

TOWN COUNCIL MEETING

SEPTEMBER 8, 1992

6:30 P.M.

1. Roll Call and Pledge of Allegiance
2. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes to Discuss Strategy and Negotiations with Respect to Pending Litigation (1 hour)

- CRRA, et al v. Wlfd. Planning and Zoning Commission
- CRRA, et al v. Wlfd. Zoning Board of Appeals, et al

Note: This item deals with the Meriden Landfill

3. Consent Agenda:

- a. Note for the Record Mayoral Transfers Approved to Date
- b. Note for the Record Anniversary Increases Approved by the Mayor
- c. Consider and Approve a Transfer of Funds in the Amount of \$1,204.00 from Primary Elections Part time Wages Acct. #6011-100-1350 to Food Allowance Acct. #6011-600-6600 - Registrar of Voters
- d. Consider and Approve a Transfer of \$250 from Ambulance Supplies Acct. #2031-400-4700 and \$250 from Seminars and Dues Acct. #2031-700-7990 for a total of \$500 to Professional Services Audit Acct. #2031-900-9000 - Dept. of Fire Services
- e. Consider and Approve a Resolution Implementing Provisions of Section 12-81m of the CT. General Statutes Abating Fifty Percent (50%) of the Property Tax of Any Property Assessed as a Dairy Farm and/or Fruit Orchard Maintained as a Business - Corporation Counselor
- f. Consider and Approve Abating Taxes Due From the Dayton Hill Corporation in the Amount of \$84.82 for the Grand List for October 1, 1988 - Corporation Counselor
- g. Consider and Approve a Transfer of Funds in the Amount of \$120 from Comptroller - PC Printer Acct. #001-1400-999-9901 and \$250 from Assessor-Clks. Wages Acct. #001-1430-100-1300 for a total of \$370 to Comptroller Refunds - Other Acct. #001-1400-800-8900 - Comptroller

4. Items Removed from the Consent Agenda

5. Approve and Accept Minutes from the 7/28/92; 8/11/92 and 8/14/92 Town Council Meetings
6. Approve the Appointment of Patricia Carruthers to the Position of Commissioner on the Zoning Board of Appeals to Fill a Vacancy

(OVER)

TOWN COUNCIL MEETING

SEPTEMBER 8, 1992

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TOWN COUNCIL MEETING

SEPTEMBER 8, 1992

6:30 P.M.

A meeting of the Wallingford Town Council was held on Tuesday, September 8, 1992 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order at 6:40 P.M. by Chairperson Iris F. Papale. Answering present to the Roll called by Town Clerk Kathryn J. Wall were Councils Doherty, Duryea, Killen, McDermott, Papale, Parisi and Solinsky. Mr. Zandri arrived at 2 P.M. and Mr. Holmes was called in to work by his employer. Mayor Liam W. Dickinson, Jr. was also present. Town Attorney Janis Small and Comptroller Thomas A. Myers arrived during the executive session and were present at the meeting when it was opened to the public.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes to Discuss Strategy and Negotiations with Respect to Pending Litigation (1 hour) (CRRRA, et al v. Wlfd. Planning and Zoning Commission and CRRRA, et al v. Wlfd. Zoning Board of Appeals, et al) (aka Meriden Landfill Litigation)

Motion was made by Mr. Doherty to Enter Into Executive Session, seconded by Mr. Parisi.

VOTE: Holmes and Zandri were absent, all others, aye; motion duly carried.

Motion was made by Mr. Doherty to Exit the Executive Session, seconded by Mr. McDermott.

VOTE: Holmes and Solinsky were absent; all others, aye; motion duly carried.

ITEM #3 Consent Agenda

Motion was made by Mr. Doherty to Place the Following Items on the Consent Agenda to be Voted Upon by One Unanimous Vote of the Council, seconded by Mr. Parisi.

ITEM #3b Note for the Record Anniversary Increases Approve by the Mayor

ITEM #3f Consider and Approve Abating Taxes Due from the Dayton Hill Corporation in the Amount of \$84.82 for the Grand List for October 1, 1988 - Corporation Counselor

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

ITEM #4 Items Removed from the Consent Agenda

ITEM #3a Note for the Record Mayoral Transfers Approved to Date

Motion was made by Mr. Doherty, seconded by Mr. Parisi.

VOTE: Holmes was absent; Killen, no; all others, aye; motion duly carried.

Motion was made by Mr. Doherty, seconded by Mr. Parisi.

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

ITEM #6 Approve the Appointment of Patricia Carruthers to the Position of Commissioner on the Zoning Board of Appeals to Fill a Vacancy

Motion was made by Mr. Doherty, seconded by Mr. Parisi.

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

ITEM #7 PUBLIC HEARING to Amend the 1992-93 Annual Budget for the Center Park Revenue Fund - 7:45 P.M.

The purpose is to appropriate a sum of money for the purpose of renovations to the Railroad Station. Such local funds to match federal and state grant funds.

Mr. Doherty read correspondence from the Mayor into the record (see attachment II).

The town has received \$250,000 in Federal funds for restoration of the station. The work to be completed by the project includes a new slate roof, windows, doors; pointing, cleaning and sealing of brick work; removal of aluminum siding and repair to cornice, fascia and soffit trim; and accessibility projects for compliance with the ADA.

Edward Musso, 56 Dibble Edge Road hoped that the town hires a sensible architect for this project and also has a plan of use for the building when completed.

Mayor Dickinson responded that the Adult Education Program and S.C.O.W. will continue to use the building. The station is in desperate need of repairs. The work should be done in harmony with the history and for at reason it is a restoration, not a repair.

Sydney Parker, 40 S. Cherry Street requested the Council to provide monies to make the station fully accessible to Amtrak trains.

Mr. Don Roe, Program Planner, explained that the town is only concerned with the building and making the ramps, rest rooms, etc., handicap accessible to conform with the ADA (American Disabilities Act).

Mayor Dickinson pointed out that we would be violating Amtrak's right of way. The platform is Amtrak's.

Mr. Parker explained that he has a handicapped daughter who cannot travel to Wallingford to visit him. She must get off the train in New Haven due to the fact that Wallingford does not have a lift for her wheelchair.

Mr. Tim Galespi, Asst. Vice President who works with the government and public affairs stated in a letter of June 18, 1992 to Mr. Parker:

"..I am advised that a wheelchair lift would cost approximately \$4,000 with the storage shed construction running about \$3,500. Should they

September 8, 1992

VOTE: Holmes was absent; Killen, no; all others, aye; motion duly carried.

PUBLIC QUESTION AND ANSWER PERIOD

Robert Avery, 42 N. Elm Street read the following statement into the record:

"In all the years that I have been in different goings on in the Town of Wallingford I have never been more angry, never more upset, never more disgusted with a Town official. I have been disappointed with Town officials and their decisions, I have been involved with lawsuits against the Town and its officials, but I have never been subjected to such a low, deceitful, conniving trick that was pulled at the last Council meeting by Chairman Iris Papale. I sat in this room from 7:00 P.M. until 11:30 P.M. and at no time did she tell me that she was going to change the agenda and talk about not only 88 S. Main Street but, specifically, what I had talked about at the previous meeting. She waited until after I had left before she put it on the agenda. I am here tonight to set the record straight once and for all. I understand that some Town workers are upset at something that I said at the previous Council meeting. For the record, I did not indicate or suggest that any Town employee took or used any dirt from 88 S. Main Street. If any Town employee got that impression with anything...any of my remarks then, for that, I am sorry. If anyone got the impression that I thought that the removal of dirt and subsequent purchase of \$2,770 for the dirt was foolish, wasteful of taxpayer's money then, yes, that was my intention. Public Works maintains that dirt removed had cinder blocks from the old Barry Davis foundation in it and could not be used because of the cinder blocks and the material had to be removed. Apparently Iris Papale bought this story hook, line and sinker. I do not. I called the State Department of Public Works Engineering and asked them what effect the cinder blocks would have and their answer was, "none". The only thing cinder blocks cannot be used for is a direct sub-base under the blacktop. The engineer went on to tell me that the State Police Training School in Meriden has a parking lot built completely on cinder blocks and construction debris without any problems whatsoever. Also at this meeting I had said that the foundation for the new house on 88 S. Main Street dug by the Public Works Department was dug too deep. I also said that that had resulted in the cost of \$600 because of that error. I also said that John Costello was spending money on this project without the knowledge or approval of the committee. Why did you not feel compelled to set the record straight on these matters? You know, when a citizen who volunteers his time and efforts with no self-benefit or political motive gets treated in such a reprehensible manner by an elected official, Chairman no less, is inexcusable. It will not be tolerated by me and should not be tolerated by the rest of the Council because if you sit back and accept this type of behavior then by your actions you support it. Thank you."

Ms. Papale stated that Public Question and Answer Period is to ask the Council questions. She wished that statements were made to her on the phone. She did not think they should be aired publicly and she stated that she will not do so in the future.

ITEM #8 Consider and Approve a Lease Agreement with the Visiting Nurses Association for a Term of Five (5) Years for Space Located at 701 Center Street (Formerly Simpson School) - Corporation Counselor

Waiver of Rule V Motion was made by Mr. Killen to Waive Rule V of the Town Council Procedures for the Purpose of Discussing 88 S. Main Street, seconded by Mrs. Duryea.

VOTE: Holmes was absent; Solinsky, no; all others, aye; motion duly carried.

Motion was made by Mr. Killen to Discuss the Status of 88 S. Main Street, seconded by Mr. Parisi.

Mr. Killen's purpose in bringing this item forward was to obtain some sort of a timetable on the remainder of the work that needs to be performed at the site, not to mention who will be occupying the building upon completion.

Mr. Robert Avery, Chairman of the 88 S. Main Street Building Committee stated that he was not sure who would occupy the building since the Council has to vote on that issue. The committee is presently preparing the documentation to place the exterior of the building out to bid.

Mr. Killen asked if the exterior will be done without knowing who will occupy the building? What if the tenant requests changes?

Mr. Avery explained that that very issue is stalling the work somewhat. The committee is trying to determine how much remodeling would be needed if the Credit Union were to move into the structure.

Mr. Killen stated that the Credit Union continues to be mentioned however they have never approached the Council to express their interest in occupying the building. Why is the committee concerned with the Credit Union? He asked the Mayor if he was aware of an interest on the part of the Credit Union to lease the building?

Mayor Dickinson responded, yes, there was a meeting in his office prior to the first week of August. Mr. Avery was present as well as the architect, Town Engineer, Credit Union representatives, etc. At that time the architect was going to draw the specifications and place out to bid the exterior of the building. He was to separate the interior from the exterior and be involved in conversations with the Credit Union to determine exactly what was needed on the interior. The effort was to have the exterior completed as soon as possible. All that remains is to draw up a lease with the Credit Union for the Council to approve.

Mr. Killen felt that it was not wise to begin planning renovations to the building to meet the requirements of the Credit Union when there is no lease or agreement yet signed committing them to occupy the building.

Mr. Avery stated that the architect informed everyone present at the meeting in the Mayor's office that he anticipated an additional \$20,000 expense to conform the interior of the structure to the needs of the Credit Union along with an additional cost totaling \$2,000 for architectural fees.

Mr. Killen recommended that the committee have the architect proceed with the design work for the exterior of the building and place it out to bid. If the Credit Union or any other outside agency decides to change the

Mr. Avery responded that it was designed to have a slight turn to it. It does have more of a turn than it is supposed to have, the driveway is in the wrong place, it is too close to the house. It was supposed to be eight feet from the house and it is six feet from the house. Why it is too close? He asked that of Engineering and did not receive a satisfactory answer. He thought that they moved it closer to the house due to the drainage being installed in the wrong place or perhaps the light fixtures were located in the wrong place. They had to exaggerate the bend. We will have other problems develop because of it.

ITEM #12 Mr. McDermott made a motion to Move Agenda Item #12 Up to the next Order of Business, seconded by Mr. Solinsky.

VOTE: Holmes and Parisi were absent; all others, aye; motion duly carried.

ITEM #12 Discussion on Railroad Crossing Safety in the Town of Wallingford as Requested by Councilor Brian M. McDermott, Chairman of the Public Safety Committee

Motion was made by Mr. McDermott for Discussion Purposes Only, seconded by Mr. Killen.

Mr. McDermott stated, as Chairman of the Public Safety Committee, he thought it was appropriate at this time to take up this item, not to discuss the unfortunate accident that occurred a few weeks ago, but in light of all the accidents and fatalities that Wallingford has had over the past eight or nine years. It is important as a community to address some of the issues to try and make the railroad crossings safer for all who have to cross them on a daily basis. He invited State Representative Mary Fritz to the meeting to discuss this very issue. She has been instrumental in Hartford with passing legislation for railroad crossing safety.

State Rep. Mary Fritz of the 90th District approached the Council to state that she invited Don Doherty from the Department of Transportation to address the Council with regards to private railroad crossings. She informed the Council that another piece of legislation was drafted this year that deals with railroad safety which is called "operation lifesaver". Part of that program is to look at the railroad crossings. She personally resents the fact that the trains travel through Wallingford at 80 m.p.h. There is no reflection or recognition of the fact that so many lives have been lost here due to the railroad crossings.

Mr. Doherty, Assistant Director of Rail Operations for D.O.T. Office of Rails explained that he is currently in the process of reviewing all of their private crossings throughout the State. There are approximately 215 private crossings on active railroads. There are probably another 100 that are located on railroads that are very seldomly used. The process is to identify and locate all the crossings on the inventory list to determine the type of crossing, the owners, whether or not it is on a heavily used road, the speed of the train, if there is a possibility of eliminating the crossing and allowing the parties who had the crossing to approach their property in another direction. The categorization should be completed within the next three weeks to one month.

Mayor Dickinson stated that there has been opposition expressed to closing

BYRON N
MERRICK
LAWRENCE

Mayor Dickinson responded that a very complicated title search was in progress to determine the owner.

Mrs. Duryea informed Mr. Don Doherty that exiting the cemetery to Route 5 to the extreme right is a large accumulation of asphalt, rubber, debris, etc. and to the extreme left is a large embankment that harbors weeds and grass that are excessive in height. This makes for a dangerous situation. She had to edge out onto the railroad tracks to get a clear picture of the back in both directions. Because it is a very old cemetery we are dealing with a large number of senior citizens visiting the site. The issue of obstruction of view needs to be addressed immediately to avoid another tragedy. Whether the town or Amtrak takes care of the obstructions does not matter, as long as it is done expediently. She made it very clear that she is not insinuating that the obstructions are what caused the accident recently but it does make for a dangerous situation.

Mr. Don Doherty and the Mayor will both call Amtrak to make sure this situation is dealt with immediately.

Mr. Parisi asked if it is possible to change the location of the entrance to the cemetery? Perhaps use Tolle's crossing instead of the private crossing and then have people enter through the carpet and tile business's parking lot.

Mr. Killen thought that perhaps we could enter into some sort of agreement with the owners of the tile business since the cemetery is approximately ten feet past the end of the parking lot.

No action was taken.

ITEM #9 Remove From the Table to Consider and Approve a Transfer of Funds in the Amount of \$3,000 from Contingency Reserve for Emergency Acct. #001-0050-300-3190 to Bristol-Meyers Helipad Lawsuit Acct. #001-1110-900-9004

Motion was made by Mr. Doherty to Remove From the Table, seconded by Mr. Solinsky.

VOTE: Holmes and McDermott were absent; all others, aye; motion duly carried.

Ms. Linda Bush, Town Planner stated that the Town Council can spend the Town's money which ever way they see fit that is their function, but to try to say that we have to pay Atty. McManus' legal fees because the Planning and Zoning Commission did something that is so terrible it is required to, is just ignoring the facts. She asked how many members of the Town Council actually read the judge's decision on Bristol Meyers. She pointed out that there were no legal cases cited by the judge to base his decision to overturn the P&ZC's decision. The judge stated in the decision that the Zoning regulation did not read the way it was interpreted by P&ZC. She admitted that, on very large property owners P&ZC allows the applicants to use the land included in the application. There was never an attempt to hide that fact contrary to what the press has tried to portray. A list was made after the decision was rendered so that the P&ZC could decide what to do. This is a local regulation,

Atty. Small stated for the record that she stated from the very beginning that this case could have gone away and she did not believe anything short of a victory against Linda Bush was acceptable to either Mr. Wasilewski and/or Attorney McManus. She felt that the case could have gone away from the very beginning. From day one she had a very open discussion with Atty. McManus and Bristol-Meyers' attorney that it should go away. She felt no fees should be paid, however, upon discussing this with the Mayor she felt that if fees were to be paid the maximum should be \$3,000. It should have gone away, there was no attempt to hide anything from the very beginning as Ms. Bush indicated.

Mr. Dickinson stated that he did not believe that the P&ZC has the authority to retract or terminate the decision once made. Part of the reason for that is that the party that has received that decision has the right to defend.

Ms. Bush stated that P&ZC did what their regulations said. One judge, the Bristol-Meyers judge said that we could not do that. The Council is saying that because we used our regulations in good faith we have to pay Atty. McManus' legal fees. She felt that it did not make logical sense. She went on to point out that this Council has lost court cases and asked them if they have ever paid the other attorney's legal fees because the judge stated that you have made an error in judgement? No, so why are you paying these legal fees?, she asked.

Mr. Parisi responded that the reason the Council is voting to pay their legal fees is because P&ZC's interpretation was determined to be wrong and they created an expense for them to make it right.

Ms. Bush added that the Council's interpretation of the condemnation of F.I.P.'s property was wrong according to a judge. Why are you paying for the P&ZC when the ZBA grants variances. The judges have told them to only grant variances when there is a hardship upon the land. They still grant variances when there is no hardship upon the land.

Mr. Parisi asked if the P&ZC's interpretation has ever been challenged before?

Ms. Bush responded, no.

Mr. Parisi pointed out that it is not certain that, in the other eighteen or so interpretations similar to this one, the action has been correct on the part of the P&ZC.

Ms. Bush agreed.

After much discussion Mr. Parisi called the question.

VOTE ON CALLING THE QUESTION: Holmes was absent; Killen and Zandri, no; all others, aye; motion duly carried.

Mr. Killen questioned why the transfer was being made into the Town Council budget?

working for us. Recently there was a newspaper article on how they (Electric Division) is starting their public relations campaign. This disturbed me. First of all they are spending our money to tell us something that we already know, that is that we do enjoy probably the best rates, if not the best rates, in the State of Connecticut. I think that it is a waste of our money to do that. They also compare their rates to other utilities and, in my opinion, it is really not a fair comparison. I will explain why. CL&P, Northeast Utilities and U.I. pay taxes in all the communities that they have property in. They pay taxes to the towns that the property is in. Our utility does the same thing with the Payment In Lieu of Taxes (PILOT) that they give us each year. The private utilities also have another responsibility and that is to their stockholders and they pay their stockholders a dividend each year or a payment for their investment. Our utility does not do that. So when they are trying to compare rates, and we do enjoy the best rates, it is really not a true comparison. This is what I have been trying to accomplish over the few years that I have been on the Council, is to have this town-owned utility work for us. I think that it can work for us. I think that we have proven that by reviewing the budget process and I think that if you review the figures that we have come up with you will see that this Council has come real close to what actually happened in that utility year after year. This year is another good example where they (utility) budgeted a loss of approximately \$47,000 and the report that just came out last week, they have a \$1.3 million surplus and this is after they gave everyone a rate reduction for this year. We constantly hear from the Mayor about different projects in this town that cannot be accomplished because of the problem with money. Some of the examples are, Yalesville School that was being utilized by Adult Education and the Recreation Department that had to be vacated because of repair problems to that building; we have the old Yalesville Firehouse that is deteriorating and not being put to use; we just had the Fire Department give us a five year plan that has to be put off because of money problems and there was an article just recently in the paper about the potential problems that they have with equipment and a fire house that they feel that they are going to need very shortly; we have a situation where a T V. station is housed in the Library that for years has been suggesting that they move on, that it cannot be housed there anymore and it takes the Library and to threaten us with eviction so to speak, to force us to do something; we have upcoming school projects, building projects that everyone is aware of to the tune of \$13-14 million at this town will be faced with. You can look at all of these projects and two things can happen; you can either fund these projects through taxes or not do the projects at all. We can also have an option of utilizing some of the dollars that are available in our Electric Division that will help us fund these projects so that the town can be better for it. I think that is basically my goal and the goal of the Council is to not just take this money and spend it on anything, we want to improve the Town of Wallingford and make it a better place for all of us. Also some facts I want known as far as the revenues on the Electric Division; I looked at the three main sources of income that they have down there. They have commercial, industrial and residential as their three main sources of income. If you look at the revenue side of their budget each one of these categories contributes about 1/3 of the total revenues of the Electric Division. That means when you go to the profit end it is basically in the same proportion, 1/3. That means for every dollar of profits that you spend on the profit side towards the town, the residents of this town should realize that 2/3 of that dollar is coming from commercial and industrial customers of this town. That is something that everyone

and we are supposed to be running the town. I am beginning to wonder when are we going to address it? I am not getting any younger and I would like to see some of those dollars. I would like to think that I contributed in some small way to some of them. Eventually there will be a next Mayor. Should that Mayor decide to blow it all in one fell swoop and the Council go along with it, he will do so. What happens to those people in the meantime who have paid and paid and paid and either died or sold their property? What do they get for it? This is not planning, it is absolutely ridiculous! End of quotation".

ward Musso, 56 Dibble Edge Road felt that the town does not need school buildings, but better planning on the part of the Board of Education. His solution was to buy portables for those areas that truly need the space. It is more economical.

Motion was made by Mr. Doherty to Table This Item Until the September 22, 1992 Town Council Meeting, seconded by Mr. Zandri.

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

ITEM #13 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes to Discuss Strategy and Negotiations with Respect to Pending Claims and Litigation (tax appeals) - Town Attorney

- American Cyanamid vs. Town of Wallingford
- Property Operating Co. vs. Town of Wallingford

ITEM #14 Executive Session Pursuant to Section 1-18a(e)(5) and 1-19(b)(9) of the CT. General Statutes to Discuss Collective Bargaining Strategy - Mayor's Office

Motion was made by Mr. Doherty to Enter Into Both Executive Sessions, seconded by Mr. Zandri.

VOTE: Holmes and McDermott were absent; all others, aye; motion duly carried.

Motion was made by Mr. Doherty to Exit the Executives Sessions, seconded by Mr. Parisi.

VOTE: Holmes and McDermott were absent; all others, aye; motion duly carried.

Motion was made by Mr. Doherty to Adjourn the Meeting, seconded by Mr. Parisi.

VOTE: Holmes and McDermott were absent; all others, aye; motion duly carried.

There being no further business, the meeting adjourned at 12:29 a.m.

Meeting recorded and transcribed by:

Kathryn F. Milano

Kathryn F. Milano, Town Council Secretary

R E S O L U T I O N

BE IT RESOLVED That pursuant to the authority of Section 12-81m of the Connecticut General Statutes the Town Council of the Town of Wallingford hereby abates fifty (50%) percent of the property tax of any property assessed as a dairy farm and fifty (50%) percent of the property tax of any property assessed as a fruit orchard maintained as a business, for the Grand List of October 1, 1992, provided, however, that the original amount of tax so abated shall be paid to the Town of Wallingford if the property granted such abatement is sold within ten (10) years of said Grand List.

BE IT FURTHER RESOLVED That the application for abatement of property tax of property assessed as a dairy farm or of property assessed as a fruit orchard maintained as a business shall be made by the owner of such property to the Assessor on or before November 1, 1992 in order to qualify for such abatement for the Grand List of October 1, 1992. The application shall be recorded on the Land Records of the Town of Wallingford by the Tax Collector upon his processing of such abatement.

BYRON W
KENNEDY
LITTON HOG