Town Council Chambers
March 28, 2017

RECORD OF VOTES & MINUTES

The Meeting of the Wallingford Town Council on Tuesday, March 28, 2017 was called to order at 6:49 P.M. The opening Prayer was given by Pastor Steven Peiffer, First Methodist Church and the Pledge of Allegiance was said. Councilors in attendance were: Chairman Vincent Cervoni, Craig Fishbein, Thomas Laffin, John LeTourneau, Joseph A. Marrone, Christopher K. Shortell, John J. Sullivan, Vincent F. Testa, Jr., and Jason Zandri. Mayor William W. Dickinson, Jr. and Town Attorney Gerald Farrell, Sr. were also present at the meeting.

- 1. Pledge of Allegiance
- 2. Roll Call
- 3. Consent Agenda

3a. Consider and Approve Tax Refunds totaling \$6,371.87 (#672-687)
Acct. #1001001-41020 – Tax Collector

3b. Consider and Approve a Transfer in the amount of \$136,489 from Contingency-Accrued, Acct. #10019000-58821 to Various Regular Salary Lines, Acct. # (See Attached) - Comptroller

3c. Consider and Approve a Transfer in the amount of \$3,512 – Public Works:

\$2,815	From: Trailer – Cap. Acct.	Acct. #10030000-57000-00556
\$ 396	From: Back Pack Blowers-Cap. Acct.	Acct. #10030000-57000-00558
\$ 301	From: Mower Lift – Cap. Acct.	Acct. #10030000-57000-00559
\$3,512	To: Cement Mixers – Cap. Acct.	Acct. #TBD

3d. Consider and Approve a Transfer in the amount of \$20,000 from Regular Salaries & Wages, Acct. #10050050-51000 to Pragemann Park New Athletic Field, Acct. #TBD - Recreation

3d(a). Consider and Approve a Transfer in the amount of \$50,000 from Contingency, Acct. #10019000-58820 to Public Works - Pragemann Park Field & Irrigation Project, Acct. #TBD – Public Works

3e. Consider and Approve a Transfer in the amount of \$35,000 for repair of Public Works plows and trucks from Contingency, Acct. #10019000-58820 to Maint. of Vehicles, ACCT#10030000-54320 – Public Works

- 3f. Consider and Approve a Transfer in the amount of \$830 from Regular Salaries & Wages, Acct. #10010300-51000 to Overtime Salaries & Wages, Acct. #10010300-51400 – Law Dept.
- 3g. Consider and Approve a Transfer in the amount of \$1,200 from Maintenance of Vehicles, Acct. #50020155-54320 to Telephone, Acct. #50020155-53000 – Fire - EMS Division.
- 3h. Acceptance and Additional Appropriations totaling \$471,199 to Various Federal and State Educational Grants – Board of Education

The following grants were awarded an amount greater than included in the original budget:

<u>Grant Title</u>	<u>Grant Amt.</u>	<u>Additional Approp.</u>
Bilingual Education	\$ 10,853	\$ 870
IDEA, 611	\$1,277,624	\$ 40,783
IDEA, 619 –Preschool	\$ 39,727	\$ 1,927
Perkins Voc-Ed	\$ 51,487	\$ 2,263
Smart Start Operations	\$ 300,000	\$150,000
Title I	\$ 557,859	\$ 51,850
Title III	\$ 50,786	\$ 2,071

The following grants are new awards:

<u>Grant Title</u>	<u>Grant Amt.</u>
Frontier Communications Grant	\$ 13,241
Carl D Perkins Career & Tech Ed-Robotics	\$ 28,200
Carl D Perkins Career & Tech Ed-School Enterprise	\$ 29,994
Smart Start Capital Improvements	\$150,000
TOTAL	\$471,199

\$471,199 To: State Grant Revenues, Fund 235 and to Program Expenditures

- 3i. Approve Town Council Minutes of February 28, 2017.
- 3j. Consider and Approve Appropriation of funds in the amount of \$223 to Misc. Revenue, Acct. #1009052-47040 and to Vet, Acct #10020100-56742 – Animal Control
- 3k. Consider and Approve Appropriation of funds in the amount of \$450 to Misc. Revenue, Acct. #1009052-47040 and to Vet, Acct #10020100-56742 – Animal Control
- 3l. Consider and Approve Tax Refunds totaling \$1,353.88 (#688-702) Acct. #1001001-41020 – Tax Collector
- 3m. Approve two Merit Review Step Increases – Personnel

- 3n. Consider and Approve Appropriation of funds in the amount of \$70 to Revenue, Acct. #2134002-47152 and to Expenditures, Acct. #21340100-58830 – Y&SS
- 3o. Consider and Approve Appropriation of funds in the amount of \$301 to Misc. Revenue, Acct. #1009052-47040 and to Police Overtime, Acct. #10020050-51400 – Police Dept.
- 3p. Acceptance of Donation from Holy Trinity School and Consider and Approve Appropriation of funds in the amount of \$225 to Revenue Donations – Police, Acct. #25020-47152 and to Expense Donations – Police, Acct. #25020050-58830-10127 – Police Dept.
- 3q. Consider and Approve a Transfer in the amount of \$2,800 from Structures & Improvements, Acct. #4330321 to Transportation Equipment, Acct. #4330392 – Water Division
- 3r. Consider and Approve a Transfer in the amount of \$4,700 from Distribution Maintenance Line Transformers, Acct. #595 to Transmission Maintenance Overhead Lines, Acct. #571- Electric Div.
- 3s. Consider and Approve a Transfer in the amount of \$13,400 from Distribution Plant-Street Light and Signal Systems, Acct. #373 to Distribution Operations-Street Light and Signal Sys., Acct. #585 – Electric Div.
- 3t. Consider and Approve a Transfer in the amount of \$4,900 from Distribution Maintenance Overhead Lines, Acct. #593 to Distribution Customer Installation Expense, Acct. #587 – Electric Div.
- 3u. Consider and Approve a Transfer in the amount of \$91,220 from Contingency-Accrued, Acct. #10019000-58821 to Fire-Replace. Pay, Acct. #10020150-51500 – Fire Chief
- 3v. Consider and Approve Appropriation of funds in the amount of \$31,000 to Miscellaneous Revenue, Acct. #1009052-47040 and to Professional Services – Lawyers, Acct. #10010300-56710 – Law Dept.
- 3w. Consider and Approve Reappointment of Joel Rinebold to the Public Utilities Commission for a three year term effective immediately and expiring March 1, 2020 – Mayor
- 3x. Consider and Approve Appointment of Barbara M. Sibley to the Historic Properties Commission for a five year term effective immediately and expiring March 27, 2022 – Chairman Cervoni
- 3y. Consider and Approve Utilization of the Qualifications-based Selection procedure for consultant services to prepare a wastewater facilities plan – Water-Sewer Div.

- 3z. Consider and Approve authorizing the Mayor to execute the following LS Power Construction Agreement – Electric Div.
- a. First Amendment to Agreement regarding construction of interconnection facilities and transmission upgrades.
 - b. Form of Agreement regarding transfer of title to Transmission Upgrades.

MOTION WAS MADE TO APPROVE CONSENT AGENDA ITEMS 3a.-3z.

**MADE BY: LAFFIN
SECONDED BY: FISHBEIN
VOTE: ALL AYE
MOTION: PASSED**

4. **Items Removed from the Consent Agenda -- None**
5. Executive Session pursuant to Connecticut General Statutes Section 1-225(f) and Section 1-200(6)(B) to discuss the matter of *Janicki v. Judkins, et al* – Law Dept.

MOTION WAS MADE TO GO INTO EXECUTIVE SESSION PURSUANT TO CONNECTICUT GENERAL STATUTES SECTION 1-225(f) and SECTION 1-200(6)(B) TO DISCUSS THE MATTER OF *JANICKI v. JUDKINS, ET AL*

**MADE BY: LAFFIN
SECONDED: FISHBEIN
VOTE: ALL-AYE
MOTION PASSED**

MOTION WAS MADE TO MOVE OUT OF EXECUTIVE SESSION AT 7:27 P.M.

**MADE BY: LAFFIN
SECONDED BY: FISHBEIN
VOTE: ALL AYE
MOTION: PASSED**

Time of Executive Session: 6:54 p.m. to 7:27 p.m.

Attendance at the Executive Session: 9 Councilors, Mayor Dickinson, Town Attorney Gerald E. Farrell, Sr., Kurt Treiber, Risk Manager, and Attorney Dennis Durao.

6. Possible action on *Janicki v. Judkins, et al v. Town of Wallingford* – Law Dept.

MOTION WAS MADE TO GIVE CONSENT TO THE INSURANCE COMPANY'S SETTLEMENT OF *JANICKI v. JUDKINS* IN ACCORDANCE WITH THE POLICY, AS DISCUSSED IN EXECUTIVE SESSION.

MADE BY: LAFFIN
SECONDED: FISHBEIN

ROLL CALL VOTE:	SHORTELL: NO
FISHBEIN: YES	SULLIVAN: YES
LAFFIN: YES	TESTA: YES
LETOURNEAU: YES	ZANDRI: YES
MARRONE: YES	CERVONI: YES
8-AYE:	
1 NAY: MOTION PASSED	

7. **PUBLIC QUESTION & ANSWER PERIOD**

Opened Public Question & Answer Period at 7:29 p.m.

Paul Chiardello, 2 Bayberry Drive, spoke about the surplus we have and stated that he feels we should be discussing the surplus as part of the budget forecast.

Christine Tatta, 751 N. Farms Road, stated that the Mayor's budget is traditionally conservative and we need to be very careful. She suggested that maybe we should take the whole budget and cut it a certain percentage for every department.

Bob Gross, Long Hill Road, stated that the Charter Revision would not consider changing the PUC from three to five members. He then asked Mayor Dickinson if he oversees Utilities and their initiatives.

Mayor Dickinson responded yes when appropriate.

Closed Public Question & Answer Period at 7:42 p.m.

8 Discussion and possible action regarding the Water Unit Interest Arbitration Award (Case No. 2016-MBA-252) – Personnel

In Attendance: Attorney Dennis Ciccarillo
James Hutt, Personnel Director

MOTION WAS MADE TO MOVE TO REJECT THE WATER UNIT ARBITRATION AWARD CASE NO 2016-MBA-252 FOR THE REASONS SET FORTH IN THE LETTER DATED MARCH 27, 2017 REGARDING SUMMARY OF REASONS TO REJECT THE WATER UNIT ARBITRATION AWARD CASE NO. 2016-MBA-252 AS SIGNED BY ATTORNEY DENNIS CICCARILO.

MADE BY: LAFFIN
SECONDED BY: SHORTELL

Councilor Laffin stated that the Council is rejecting the Arbitration Award based upon Attorney Dennis Ciccarillo's letter to the Mayor dated March 27, 2017 (attached).

Attorney Ciccarillo explained that the only issue that can be re-awarded is the equipment weight limitation safety procedure.

Mayor Dickinson stated we are just looking to keep our workers safe and went on to say that safety is the number one issue.

ROLL CALL VOTE:	SHORTELL: YES
FISHBEIN: YES	SULLIVAN: YES
LAFFIN: YES	TESTA: YES
LETOURNEAU: YES	ZANDRI: YES
MARRONE: YES	CERVONI: YES
9-AYE: MOTION: PASSED	

9. Report from CT DOT regarding construction on Center Street/Route 150 bridge over Wharton Brook – Chairman Cervoni

*In Attendance: Matthew Cleary, DOT
Anil Sehgal, DOT*

Mr. Cleary and Mr. Sehgal presented a power point on the repairs and construction of the new bridge. Mr. Sehgal indicated that the time frame for the project is from April 1, 2016 through November 30, 2018.

Councilor Zandri asked about the water flow and the clearing that was done. He then asked whose property it was.

Mr. Sehgal responded that it was State property and that the State had some temporary easements for sewer lines with Choate.

Councilor Fishbein asked if they met with residents that would be impacted by this and Mr. Sehgal answered no.

Councilor Fishbein commented that we have received letters from the condo complex owners about flooding.

Mr. Sehgal does not see how this project could have affected those condo's and noted they are on the other side of the street.

Councilor LeTourneau stated that area has always been prone to flooding. He then asked how much bigger the new bridge will be.

Mr. Sehgal replied ten feet longer.

Councilor LeTourneau asked if they have talked with inland wetlands before doing this project.

Mr. Sehgal stated he does not know, but will check and get back to us, but that they have a State environmental permit.

Councilor Sullivan commented that we have a lot of businesses and residents right in that area and he hopes they are being kept in the loop.

PUBLIC COMMENT:

Bob Parisi, East Main Street, stated that the people he talks with are not happy with this project.

Mr. Sehgal explained that the contractor had a hard time last November when it froze up real fast and the pavement did not have time to set, but they have been in contact with the contractor and he will repair the roadway.

Mr. Parisi feels he never seems to see anyone working there.

Mr. Sehgal says that the snow has slowed them down, but there is a lot of work going on under the bridge that cannot be seen, for utility adjustments.

Ray Ross, Silver Pond Apartments, stated there is a pot hole that has been there all winter. Mr. Sehgal said he would have someone out there tomorrow to patch it. Mr. Ross also asked about the cutting of the trees and brush and if the State was going to replace them. Mr. Sehgal answered yes they always replant.

Andrea Busker, 530 Center Street, stated that she has a sump pump in her home and it had never gone off before at all, and now it never stops running. She has heard from the contractor's Insurance company but would like to know why this is happening.

Natasha Zadorojnyi, 530 Center Street, lives next door to Ms. Busker and she has the exact same problem. They both are looking for answers before any flooding issues get out of control.

Chariman Cervoni thanked the gentlemen for the presentation and their time.

10. Report on transition and operations of the Wallingford Emergency Shelter to the Columbus House – Vice Chairman Laffin

*In Attendance: Alice Cunningham, CEO, Columbus House
Latice Brown-Gambino, Program Manager, Columbus House
Matt Camarota, Volunteer, Columbus House*

Ms. Cunningham explains that we have two different types of shelters, family units and single units. Single shelters are only open in cold weather and family shelters are open year round. Families get 90 days to stay and get on their feet. She stated that they have two shifts of paid staff and that they help residents with getting assistance for rent. She then went on to explain that they do take donations but they ask that people call first to let them know what they are giving because they don't always have room for all the items. She stated that volunteers are of a great help and

that most of their dinners come from Choate. She then remarked that Choate is their largest donor. She discussed overnight population which includes five women and ten men. Ms. Cunningham then spoke about the 211 call system which directs individuals to a shelter to have an evaluation.

Councilor LeTourneau stated that the old shelter was a dry shelter and wanted to know if it still was.

Ms. Cunningham stated that we are a wet shelter and we assess for safety before letting anyone in.

Councilor Marrone questioned if 75% are town residents.

Ms. Brown-Gambino responded that 30% are from Wallingford and Meriden and 70% are from the Middletown area.

Councilor Zandri asked how often people get turned away with their donations.

Ms. Cunningham replied that they try not to turn local resident donations away and that they are inundated at holiday time with donations.

Councilor Fishbein wants to get back to the issue of how many Wallingford residents come to the shelter. Ms. Cunningham replied about two or three people come from Wallingford. Councilor Fishbein then asked if they get any monetary contributions from any other towns and Ms. Cunningham answered no.

Councilor Fishben asked why we have wet shelters and Ms. Brown-Gambino responded that we have wet shelters because we wouldn't have half the people we have now. She explained that they would have to turn them away and that they are here to serve.

Craig Turner, Youth & Social Services, stated that one way to check to see if anything is going on down there is to see if the Police Department has been called and he indicated he is not under the impression they have been. He then stated that the dynamic is when it was only Wallingford residents it was half full and now that it's open to anyone it's full all the time.

11. Executive Session pursuant to Connecticut General Statutes Section 1-225(f) and Section 1-200(6)(B) regarding strategy and negotiations with respect to the following pending litigation:

- (a) *The Stop & Shop Supermarket Company v. Town of Wallingford*; and
- (b) *Metpath New England, LLC v. Town of Wallingford* – Law Dept.

MOTION WAS MADE TO MOVE TO EXECUTIVE SESSION PURSUANT TO CONNECTICUT GENERAL STATUTES SECTION 1-225(f) AND SECTION 1-200(6)(B) REGARDING STRATEGY AND NEGOTIATIONS WITH RESPECT TO THE FOLLOWING PENDING LITIGATION:

- (a) *The Stop & Shop Supermarket Company v. Town of Wallingford*; and
- (b) *Metpath New England, LLC v. Town of Wallingford*

MADE BY: LAFFIN
SECONDED BY: LETOURNEAU
VOTE: ALL AYE
MOTION: PASSED

MOTION WAS MADE TO MOVE OUT OF EXECUTIVE SESSION AT 9:52 P.M.

MADE BY: LAFFIN
SECONDED BY: FISHBEIN
VOTE: ALL AYE
MOTION: PASSED

Time of Executive Session 9:36 p.m. to 9:52 p.m.

Attendance at the Executive Session 11(a) & 11(b): 9 Councilors, Mayor Dickinson and Town Attorney Gerald E. Farrell, Sr.

12. Motion to Consider and authorize a settlement in the pending tax appeal matter of *The Stop & Shop Supermarket Company v. Town of Wallingford* as discussed in Executive Session – Law Dept.

MOTION WAS MADE TO AUTHORIZE A SETTLEMENT IN THE PENDING TAX APPEAL MATTER OF *THE STOP & SHOP SUPERMARKET COMPANY V. TOWN OF WALLINGFORD* AS DISCUSSED IN EXECUTIVE SESSION.

MADE BY: LAFFIN
SECONDED BY: SHORTELL

ROLL CALL VOTE: SHORTELL: YES
FISHBEIN: NO SULLIVAN: YES
LAFFIN: YES TESTA: YES
LETOURNEAU: YES ZANDRI: NO
MARRONE: YES CERVONI: YES
7-AYE: 2-NAY: MOTION: PASSED

13. Discussion and possible action in the pending tax appeal matter of *Metpath New England, LLC v. Town of Wallingford* as discussed in Executive Session – Law Dept.

MOTION WAS MADE TO APPROVE THE PENDING TAX APPEAL MATTER OF *METPATH NEW ENGLAND LLC V. TOWN OF WALLINGFORD* AS DISCUSSED IN EXECUTIVE SESSION.

MADE BY: LAFFIN
SECONDED BY: MARRONE

ROLL CALL VOTE:	SHORTELL: YES
FISHBEIN: NO	SULLIVAN: YES
LAFFIN: YES	TESTA: YES
LETOURNEAU: YES	ZANDRI: YES
MARRONE: YES	CERVONI: YES

8-AYE: 1-NAY: MOTION: PASSED

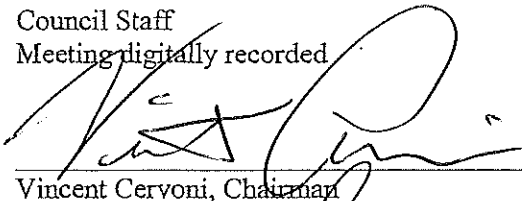
14. Executive Session pursuant to Section 1-200(6)(D) of the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property – *Withdrawn*

MOTION TO ADJOURN
MADE BY: FISHBEIN
SECONDED BY: LETOURNEAU
ALL AYES

The Council adjourned the meeting at 10:00 P.M.

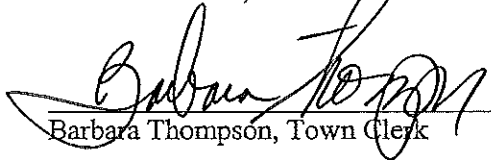
Respectfully submitted,

Lisa Moss
 Council Staff
 Meeting digitally recorded



Vincent Cervoni, Chairman

11 APRIL 2017
 Date



Barbara Thompson, Town Clerk

M-12-17
 Date

RECEIVED FOR RECORD 3-30-17
 AT 4:30 AND RECEIVED BY
Barbara Thompson TOWN CLERK

MICHALIK, BAUER, SILVIA & CICCARILLO, LLP
ATTORNEYS & COUNSELORS AT LAW

ROBERT A. MICHALIK
JOANN C. SILVIA
DENNIS G. CICCARILLO
JEFFREY T. SCHUYLER

ALSO ADMITTED IN NY

17 MAR 28 AM 11:03

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March 27, 2017

The Honorable William W. Dickinson, Jr.
Mayor, Town of Wallingford
45 South Main Street
Wallingford, CT 06492

Re: Summary of Reasons to Reject the Water Unit Arbitration Award
(Case # 2016-MBA-252)

Dear Mayor Dickinson:

This is to summarize points and arguments that support the rejection of the recent Water Arbitration Award.

The arbitration panel decided one issue: whether there should be an "Equipment Weight Limitation Safety Procedure" in this unit, as there is in the Electric Production and the Public Works/Sewer units. The Procedure focuses on the safe use of equipment, typically ladders but also rescue tripods and bucket trucks that have specific weight limits certified by the manufacturer. In essence, if an employee's weight, plus that of the usual equipment he is carrying, exceeds the safe carrying weight of the ladders (usually in the range of 300 to 350 pounds), he would be precluded from using the equipment, would continue to be employed, and would be allowed six (6) months within which to achieve the weight that would be safe on the ladder. Employees who use such weight-rated equipment would be weighed every six (6) months. The Town would pay up to \$700 for enrollment in a weight-loss program. If, at the end of the six (6) month period, an employee remained unsafe on the rated equipment, he would be terminated.

The Town has both a right and a duty to monitor the safe use of equipment. The Union framed the issue as creating a "termination clause for being overweight." However, were it the Town's objective to terminate for being unable to safely use equipment, it has had reason to do so in the Production unit but has declined, preferring to work with employees to enable them to perform safely.

In essence, the Town's proposed policy, and those like policies existing in other units, amounts to a reasonable accommodation of a problem that would prevent an employee from performing the essential functions of his job.

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The Award is in error in several respects. First, it noted that the Parties stipulated that the statutory factors to be considered were not applicable and therefore should not be a factor in the decision. (P. 1) As the Dissent points out, this is a fundamentally incorrect reading of the parties' stipulation, which was that only the financial capability of the employer—a single factor among six (6) factors in the statute—had been stipulated as not a pertinent consideration (because this is not a cost issue as such, and there would be no need to put into evidence financial data when this is a management-related issue). Under this great misunderstanding, the Award stated, at 3, with reference to the Town's other units where this policy exists: "it must be remembered that employing comparability between units is not allowed."

The parties never agreed that all of the factors were not pertinent, but only that a single one was not pertinent. Thus, existing conditions of employment of similar groups—a pertinent statutory factor—was not considered. Why the Award stated that this consideration "is not allowed" is a mystery. Given the erroneous presumption that no statutory factors pertained, and absent any indication what factors the panel did consider, it is unknown what factors or standards were applied. This is a fundamental error.

The Award is in error in that it sets forth several questions and sub-questions that were supposedly not answered by the Town. Most were not pertinent. For example, the Award asked whether "there is a history of the Town's equipment being damaged by large employees," and whether "employees [had] been injured on the job because of equipment failure due to weight issues thus driving up comp costs." The Town's point was never to preserve equipment from harm, or to save workers compensation costs savings—it has always been safety of the employee. There was no evidence of any other motivation.

The Award speculated whether there were already contract remedies in place such as the management rights clause. Even a cursory look at this clause demonstrates that there is no clear remedy (and none was cited by the Union), other than the general principle that an employee has to be able to do the job, and simply can't work if he is unable to use the necessary equipment of that job safely. This is precisely why having a plan to deal with the employee, short of firing him, has been important to the Town and to two other units. These are the wrong questions, yet Award faults the Town for not addressing them.

The Award also speculated about an "ethical question," posed as follows (at 3): "Does this [termination as the final step] mean that future job announcement will state, or at least infer, that applicants of some girth, such as one who played line on a football team, need not apply to work at the Water Department? The information shared with the panel is silent on this item." This question is wrongheaded: an applicant for a job is not a union member so the policy does not address this because neither the Town nor the union can demand to negotiate over hiring standards, and, no one asked any such question so the Town never had a chance to give these answers. Most importantly, the question focuses on "girth" or absolute weight, whereas the policy focuses on safe use of necessary equipment—this demonstrates that the whole point of the Town's proposal was lost, or intentionally avoided.

Finally, the Award questioned (at 4) "why is termination the remedy for not meeting the weight requirement?" The Award found "no substantive argument by the town other than, if you don't meet the weight you shall be terminated." Yet again, the panel completely avoids acknowledging the fact that, under the policy, the employee would remain employed for six months even though he wasn't doing his full job. The major argument for this whole policy, unacknowledged, is that an employee remains an employee while not really performing his job. The question of what happens when someone doesn't do his job for 6 months is the same as what happens on the first day he can't perform his job---he should be let go. How much longer should the Town carry an employee who can't do his job? The claim that the Town made no substantive argument about why it should not carry the persons beyond 6 months demonstrates, again, that the panel has completely missed the point. Regarding the statutory factors that do apply, and should have guided this award,

- 1) it is in the "public interest" in general that working conditions be safe, particularly as required by OSHA;
- 2) it is in the Town's citizens' "public interest" that they not have to pay additional taxes to support additional workers' compensation and other injury claims that may result from accidents caused by unsafe use of capacity-limited equipment,
- 3) it is in the interests and welfare of this group of Water Division employees that they not be allowed to perform their jobs unsafely, exposing themselves and the employees with whom they work closely to injury, possibly permanent,
- 4) it is in the interests and welfare of this group of Water Division employees that they be allowed a reasonable opportunity to maintain their jobs, in good standing, by allowing them time to achieve weight that allows them to perform the essential functions of their jobs; and,
- 5) the proposed safety procedure is exactly (Local 1183), and almost exactly (IBEW), like that which pertains to similarly situated employees in the Town.

The absence of such a procedure in other towns does not excuse such other towns, or their employees, from their respective rights and duties regarding the safe performance of all essential functions. The fact that the Town has, and proposed here, an explicit procedure that encourages safety, and preserves jobs, puts it in a far better position, in all respects, than towns with less explicit procedures or no procedures, to achieve a safe workplace, to provide reasonable accommodations to all employees regardless of their eligibility for ADA coverage, and to keep employees employed.

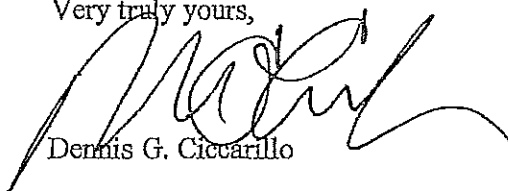
In sum, the Award's failure to apply the statutory standards, it's speculation about immaterial and irrelevant questions, and the merits in favor of the proposed policy all support the rejection of the Award, and the reconsideration of the record and award of the issues to the Town by a second panel.

The Honorable William W. Dickinson, Jr.
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Please let me know if you have any questions, wish to discuss any of these points, or require further elaboration.

Thank you.

Very truly yours,



Dennis G. Ciccarillo