

Summary of Town Council Minutes

August 27, 1985

Roll call and pledge of allegiance to the flag 1

Public Question and Answer Period 1-6

Public Hearing on AN ORDINANCE PROHIBITING THE DISTRIBUTION AND DISPLAY OF PORNOGRAPHIC MATTER TO MINORS WITHIN THE TOWN OF WALLINGFORD. 6-12

Appointment of Ed Makepeace as Alternate to the Planning & Zoning Commission. 12

Waived the 2 week waiting period for Mr. Makepeace for confirmation and the swearing in. 13

Transferred \$729 from A/C C503-01-01 to A/C C505-1 approved. 13

Approved transfer of \$9,169 from A/C 805-319 to the following:

Telephone	135-200	\$1,600	
Primary wages	135-601A	5,736	
Polling Place Rental	135-580	300	
Food Allowance	135-660	488	
Custodians	135-900	875	
Policeman	135-901	170	
		<u>\$9,169</u>	14

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Final Report from the Robert Earley Disposition Committee and Dissolution of that committee. 14-20

Approved the budget amendment of \$50,000 from Net Income to Chemical Expense A/C 641-000. 20-21

Approved an increase of \$50,000 from prior retained earnings to increase net cash available by \$50,000. 21-22

Approved the resolution authorizing a cash advance from the Sewer Enterprise Fund to the Sewer Treatment Plant - Step III. 22-23

Approved an appropriation of \$7,000 from Electric Division Retained Earnings to A/C 390, Structures. 23-24

Approved the Electric Division to go out and seek proposals for collection agency services. 24-25

Waived the bid and authorized the hiring of Miller, Balis, & O'Neil as attorney's and Southern Engineering as engineering consultants for the rate case pending with Northeast Utilities. 25-27

Waived the bidding for the traffic light at South Cherry and John Street, Awarded the bid to Marlin Controls of Danbury and approved a transfer of \$14,099 from A/C 805-319 to A/C 201T-520. 27

Approved reducing the Umbrella Insurance Requirement from \$10,000,000 to \$1,000,000 for the inspection of the closure of the hydroxide site. 27-28

Waived Rule V. 28

Approved lowering the liability for Innes Brothers from \$10,000,000 to \$1,000,000. 28

Discussion of rodent control with George Yasensky and authorized Mr. Yasensky to negotiate with colleges and schools to correct the rat problem. 28-30

Item 16 Withdrawn from the Agenda. 30

Noted for the record the monthly financial reports for the Town of Wallingford for the month of July, 1985. 30

Accepted Town Council Meeting Minutes of August 7, 1985. 30

Accepted Town Council Meeting Minutes of August 15, 1985. 31

Waived Rule V 31

Established A/C 603-CAP 31

Approved a transfer of \$670 from A/C 603-650 to A/C 603-CAP. 31

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Discussion between Mr. Diana and Mr. Lynch regarding a statement made in the factfinding report. 32

Meeting Adjourned 33

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Town Council Meeting

August 27, 1985

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7:30 p.m.

- (1) Roll call and pledge of allegiance
- (2) Public question and answer period.
- (3) PUBLIC HEARING, 7:45 p.m. on AN ORDINANCE PROHIBITING THE DISTRIBUTION AND DISPLAY OF PORNOGRAPHIC MATTER TO MINORS WITHIN THE TOWN OF WALLINGFORD.
- (4) (a) Consider appointment of Ed Makepeace as Alternate to the Planning & Zoning Commission.
(b) Consider waiving 2 week waiting period for confirmation.
- (5) Consider & approve a transfer of \$729 from A/C C503-01-01 to A/C C505-1, requested by Steven L. Deak, Director of Public Works.
- (6) Consider & approve a transfer of \$9,169 from A/C 805-319 to the following accounts as requested by Vivienne Goodrich, Democratic Registrar of Voters, for the Democratic Primary to be held on September 10, 1985:

Telephone	130-200	\$ 1,600
Primary Wages	135-601A	5,736
Polling Place Rental	135-580	300
Food Allowance	135-660	488
Custodians	135-900	875
Policeman	135-901	170
		<u>\$ 9,169</u>

- 7) Final report from the Robert Earley Disposition Committee and Dissolution of the Committee, as requested by Councilman James A.G. Krupp.
- 8) Consider & approve a budget amendment of \$50,000 from Net Income to Chemical Expense A/C 641-000, as requested by the Water Division, Raymond A. Denison, Office Manager.
- 9) Consider & approve a resolution authorizing a cash advance from the Sewer Enterprise Fund to the Sewer Treatment Plant - Step III project, as requested by Thomas A. Myers, Comptroller.
- 0) Consider & approve an appropriation of \$7,000 from Electric Division Retained Earnings to A/C 390, Structures, as requested by Charles F. Walters, Electric Division.
- 1) Consider & approve the Electric Division to seek proposals for collection agency services.
- 2) Authorize the Town to retain an Attorney in conjunction with the Wholesale Rate Case pending with Northeast Utilities.
- 3) Consider & approve the following requests by Deputy Chief John P. Reynolds.
 - (a) Waive bidding for traffic light at South Cherry and John Street.
 - (b) Award the bid to Marlin Controls of Danbury.
 - (c) Transfer \$14,099 from A/C 805-319 to A/C 2017-520
- (14) Ratify a reduction in the umbrella insurance requirement from \$10,000,000 to \$1,000,000 for the inspection of the closure of the hydroxide site, as requested by Mayor William W. Dickinson, Jr.
- (15) Discussion of Rodent Control with Town Sanitarian, as requested by Councilwoman Marie B. Bergamini.
- (16) Tax refund for Mohawk Aluminum, requested by David A. Gessert, Council Chairman. (Paperwork to follow)
- (17) NOTE FOR THE RECORD the monthly financial reports for the Town of Wallingford for the month of July, 1985.
- (18) Accept Town Council Meeting Minutes dated August 7, 1985.

(19) Accept Town Council Meeting Minutes dated August 15, 1985.

(20) EXECUTIVE SESSION for the purpose of a discussion:

- (a) With the Personnel Director and the Labor Negotiator regarding upcoming labor negotiations.
- (b) With Mr. Edward Lynch to explain his use of the Factfinding Report of the Electric Production Workers for an ostensibly political statement, as requested by Councilman Edward L. Diana.

Town Council Meeting

August 27, 1985

7:30 p.m.

A regular meeting of the Wallingford Town Council was held in Council Chambers on this date. Chairman David A. Gessert called the meeting to order at 7:35 p.m. Answering present to the roll called by Town Clerk Rascati were Council Members Bergamini, Diana Gessert, Holmes, Papale, Polanski and Rys. It was then noted by Chairman Gessert that Mr. Killen was on vacation and Mr. Krupp expected to be about 2 hours late because of a work related meeting. Also present for the meeting were Mayor William W. Dickinson, Jr., Town Attorney Vincent T. McManus, and Comptroller Thomas A. Myers. The pledge of allegiance was then given to the flag.

PUBLIC QUESTION AND ANSWER PERIOD

Nancy Ricci, 17 Fritz Place, states she is concerned with a problem that has happened in Town and she is even more concerned about the fact that Chairman Gessert had written a letter to the Police Chief and the Assistant Police Chief had stated there was no policy that could be changed as far as dealing with minors getting alcoholic beverages at parties and the parents are actually condoning this. To her, the fact that a woman knows about this is serious. She states they have nothing against the Wallingford Police or anyone personally, she knows what happened at the time of the party because they had the same problem with DWI. The arrests for drunk drivers were not being done because they were frustrated with the court system and frustrated with no support from the public. Being called to this party made it hard for them to do what they were suppose to do. Also there were nine parties going on in Town. The important thing people are forgetting is that she called up early in the afternoon to report this party going on and she had information that 12-15 kegs of beer was going to be there and it was up to the discretion of the kids whether they would be drinking it or not. She states how often can you put a lollipop in front of a baby and they say no. Everyone can say their kid will never do it but this is being naive. If parents are condoning this there could have been an accident. Luckily, nothing serious did happen when over 400 kids were at a party with the permission of an adult, having all the beer they wanted. The police did respond at 9:30 in the evening and it is really sad that nothing was done about it. She understands that and will accept that but what she is asking for is policy changes for the procedure like Chairman Gessert did and she wants to thank him for his very fast response to this matter. She really feels prevention is the best answer. She feels they had all the evidence to arrest this woman. The only thing missing was a death or injury as a result of this party. She feels it should be stated in simple writing how our Police Officers should handle the situation if it ever occurs again. Parties are going to happen. She would like it stated in the paper that Wallingford is not going to tolerate minors drinking, will not tolerate the keg party, and the parents who provide the liquor should be punished. She wants to thank them for all the support. She wants to let them know she is not criticizing the Police for this. She understands their situation.

She wants them to know they have the support of the public and hopefully someone will have the courage to report these parties and something could be done to stop them. She states that she wrote a letter to Police Chief Bevan but she has yet to hear from him. This has been going on 10 weeks now. Within this time, she has still been getting calls that parties are happening. This is not a one-time happening. She was told by Police Chief Bevan that next year at graduation time, he will put a statement in the paper. We can't wait until next year. This has to be stopped now. Especially this weekend. Labor Day weekend, the end of the summer, is party time again. She wants to

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also note that she is not against the kids. They are great, they have everything to live for. How many times can they be exposed to this without something happening. At the same time, something has to be done. She does not understand Assistant Chief Reynold's attitude that there is no need for policy change. She would like to know the policy, because to her, every law was broken. 493

Mr. Holmes then questions if the problem here seems to be the policy. This may be something that they can address to the Ordinance Committee. There has to be some established guidelines.

Chairman Gessert then states that there are State Statutes. He then says that you can't just sit there and say the Police Department's job is to disband beer parties. The beer party is illegal, minors are being served, someone is illegally supplying alcohol to minors in violation of the law. If violations are being made, it is up to the Police Department to do what they are suppose to and enforce the law.

Mrs. Papale then asks if there was a warrant issued.

Mrs. Ricci then states that the most important thing is that the party was known about well beforehand. There is a Crime Prevention officer in Town and there is a Youth Officer in Town. There are talking about minors. This was open to the whole high school. Tickets were sold at \$5 each. This was known beforehand and someone should have acted on it. Seeing nobody acted on it, they had gotten a complaint from a resident on Pierson Drive that the party had gotten out of hand. She has copies of the police report. According to Chief Reynolds they do have a policy on it but she would like to see this policy.

Chairman Gessert then states that they disbanded the party, they did not gather any evidence, and they made no arrests. They sent the information to the prosecutor and the prosecutor said there was not enough evidence.

Mrs. Ricci states she signed a formal complaint against this woman. She had a witness, she made a statement. Three police officers went to the party and said it was obvious the kids were drinking. She is talking about 14, 15, 16 & 17 year olds. The whole complaint is that it should not have happened.

Mayor Dickinson then states that there was a complaint filed. It was processed, went to the prosecutor, the prosecutor felt he couldn't proceed because he needed additional evidence. In any cases like this where you deal with minors, it can be a difficult situation because of the need for testimony in court. Be that as it may, we do feel that where a complaint is received by the Police Department prior knowledge with advanced notice, that preventive measures should be taken. However, if there is not advanced knowledge, it is a difficult situation. There are things such as search warrants being necessary, there has to be actual testimony as to an individual receiving alcohol at the site, and it is not the easiest type of case, especially for the prosecutor. That doesn't mean you can't foresee, especially when you have advanced knowledge that action should be taken to try to dissuade this type of activity from occurring. It is not a matter of quick fix in any way, every circumstance is going to change.

Mr. Polanski asks what is the policy right now.

Mayor Dickinson states that he hasn't talked to the Deputy about it but usually in Police matters, it is almost impossible to generalize as to this type of situation. Every situation differs. In enough degree, it requires a different response. In this instance, when the officers arrived, there were a large number of people up there. They felt that to effect possible arrests at the time would increase chaos and just encouraged disbanding of the group. This is one question on this. He feels the question Mrs. Ricci is raising is due to advanced knowledge, what kind of action should have been taken to perhaps dissuade the party from being held. This is another question. Once you arrive and there is already a party, there are other kinds of ramifications that have to be watched than the sole concern about making an arrest.

Mr. Polanski then asks if there will be a change in policy to go along with what Mrs. Ricci is asking.

Mayor Dickinson states that policy is a difficult thing. The policy of the Police Department is to prevent crimes from being committed.

To protect the public safety. He thinks they will all agree where tickets were being sold for a party where alcohol was being distributed to minors is not to be encouraged in Wallingford. It violates State Statute. It is very clear. How that is enforced is going to depend on each individual instance. Depending on the circumstances, the circumstances are going to have to be dealt on a case to case basis. To say what is the policy, the policy is obvious. They are not to be encouraged and people who plan such parties should be aware that they are illegal. The Police Department has the responsibility to see that people do not break the law. They run the risk of arrest and whatever penalties and fines are defined in the Statutes.

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Mrs. Bergamini then asks, what if Mrs. Ricci had the tickets as evidence, would that have been sufficient evidence to stop the party?

Mayor Dickinson states that they did stop the party and Mrs. Bergamini states not really. She states the party was going full force, after three complaints from neighbors and after 3 hours of partying, then they were disbanded. Mayor Dickinson then states they would need proof that minors were being sold tickets and were being served alcoholic beverages. Mrs. Bergamini then states that these parties require tickets that are sold in advance if she has her information right. If this is going to happen Labor Day Weekend, is there a procedure where by getting these tickets and proving they are being

Mayor Dickinson says if someone purchases a ticket and says they are going to go to a party and they are going to sell alcoholic beverages, that person can go to the party and purchase the ticket and once they are served an alcoholic beverage then they have evidence. Just to purchase the ticket alone is not enough. You can buy a ticket but you won't necessarily be served alcohol at the party. The crime is committed at the point you are actually served an alcoholic beverage without a permit, to a minor etc. All the elements have to be there before a crime is committed.

Jim Ricci, 17 Fritz Place, states the fact is that the Police were notified way ahead of time that the party was going to happen. The Police did not notify the lady and tell her she was going to be breaking the law if she was serving minors. They were high school kids. Freshmen, Juniors, Seniors were at that party, on the streets drinking and blocking traffic and the Police were up there at 8:00 when the party started and did nothing. They went away and waited for a complaint and that happened at 10:30. In other words, the Police policy is to let this go on unless there is a complaint. If someone complained at 10:30, someone surely would have complained at 1:30 and they would have had some of the 400 drinking and there would have been a major problem at hand. This is the crux of it. They knew earlier and nobody did anything to prevent it. Get it out to the public that we are going to start doing something about it.

Chairman Gessert states that he would hope a policy could be started. He doesn't feel that breaking the law with a crowd is any less than - breaking the law individually. He spent time with 1,300 other guys and there were 250,000 on the other side that wanted to burn down Washington. Just because there were 250,000 on the other side didn't make them turn around and go home. They prevented a problem from breaking out. He feels the Police Department has a responsibility to do this. He feels the Council will back them on their efforts to do this. If they have to call people in on overtime and come here for the transfer, he doesn't feel anyone will argue with giving them the money. The only difficulty here is that the Council can't set policy. This is an administrative decision and it is up to the Mayor concerning the policy on this issue.

Mrs. Bergamini would like to hear from the Town Attorney as to if he might have something to add.

Attorney McManus states that he looks at this as to some comments that were made. He talked to the Prosecutor and he feels the Prosecutor did his job and the Police did their job. He feels there is a lot of business being thrown around here of "common knowledge". It wouldn't provide a thimble full of proof in a court of law. This is not the way we work in this Town. They get the proof first and then they proceed. They are talking about a criminal case not just some gossip over somebody's back yard. They are talking about proof of a criminal case and what he has heard tonight is common knowledge. It is not proof. The police did their jobs and the prosecutor did his.

Mrs. Bergamini states she was not there but if she has the facts straight, there were kids out on the lawn on Pierson Drive with beer cans and cups of beer in their hands. To her knowledge, there considered drinking in public. 495

Attorney McManus states that when she is on her front lawn drinking beer is that in public. He doesn't think so. The answer is no. He then states that if his son were 16 and he let him drink in the front of the house there would be no problem. It is that simple. There is no crime about it.

Mrs. Ricci then questions why we have the drinking age of 20 years old.

Attorney McManus states that it doesn't apply to him in his own home. When you talk about serving in a public place in the State of Connecticut, then it is against the law.

Mr. Ricci then states that the next time there is a party like this does that mean he has to go up there and arrest someone. He felt this was the Police Department's job to gather evidence. The Police did not gather evidence. The prosecutor did his job and they are not arguing that point. He didn't have the evidence that the police are suppose to provide him with. Now we are talking about America here. He feels we are way out of line. They are condoning the minors drinking and the adults providing the liquor, this is a fact. You can't hide this party so stop trying to hide it.

Mrs. Ricci states that Police Chief Reynolds made a statement that when you have 400,300,200 and 100, kids there is nothing that can be done except to send them home. Well the kids are laughing at them. They feel they can get a group of 100 kids or 12 kids getting together and drinking and the police come and just send them home. They don't confiscate the kegs which is a necessity and why do we have a drinking age if nobody listens to it. She is sorry to take up all this time but she really feels they needed the Council's help.

Mr. Diana states that he agrees with the group and he doesn't usually disagree with Attorney McManus but in this case he is going to. If he wanted to let his son drink beer that is his business and nobody elses. If he told him to go sit on the front lawn and drink beer he is welcome to do it. However, if he takes in the neighbor's kid and charge him \$5 to do it, that brings this thing into a whole new light.

Attorney McManus states that he agrees. That is clearly against the law.

Mayor Dickinson then states that there is no question that holding a party serving minors, selling tickets is illegal. The Wallingford Police Department, as far as he is concerned, is going to be continuing it efforts to prevent these kinds of occurences and enforcing the law. This means arrests, fines, whatever. There is no doubt about it. This is the policy. Now with advanced notice of this, he doesn't know what the schedule was for the Police Department that day, he thinks that in the future if they get advanced notice like this, there should be some contact to the party, the person holding the party. Don't leave the room thinking that there is some kind of debate about whether that is in violation of the law. It is a violation of the law and the Police Department is there and will enforce the law.

If there is knowledge of a party being set up, the Police will be there and will be looking to make an arrest if at all possible. If there is any message to come out of this and if any people think they are laughing about what happened, or that it is easy to get a group together and nothing will be done, they are laughing at the wrong time. As sure as he is sitting here, the police department will enforce the law to the strongest degree possible in any given interest.

Chairman Gessert then notes the next item up is a public hearing on an ordinance prohibiting the distribution and display of pornographic matter to minors within the Town of Wallingford. He then states that Mr. Krupp is heavily involved in this and he is not here. He would like to see his item delayed until later on. Mr. Diana then states that he spoke with Mr. Krupp and he said to go ahead with the hearing without him. He feels it can stand on its own.

Chairman Gessert then states that basically what the ordinance is about is to promote the general safety and welfare of minors within the Town of Wallingford by limiting their access and exposure to

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pornographic matter. To this end, this Ordinance prohibits the distribution and display of pornographic matter to minors, and provides sanctions for violations of this Ordinance. It talks about display and distribution and talks about printed material and talks about everything from printed material to videotape etc. It defines what a minor is, it defines what pornographic is, it defines what sexually explicit is, it establishes some community standards, it has general provisions and a \$100 fine for violation.

Mrs. Bergamini then moved to discuss this Ordinance; seconded by Mr. Rys.

Chairman Gessert then noted that this was a public hearing and the public would have a chance to speak first.

Karen Roesler, co-director of the Wallingford Public Library, first wants to voice her support for the exemption of Public Libraries and public and private educational institutions. She then questions Subsection III, Establishment of Community Standards, which states It shall be the Board of Ethics of the Town of Wallingford to study and establish standards relating to Subsection II. f. 2 above as to what matter is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and which, taken as a whole, lacks serious literary, artistic, educational, or scientific value, whether on an overall or a case-by-case basis. According to State Statute, whether material is obscene shall be judged by ordinary adults complying contemporary community standards. In applying contemporary community standards, the State of Connecticut is deemed to be the community. This past year there was a bill introduced to State Legislature which tried to change this definition of community to allow municipalities to define obscenity and it was defeated. Her question is whether this is against State Statute as it reads right now.

Attorney McManus states that it does not conflict with State Statute. The Ordinance Committee put this language into the Ordinance at his request. This is not in conflict with any existing State law.

He does not believe the Ordinance as a whole is in any conflict with any existing State law or it would not have been approved as to form by his office.

Wayne LeClair, 14 Martin Avenue, states that he does not believe in pornography but he does not feel it is the role of the government to legislate morality. When you deal with that kind of problem, you are talking about in the house, not in the store. Children learn at home from their parents. When you start to legislate morality, you are walking a very thin line between dictatorship and democracy. He feels they should consider this when making their decision on this Ordinance.

Bob Jacques, 104 Hanover, Yalesville, states that he is in favor of this. He has 3 kids himself. One is 12 and at that age it is borderline. There are about 5 video shops in Wallingford at least. He is a member of these and they do have adult sections. Some of these are in separate rooms and some of these stores are making an effort to keep them out of the view of children. However, that is even tough. He states that he has been in places that while the parents are looking at one wall, the children are looking at another and if they see someone come out of a back room with videos in it, they just walk right in and see what is in there. Many stores are trying to take preventive measures. He believes, however, that there are some stores that have no rooms. They are right out on display. What are you going to say, these are adult only. Some of these are regular variety stores. Some have covers over them and maybe there should be more of this. Some stores you walk in and this pornographic matter is all over. In plain sight. Maybe they shouldn't let these kids go in there at all.

Chairman Gessert states that while the Ordinance does not prohibit the merchant from selling particular magazines or renting a particular videotape, what it addresses is the display of those materials so they are not at eye level, completely exposed to your 6 year old. For example, in the video place, if they want to rent adult movies, they would have to put them in a separate place where the kids will not see them.

Lawrence Takores, 11 Wall Street, states that in Section III for the Establishment of Community Standards, he feels it is inappropriate for the Town to determine what is suitable material for minors, and

which, taken as a whole, lacks serious literary, artistic, educational or scientific value. He feels the approach to keep this out of sight of minors is very appropriate, but he doesn't feel it is up to the Town to determine what is pornographic and what isn't. Historically, it has always been the State. 497

Wayne LeClair then questions if Rollins Cablevision would be in violation of this ordinance if it were passed. According to the ordinance, it states that anybody who distributes....

Mr. Rys then comments that Section II, Paragraph b. states shall not include the broadcast of such matter via commercial or pay television stations.

Mr. Polanski states that in distribution states MTV can bring just as much if not more than you can find in rental. True. There is no control over that. He feels this ordinance would be discriminatory to local dealers. These kids who want to buy it will just go elsewhere. It is a parental responsibility. The parents should get off their butts and see what their kids are doing and say they are not going to have it. It is the parents responsibility. Also, the Board of Ethics should not be the censorship board. He will vote against this and this would be telling the parents what they have to do. He doesn't feel it is their position to have to say they can't do it, let's get the parents into it.

Mr. Holmes then states that there has been a lot of talk about legislating morality and legislating minors. This has been done for a number of years. The States and Towns have legislated that a minor cannot buy alcohol, a minor cannot vote. It has been established that minors are at the whim of the legislators themselves. He feels this is a worthwhile ordinance. The parents of this Town should support this type of action and the only question he has are on the General Provisions, Section IV, Paragraph d. it says No individual, institution, or business, except as specifically exempted by this Ordinance, shall hire, employ or otherwise place, supervise, control or allow in any business or commercial establishment or other place, any minor under circumstances which would cause, lead or allow such minor to engage in the activity of promoting or otherwise handling pronographic matter. This would prohibit many young people in this community from seeking employment in such establishments as variety stores because they carry this material. This is his only objection. On the whole he supports it, he feels it a worthwhile undertaking and he commends the Ordinance Committee and the Town Attorney for their efforts.

Mr. Rys states he feels the Ordinance has a lot of merit. He does support the Ordinance. One of his neighbors had approached him about her son obtaining this literature at school. Supposedly, it was purchased at a store in Wallingford. He was a minor. He feels what this ordinance is doing is preventing a minor from purchasing this type of material from stores. As far as MTV, or R rated movies on HBO, etc. this is up to the parents. There are locking devices for cable boxes and it is up to the parent if they feel they don't want their child to see it. If the parent doesn't have a control where their child can go into a store and purchase pornographic material, this is wrong. They can't go to a store and purchase cigarettes until a certain age and he doesn't feel they should be allowed to purchase pornographic material either. A lot of the 12, 13 year olds don't know what is going on. Some are just full of questions. He feel the ordinance has good merit.

Mr. Diana states that he doesn't want to think this is a case where they are trying to legislate morality. This is up to the U.S. Supreme Court. Nor is it up to them to decide if this is right or wrong. This ordinance is a clear cut case where they are trying to keep it away from counters and not exposed to the innocent purchaser who comes in. They are not trying to dictate to the owners whether or not they should sell it or not. They are not trying to legislate morality at all. It is a clear cut case of trying to keep it covered on the shelf. If you want to sell it it is their business but if people don't want to see it that is their business. It is a good ordinance and he will support it.

Mr. Holmes just wanted to state that most of the people who have businesses in this Town have been very responsible in this area. He doesn't want it stated otherwise tonight. They have been responsible and as indicated before, this is basically preventive maintenance.

Mr. Diana states that the reason this whole thing was initiated was because of the recent problem they had in West Haven. Everyone is familiar with an adult store coming into the community. What this does is spearheads that, so that something like an adult bookstore would be a little more difficult to happen in Wallingford. This is more preventative than anything else.

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Mr. Polanski states he is not against the ordinance. His complaint is that the censorship board is made up of the Board of Ethics. He doesn't feel the Board of Ethics was designed to become the censorship board. If this was changed so that the community could put who they wanted he would probably go along with this ordinance. The main thing is that they are saying they won't have it in Wallingford but these kids can go to surrounding communities to purchase it. To him if it is a State standard and the whole state would be covered, no problem. They're saying that in Wallingford they cannot sell it and the kids will go elsewhere.

Mr. Diana states they are not saying that at all. There is nothing here that is restricting the sale.

Mr. Polanski then states how is the distributor going to determine if the person is a minor or not. Ask for their driver's license? He is then told most people can tell a 12 year old from a 20 year old and Mr. Polanski replies not always.

Mr. Diana states this could go on forever. They are not telling anybody whether they can sell this or not. They are not driving anybody out of Town. The people here in Town have been very good about the sale of this. Every time he goes into a store it is covered or in a separate room. They are not looking to drive anyone to Meriden. He feels the Council is the last people to be passing an ordinance on pornography. They are human beings. However, we are adults. What we are saying is cover it up. They are asking the owners to be a little more responsible and what they are doing is trying to protect more of what is happening in the future than what is happening now.

Mrs. Papale then states she is in favor of this and will vote for it. She realizes this is a preventive measure but she also does not like the idea of the Board of Ethics as the censorship board. How would this work?

Chairman Gessert then states what if they didn't have item III in there. What if they deleted Item III, Establishment of Community Standards.

Attorney McManus states that Item III was recommended by his office. In any of the cases involved, one of the big problems was trying the case. Suppose you have somebody who is arrested for peddling this stuff out in front of school. The point is there has to be somebody there who can testify in any prosecution as to what the standard was.

How else are you going to know what the community standard is. The point is, if you have somebody peddling this material, you set up some group that would decide what would be material within the ambit of the ordinance that the community didn't want its children to have. Therefore, there would be something, someone available and if prosecution of this case under this ordinance, that could establish what that standard was and what that material involved did not meet that standard. They are not talking about adults, they are talking about children. As far as he knows, they won't run into the same 1st Amendment problems they have when they are talking about adults. It is entirely a different standard. The reason they have something like this in the ordinance is to establish what that standard is. Without this, this thing is crooked. It is useless without it.

Chairman Gessert states that without this standard, if someone wanted to display an orgy on the front cover of a magazine at a 2 foot level, for the world to see and nobody says that is against community standards, then it must be OK. Attorney McManus then states you would then have Mike Sullivan coming back and saying how do I prosecute this, what is the community standard. Then everyone sticks their thumb in their right ear and says I don't know. There has to be somebody who has some expertise in the matter to be able to say what the parameters were without this standard before the ordinance. Without it, there is no point in passing the ordinance.

Mrs. Bergamini then states that this is about the 11th draft of this ordinance and questions Attorney McManus if he is really happy with this draft.

Attorney McManus states that when you get into this area, they just went through a long drawn out amendment to the zoning code in the same area. It is very difficult. A lot of hours of research went into this. The federal courts are not much help with this matter. This pretty much stays within the guidelines the Federal Courts have given them to follow. The Ordinance Committee want to recommend to this Council an ordinance that would prohibit a certain type of activity visavis children and pornographic material. If you are asking 16 years from now if this thing gets on some prosecution in the Supreme Court of the United States what they are going to do with it, he hasn't the faintest idea. But based on the cases that were available at this point in time, it is about the best they are going to do. 499

Mrs. Bergamini then states do we need it.

Attorney McManus then states that there are municipalities that have it that go on for 60 pages. He believes Houston, Texas. This is about as close as they are going to get. Mrs. Bergamini then asks if they really need this on the books. He then states that is the Council's decision to make. They legislate many things. They don't let people spit on the sidewalks. Is this an appropriate area for legislation, sure it is. They legislate about putting bubble gum and spitting on the sidewalks, certainly they can legislate this.

Chairman Gessert then states it is their job to legislate and the police departments job to enforce. When they swear to uphold the laws of the Town of Wallingford in the State of Connecticut, if there is a new ordinance, it is their job to enforce it.

Mr. Polanski asks what is the charge of the Board of Ethics in the Town of Wallingford by charter. His understanding was the Board of Ethics was to look into the conduct of the officials of the Town of Wallingford.

Mr. Holmes replies in reading his charter they are to obtaining to concerning the application of any code of ethics adopted by the Town of Wallingford.

Mr. Polanski states that this is for the officials of the Town of Wallingford, not the people. He is still against the Board of Ethics being the censorship board of the town. He feels the Mayor is charged with public safety and he feels the people of the Town of Wallingford should put on this board whoever they feel they want on it.

Chairman Gessert states that it is hard to get people for responsible positions like ZBA etc. how are they going to find someone to serve the pornography control board.

Mrs. Papale states if she had a variety store and had a son or daughter 16 years old that was of working age, could they work in the variety store if she had these types of magazines.

Attorney McManus states that as long as they were not handling it, this ordinance does not say they can't work on the premises.

Mrs. Papale then states that Item IV, Page 2 under d--she doesn't want someone calling her saying their son has a job and now he can't work there anymore.

Attorney McManus states he does not feel the Ordinance goes that far. He feels they just cannot handle this.

Mayor Dickinson states that the ordinance says activity of promoting or otherwise handling the matter. This is not limited to handling.

Attorney McManus states that what this means is they cannot go out in front of the store and promote the sale of the magazines. They don't want them to go out and advertise.

Mayor Dickinson states there could be a violation. He feels they should be honest. If you have a store clerk and he sells to another minor, he feels both could be charged under this ordinance.

Mrs. Papale states there are a lot of variety stores and if she had one she would want her own children working there if they were of working age. Mr. Diana then suggests they change this Item IV where it reads under (d) where it says exempted by this ordinance couldn't they put in there or with parental permission. You hate to legislate these things to death. Mr. Diana then states he would rather leave this to interpretation rather than legislate.

Chairman Gessert states that he feels this ordinance being written and put in 1½ pages is well done. It is not going to stop all problems but if they can stop some it will be a great help. This won't solve promiscuity in the Town or Country. He stopped in New Haven to get a pack of cigarettes the other day and looked at the newsstand and was shocked at what is on the cover of some of these magazines. He doesn't feel this should be left to view for 6 year olds, 8 year olds or 12 year olds. The ones that sneak around and have someone older getting it for them, there is no way around this. But if you say you aren't going to do anything about it, and do nothing about it, you are just moving backwards. He would rather go on record as trying to do something to solve part of the problem than do nothing and ignore the problem.

Mrs. Bergamini then states that if they think they are legislating moralities, you should see what Denver, Chicago and California have for ordinances. You can't get through them. Mr. Krupp put a lot of hours into this and obviously the people feel it is a necessity.

Mr. Holmes then states that he does not feel that they are running into a problem legislating morality when they are dealing with minors.

VOTE: Unanimous ayes with the exceptions of Mr. Polanski who voted no; Mr. Killen is on vacation and Mr. Krupp was not present for the vote; motion duly carried.

The Ordinance is attached to these minutes and made a part hereof, designated at Exhibit I, Pages 1-3.

Item 4 was next up for discussion.

Mr. Holmes then placed the name of Ed Makepeace in nomination for the position of alternate to the Planning & Zoning Commission. He then states that he has known Ed over the past few years and has known him to be a man of fine integrity. He is a good man, a hard worker and he has become involved in the political scene on the Town Committee, he goes to various meetings and he feels Mr. Makepeace will be a fine asset to that board; seconded by Mrs. Bergamini.

Chairman Gessert then states the motion has been made and seconded to appoint Ed Makepeace to the Planning & Zoning Commission. He would like to say that he has known Ed for a number of years, he is dedicated to the Town of Wallingford, he has taken an active roll in areas of conservation, preservation of the Town of Wallingford, is well aware of the land use in Town, and is concerned about the future of Wallingford and is willing to devote his efforts to look out for the development of the Town of Wallingford. He feels he will be a tremendous asset to the Commission and welcomes him serving this commission. To comply with the Council rules, they do have a letter from Gail Powell who is Republican Town Chairman, he was endorsed by the Republican Town Committee, and they do have a letter from Ed which indicates his interest and willingness to serve. He was interviewed by the Council prior to this meeting and the Council did get a change to get his views on the future of Wallingford.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Mrs. Bergamini then moved to waive the 2 week waiting period for confirmation because the P & Z has been without an alternate for several months; seconded by Mr. Holmes.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Ed Makepeace was then sworn in by Town Clerk Rascati and congratulated by the Council Members.

Chairman Gessert then states the next item up is a \$729 transfer for Mr. Steven Deak. Basically, the price for the pickup truck came in at \$729 more than they appropriated.

Mrs. Bergamini then moved to transfer \$729 from A/C C503-01-01 to A/C C505-1; seconded by Mrs. Papale.

Mr. Rys then asked Mr. Deak what type of pickup truck this was. Mr. Deak replies that it is a Ford. The small model. It is a Ford Granger. Mr. Rys then states that this is the intermediate model and not the full size then and Mr. Deak says yes. Mr. Deak states that the Chevrolet is comparable but the Chevrolet came in at \$8,100 and the Ford came in for \$7,729.

Mr. Rys then comments that once someone knows it is for the Town, the bids automatically come in higher. You see in the paper these vehicles are \$5,900 or \$6,900 yet they always bid high. Is there any special equipment. Mr. Deak replies it is an automatic.

Mrs. Bergamini states she knows what Mr. Rys is saying. The Town puts it out to bid and it comes in high yet they could go out and purchase this truck and get it \$1,000 cheaper.

Mr. Rys then comments that sometimes he feels they should just overlook the bidding process and go out and buy it but they can't do this.

Mrs. Bergamini states it does get aggravating that they add on \$800-\$900 to every vehicle. They stick it to the Town because they have lots of money.

Chairman Gessert asks Mr. Deak if this is an orange truck.

Mr. Deak replies no. He was mentioning this to the Mayor. He would like to make a change eventually in all the fleet. This one is beige.

Mrs. Bergamini states that she wanted lavender because nobody in the State has this color. All the colors were used up.

Mr. Deak states he wants to change the color because all the State Trucks are orange and they are around Town also. He would like to show the Council when the truck comes.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp was not present for the vote; motion duly carried.

Mr. Diana then moved the transfer of \$9,169 from A/C C805-319 to the following accounts:

Telephone	135-200	\$1,600
Primary Wages	135-601A	5,736
Polling Place Rental	135-580	300
Food Allowance	135-660	488
Custodians	135-900	875
Policeman	135-901	170
		<u>\$9,169</u>

This was seconded by Mrs. Papale.

Ed Makepeace then comments that looking at the figure \$9,169, a good portion of this is wages and then telephones. There are 14 voting districts. Would it be possible for the primary to have 1 vote on the west side, 1 vote on the east side, 1 vote on the central. They have the church and Rock Hill School right across the street. It seems like there are too many places to vote.

Martha Moriarty states that for townwide they have to vote in 14 districts. It is the law. She then states that for the telephones, they are put in for the primary and then held over. This way is cheaper.

Mr. Polanski states that they have Custodians at \$125 a piece. Most of these schools are where the custodians are already working. Also, he asks if there is a problem at Central Fire Headquarters that they need a policeman.

Mrs. Moriarty explains that at certain times of the day there are traffic problems. The policeman is used to direct traffic.

Mrs. Bergamini questions the machine mechanic for \$400. Mrs. Moriarty states they set up the machines and they have to be on call all day. When the machines are checked out, they have to go around and seal the machines.

Mr. Rys then comments that Mrs. Moriarty stated they could not use the Church this year. What about the Railroad Station. Central Fire Headquarters is on the west side of town. If he remembers correctly people from Christian Street were voting way over there. 502

Mrs. Moriarty states they aren't anymore. They had the 14th district 2 years ago. Now that district goes down to Holy Trinity. Therefore, the people are from that vicinity. She then tells Mr. Rys if he can find a suitable voting place over there, please let her know.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp was not present for the vote; motion duly carried.

Chairman Gessert states that they will now take a 5 minute recess and reconvene at 9:00 p.m..

Item 7 is a final report from the Robert Earley Disposition Committee and dissolution of that committee. Mr. Wayne LeClair is chairman of the Robert Earley Committee.

Mr. LeClaire then reads the following report.

Final Report

Robert Earley Disposition Committee

Submitted to the Town Council

August 27, 1985

The first meeting of the Robert Earley Committee was held July 26, 1984 in the council chambers. That initial meeting was used to set the direction of the committee. The charge as it was set down was for the committee to investigate all the possible uses for the school and to try to determine ways to finance any recommendations that this committee might make. Armed with this charge we then proceeded to begin this rather large endeavor. The following report is the result of that endeavor, and is the result of many discussions by all the dedicated members of that committee.

The initial problem that we encountered was to establish an appraisal for the properties which would be affected by the any recommendation that was made. It was determined that 9-21 N. Main and 350-370 Center Streets would be affected by the report that on August 3, 1984 we requested that the Town hire an appraiser to establish a fair market value on the above mentioned properties. While we waited for that report to be completed we proceeded on and held a public meeting in the Robert Earley school to see what the reaction of the community was. While the meeting was not well attended, those present were very vocal in their call to convert

the school into a town hall, the only reservation that the public had was the same as the committees, and that was how to fund it's renovation if that was indeed the disson of the committee. It became immediately apparent that the committee was leaning in the direction of conversion, there were those on the committee that felt that with the completion of the police dept. the present town hall would be sufficient to accommodate expansion and that the school should be sold. This was overwhelmingly rejected as a viable option and was discarded as a recommendation in the final report. Now we had to see if there was indeed a way to finance a conversion, keeping in mind that at this point in Wallingford's history the bottom line became whether or not to recommend something that would as it's end result heap an even greater tax burden on the taxpayers of Wallingford. This question ultimately became the problem that had to be addressed, and one that had at it's core some interesting variations. It is those variations that we will now discuss.

The first option that the committee considered was the sale of the present building, and the town sponsored and funded conversion of the school. It was determined that the bonding rate of 9% for 20 years be used, as a figure to be used in the computation of cost to the town. The committee had the benefit of both the original Johnson report and the Pine report to use to estimate the cost of such a project. The figure used for the conversion was set at 2 million which we felt was as accurate as could be expected. We had been told by local construction people that those figures would be reasonably accurate. We then took the appraised values of the properties combined, which had a low value of \$550,000.00 to a high value of \$650,000.00. It was felt that a figure of \$600,000.00 be used as the median price remembering that the appraisal took into consideration the market at time of sale and the proposed uses. We felt that any sale of the properties in question be done on the bid system, with all the restrictions put into the deed so as not to disrupt the historical intent of the town to maintain it's roots for future generations. The cost to bond such a sum came to approximately \$216,000.00 per for the conversion of the school. This figure was supplied by the town comptroller, and was based on the 2 million bond issue, and did not include any monies from the sale of any properties. These monies

could be used to offset the first three years of the bond issue.

The second option that the committee considered was a lease buy back arrangement which has been referred to as the Kaplan-Wooding proposal was examined at great length by the committee. A meeting was held with Mr. Kaplan July 25, 1985., at that meeting the committee asked questions and listened to the proposal. Out of that meeting the committee met again on August 8, 1985 to discuss the proposal. At that meeting the committee unanimously voted to reject that proposal for the following reasons:

- 1.) Annual outlay of rental fee's beginning in the first year at \$270,000 and escalating 5% per year for the next 30 years with the 30th years rent at approx. 1,100,000.
- 2.) Loss of control of the Robert Farley in that the town is a renter not owner.
- 3.) Subsidizing the public sector with taxpayer dollars, i.e. interest only loan with balloon payment in the fifteenth year.

While the proposal was rejected by this committee it did bring up some interesting concepts. We would encourage the town to seek bids from other developers in the town or state to see if there are other plans available.

In summation the recommendation of the Robert Farley disposition committee is as follows;

- 1.) Strongly urge the town to sell the properties known as 9-21 N. Main Street, 350, and 370 Center Street contingent upon specs and time by the competitive bid process - with those specs clearly defining the historical intent of the town and that intent be maintained on any building changes.
- 2.) That Robert Farley be turned into the new town hall as quickly as possible.
- 3.) Robert Farley be put out to bid for conversion to a town hall, and that the needs be re-accessed to insure the conversion will carry the town well into the next century, in terms of expansion and services.
- 4.) That the town bond 2 million versus 18 million in rental payments. Bonding over 20 years totals 4,300,000. A difference of approx. 14 million dollars. Bonding rates fixed, rental rates escalate yearly.

We would like to thank the members of the Town Council for the opportunity to serve our town, our only hope is that we have through our efforts been able to give you a little more insight upon which you must make the final decision. I would also like to thank the members of the committee who so patiently labored through this process.

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Sincerely;

Wayne LeClaire

Chairman, Robert Earley

Disposition committee

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Mr. LeClaire then states that is the report and he would be happy to answer any questions they may have. There are other members of the Committee here. He then asks the Council if they all have original copies of the Kaplan-Wooding proposal and the Council replied yes.

Chairman Gessert then thanks Mr. LeClaire his time, his effort and his study in hopes of giving them some alternatives and some other input on this project. He feels this was not a fun project and he does appreciate Mr. LeClaire's efforts and everyone on the Committee for taking their time at no cost to the Town, to evaluate and come up with some ideas. He is sure they will take them under advisement.

Mr. Polanski asks if there were any dissenters.

Mr. LeClaire states there were no dissenters on the initial report. There were 5 votes held on the 8th of August. Three of them were not put into the report because they were all turned down and had no bearing on the final outcome. The vote to turn Robert Earley into a Town Hall was unanimous with one dissention. The vote to turn down the Kaplan-Wooding Proposal as it stood was unanimous. The vote to sell these properties was unanimous with the 1 dissention. The last one was to request the Town Council to ask the Housing Authority to give them back the land behind Simpson so they could make it an equitable property and be sold. Again this was not put into the report because it really didn't have any bearing on Robert Earley. The bottom line is they would encourage the Council to turn it into a Town Hall and do it by bonding and not by renting.

Chairman Gessert then thanked all the members who worked on that Committee.

Mr. Polanski then moved to accept the Robert Earley Disposition Committee Report; seconded by Mr. Diana.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Mrs. Bergamini then moved to dissolve the Robert Earley Disposition Committee; seconded by Mr. Rys.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

The next item up for discussion was a budget amendment of \$50,00 for the Water Division.

Mrs. Papale then moved the budget amendment of \$50,000 from Net Income to Chemical Expense A/C 641-000; seconded by Mr. Holmes.

Mr. Myers then states this is a budget amendment. They are really amending the budget by increasing the chemical expense, they are going to reduce net income.

Chairman Gessert then states that he doesn't know if there will be many questions, as they all read about this in the newspaper.

Mr. Rys then questions what is red water.

Vincent Mascia states that red water is a condition caused primarily from corrosion of the piping. The center of town, the old burrough, is serviced primarily of old cast iron piping that was in place before they had cement lining. That is where the problem exists right now. This summer has been particularly bad for incidents of red water. Basically it is a discoloration of the water, it turns rusty from particles and sediment in the water. The inside of the pipe is corroding and builds up a sediment and changes in slow pattern of usage and demand will cause the main to be disturbed or stir up the sediments in the water. 506

Mr. Rys then asks if the chemicals they use to treat this, is this before it goes through the pipe.

Mr. Mascia states that is correct. There are various compounds that can be used to build a film or coating on the inside of the pipe. This slows down corrosion and prevents whatever byproducts have developed from dislodging from the pipe.

Mr. Rys then asks if this will be something addressed with the new Water Treatment.

Mr. Mascia states this will be ongoing. Mr. Rys then asks if the lines will have to be replaced eventually. Mr. Mascia states it depends on the size of the pipe. He then states that the 6" lines or under will probably have to be replaced. Mr. Mascia is then asked what is mortar lining and he explains this is cleaning the pipe down to bare metal. Cement is poured in and it drags and coats the along the surface. North Haven is doing quite a bit of this type of work right now. Wallingford will probably have to face that type of work in the future.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who is on vacation and Mr. Krupp who is not present for the vote; motion duly carried.

Chairman Gessert then notes that this budget amendment is a two step process. He then asks Mr. Myers to explain the reason.

Mr. Myers states the reason it is a two step process is because under generally accepted principles, retained earnings are not available to the utility sector for operating maintenance expense for day to day operation. Their restricted for capital investment in the utility system. What happens here, the reason it is a two step process, very simply, when we increase chemical expense, we reduce net income. By reducing net income in the Water Company, we reduce the amount of working capital that they had available for expansion of the water system. Therefore, we have to replenish the \$50,000 back into the working capital formula. You replenish the working capital on the 2nd part of the transaction by taking it from retained earnings and applying it to resources available for working capital. It sounds confusing, but he wanted to do this in two steps rather than mislead people to think we could transfer from retained earnings into an account like chemical expense. You can't do it. You have to lower net income and then have to use your retained earnings to replenish your working capital. If you'll notice, they made out a spread sheet to show how these transactions flow through the account. If you remember, some of the funds have been used in the water company. \$37,000 for insurance, \$70,000 for the pilot study for the water filter plant. Therefore, at the point the \$50,000 came up, they had already used up the working capital that would have been provided from the 84-85 budget. To replenish this, they will put the \$50,000 in from retained earnings.

Mr. Holmes then moved a \$50,000 increase from prior retained earnings to increase net cash available by \$50,000; seconded by Mr. Polanski.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Mr. Diana then noted that there was no signature on the 2nd transaction and Town Clerk Rascati then had Richard Nunn sign the 2nd transaction.

Mrs. Bergamini then questions Mr. Mascia about the water lines on North Airlines Road and is told that that is water main for Donald Abrahms subdivision. She then ask if because of this the people on that side of the road will lose their trees. This is the side

that is nicely finished. Mr. Mascia states that they don't believe they will run into any problems because of the trees for the water mains. He does believe there was some discussion of widening the pavement that came from John Costello's office. Mr. Mascia then states the water main will be installed out in the paved area, it will not involve moving the curb line back. He states again he believes there is some requirement to widen the road and it may have to be done on that side of the road. Mrs. Bergamini then asks if they don't just take down trees for the heck of it. Mr. Mascia states he really feels this should be told to Mr. Costello. This would come under the engineering department. She then states she felt the street was widened once and would be suitable now. She is then told it does not have to be widened for the water main installation. This would be a separate issue. Mr. Mascia then informs Mrs. Bergamini that the Water Division is not doing the work. They are getting this from the Bridge extending over Rock Hill Road over I91. The water main now is over that bridge and is a dry main. They are going to bring it up Rock Hill, in the intersection of North Airline, along his frontage and continue along until where Gollotti remains, down along the brook so they will have a loop. They are participating in some of the additional pipe along that side. He would normally have put in 8" diameter, they were asking 12" so they would have adequate diameter to extend off of that for future areas.

Chairman Gessert then states the next item up is to consider and approve a resolution authorizing a cash advance from the Sewer Enterprise Fund to the Sewer Treatment Plant - Step III project. This was requested by Thomas A. Myers, Comptroller.

The following resolution was then read by Mr. Rys:

Resolved:

The Sewer Enterprise Fund advance cash in the amount not to exceed \$65,000 to the Sewer Treatment Plant - Step III project. Upon the receipt of funds from the sale of bond anticipation notes dated October 1, 1985 the cash advanced by the Sewer Enterprise Fund is to be immediately returned.

Mr. Polanski seconded the motion.

Mr. Holmes then noted for the record that these funds are reimbursable by the State. These qualify for DEP reimbursement.

Mr. Ray Smith then states a percentage is available. The object is that the money from the notes is not going to be available until October. They are incurring expenses right now.

Chairman Gessert then questions why they are purchasing file cabinets.

Mr. Denison states that in view of the money they are contributing, he feels they should take advantage of the recommendations including the file cabinets. These will then be turned over to the Town when the project is over. He then states it is auditable for 3 years after the completion of the project. It is a fire proof cabinet and they even indicate the names of the file holders and a numbering system etc.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Mrs. Papale then moved to approve an appropriation of \$7,000 from Electric Division Retained Earnings to A/C 390, Structures; seconded by Mr. Rys.

Chairman Gessert then states that it is a pleasure and a rare treat that somebody can come before this Council and say they found a cheaper way to do something. Usually it is always, it cost more than I thought. He is delighted that they looked at \$12,000 and the expense is now \$7,000, a savings of \$5,000.

Mr. Polanski then states they have \$12,000 in account 591, Maintenance of Structures and he can't see where this generator has to do with structures. What is going to happen to the \$12,000 and why does the money come out of retained earnings.

Mr. Walters explains they take that in two parts. The system of accounts puts the generator, which is the emergency generator for

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the John Street building, as part of the building assessors. That is an Operating and Maintenance account. The repair of it would be an operating and maintenance type thing. To buy a new generator is a capital item and he thinks it is similar to the explanation the comptroller gave on the situation with the water department. You can't mix capital funds. The \$12,000 would remain in the account. He feels with what they have facing them on insurance, they may need more money and that would be a proper transfer. He doesn't think the \$12,000 will even cover them on their insurance. This would be the type of thing to come from this account.

Chairman Gessert then asks if there is any reason why they can't take this from capital from last year.

Mr. Walters states that he does not believe they had anything from that particular account. The other items they were carrying over were for specific items. They only carry them over if they are part of an unfinished project or something specifically identified.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp was not present for the vote; motion duly carried.

The next item is Item 11 on the agenda. Chairman Gessert states this is to consider approving the Electric Division to seek proposals for collection agency services.

Walter Lee comments that for some time they had been using outside services, collection agencies, for their off-the-system accounts. Their in-house accounts, their present accounts are handled by the present staff. Last year at about this time they went out to bid for a collection agency. They did secure the lowest bid. They used them for approximately 1 year. The history of the collection agency, the average is about 33 1/3%. The low bid was 20%. This collection agency has not been doing the job. Their former collection agency was collecting about 48%. This one is around 12%. They are actually losing money by taking the low bid. What they do is use them for skip tracing. People who are off the system and they do not have the staff to find out where these people have gone. It is an expertise for some agencies and this one does not have it. The low bidder.

Mrs. Papale then moves to consider approving the Electric Division to seek proposals for collection agency services; seconded by Mrs. Bergamini for discussion. The motion is also to waive the bid.

Mr. Holmes then asks what amount of money are we looking at?

Mr. Lee states that they looked at a 6-7 month period and he would say about \$4,000-5,000 per month, say \$30,000-\$35,000 over a 7-8 month period. Or \$50,000-60,000 per year. This is off the system.

Mr. Holmes then asks if they hope to recover 40-50% of this.

Mr. Lee states they had been recovering at least 50% of that and possibly more. He then states they collect a lot of that themselves. The agency did locate some of the others. As you know, they only write off approximately \$60,000, which is very low.

Mr. Holmes then asks what was the price for these people.

Mr. Lee states the Industry standard is around 30 and the low bidder was at 20. It is not a fixed fee. It is a percentage of what they collect. They don't pay them for anything they don't collect. They are losing money at 20%. There is no question about it. He then states that they collected anywhere from 2-12% over a year.

Mr. Polanski states how much time do they give before they shut off electricity.

Mr. Lee states that these are for people who are off the system. Our active people they have an in-house, on-going collection type of thing. These are people that have gone, left and they have not paid their bill.

Mr. Polanski asks if they have a cutoff system.

Mr. Lee states they have a 60 day. He would like a 30 day but they don't have the staff for this.

Chairman Gessert then states that he has dealt with Northeast Utilities, the Gas Company and others and those larger utilities have very strict requirements legally as to when they can pull the plug on somebody.

He thinks with the gas company they can do nothing until May. If it is January and someone hasn't paid their bill, by law you can't pull the plug until the temperature has gotten to 65-70° outside. The law goes even further in the gas company by saying that even if they make no payments on the outstanding balance, September 15th if they haven't paid a nickel, you have to reconnect them.

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Mr. Lee states that in their business the same applies. This is a State law.

Mayor Dickinson then asks Mr. Lee if he said that we pay out \$60,000 over a 12-month period for the service.

Mr. Lee states no, he misunderstood. The write-off is about \$60,000. They would collect say $\frac{1}{2}$ of that for which they pay $\frac{1}{3}$. If they were to throw a dollar figure on the collection agency, they would say about \$6,000-8,000.

Mayor Dickinson asks; we collect how much more than we pay out?

Mr. Lee states $\frac{2}{3}$ more.

Mr. Myers then states he hopes they understand that these accounts Mr. Lee is talking about are accounts that have been written off the books. It is very similar to what we do in the tax collector's office where they transfer it to suspense.

Mr. Lee states basically. Mr. Myers then says these accounts have been written off, they are in a semi-active file. He turns them over to a collection agency and every dollar they get out of them is in effect a dollar surplus.

Chairman Gessert then states the motion is to waive the bid and seek proposals for collection agency services.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Chairman Gessert then states that the next item is to authorize the Town to retain an attorney in conjunction with the Wholesale Rate Case pending with Northeast Utilities.

Mayor Dickinson states that on this item, they really should be voting to waive the bid. There are two parts to this. The attorney as well as the consulting firm that deals with the attorney. The engineering firm. Mr. Ray Smith can explain.

Mr. Smith states that he doubts any of them have seen the letter to Attorney Farrell. After writing this letter, he got the final report. He then states that as they read in the paper and has been discussed for the passed several years, Northeast Utilities is about to impose on them a rate increase which incorporates the cost of Milestone III. (2% of the cost). Be that as it may, he received a letter late last week advising that these plans, to file on or about August 30, 1985. The amount of the increase for all the systems is \$10.2 million of which we represent 80%. Our share being somewhere over \$8 million per year. An annual increase. What happens legally is they have approximately 30 days to make note of the intent to intervene or protest the rate. In order to do this, it is his recommendation that they retain an attorney who has experience and familiarity with this process to represent us. They are talking about an expense of approximately \$100,000-150,000 between the attorney and the consultant. He has worked with the Town Attorney's office, he has made interviews with the firms. They originally started with five. They ended up dealing with three. He has made a recommendation that they retain the firm of Miller, Balis, & O'Neil and the consulting firm of Southern Engineering to provide us the expertise to assist us in challenging this rate increase. If we take no action, they are really dependent on what the Federal Energy Regulatory Commission comes up with as far as the justifiability of Northeast's rate request. Typically what happens is they sit down with them and hopefully the consultant who is experienced in that area could look at the filing and challenge certain issues that are contained in that. For example, decommissioning costs of the Nuclear plant. Is it appropriate, are we paying a fair share, are other costs being prorated properly. The concern of mine is that there is legislation on the State level that requires

Northeast to phase in the retail rate. We don't have the luxury of the wholesale money. For that reason and because of the amount of the increase, it is his recommendation, and he believes he has the endorsement of the Town Attorney's office, to proceed in this direction. 510

Mr. Polanski then questions Mr. Smith for Southern Engineering it states "Client shall compensate Southern for the services of all employees of Southern "Actual Cost" plus 150%.

Mr. Smith states this is a typical arrangement for this type of service. You are dealing on an hourly rate. Mr. Polanski then asks Attorney McManus if this is what he gets.

Attorney McManus states that this is a whole different ball game. Let's face it. You go to New York City and this is really not bad. This is not Wallingford rates but down there this is not bad. He feels these guys are completely qualified. He wanted to try to make some of these interviews but it was impossible to schedule. He did confer with Gerry and this is the way it is. Attorney McManus states that when you get into a Metropolitan area like that, let's face it, a sanitation worker in New York City makes \$48,000 a year. What are you going to do. These rates are not out of line. Mr. Smith then adds that one of the firms gets higher rates.

Chairman Gessert then asks Mr. Smith since he has had the interviews with them, will these people really do the job for us.

Mr. Smith states that in each case, he contacted a couple of the representative clients and in each case they were satisfied. They felt they were strongly qualified, did respond well, and this is what we are looking for. They are able to deal with this given their background and this is the type of person we are looking for.

Mrs. Bergamini then made a motion to waive the bid and authorize the hiring of Miller, Balis & O'Neil as attorney's and Southern Engineering as engineering consultants for the rate case; seconded by Mr. Rys.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp and Mr. Holmes were not present for the vote; motion duly carried.

Item 13 is next up for discussion. This is to purchase the traffic light at South Cherry and John Streets and Chairman Gessert notes that at the previous meeting it was brought up that the light did not work down there and the Council authorized Deputy Chief Reynolds to go out and seek proposals. If it went to bid it would take too long. They sought the proposals and basically got 3 proposals. One firm offered to do the job for \$9,500. The only problem was that it would take them 180 days to do it. The 2nd price was from Marlin and their price was \$14,099, \$4,500 higher, but they can have it done in 2 weeks. The 3rd proposal was for \$17,000 and it would take 3-4 months. These were the choices. The Mayor was out of Town and Chairman Gessert notes that he authorized the Police Department to go ahead with Marlin Company and get the job done. He did poll some of the Council members. He talked with Bert, Ray, Jim, Marie and Iris to see how they felt about it.

Mrs. Bergamini then moved to waive the bidding for the traffic light at South Cherry and John Street; seconded by Mr. Rys.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Mrs. Bergamini then moved to award the bid to Marlin Controls of Danbury; seconded by Mr. Rys.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

Mr. Rys then moved to transfer \$14,099 from A/C 805-319 to A/C 201T-520; seconded by Mr. Holmes.

Mrs. Bergamini then asks if there isn't some other account this money can come from and is told by Chairman Gessert that this is probably the first legitimate transfer they have had from this account.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp who was not present for the vote; motion duly carried.

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Chairman Gessert then states that the next item up for discussion is Item 14.

Mayor Dickinson then asks if everyone has the letter from John Costello.

He then continues that apparently, Diversified Technology Consultants, the one bidder on the inspection of the closure of the hydroxide site, has found that our request for \$10,000,000 umbrella insurance policy would be beyond what they could financially handle given the size of the contract and the increase in insurance rate. They want that reduced to \$1,000,000. It is also the case with the one bidder on the final cover for the landfill, Innes Brothers of Thomaston, CT. They have a similar requirement of \$10,000,000 and they have gotten notice as to what the insurance costs are and they also have to have it reduced to \$1,000,000. In terms of the inspection, it appears the Town is not hurt at all. The inspection of the closure site is not actual construction. In terms of the cover of the landfill, this is coverage to protect the Town's liability and there again our exposure is somewhat limited. He feels in both instances, we should reduce our requirement from \$10,000,000 to \$1,000,000 and allow them to continue with their work. Otherwise, there is some question about their willingness to continue due to the increase in insurance costs. He thinks that, for instance on the inspection, there is a \$10,000 contract and the increase in insurance would be \$3,000. Whatever profit they were going to make would go right out the window in insurance costs.

Mr. Polanski then moved to reduce the umbrella insurance requirement from \$10,000,000 to \$1,000,000 for the inspection of the closure of the hydroxide site; seconded by Mrs. Bergamini.

VOTE: Council Members Bergamini, Gessert, Holmes, Papale, Polanski and Rys voted yes; Mr. Diana voted no; Mr. Killen was on vacation and Mr. Krupp was not present for the vote; motion duly carried.

Mayor Dickinson then notes that the agenda item only refers to the inspection of the hydroxide site. It does not cover Innes Brothers.

Chairman Gessert suggest they waive Rule V for Innes Brothers.

Mr. Holmes then moved to Waive Rule V; seconded by Mr. Polanski.

VOTE: Unanimous ayes with the exceptions of Mr. Killen who was on vacation and Mr. Krupp was not present for the vote; motion duly carried.

Mr. Holmes then moved to lower the insurance liability for Innes Brothers from \$10,000,000 to \$1,000,000; seconded by Mrs. Bergamini.

VOTE: Council members Bergamini, Gessert, Holmes, Papale, Polanski and Rys voted yes; Mr. Diana voted no; Mr. Killen was on vacation and Mr. Krupp was not present for the vote; motion duly carried.

The next item is for discussion of Rodent Control with the Town Sanitarian, George Yasensky.

Mrs. Bergamini then asks anyone if they have received any phone calls about rats. Both she and Bert Killen have.

Mrs. Bergamini states that she requested this item because Mr. Killen has been trying for years to get a test throughout the sewer system but nobody has been receptive. There have been reports of rats. Specifically along KMart, Caldor, Finast area.

Mr. Yasensky states that rats are a way of life. A lot of people who don't see them don't think they exist. He then distributes a report on how the rats reproduce. He was thinking that if they could get in touch with someone in the Public Health program, if they supply the labor and materials, instead of spending money on manpower, they could probably get the schools to study an independent project or someone to do the actual work for them. What it basically entails is baiting the sewer system. Every time someone sees a rat, and this is especially during the day time,

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are being driven out by the younger, stronger rats. They want to beat them out of the food source. When people see rats, they are being driven out to look for food sources. When they find a food source, this could be someone leaving a can of cat food out on a porch or dog food in the yard, that is a food source. People don't realize that all the bird seed is a food source for rats. Especially in the winter you see tracks in the snow. To count the rat population, this requires manpower, that is why they suggest a study, you have to take unbaited rat food, map out the town, place it in the manholes. Start out with a pound. Wait 2-3 days and then weigh that food again. You take the weight and multiply it by 15 grams and you find by the weight loss, the rat population. After you estimate your rat population, you go through and bait the whole system again. Chairman Gessert then asks if they have to find someone to do this and is told yes. Someone would have to be hired. Cities do have this. It is an ongoing program. The price for this he does not know. He has prices for baits and this will probably cost \$600 a year. Their concern is the manpower. If you can get a school to do an independent study, they will provide the shovels, the hook to get the manhole covers off, the scales and the bait.

Mr. Diana states that we have many agencies in the State. Aren't there some that would help them out. Mr. Yasensky states he has been to the State several times and all they will do is give material on how to set up traps, how to set up bait places. Hartford led the country in rat population for a long time. There is only one city in the U.S. that doesn't have rats and that is Ankorage, Alaska. This is because they had such an appropriate program. Many of the rats came to this country on ships.

Mr. Holmes then asks how effective this approach would be.

Mr. Yasensky states it would be very effective to determine the population. Once you identify your population and start to control it, then you get Paraffin blocks and wire them to lats run on a ladder in the manhole and the sewer department could do this. Then they could just keep the manhole baited. Right now you want to determine the population. People will be surprised at what it is. If you had a sudden storm, you would be surprised at the number of rats that can be caught. The Town is getting bigger. They are down by the dump and he knows Marie got a call for the South Cherry Street area.

Mrs. Bergamini then asks if it is true they were seen on South Main Street.

Mr. Yasensky states that if you get someone who is alert and watches them, you will know when they are on their breeding cycle. He then stat that what he is looking for i to get an independent study done perhaps by students. He will then come back before the Town. The manpower will be the biggest cost the Town is going to take.

Mr. Holmes then makes a motion to have Mr. Yasensky negotiate with colleges and schools to correct the rat problem; seconded by Mr. Diana.

Mr. Yasensky states that there are several houses in Town that they have linked to rats.

VOTE: Unanimous ayes with the exception of Mr. Killen who was on vacation; motion duly carried.

It was then noted that Mr. Krupp had joined the meeting at approximately 10:10 p.m. Mr. Krupp then apologized for not being here for the public meeting but he did have a work related meeting that he had to attend. He appreciates the Council passing this Ordinance. He then states that back in June at an Ordinance Committee meeting, he made a very unfair observation about the Town Attorney's office about the time they were taking on the Ordinance. He then states that Mr. McManus invested a great deal into this Ordinance and he wants to express his appreciation and to apologize publicly for that comment that was incorporated into those minutes.

Attorney McManus states that this was not necessary but was graciously accepted.

Mr. Krupp then states that the whole irony of this was after spending a year on the Ordinance, not to be able to attend the hearing. It was either attend or be unemployed.

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Chairman Gessert then noted that Item 16 was withdrawn from the agenda. We may see this item on the next agenda.

Mr. Holmes then noted for the record the monthly financial reports for the Town of Wallingford for the month of July, 1985; seconded by Mr. Rys.

VOTE: Unanimous ayes with the exception of Mr. Killen who was on vacation; motion duly carried.

Mr. Rys then moved to accept the Town Council Meeting Minutes dated August 7, 1985; seconded by Mr. Krupp.

VOTE: Unanimous ayes with the exceptions of Mr. Holmes who passed as he was not present for this meeting and Mr. Killen was on vacation; motion duly carried.

Mrs. Bergamini then moved to accept the Town Council Meeting Minutes of August 15, 1985; seconded by Mr. Krupp.

VOTE: Unanimous ayes with the exception of Mr. Killen who was on vacation; motion duly carried.

Chairman Gessert then noted that they had a request to Waive Rule V for the purchase of making a transfer for the Town Clerk to purchase a cash register.

Mr. Krupp then moved to Waive Rule V; seconded by Mr. Rys.

VOTE: Unanimous ayes with the exceptions of Mr. Polanski who was not present for the vote and Mr. Killen who was on vacation; motion duly carried.

Chairman Gessert then notes that they have a request to transfer \$670 from A/C 603-650 to A/C 603-CAP.

Town Clerk Rascati explains that she had her cash register repaired last year and she thought it was going to last another 30 years.

Mr. Rys then asked if account 603-CAP had to be established.

Mr. Rys then moved to establish account 603-CAP; seconded by Mr. Krupp.

VOTE: Unanimous ayes with the exceptions of Mr. Polanski who was not present for the vote and Mr. Killen who was on vacation; motion duly carried.

Mr. Rys then moved to transfer \$670 from A/C 603-650 to A/C 603-CAP; seconded by Mr. Krupp.

Chairman Gessert then reads the letter from Town Clerk Rascati stating her reasons on why she needs the new cash register. He then states that they also have a letter from the J.E.M. Business Equipment Company stating that the old machine is an old machine and parts are not available and they recommend the purchase of a new machine.

Mrs. Bergamini then states that \$670 seems very reasonable. What kind of cash register is this.

Town Clerk Rascati then shows the Council the brochure on this and states this machine will allow her to punch in up to 12 columns.

Mr. Krupp asks Town Clerk Rascati what kind of machine this is.

Town Clerk Rascati states it is an R.C. Allen. You have to program it for her department on what she will need for up to 12 columns.

VOTE: Unanimous ayes with the exception of Mr. Killen who was not present for the vote; motion duly carried.

Mrs. Bergamini then moved to go into EXECUTIVE SESSION for the purpose of a discussion with the Personnel Director and the Labor Negotiator regarding upcoming labor negotiations; seconded by

VOTE: Unanimous ayes with the exception of Mr. Killen who was not present for the vote; motion duly carried.

The meeting went into EXECUTIVE SESSION at 10:28 p.m.

Mrs. Papale then moved to come out of EXECUTIVE SESSION; seconded by Mr. Rys.

VOTE: Unanimous ayes with the exception of Mr. Killen who was on vacation; motion duly carried.

The meeting came out of EXECUTIVE SESSION at 11:29 p.m.

Mr. Diana then questions Mr. Lynch to explain his use of the Factfinding Report of the Electric Production Workers for an ostensibly political statement. He would like to know what this statement means. The statement says the Town claims the insurance benefits to retirees and the Police and Fire Departments were put in for political reasons. What are the political reasons.

Mr. Lynch says he has no idea. He then states that this was an argument made. Mr. Diana then asks if he made this statement and Mr. Lynch replies he made the argument. He then states the question of a political reason is a question of expediency. It is not politics as one may speak of it. Again, the person that does speak that is the one to question.

Mr. Diana then asks Mr. Lynch if he feels they should send a letter to Garwich to see if this is his interpretation. Mr. Diana then asks Mr. Lynch if he feels his interpretation is one of a generic nature than the way Mr. Diana perceived it. He perceived it as Democrats/Republicans. Mr. Lynch states that he tries to stay away from politics. Mr. Diana states he hopes he does and this is why he is questioning it even being in there. Mr. Lynch again states that this is up to the factfinder. Mr. Diana then states that he thinks a letter should be sent to Garwich to see what his explanation might be.

Mrs. Bergamini then states that he may have used the word political the same way one uses the word Catholic. One has Catholic taste. This means your taste is universal.

Mr. Diana still feels this statement to him sounds political. He then states he will get a letter out to Garwich.

Mr. Seadale then states that the Board of Ed. report will be on the next agenda unless the union rejects it.

Mr. Myers then informs the Council that on October 10th there will be a retirement dinner for Charlie Fields at the Farms Country Club. Anyone who would like to attend is welcome. 6:00 p.m. October 10th. The reception 6:00-7:00 p.m., formal dinner at 7:00 p.m. The price is \$27.50 for a prime rib dinner.

A motion to adjourn was duly made, seconded and carried and the meeting adjourned at 11:30 p.m.

Lisa M. Bousquet
Council Secretary

Approved: *Diana A. Hunt*

9-10-85
Date

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Rosemary A. Rascati
Rosemary A. Rascati, Town Clerk

9-10-85

Date

Exhibit I
August 27, 1985
Page 1

FILE # _____

AN ORDINANCE PROHIBITING DISTRIBUTION AND DISPLAY OF PORNOGRAPHY
TO MINORS WITHIN THE TOWN OF WALLINGFORD

BE IT ENACTED by the Town Council in Session that the following Ordinance is adopted.

I. SCOPE AND PURPOSE - The purpose of this Ordinance is to promote the general safety and welfare of minors within the Town of Wallingford by limiting their access and exposure to pornographic matter. To this end, this Ordinance prohibits the distribution and display of pornographic matter to minors, and provides sanctions for violations of this Ordinance.

II. DEFINITIONS:

- a. DISPLAY shall mean any matter visible on a billboard, viewing screen, marquee, news stand, display rack, window, showcase, display case, or other visible area, that is visible from any part of a premises where a minor is or may be allowed or permitted or invited as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which minors have unrestrained and a reasonably anticipated access and presence.
- b. DISTRIBUTE shall mean the sale, rental, loan, lease, public or private showing, giving for gratis, or other dissemination of pornographic matter, but shall not include the broadcast of such matter via commercial or pay television stations, nor the showing of motion pictures in a properly licenced movie theater or drive-in.
- c. MATTER shall mean any printed material, visual representation, live presentation, or sound recording, including but not limited to books, magazines, motion pictures, films, videotapes, photographs, pictures, prints, tapes, records, figures, and statues, but shall not include textbooks, references, and visual aids used by an accredited educational institution or licenced physician for study or counseling purposes.
- d. MINOR shall mean any person less than 18 years old.
- e. PORNOGRAPHIC shall refer to any matter which contains any representation, graphically depicted, whether in pictures or in words, which includes one or more of the following:
1. Individuals are presented as sexual objects who enjoy pain or humiliation; or are presented as sexual objects who experience sexual pleasure in being raped; or are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt, or as dismembered or truncated or fragmented or severed into body parts; or are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context which makes these conditions sexual; or
 2. such matter contains any sexually explicit material as defined below.
- f. SEXUALLY EXPLICIT shall mean actual or simulated:
1. sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between persons and animals or with an artificial genital, sodomy, human masturbation, or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; or

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AN ORDINANCE PROHIBITING DISTRIBUTION AND DISPLAY OF PORNOGRAPHY
TO MINORS WITHIN THE TOWN OF WALLINGFORD

II. DEFINITIONS (continued):

f. SEXUALLY EXPLICIT (continued)

2. exhibition with less than a fully opaque covering of the genital or pubic region, buttock, or female breast below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state, in a manner which is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and which, taken as a whole, lacks serious literary, artistic, educational, or scientific value.
3. Subsection II.f.2 shall not apply to any artistic artifact, drawing, painting, print, or sculpture (whether an original or a reproduction) generally recognized to have classical artistic value and/or which was created by a generally recognized classical artist.

III. ESTABLISHMENT OF COMMUNITY STANDARDS

- a. It shall be the responsibility of the Board of Ethics of the Town of Wallingford to study and establish standards relating to Subsection II.f.2 above as to what matter is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and which, taken as a whole, lacks serious literary, artistic, educational, or scientific value, whether on an overall or a case-by-case basis.

IV. GENERAL PROVISIONS

- a. Any individual, institution, or business distributing pornographic matter, except as specifically exempted by this Ordinance, shall ensure that access to such pornographic matter is denied to minors, and shall further deny distribution of pornographic matter to such minors;
- b. No individual, institution, or business, except as specifically exempted by this Ordinance, shall distribute pornographic matter on any premises frequented by minors (including recreational areas) owned or operated by any agency of the Town of Wallingford;
- c. No individual, institution, or business shall visibly display (as defined herein) pornographic matter in a manner which would provide access to such matter by minors.
- d. No individual, institution, or business, except as specifically exempted by this Ordinance, shall hire, employ or otherwise place, supervise, control or allow in any business or commercial establishment or other place, any minor under circumstances which would cause, lead or allow such minor to engage in the activity of promoting or otherwise handling pornographic matter.

V. SANCTIONS

- a. Any violation of the provisions of this Ordinance, except as specifically exempted by this Ordinance, shall be punishable by a fine not to exceed \$100.00 (One Hundred Dollars). In the case of a continuing violation, each day that any violation of this Ordinance occurs, or continues to occur, shall constitute a separate offense and shall be punishable as a separate violation or violations.
- b. Town, state, and federally funded public libraries shall be exempt from the provisions of this Ordinance. Public and private educational libraries operated by an accredited educational institution in which pornographic matter is available for reference in connection with a course of study sanctioned by the institution, including on open shelves, shall also be exempt from the provisions of this Ordinance.

AN ORDINANCE PROHIBITING DISTRIBUTION AND DISPLAY OF PORNOGRAPHY
TO MINORS WITHIN THE TOWN OF WALLINGFORD

I HEREBY CERTIFY that the above Ordinance was enacted by the Town Council of the Town of Wallingford this _____ day of _____, 1985, in accordance with the Provisions of the Charter of the Town of Wallingford.

Rosemary A. Rascati
Town Clerk

Approved: _____
William W. Dickinson, Jr., Mayor

Date: _____