

TOWN COUNCIL MEETING

MAY 22, 2001

6:30 P.M.

AGENDA

Blessing – Rev. Dean Warburton, First Congregational Church of Wlfd.

1. Pledge of Allegiance and Roll Call
2. Correspondence – Memorial Day Parade, May 28<sup>th</sup> 9:30 A.M.- Dutton Park to Doolittle Park. In the event of rain, ceremony will take place at Lyman Hall High School commencing at 10:00 A.M.
3. Consider and Approve Accepting a Donation of Three (3) Automatic External Defibrillators from Gaylord Hospital to the Town of Wallingford to be Placed On Three (3) Volunteer Fire Units – Chief of Fire & Emergency Services
4. Consent Agenda
  - a. Consider and Approve Tax Refunds (#365 - 385) Totaling \$9,289.39 - Tax Collector
  - b. Approve and Accept the Minutes of the May 8, 2001 Town Council Meeting
  - c. Consider and Approve a Transfer of Funds in the Amount of \$2,000 from Regular Salaries & Wages Acct. #001-5010-101-1000 to Purchased Services Engineering Consultant Acct. #001-5010-901-9040 – Engineering
  - d. Consider and Approve a Budget Amendment in an Amount Totaling \$12,260 to Liability Insurance & Workman's Compensation Acct. #461-8920-925 of Which \$3,525 is Transferred from Pumping Plant Acct. #463-9012-321 and \$8,735. is Transferred from Transportation Equipment Acct. 3463-9012-392 – Sewer Division
  - e. Consider and Approve Acceptance of a Grant Entitled "Summer Remedial Reading Grant – Parker Farms" and a Corresponding Appropriation of Funds in the Amount of \$2,000 to Remedial Reading Grant Revenue and to Program Expenditures Accounts - Board of Education Business Manager

10. Conduct a PUBLIC HEARING to Consider and Approve a Proposed Blight Ordinance as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee – 8:30 P.M.
11. Conduct a PUBLIC HEARING to Consider and Approve an Amendment to Section 198-15 of the Code of the Town of Wallingford Pertaining to the “Obstruction of Sidewalks; removal of snow and ice; violations and penalties” as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee - 8:45 P.M.
12. Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Leasing of Real Estate – Mayor
13. Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes Pertaining to the Matter of Paul Atwater v. Town of Wallingford – Town Attorney
14. Consider and Approve Settlement of Pending Litigation Entitled, “Paul Atwater v. Town of Wallingford” as discussed in Executive Session – Town Attorney

TOWN COUNCIL MEETING

MAY 22, 2001

6:30 P.M.

SUMMARY

<u>Agenda Item</u>	<u>Page No.</u>
2. No items presented.	
3. Approve a Donation of Three (3) Automatic External Defibrillators from Gaylord Hospital to the Town to be Placed on Three (3) Volunteer Fire Units – Fire Dept.	1
Consent Agenda – Items #4a-I	2-3
5. Withdrawn	
6. Public Question and Answer Period – Yalesville School Overcrowding; Tax Collector's Demand Notice; Housing Authority – Simpson School; Pragemann Park Port-o-lets Location; Quinnipiac River Linear Trail Funding by the Town; Choate School Side-walks; Lack of Softball Fields for Girls' Softball League.	3-6
7. Approve a Transfer of \$142,929.98 from the Grand List to the Suspense Tax Book to Comply with CT. Gen. Statute #12-165 – Tax Collector	6-7
8. PUBLIC HEARING to Approve a List of Municipal Projects and Corresponding Resolution to be Submitted to the State of CT. under the Neighborhood Assistance Program – Grants Administrator	10-11
9. PUBLIC HEARING to Consider and Act Upon a Proposed Ordinance Entitled, "An Ordinance Appropriating \$3,325,000 for the Planning, Acquisition and Construction of Various Municipal Capital Improvements 2001-2002 and Authorizing the Issuance of \$3,325,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose <b>Adopt Ordinance:</b>	9-20
10. PUBLIC HEARING to Consider and Approve a Proposed Blight Ordinance as Requested by Councilor Stephen W. Knight, Chrmn., Ordinance Committee <b>Adopt with Amendments:</b>	20-44
11. PUBLIC HEARING to Consider and Approve an Amendment to Section 198-15 Of the Code of the Town of Wlfd. Pertaining to the "Obstruction of Sidewalks; Removal of Snow and Ice; Violations and Penalties" as Requested by Councilor Stephen W. Knight, Chrmn., Ordinance Committee <b>Approve Continuing the Public Hearing to June 12, 2001; 7:45 P.M.</b>	44-47

TOWN COUNCIL MEETING

MAY 22, 2001

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, May 22, 2001 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. Parisi at 6:34 P.M. Answering present to the Roll called by Asst. Town Clerk Evelyn Fernandes were Councilors Brodinsky, Centner, Farrell, Knight, Parisi, Rys, Vumbaco and Zappala. Mayor William W. Dickinson, Jr., Corporation Counselor Adam Mantzaris and Comptroller Thomas Myers were also present.

A blessing was bestowed upon the Council by Rev. Dean Warburton, First Congregational Church of Wallingford.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Correspondence – Memorial Day Parade, May 28<sup>th</sup> – 9:30 a.m. – Dutton Park to Doolittle Park. In the event of rain, ceremony will take place at Lyman Hall High School commencing at 10:00 a.m.

Mr. Parisi acknowledged a letter from Robert Prentice, Chairman of the Wallingford Housing Authority (WHA), requesting that the Council designate a liaison team from the Council to meet with the WHA to informally discuss Simpson School.

Mr. Parisi submitted the names of Raymond Rys, Sr., Gerald E. Farrell, Jr. and Iris F. Papale as the liaison team. Later during the evening, Chairman Parisi approached the Town Council secretary and ask that Councilor Thomas Zappala's name be added to the list of liaison members.

ITEM #3 Consider and Approve Accepting a Donation of Three (3) Automatic External Defibrillators from Gaylord Hospital to the Town of Wallingford to be Placed on Three (3) Volunteer Fire Units – Chief of Fire & Emergency Services

Fire Chief Peter Struble, Paul Storiale, Chief Financial Officer of Gaylord Hospital and Carissa Neubig, Chief Operating Officer of Gaylord Hospital, were in attendance for the donation.

Chief Struble presented a plaque to Gaylord Officials in appreciation and recognition of their contribution to the Town.

VOTE: Papale was absent; all ayes; motion duly carried.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #5 Withdrawn

PUBLIC QUESTION AND ANSWER PERIOD

Jack Agosta, 505 Church Street, Yalesville stated that he read in the newspaper recently that Yalesville School is overcrowded and asked the Council and Mayor if they were aware of the overcrowding problem at the school?

Mr. Rys replied that he was not aware of the problem, except for what he, too, read in the newspaper recently.

Mayor Dickinson responded, my only awareness is as a result of the newspaper article.

Mr. Agosta stated that on September 19, 2000, at the School Building Expansion Committee Meeting, he commented that he thought the School Administration was not planning for the future by not adding on any additional classrooms to some of the schools. He talked, at that time, about all the overcrowding at all of the schools. Dr. Cirasuolo stood up at that meeting and stated that the schools were not overcrowded and that they had enough capacity for the next ten (10) to fifteen (15) years. Mr. Agosta subsequently requested data on the number of students and classrooms. The documentation seemed to verify Dr. Cirasuolo's statement. The newspaper recently reported a story on the overcrowding of Yalesville School. How could this problem have developed in such a short period of time? Why wasn't the Administration told, before renovations came up, that we had this problem? It is poor timing to transfer students out of one school to a school that is going to be subjected to renovations. It is unfair to those families, he stated.

Mr. Rys stated, because of the reduction in the number of children in the classroom, that is why they are having that problem, and that is why they are going to be re-districting, according to Dr. Cirasuolo. I don't think we have critical overcrowding in the school system at this point.

Mr. Agosta was of the opinion that, if there is overcrowding at Yalesville, the problem should have been addressed before the school building renovation project was started and the budgeted amount approved for the project. The most important asset we have is our children.

Mayor Dickinson answered, I am not sure it is a renovation subject. The system, as a whole, can handle the number of students. The question is, how many; what geographic area is assigned to each elementary school, and that is what the issue becomes. There is enough classroom space for all of the students in the system, as a whole. It would be difficult to add on to Yalesville School and make it even larger, as other schools are under enrollment and

receive all of their tax bills; instructing them on what to do if they don't receive all their tax bills, etc. We are making additional efforts in those regards.

Robert Sheehan, 11 Cooper Avenue asked why the Housing Authority was so slow to respond to the inquiries from the Council regarding their interest in the former Simpson School building? We have been waiting for over a year to hear from them and now they want to discuss what the process of how they are going to apply to the state for money?

Mayor Dickinson explained, most likely at the next meeting we will review a proposal to plan out to bid the sale of the building for elderly housing. If state money is appropriated this year for the Housing Authority, then we can always reject the proposals we receive. The issue for the next agenda will be that the property be put out to sale for proposals from developers for conversion to elderly housing.

Mr. Sheehan asked, if the WHA wants to do something with that property, they will have to submit a bid to the Town?

Mayor Dickinson stated, the WHA is not a local government department or agency. It is a creature of the State of CT. We would not be receiving a proposal from ourselves, it would come from a quasi-state agency.

Mr. Sheehan stated, if we are going to put out a bid, I guess we have determined that we want to use that site for elderly housing. Why doesn't the Town take the initiative and do it? We have Savage Commons right behind it, we can add on right behind it instead of looking for an outside concern?

Mayor Dickinson answered, Savage Commons is operated by the WHA. The WHA owns and oversees the housing facilities and opportunities there. They would have to provide a proposal and show that they have the financial strength to be able to utilize the property for the purpose that the Town has indicated, that is, for elderly housing.

Philip Wright, Sr., 160 Cedar Street pointed out that there are three (3) Port-o-lets at the side of the field by the road at Pragemann Field and not near the pavilion. He asked are all three located there? Is there someone on the Council that is a representative to the Parks & Recreation Department?

Mayor Dickinson stated that Mr. Wright should direct his questions to the Director of Parks & Recreation, Tom Dooley. If Mr. Wright's questions remain unanswered after speaking with Mr. Dooley, then he (Mayor) would be glad to look into the matter.

Pasquale Melillo, 15 Haller Place, Yalesville stated that, in his opinion, the people' First Amendment rights are being violated by the Council when the public is not allowed to speak on

register that vehicle or another vehicle. Many people move out of town or state which can cause a separate problem with their taxes. He stated, if I had my way, I would not have a property tax on vehicles because it is an administrative nightmare to deal with.

Mayor Dickinson added, the Town did propose legislation that would eliminate, or at least study the issue of eliminating the motor vehicle tax. I think Rhode Island has done that. We really believe that might be a good direction for the State of CT. Aside from that, this list does not mean that we would not continue to try and collect this. This does not mean that the Town would no longer seek collection of these taxes. If the opportunity arises hereafter, they still could be collected.

Geno Zandri, 37 Hallmark Drive asked, does the Town ever seek a private firm to collect or pursue the delinquent taxpayers and then share a percentage with the firm?

Mr. Myers stated, we did that at one time. The results were o.k. It wasn't a lot of money; in fact it wasn't really additional money beyond what the Tax Collector's office had been collecting on their own. There are firms interested in this business but, in this case, the dollars are too small. If my memory serves correctly, the last firm we used asked that they be let out of the contract because it was not profitable for them to be in that business.

Mr. Zandri asked, are you saying that there are no firms that do this?

Mr. Myers answered, that is my understanding, yes. Annually, the Tax Office collects approximately \$75,000 on these accounts and probably another \$40,000 to \$50,000 in interest. There is a continuing effort to collect this money and the results we track show that it is approximately \$75,000 a year in taxes and \$40,000 - \$50,000 in interest.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #15 & 16 Motion was made by Mr. Rys to Move Agenda Items #15 & 16 Up to the Next Order of Business, seconded by Mr. Farrell.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #16 Consider and Approve Appointing Ed Smeriglio to Complete an Unexpired Term on the Board of Education Vacated by Andre Loubier

Motion was made by Mr. Knight, seconded by Mr. Brodinsky.

Mr. Vumbaco stated, I would first like to thank Andre Loubier for his five years of hard work and dedicated service that he provided to the Board of Education. Andre always did his homework, came to the table with an open mind and voted his conscious; what was best for the

gone through to find a candidate which is acceptable and meets the qualifications for that position, prior to taking your vote as the union has some very serious concerns over the process that is going forward now. Thank you very much.

Pasquale Melillo, 15 Haller Place, Yalesville stated, for safety reasons and welfare of the residents of the Town, we should have someone in place to take over for the Fire Marshal in case something happens to him and he can not perform his job. Hire a deputy fire marshal.

Gene Letourneau, 1098 Durham Road stated, I am also a fire fighter in town. Pertaining to the testing procedure, the posting for the test; four people took the test and nowhere in the posting did it specify that there would have been a lot of codes given on the test, where the only way one have that knowledge would be if you were already certified as a state fire marshal. Only one of the candidates was certified and ultimately passed the test. The requirements were that you only had to be a paid or volunteer fire fighter for three years and/or had some construction experience. I had both. I did not take the test but there is no way that I would have passed it with the codes in there. It was a little misleading to the candidates. Having said that, you did get one qualified candidate to pass and if you want to throw out the list, what is your next recourse? Is it to re-test? Is it to just eliminate the position?

Mr. Parisi answered, I cannot answer that right now.

Mr. Letourneau asked, with the position being vacant for any length of time, by your rules and job title, all businesses are supposed to be inspected once a year. I am sure they do their best to achieve that now with the three employees they have. To cut that office down to two positions, I would imagine that it would be impossible to perform the required inspections. Also, you know that when we have a fire, we call someone in to investigate it. That is the function of the Fire Marshal's division. Our fire marshal lives a good distance away, and with only two people on staff, is he going to be on call to respond and are we going to be waiting at a fire scene for him to respond once the fire is out, thus making us unavailable for other incidents that happen in the meantime?

Mr. Parisi answered, I don't think you will be waiting at a fire scene.

Mr. Letourneau stated, our procedure is, we just don't abandon a fire scene and then let them come later.

Mr. Parisi replied, I am not saying that you would, right.

Mr. Letourneau stated, it is a little disheartening, I think, for the membership and the people who took the test and everyone involved, and should also be for the townspeople, the way that this is all playing out. I hope you can alleviate this with some form of game plan as to what your intentions are going to be. Thank you.

Mr. Farrell abstained due his serving in the position of President of the Wlfd. Historic Preservation Trust.

Mr. Parisi voted after conferring on the matter with Corporation Counselor Adam Mantzaris. Mr. Parisi is involved with Gaylord Hospital's Community Relations department.

**ITEM #9** Conduct a PUBLIC HEARING and Consider and Act Upon A Proposed Ordinance Entitled, "An Ordinance Appropriating \$3,325,000 For the Planning, Acquisition and Construction of Various Municipal Capital Improvements 2001 – 2002 and Authorizing the Issuance of \$3,325,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose" - 8:00 P.M.

Motion was made by Mr. Rys to Read the Title and Section 1 of the Proposed Ordinance in Entirety and to Waive the Reading of the Remainder of the Ordinance, Incorporating its Full Text into the Minutes of the Meeting, seconded by Mr. Knight.

VOTE: Papale was absent; all others, aye; motion duly carried.

At this time Mr. Rys read the Title and Section 1 of the proposed ordinance into the record.

**AN ORDINANCE APPROPRIATING \$3,325,000 FOR THE PLANNING, ACQUISITION AND CONSTRUCTION OF VARIOUS MUNICIPAL CAPITAL IMPROVEMENTS 2001-2002 AND AUTHORIZING THE ISSUANCE OF \$3,325,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE**

Section 1. The sum of \$3,325,000 is appropriated for the planning, acquisition and construction of municipal capital improvements 2001-2002 consisting of Roadway Reconstruction of: (i) North Farms Road-Route 68 to Town Line; (ii) Hanover Street - Airport Section; (iii) Grieb Road - Leigus Road to Durham Road; (iv) Cheshire Road - Parker Farms Road to Town Line; (v) South Turnpike Road and Mansion Road, and including Quinnipiac River Linear Trail Phase II; and for appurtenances and services related thereto, or so much thereof as may be accomplished within such appropriation, including administrative, advertising, printing, legal and financing costs related thereto, said appropriation to be inclusive of any and all State and Federal grants-in-aid.

or any two of them, be approved as to their legality by Murtha Cullina LLP, Attorneys-At-Law, of Hartford, and be certified by a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, pursuant to Section 7-373 of the General Statutes of Connecticut, as amended. They shall be issued with maturity dates which comply with the provisions of the General Statutes governing the issuance of such notes, as the same may be amended from time to time. The notes shall be general obligations of the Town and each of the notes shall recite that every requirement of law relating to its issue has been duly complied with, that such note is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The net interest cost on such notes, including renewals thereof, and the expense of preparing, issuing and marketing them, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the project. Upon the sale of said bonds, the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such notes then outstanding or shall be deposited with a bank or trust company in trust for such purpose.

**Section 5. Resolution of Official Intent to Reimburse Expenditures with Borrowings.** The Town (the "Issuer") hereby expresses its official intent pursuant to §1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid sixty days prior to and after the date of passage of this ordinance in the maximum amount and for the capital project defined in Section 1 with the proceeds of bonds, notes, or other obligations ("Bonds") authorized to be issued by the Issuer. The Bonds shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Comptroller or his designee is authorized to pay project expenses in accordance herewith pending the issuance of reimbursement bonds, and to amend this declaration.

**Section 6. The Mayor, the Comptroller, and the Town Treasurer, or any two of them,** are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to nationally recognized municipal securities information repositories or state based information repositories (the "Repositories") and to provide notices to the Repositories of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this ordinance. Any agreements or representations to provide information to Repositories made prior hereto are hereby confirmed, ratified and approved.

this instance, the purpose is to allow people to use another means other than cars to get from one place to another and ultimate, the goal is, Meriden was \$750,000., Wallingford was \$750,000 and the goal was to connect Meriden to Wallingford through a pedestrian pathway. That fell under the terms and conditions of the federal grant.

Mr. Harwood asked, if the Town does not expend \$1.4 million this year on this project, what is the risk with regards to the federal funds?

Mayor Dickinson answered, we would still receive \$750,000. It is not that we have to spend "X" amount over the \$750,000. We do the design and they provide the \$750,000 but the cost of the project is in excess of the \$750,000.

Mr. Harwood replied, maybe I am not absorbing your explanation. All I am bringing to the table is that, since we have the financial exposure; Wallingford Little League and the rumblings about the Girls Softball League, maybe that is fine; maybe there are enough fields and that is great; now we are dealing with one entity (Wlfld. Little League). There is going to have to be "X" amount of money; \$1 million or \$2 million; spent by the community if the Town wants to do that. All I am bringing to light is, that if you did not need to spend the \$1.4 million on the Linear Trail or the \$1 million this year in the budget, would that be an appropriate project to hold back on? Despite that you are in the planning process, it doesn't mean that the money has to be spent. Priorities change, demands change but, obviously, there has to be an expenditure forthcoming and where do you plan on pulling the money from?

Mayor Dickinson answered, we are not anticipating an expenditure of \$1 million for the fields. There is not a cost figure on it. It is in the stage of review, as to location and what is possible. There is no cost; there is no location determined; it is really impossible to put a dollar figure on it. At the point that is resolved, depending upon the amount, it would probably be a bonding project. It would not be in the Capital and Non-Recurring budget.

Mr. Harwood asked, it will come out of capital dollars of the community?

Mr. Harwood asked, when is the purpose then of having a public hearing? It is either a yes or a no. You are not answering my question.

Mayor Dickinson answered, we can decide not to do these.

Mr. Harwood asked, can you take one off if you so chose?

Mayor Dickinson answered, we can approve this and not be able to go ahead with one of the items on here.

Mr. Harwood asked, is there a problem with answering the question? I am saying, if you all of a sudden wanted to pull off...

Mr. Parisi stated, let's calm down a little bit. Let's take our time.

Mr. Harwood stated, I have no problem, with Mr. Chairman. I just simply wanted to know if one item could be removed if the Council took that action. That is not being uncalm. I just asked the question. Is it a yes or a no? It is a simple question. Maybe nobody knows.

Mayor Dickinson answered, an item can be removed.

Mr. Harwood answered, thank you. Go back and listen to the tape and you will hear that I asked that question the same way three times. Thank you.

Philip Wright, Sr., asked, are you saying that the Girls Softball League is satisfied with having two fields gone that they can handle their program?

Mayor Dickinson answered, I am told by Tom Dooley of the Recreation Department; and there are two Girls Softball Leagues now, but there are sufficient fields for the two leagues to handle their needs this season.

Mr. Wright stated, a couple/three years ago Gaylord said, "here's some land, build a couple of fields" and a lot of time, effort and money was put into building those fields. Now you are telling me that they were not needed?

Mayor Dickinson answered, the Town of Wallingford put in an additional, I believe it was four fields at Pragemann (Park) one or two years ago, whenever the major issue surfaced. Two brand new fields were put in and another two were put at the corners of existing fields. Actually, there is a six field complex there, now. But there were four new fields developed. My understanding is, there are sufficient fields between those and others that were built that same year or the previous year two other fields were reconditioned and built elsewhere. There are sufficient fields for girls softball.

Comptroller Thomas Myers explained, it permits the Town to borrow money in the form of short term notes in lieu of issuing bonds or before we issue the bonds. Should we need the cash for cash flow purposes, before we issue bonds, we could borrow the money on notes.

Mr. Wright, stated, I hope the Town has deep pockets when Community Lake restoration gets started.

Jack Agosta, 505 Church Street, Yalesville stated, there was \$750,000 in last year's budget for the North Farms Road – Route 68 to Town Line project. Now it is in this year's budget again. What happened to that \$750,000 that was not spent?

Mayor Dickinson explained, initially the project was put in at \$750,000. It did not go ahead, I believe we were doing a study on the industrial zone property off of North Farms Road. Subsequently Public Works has come in again with the project and they have a lesser estimate.

Mr. Agosta asked, but the money was allocated in the budget last year. What happened to it?

Mayor Dickinson answered, we never borrowed it and never spent it.

Mr. Agosta asked, it wasn't part of the Capital and Non-Recurring funds that you get from the Electric Division? I thought that the money that comes from the Electric Division goes toward paying for capital and non-recurring projects?

Mayor Dickinson answered, the money from the Electric Division is used for financing of it, but you have ongoing projects that have been completed and debt is paid on those projects as well as new started. You have a constant adjustment of money being paid on bonds; money being paid in cash; it is not a simple situation of everything being done one way or another. That money was not spent because the project did not go ahead and now it is here for a lesser amount.

Mr. Agosta asked, is that money now part of the surplus in the Town's budget for the last fiscal year?

Mayor Dickinson answered, no, I don't believe it would be part of the surplus; no.

Chairman Parisi called the public hearing closed at this time.

Motion was made by Mr. Farrell that the Ordinance Entitled, "An Ordinance Appropriating \$3,325,000 For the Planning, Acquisition and Construction of Various Municipal Capital Improvements 2001 – 2002 and Authorizing the Issuance of \$3,325,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary

expect in the foreseeable future; a month; a month and one-half. I would hope that, by then, there would be an ability to know what we are going to do but, there is a necessity to meet, exchange ideas, look over what possibilities there are, then we will move forward. It is very much in a review and analysis stage.

Mr. Vumbaco asked, is the little league involved in the decision-making process?

Mayor Dickinson answered, yes, definitely.

Mr. Vumbaco stated, I would hope that we can get it done by the fall because it is prime planting season. If we can get the fields established so that by next spring or summer they will have good fields to play on.

Mayor Dickinson answered, I don't know that we would be under construction this summer. That would be somewhat of a stretch to have everything designed, financed and construction start this summer. Any borrowing of funds takes approximately 1 ½ months to 2 months just to have access to the funds. I think the actual construction would be extremely difficult this summer. If we develop a plan, I do believe that the schedules will be able to accommodate everyone.

Mr. Vumbaco asked that the Council be kept informed as the plan begins to take shape and moves forward; an update. He did not want to wait until it was completed and before the Council for approval of funding.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #10 Conduct a PUBLIC HEARING to Consider and Approve a Proposed Blight Ordinance as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee – 8:30 P.M. (Appendix II)

Jack Agosta, 505 Church Street, Yalesville stated that he was very pleased tonight, he is very much in favor of the ordinance. He asked if the Council will have any input as to who the hearing officer will be?

Stephen Knight, Chairman of the Ordinance Committee replied, that will be decided by the Mayor, I believe.

Mr. Agosta asked, will the Mayor receive input from the Council on that appointment?

Mr. Knight answered, no.

Mr. Agosta stated, I am not saying to do it all in one day. I am saying that periodically the Building Inspector should drive around and keep his eyes open. All of us, at one time or another, have observed areas that are unsightly while driving around town. To wait for a complaint to be called in or for the Fire Marshal or Health Director to stumble across a situation, isn't being proactive. He asked, what about some of the farms that are located on the outskirts of the town? Some of the barns are in disastrous shape. Are we going to go out and enforce making them take it down?

Mr. Vumbaco replied, the ordinance pertains to dwelling units, not the barns.

Mr. Parisi stated, maybe if someone complains enough about the barn, it might be inspected.

Mayor Dickinson stated, my guess is that it would fall under the ordinance, not only under accessory structure but building, for the definition of a building is, "a structure having a roof, supported by columns or intended for the shelter, housing or enclosure of persons, animals or materials." It would appear that a barn would fall under that provision. There is always an interpretive factor. For one person seeing a picturesque barn, they think it looks lovely; for another, it is an eyesore. Some of the determination here is whether it is structurally safe or not. If it represents a hazard to individuals or animals inside or outside the building, then that clearly triggers action. A building that, if it were in the middle of town, would look in disrepair, but in the middle of a countryside someone would think it is wonderful, you get into a very subjective arena.

Mr. Brodinsky stated, accessory building is a defined term in the ordinance so you would have to go to the definition of accessory building and I wouldn't agree that a barn would be, but accessory building is a defined term; go to the definition and apply it.

Mr. Agosta referred to page 2, Line 7 of the proposed ordinance pertaining to unregistered vehicles. He stated that we have as policy that we tow the cars away; I think that is out now, right?

Mr. Parisi stated, I think that if the car is unregistered the police give the owner thirty (30) days to do something with it.

Mayor Dickinson added, cars can be towed. There are circumstances under which it is difficult to accomplish that but, where those difficulties don't arise, cars can be and are towed where they are unregistered.

Mr. Agosta stated, page 2 also refers to litter. It includes the language "grass clippings" which can be taken wrong. Everyone has grass clippings. The amount of grass clippings that would constitute an offense should be clearly identified.

with their property and they choose not to do so; they neglect it and it becomes blighted, just because it is a matter of convenience not to put any more money into that property. I have a series of pictures of a particular property; the first shows a decaying roof, the next is a picture of holes in the exterior walls of the property, the next is of a broken glass window with shards of glass plainly available to anyone, the next is one of a picture of graffiti and paint peeling; boarded windows; the next picture is glass laying on the ground of the exterior of the building; the next picture is a glass window broken and clearly exposed glass on which someone can harm themselves. The next picture is of bricks crumbling out of the building, falling down so that the supporting members of this building are coming apart. The next picture is of jagged glass and clearly, anyone can enter the building and we all know what happens when abandoned buildings are left unattended and access can be gained, it is a place where people can play or run into all kinds of trouble by entering the building. Here, we have a picture of paint peeling; probably also a hazard if we check the paint for lead and we have more glass all over the place. This particular building is Simpson School. I am here to ask the Council to provide some leadership. I am asking the Council to show us, by example, what it is they want us, as taxpayers, to live by. The spirit of what you are asking us to live by, should be the same spirit that the town lives by. Allegedly, people go in that building, live in that building; children have told me in my neighborhood that they find weapons strewn along different areas on the grass way. I understand that there are rats living back in that area. This is a horrible situation. I ask the Council to show us leadership and show us how to be a responsible neighbor, rather than pass an ordinance that amounts to a double standard. We have to live by a standard, why can't the town live by the same standard? This building has been vacant for more than three years and it has been in declining use for more than ten years, no surprise to anyone yet, we can't seem to do anything about it. I will leave with the request that the Council be mindful of the fact that, if the same officer you are going to appoint was to inspect your building, you would be in violation, by any reasonable standard. Please show us leadership and do something about that building. Thank you.

Mr. Parisi responded, I think the leadership we are showing, quite frankly, is if you look at our homes, they are all up to snuff and that is the first start of our leadership. We are asking you to live the way we do or whoever has a blighted residence, take care of the property like we do and the greater of the majority of the residents of the Town of Wallingford do. It is very simple to point out one or two public buildings and say that this is the norm. It isn't the norm and the Town has wrestled with this project for several years. No one is going to deny that; no one is going to try and hide from it. This, in now way, is the measure of this ordinance; it never will be, either.

Mr. Wostbrock replied, I understand it is not the written measure of this ordinance. I am talking about the philosophy. The philosophy is, we are asking everyone to live to a certain standard. I have to live near that building and the standard with which that building is kept and maintained has been in a declining pattern for many years and I would ask the Council, perhaps in a separate ordinance, to do something definitive in a positive manner about that building.

Mr. Parisi stated, earlier this evening, we did appoint a Council committee to work with the Housing Authority to try and get this going. I am totally in agreement, this has been discussed for probably eight or ten years. Unfortunately, sometimes it just doesn't go as fast as we would like it to.

Mr. Charest asked, will the ordinance officer also be responsible for enforcing the ordinance on the blight property that the Town has? Would that be one of his responsibilities as well?

Mr. Parisi said, good question. I would think that if he gets a complaint, he would have to act on it.

Mayor Dickinson explained, Town properties are part of the issue, too. There is not a blight officer. There is a hearing officer who would hear appeals from a citation. There is not one person in charge of enforcing the ordinance. It would be a variety of offices ranging from the Building Department to the Fire Marshal to the Health Department and perhaps the Police Department.

Wes Lubee, 15 Montowese Trail stated, I am an advocate of this blight ordinance so I don't want to appear to be antagonistic. I think it is great and I think the committee has done a good job. I do think it may not yet be ready for approval. Is this intended to supplement our other ordinances for the various departments; Health Department; Building Department, etc., or is it intended to replace them?

Mr. Knight answered, it is intended to supplement them. One of the primary moving forces behind creating this blight ordinance; we did pull a lot of language from several other ordinances and the reason we put it under a blight ordinance is, there is state legislation that allows us to lien the fines if they are not paid. It gives us more enforcement power than any of the other ordinances that already exist. It is a supplement, not to replace the others.

Mr. Lubee stated, I don't find anywhere in this ordinance, an indication of the superiority.

Atty. Mantzaris answered, there isn't. They all stand by themselves as ordinances of the town; one is not more superior than another. It is not intended to be.

Mr. Lubee asked, do I owe a \$5 fee under the other ordinance or a \$100 fee under this ordinance? Which ordinance is superior?

Atty. Mantzaris stated, I don't know that we have an ordinance that calls for a \$5 fine that would involve property or blight conditions. Litter can get up to thousands of dollars in fines; refuse can do the same.

Mr. Lubee stated, I am talking about the automobile ordinance.

Mr. Lubee answered, true, but in the past it has been somewhat in vain. There is no provision here; it says that they will have to go to one of the enforcing officials and file a complaint, be it the police or fire marshal or whatever, correct? They would issue a warning, telling the people they have thirty (30) days in which to correct the situation. At the end of thirty (30) days, they would issue a notice of violation. The person who is the violator has the right to appeal. The person who files the complaint is totally ignorant of everything that is going on; they are not in the circle.

Mr. Knight answered, I don't know of many citizens that want to sit in the middle of something like that. Most of them would like to have their public officials make the enforcement decisions.

Mr. Lubee asked, if the violator has filed an appeal; all of the earlier procedures have taken place; should the citizen not be cognizant of the fact that it is being appealed?

Mr. Knight answered, I can only speak for myself...I know that when we were fashioning this, we made every effort to avoid having this ordinance become a club for every neighbor with a grievance against his neighbor to use it in order to harass his neighbor. It sounds to me that what you are suggesting is just that.

Mr. Lubee answered, contrary. That would have to be determined by the enforcement officer, would it not? If I filed a complaint; the enforcement officer goes out and looks at it and sees that I am trying to use the complaint as a club and he (enforcement officer) decides not to do anything about it. He has used his judgment to say that there was not a true violation. But if he agreed and issued a warrant and thirty days went by and he issues a notice of violation and the person, within ten days, requests an appeal, this is not a club. The enforcement officer though that there was a legitimate violation and therefore he issued the initial warning and the subsequent notice of violation. If that violator requested an appeal, the complainant should have the option of attending that appeal hearing.

Mr. Knight stated that there is nothing in the ordinance suggesting that. This becomes a matter of enforcement of a public ordinance and the enforcement is done by public officials.

Mr. Lubee answered, so are our other ordinances. That has always been the system here, has it not? So it hasn't worked.

Mr. Knight answered, I see what you are driving at. I don't necessarily agree with it.

Mr. Lubee went on to say, all we have to do is drive down North and South Colony and we know it hasn't worked. That is why your committee has worked so hard to develop this blight ordinance. I am in agreement with you; I think we do need it. When the Housing Code Enforcement Officer issues a warning to the owner of rental property, based on a complaint

shall cause to be filed a lien." Once that lien is filed, does that mean that the \$100 per day fine stops?

Atty. Mantzaris answered, no, you can file lien after lien.

Mr. Lubee stated, Mr. Centner had reservations at the time the blight ordinance was discussed in August of last year. He stated, at least at the point in time, that he did not see the necessity for this. Has Councilor Centner's opinion changed since then?

Mr. Centner answered, yes it has. I have paid closer attention to it and actually studied more closely; I quoted at the time 100 properties that I felt existed in town; it is probably more than that. Other items that are outlined in here, in terms of what they are trying to accomplish, motor vehicles, etc., I, myself, feel it would be a benefit to the community to move this measure forward.

Mr. Lubee pointed out, there is no exemption in the ordinance for the Town or anyone else. If someone filed a complaint about some of our mismanaged properties, it could be quite expensive. I could not believe how bad a shape the former Simpson School is in. Someone has abused that property. All that has been said is true, I have driven by the property myself. At one time the Council was discussing the possibility of using a summer intern to try to catalog some of the more blighted properties in the Town which, as Mr. Centner said, may well exceed 100 properties. Has there been any further discussion along those lines?

Mr. Parisi replied, no, I don't think it has been considered any further.

Mr. Lubee asked, has the finished product that has come out of the Law Department been shown to the Fire Marshal's office, Police department and Health department? Have they been asked if they think they will be enthusiastic about enforcing this new blight ordinance? Because they were not enthusiastic about what we had before.

Atty. Mantzaris replied, a copy was sent to Health and Building. The Police Department, I don't believe, was sent a copy but I did talk to Chief D'Ortenzio. I don't expect the police to be major enforcer under this ordinance. They are named in conjunction with the Building Inspector. As I recall, the committee's discussion about this ordinance, they wanted to try to have one person solely responsible for the receipt of complaints about blighted properties and for the initiation of enforcement. That is why the committee determined that entity to be the Building Department which will probably be the HCEO, if he assigns it to someone. The Police department did not get a copy of the ordinance. They are not expected to be a main enforcement arm of the ordinance. They could be used but won't be primary.

Mr. Lubee stated, the Public Works department is involved with the towing, they are empowered in one of the ordinances to tow. The Health Director has to utilize the services of

Mr. Melillo asked, the person who is filing the complaint would like to remain anonymous, will they be able to?

Mr. Parisi asked, will the complainant's identity remain anonymous or will the person against whom the complaint is lodged be informed as to who is doing the complaining?

Mayor Dickinson answered, we generally look into a complaint, even though it is anonymous though we are under no obligation to keep a complaint anonymous. Too often, anonymous complaints turn out to be irresponsible complaints, frankly. If someone is serious about a complaint, they should be willing to indicate who they are and what the circumstance is so that we can properly follow up. It is very easy for people to issue complaints who want to remain anonymous. When we go to check on it, there is inadequate information; there is no one to get back to and it just creates a lot of frustration. Where a party is concerned about a condition, there should be willingness to identify who they are so that we can get back to them if there are questions regarding what was observed or the exact location, or any number of follow-up questions that do occur.

Mr. Parisi stated, I am not saying to keep it anonymous but I, personally, don't believe it should be held confidential. It doesn't have to be anonymous. I should be able to call up and give you my name, address and phone number but I don't believe my names should be given out to anyone else. The reason I say that is because if you have a cesspool in your yard and your neighbor or a couple of houses down, no one is going to want to go on the line and be singled out as whatever.

Mayor Dickinson answered, that is always a difficult issue but, government records are subject to Freedom of Information requests. There is one exemption to maintain a file of names because they were complaints. If we have a record, ultimately it is discoverable with F.O.I. That is also in fairness because you can get complaints that are not responsible complaints that are issued out of meanness or vindication or whatever else and we are spending a lot of time with town offices doing things that are meant as harassment for someone, rather than it being a way to correct a condition. I do not encourage anonymous complaints.

Mr. Parisi answered, by the same token, we are going to get the calls. We are going to have to ride by and we are going to see that, in fact, it is a blighted situation.

Mayor Dickinson reiterated, a lot of anonymous complaints become very difficult to follow up on because the address could be wrong, there is no knowledge as to who to get back to; there are a number of questions that arise and there is no way to follow up. We do not encourage anonymous complaints.

Mr. Brodinsky next referred to Page 3, SECTION 5. VIOLATION AND PENALTIES and then compare that to SECTION 6. NOTICE OF VIOLATION on the next page, there seems to be an option that the investigating officer has and I am not sure how this would work. Section 5 B. reads, "The officials charged with enforcement of this ordinance shall, in lieu of issuing a citation, issue a written warning...". In Section 6 A. it reads, "Whenever the officials charged with enforcement of the ordinance have determined that the premises is in violation, they shall cause a written citation to be mailed or served...". He asked, when someone goes out to investigate a blighted building, do they follow Section 5 or Section 6?

Atty. Mantzaris replied, that is a very good observation. What happened here was, initially, we went through several drafts of the ordinance. One of the earlier drafts did not provide for a period of warning, for example a thirty day period...

Mr. Brodinsky interjected, of which I am in favor of.

Atty. Mantzaris continued, part of what you just read was left in from one of the earlier drafts and should, by amendment, be removed. I am going to suggest that, either upon the initial inspection, without any warning, or be removed. It was not intended to be in the ordinance. Section 6 is fine; the confusion with Section 6 is, Section 5 requires a thirty day period for the person to clean up or an extension if the enforcement officer believes that he ought to have one. What I just read in Section 6A., "...either upon the initial inspection..." means that he could issue a ticket on an initial inspection, without a thirty day period. What should come out would be, "either upon the initial inspection without any warning or..." and what is left in is, "...upon the expiration of any warning period with no abatement...". Someone should make a motion to amend...

Mr. Knight stated, there may be situations which are such a safety nature that are a threat to health and safety of the community that a thirty day period is unwarranted. I would like to have the enforcement officer have the discretion to either issue a violation immediately and get this thing rolling, because there will be instances when something really dangerous exists and should be cleaned up immediately.

Mr. Brodinsky stated, that is a valid point but I think we have to tinker with the language. As drafted, I think we need a technical change. On page 2, subsection (7) reads, "It has a number of abandoned, inoperable or unregistered motor vehicles...". I think we need a fixed standard because "a number of" could be one or it could be two. To say "a number" is definite enough to meet due process standards I question very much because a fine could be \$10,000 and someone does not know if it is two cars, three cars, one car or five cars and it is not that hard to put in an objective standard. To say "a number of abandoned vehicles" leaves too much vagueness in this, either in the application for the hearing office, the application of the investigating officer, and for the person who has been accused of having a number of abandoned vehicles. I don't think it gives sufficient notice.

ordinance, the hearing officer has to apply it as written and so does the investigating officer. As written, any number of merely abandoned or inoperable car, and we don't have a number. It could be one, two, three or four or more. It is so easy to make it clear.

Mr. Parisi answered, we have an ordinance already that if you have an unregistered car in your yard, it can be subject to towing. If you had three unregistered cars, under that ordinance, forget this one, you can still get them eventually towed out of someone's yard.

Mr. Brodinsky stated, the problem still stands that the ordinance, as drafted, can be enforced with an unknown number of vehicles.

Atty. Mantzaris stated, it occurs to me that one vehicle might be blight...one unregistered vehicle in the yard filled with parts or junk, that one single vehicle might be enough to be blighted. Maybe if you want to change this to be more constitutional have it be one or more in Section 7.

Mr. Brodinsky stated, at least it tightens it up.

Atty. Mantzaris replied, I would accept that as an amendment; "one or more", that is clear, then. It could be just one vehicle as the Chairman points out.

Mr. Parisi stated, as it is, it still covers one vehicle. Fine, though, if it makes the counselor happy, let's do it.

Atty. Mantzaris asked if a motion was forthcoming on the issue?

Mr. Parisi asked, does he have to make it? Can't we make a recommendation?

Atty. Mantzaris answered, you want it to be amended; amend the ordinance.

Mr. Brodinsky replied, or else maybe the thing to do is table it and re-draft it and bring it back...

Mr. Knight interrupted to say, wait a minute, we spent three years doing this and you come up with something as, like, "a number" or "one or more" and this is going to cause this to be tabled? When we are fully within our power to amend this ordinance and change the language, if the nine of us agree, or a majority of the nine of us agrees to do so. Make a motion but, good grief, we have been at this so long, to stop in our tracks because we have two words out of place?

Mr. Brodinsky replied, I think legislation is often amended and sent back to committee and re-examined on both the state and federal level and it is a process of evolution and perfection

Mayor Dickinson answered, it is a Property Appraiser, full-time.

Mr. Centner asked, will part of that person's duties be reviewing vehicles for registration?

Mayor Dickinson answered, in driving around they could see what properties are like; that could be part of it, but it is not the most vital part of the job they will do.

Mr. Centner stated, just so that the general public knows that the Town is taking measures to actually add manpower to review situations such as unregistered vehicles. In addition to closely looking at some of the blighted properties, and it was stated earlier that we have 42,000 citizens and almost 40,000 cars and I am willing to bet that a lot of those cars are not registered, it seems that it is a growing concern. I agree that an unregistered vehicle or a vehicle could be blighted; I have seen buses around town full of junk. I just hope that when we post this to the public, they take note because we could have a rash of people collecting unregistered vehicles and when they get that first fine of \$100, I think we, on the Council, are going to hear about it. It could be some of our neighbors. In the end, I do support this measure and I appreciate all of the effort put forward by the Ordinance Committee.

Mr. Brodinsky referred to page 5, SECTION 7.C.5.) which reads, "The hearing office shall announce his decision at the end of the hearing..." that is a requirement. I know that many hearing officers, in fact, almost every hearing officer I have ever been in front of does not like to announce his decision at the end of the hearing for three reasons; one, sometimes they like to digest the evidence in front of them, go back and study documents; study photographs; two, some hearing officers don't want to act in the heat of the moment, especially if they sense that there emotions have been aroused and they want a cooling off period; and, three, some hearing officers have actually told me that they don't like to announce their decisions in the hearing because someone could get angry and actually threaten violence. That has been said to me and I have actually seen that, especially in domestic relations court. I don't know why we are tying the hands of the hearing officer to require him to announce his decision right at the end of the hearing. A time limit is a good idea; five days; seven days; three days; allow a time frame that is reasonable. I don't think it is reasonable to expect him to make up his mind on the spot and seeing how the mood seems to be to make amendments, I will make an amendment.

Motion was made by Mr. Brodinsky to Amend SECTION 7. HEARING PROCEDURE: BLIGHTED PREMISES HEARING OFFICER, C. Hearing Procedure: 5.) by Deleting the Language, "...at the end..." and inserting the words, "within seven (7) days" in their place to read, "The hearing officer shall announce his decision within seven (7) days of the hearing unless he...", seconded by Mr. Vumbaco.

an appeal is taken, or else suspend the fine during the period of appeal. To put pressure on the parties and hearing officer to do it on the spot, I think is an injustice to the system.

Mr. Parisi stated, the more I read this, we are just saying the same thing, a different way. The hearing officer still has the option to announce immediately or personally inspect the premises. There is latitude in here already. The more I read it, the more sense it makes as it is written.

Mr. Brodinsky explained, if the hearing officer decides not to inspect the premises, he has enough evidence but nevertheless would like to take seven days, or up to seven days, or within seven days make a decision, he should have that option. Whether it is five days or three days or eight days, we can compromise those out, but there should be some period of time that gives them flexibility.

Mr. Parisi replied, I understand your point. When does the fine start? Is it when it is finally declared a blighted situation?

Mayor Dickinson answered, the fine starts after the thirty days of the warning period. If the appeal is within that thirty days, the fine wouldn't start until after the thirty days. The thirty days starts when the citation has been given. If the appeal from that citation occurs within that thirty days, it is conceivable that the fine would not begin until after the hearing. It could be that the hearing was not within the thirty days and the fine was already running...anytime you are dealing with police power and forcing fines, there are complications and there always will be because you are using police power to force action.

VOTE: Papale was absent; all others, aye; motion duly carried.

Mr. Brodinsky explained how an amendment would void the situation of having a fine be levied during the period of appeal so that the person who wants to appeal is not in the dilemma of his appeal costing him \$100 per day; it is an untenable position to take an appeal, knowing that every day that the hearing officer delays, it is going to cost another \$100. That is not fair.

Mr. Parisi stated, I thought I asked the question, "when would the fine start?" and the answer was that it would start after the appeal.

Mayor Dickinson explained, the fine begins the 30<sup>th</sup> day after the property has been cited; the property owner has received notification that there is a blighted condition. If it is appealed, the fine would be running if it is found that the property is a blighted property. The appeal would not change the fine and from that 30<sup>th</sup> day, it would continue. If it is found that it is not a blighted property, the fine would be dismissed and nothing would be owed. There is an exposure that if the appeal is not heard until 35 or 40 days, there would be money owed from the 30<sup>th</sup> day.

Motion was made by Mr. Brodinsky to Amend SECTION 7. HEARINGPROCEDURE: BLIGHTED PREMISES HEARING OFFICER, C. Hearing Procedure: 1.) by Adding the Language, "During the pendency of appeal to the Hearing Officer, any fines under this ordinance should not be entered or assessed." to the end of the section, seconded by Mr. Vumbaco.

Mayor Dickinson stated, these are complicated matters and no one should feel...once you work through these things, there is always a different ramification. I am sure potentially, things were missing tonight because it is an enforcement mechanism and once we get into this arena, it does have affects that we can't always guess at.

Mr. Parisi stated, we can always re-visit it and modify it, too. We can change the thing all over again and go another two years. The point is, to implement it, it is going to behoove the hearing officer...to give us feedback, which he has done in the past, on ordinances. Atty. Mantzaris has been very good and we have revised ordinances when it was necessary.

Mayor Dickinson asked, if you don't want to have someone liable for a fine, prior to a hearing held by the hearing officer, then this language would be necessary to avoid that. This language states that it is the appeal to the hearing officer that would not suspend the fine if the person then appealed the hearing officer's decision to court, which is a whole other step. At that point the hearing officer's decision would have the fine in place and it would start running. I just want it to be clear that there are two types of appeals.

Mr. Zappala stated, you have weakened the ordinance, itself. You have given more time to the person.

Mayor Dickinson replied, you are giving them the time prior to the hearing. They are claiming that they do not fall under the ordinance. You are giving them that time to have the issue resolved when a fine is running. You can go in the other direction; you can have the fine begin at the thirtieth day, whether or not they would have their hearing. This is not something that is good and bad; it is something that is a judgment call as to what the effect is that you want.

There is some who would feel it is unfair to have a fine begin to run when you have an appeal pending. Others may feel that the fine should be exacted at the thirtieth day and if you had the appeal later on, so be it. I think the effort is to avoid a circumstance where it appears to be arbitrary, the hearing officer delays it, you then have a larger fine that you might not have had otherwise.

Mr. Zappala stated, the intent of the committee was not to let anyone pay any money. We don't want anyone to be fined. The incentive was to give them enough time to take care of the problems that exist on the property, which is thirty days. You are giving the property owner more of an opportunity to stretch it out longer and that was not the intent of the committee.

last eight or ten months. I think, as chairman of the Ordinance Committee, I see that we could conceivably tear through the language of every one of these ordinances over and over and over and over again and they would never ever emerge from a committee. I think that what we've got here is a document; it is not the Magna Carta. It is a blight ordinance. I think it is a good working document; a good start. If people are reasonable and that means public officials and residents, alike, we will find this a very valuable piece of legislation to correct the most blatant abuses of the ordinance without it becoming a tool for one neighbor to clobber another one or an attempt to turn Wallingford into nirvana, which it is not. We are 43,000 people with different ideas. This ordinance was very carefully crafted to try to make sure that everybody protected against harassment and to make sure that the standards that are set, aren't so picayune that the ordinance becomes unworkable for the volume of complaints that would come in. We are trying to address the most blatant abuse and I think this will do it. I want to thank Tom (Zappala) and Jerry (Farrell, Jr.) and Adam (Atty. Mantzaris); especially Adam for the ton of research that went into this and that was mostly his doing. I think what has emerged is something that everybody in town can live with and use.

Motion was made by Mr. Centner to Adopt the Ordinance as Amended, seconded by Mr. Farrell.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #11 Conduct a PUBLIC HEARING to Consider and Approve an Amendment to Section 198-15 of the Code of the Town of Wallingford Pertaining to the "Obstruction of Sidewalks; removal of snow and ice; violations and penalties" as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee - 8:45 P.M.

Mr. Knight stated, we had quite a long discussion some time ago with the police chief, right after one of the major storms, and there are certain people who felt they don't have the responsibility to remove the snow from their sidewalks; it became a safety hazard. We have an ordinance on the books and we have discussed it at length with the police chief here, in the public session. Subsequent to that Chief Dertenzio wrote us a three page letter outlining the difficulties he and his department had encountered in enforcing the law. What you have in front of you is an attempt to address those primarily enforcement problems and definitions. That is the reason for this. This afternoon Atty. Mantzaris and I had a discussion with the police chief with regards to some of the language having to do with the type of fine that would be levied. There were suggestions on Atty. Mantzaris' part that we may want to consider tabling the ordinance tonight and consider the chief's recommendations.

Atty. Mantzaris explained, the ordinance, as it is before you, provides for a citation and hearing procedure before a local hearing officer. The citation procedure is set forth in Section 7-152 of the CT. Gen. Statutes and requires...at least ten days' notice before you set a hearing. In a snow and ice situation, you cannot allow that much time between the time the citation or notice

Mr. Melillo asked, and there will be no appeals process, right?

Atty. Mantzaris answered, unless they took an appeal from the court action, there wouldn't be anything to be done locally.

Wes Lubee, 15 Montowese Trail commented, the people here tonight were appreciative and I am sure the townspeople are very appreciative of the work that has gone into the blight ordinance. Anything that is produced by the Ordinance Committee, along these lines, has to contribute to the improvement in the appearance of our town. I think the committee deserves the compliments thrown your way. I am sorry that you had to comment and reveal a sensitivity about the changes that were made. The only real test of an idea is the arena of public discussion. No matter how much you may "chew" on a sidewalk ordinance, until it comes out there and is challenged, if you will, by the public and fellow councilors, you should not feel as though you have lost. That blight ordinance and what ever other ordinances you produce, for the most part, all they've done is fine tuning. You still won the game. Don't be affronted by it. Thank you.

Mr. Parisi answered, I don't think anyone feels that they have lost. I appreciate your comments.

Atty. Mantzaris offered to read the minor amendments out loud and the Council could vote to make them. This will avoid re-publishing of the public hearing and re-scheduling of it as well.

Mr. Knight stated, it is not going to snow, therefore I will revise my motion.

Mayor Dickinson stated, I am not certain whether or not it has to be re-published to continue it. I am not sure.

Mr. Knight asked, Mayor, will that materially affect this decision to table or not? We can find that out. If, in doubt, we can publish it.

Mayor Dickinson stated, we will find out if it has to be re-published or not.

Mr. Brodinsky asked, if the ordinance is changed to make it an infraction, do we still have lien rights if we get rid of the hearing and hearing officer?

Atty. Mantzaris answered, it has to do with the expense of clearing the sidewalk, not the fine. The lien would continue, even though we are an infraction.

Motion was made by Mr. Knight to Continue the Public Hearing to June 12, 2001 at 7:45 P.M. seconded by Mr. Farrell.

Meeting recorded and transcribed by:

*Kathryn F. Zandri*  
Kathryn F. Zandri  
Town Council Secretary

Approved:

*Robert F. Parisi (by RR)*  
Robert F. Parisi, Chairman

Date

*Rosemary A. Rascati*  
Rosemary A. Rascati, Town Clerk

Date

RECEIVED FOR RECORD 6-20-01  
AT 10 H<sup>00</sup> M<sup>A</sup> M AND RECORDED BY  
Rosemary Rascati TOWN CLERK

## **BLIGHT ORDINANCE**

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

### **SECTION 1. POLICY DECLARATION**

The Town Council finds that in order to create and maintain a healthful and clean environment in the several neighborhoods of Wallingford, it is necessary to implement a program to prevent and to eliminate conditions producing housing blight and thereby promote and maintain the environmental quality of the Town of Wallingford and the health, safety and welfare of its citizens.

### **SECTION 2. DEFINITIONS**

A. "BLIGHTED PREMISES" means any vacant or occupied building or structure, including the yard, or any vacant or occupied part of a building or structure that is a separate unit, in which at least one of the following conditions exist:

(1) It is not being maintained as may be evidenced by (a) numerous missing, broken or boarded windows or doors such that appears the premises may have been abandoned; (b) collapsing or collapsed or missing walls, roof or floor; (c) exterior walls which contain numerous holes, breaks, loose or missing or rotting siding such as to expose the interior of the premises to the weather; (d) foundation walls which contain substantial cracks or breaks; or (e) chimneys with loose or broken bricks or blocks which pose a safety hazard to the public or to occupants of the premises.

(2) It is unsanitary as determined by report of the Department of Health that existing conditions constitute a life-threatening hazard or a hazard which puts at risk the health or safety of citizens of the Town;

(3) It is a hazard to the safety of persons on, near or passing within the proximity of the premises as a result of inadequate maintenance, dilapidation, neglect or abandonment, as determined by report of the Building Inspector;

(4) It contains an unsightly and large accumulation of rubbish or litter in the yard;

(5) The accessory structures of a dwelling containing two (2) or more units are not structurally sound or in a good state of repair;

(6) Garbage is not stored in approved containers and is strewn about the yard and building;

K. "PERSON" means any individual, firm, partnership, corporation or other legal entity of any kind.

L. "PREMISES" means a building, a dwelling or grounds or a combination of same.

M. "RUBBISH" means any nonputrescible waste materials, except ashes, including but not limited to paper, cardboard, tin cans, wood, glass, bedding, furniture, crockery, refrigerators, junk automobiles, demolition material, tree limbs and industrial wastes.

N. "STRUCTURE" means anything constructed, formed or erected from an assembly of materials.

O. "TOWN" means the Town of Wallingford.

P. "YARD" means an open space unobstructed from the ground up, on the same lot with a principal building, extending along a lot line or street line and inward to the principal building.

### SECTION 3. BLIGHTED PREMISES PROHIBITED

No owner of any real property shall permit, cause, keep, maintain, create or suffer to exist any blighted premises on any such property.

### SECTION 4. ENFORCEMENT

Enforcement of this ordinance shall be the responsibility of the Building Department, in conjunction with the Health Department and Police Department.

### SECTION 5. VIOLATION AND PENALTIES

A. Any person who violates this ordinance shall be fined \$100.00 for each day that the premises is in violation and each days continuation thereof shall constitute a separate and distinct offense.

B. The officials charged with enforcement of this ordinance shall, in lieu of issuing a citation, issue a written warning to the violator ordering him or her to abate the condition that caused the blighted premises within thirty (30) days of the date of the warning. A further extension for good cause may be granted in the sole discretion of said official.

C. A person shall be deemed in violation of this ordinance if, at the end of said thirty (30) day period or any extension thereof, the condition that caused the blighted premises has not been abated.

**ORDINANCE NO.**

- 5.) The hearing office shall announce his decision at the end of the hearing unless he determines to personally inspect the premises, in which case the decision shall be made immediately after such inspection.
  - 6.) If he determines the person is not liable, he shall dismiss the matter. If he determines the person is liable for the violation, he shall forthwith enter and assess the fines.
  - 7.) If the assessment of the fines is not paid at its entry or, at the hearing officer's discretion, within a reasonable time thereafter, the hearing officer shall cause to be filed a lien against the premises on the Land Records of the Town for the amount of the fines.
  - 8.) The person against whom the assessment was entered may file an appeal for judicial review with the Superior Court for New Haven County at Meriden within thirty (30) days of the mailing of the notice of decision of the Hearing Officer.

**Rosemary A. Rascati**  
**Town Clerk**

APPROVED: William W. Dickinson, Jr., Mayor

**DATE:** \_\_\_\_\_