

TOWN COUNCIL MEETING

AUGUST 23, 1994

6:30 P.M.

AGENDA

1. Roll Call & Pledge of Allegiance
2. Executive Session Pursuant to Section 1-18a(e)(1) of the CT. General Statutes with Regards to the Appointment, Employment, Performance, Evaluation, Health or Dismissal of a Public Officer or Employee
  - Board of Tax Review
3. PUBLIC HEARING on a Proposed Ordinance Entitled, "Tax Abatement for Dairy Farm and Fruit Orchard Property" - 7:45 P.M.
4. PUBLIC HEARING on a Proposed Litter Ordinance - 8:00 P.M.
5. PUBLIC QUESTION AND ANSWER PERIOD - 7:30 P.M.
6. Consider and Approve a Transfer of Funds in the Amount of \$1,640 from Pumping Labor & Expense Acct. #624-000 of Which \$520 is Transferred to Treatment Labor & Expense Acct. #642-000 and \$1,120 is Transferred to Administrative & General Salary Acct. #920-000 in the F.Y. 1993-94 Budget of the Sewer Division
7. Consider and Approve a Transfer of Funds in the Amount of \$80.00 from Microfilm Acct. #8060-400-4040; \$8.00 from Books Acct. #8060-400-4150; \$149.00 from Maintenance of Equipment Acct. #8060-500-5200 and \$114.00 from Personnel Director & Assistant Acct. #1590-100-1200 for a Total of \$351.00 to Telephone Acct. #8060-200-2000 in the F.Y. 1993-94 Budget of the Probate Court
8. Consider and Approve a Transfer of Funds in the Amount of \$896.00 from Wages - Central Garage Acct. #001-5050-100-1300 to Pickup Truck Acct. #001-5030-999-9919 - Public Works
9. Consider and Approve Re-Appropriating Funds in the Amount of \$7,116.20 to the Revenue and Expenditure Accounts of the Mayor's Council on Substance Abuse Budget for F.Y. 1994-95 in Association with Donations Received for Project Graduation
10. Consider and Approve a Budget Amendment in the Amount of \$300 Increasing Revenue Acct. #012-1040-700-7010 and Increasing Youth Projects Acct. #012-9000-100-1350 of the Youth Service Bureau
11. Review of Final Report on Water Supply Development at Tyler Mill - Water Division

(OVER)

12. Discussion Concerning Town-Owned Property Located in Durham, North Branford and Guilford as Requested by Councilor Thomas Zappala
13. Discussion and Possible Action Regarding Electric Rates Charged to North Branford Customers of the Wallingford Electric Division as Requested by Councilor Thomas Zappala
14. Discussion and Possible Action on Obtaining Reimbursement for Legal Expenses Incurred Due to a Conflict of Interest Complaint as Requested by Councilor Geno J. Zandri, Jr.
15. Discussion and Possible Action on the Responsibilities of the Public Safety Committee as Requested by Councilor Raymond J. Rys
16. Report Out from the Town Attorney on the Status of Her Review of the Town Council's Motion Regarding Non-Union/Classified Employee's Salary Increases as Requested by Councilor Geno J. Zandri, Jr.
17. SET A PUBLIC HEARING for September 13, 1994 at 8:30 P.M. on an Ordinance Appropriating \$1,175,000 for the Planning, Acquisition and Construction of Various Municipal Capital Improvements 1994-95 and Authorizing the Issue of \$1,175,000 Bonds of the Town to Meet Said Appropriation and Pending the Issue Thereof the Making of Temporary Borrowings for Such Purpose
18. Note for the Record Mayoral Transfers Approved to Date
19. Note for the Record Anniversary Increases Approved by the Mayor to Date
20. Note for the Record the Resignation of Robert Hammersley from the Position of Selectman for the Town and also Alternate on the Zoning Board of Appeals Effective August 19, 1994
21. Consider and Approve a Resolution Authorizing the Mayor to Make Application to the State of Connecticut for Drug Enforcement Grant Funds - Mayor's Office
22. Consider and Approve Tax Refunds (#12-21) in the Amount of \$713.21 - Tax Collector
23. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Respect to Pending Litigation
  - Nancy L. Cook, Administratrix of the Estate of Susan Smart vs. Nat'l. Railroad Passenger Corp., et al
  - Labor Matters
24. Consider and Approve a Waiver of Bid to Hire Outside Counsel - Town Attorney's Office
25. Approve and Accept the Minutes of the 6/14/94, 6/28/94 and 7/26/94 Town Council Meetings
26. Note for the Record Correspondence

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TOWN COUNCIL MEETING

AUGUST 23, 1994

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SUMMARY

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TOWN COUNCIL MEETING

AUGUST 23, 1994

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, August 23, 1994 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Thomas D. Solinsky at 6:37 P.M. All Councilors answered present to the Roll called by Town Clerk Kathryn J. Wall. Mayor William W. Dickinson, Jr. was absent due to illness; Attorney Janis Small arrived at 9:45 P.M.; Corporation Counselor Adam Mantzaris was present and Comptroller Thomas A. Myers arrived during the executive session.

The Pledge of Allegiance was given to the Flag.

A moment of silence was observed for Tim Shaw, Charter Member, Co-Founder and Former Post Commander of the Veterans of Foreign War Lufbery Post 591, member of the Memorial Day Committee and of the Monument Oversight and Advisory Committee of the Town of Wallingford.

ITEM #2 Executive Session Pursuant to Section 1-18a(e)(1) of the CT. General Statutes with Regards to the Appointment, Employment, Performance, Evaluation, Health or Dismissal of a Public Officer or Employee

- Board of Tax Review

Motion was made by Mrs. Duryea to Enter Into Executive Session, seconded by Mr. Rys.

VOTE: All ayes; motion duly carried.

Motion was made by Mrs. Duryea to Exit the Executive Session, seconded by Mr. Zappala.

VOTE: All ayes; motion duly carried.

ITEM #6 Consider and Approve a Transfer of Funds in the Amount of \$1,640 from Pumping Labor & Expense Acct. #624-000 of which \$520 is Transferred to Treatment Labor & Expense Acct. #642-000 and \$1,120 is Transferred to Administrative & General Salary Acct. #920-000 in the F.Y. 1993-94 Budget of the Sewer Division

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

Mr. Killen questioned the practice of transferring funds in a fiscal year that has closed (F.Y. 93-94).

Mr. Myers explained that there exists a conflict between the Charter and accounting principles. There are two options available to the Town when an account is overdrawn at the close of a fiscal year; one is to leave the account overdrawn at which time the auditors will note the problem and request that the Council be approached for a transfer to correct the situation or, two, transfer the funds this evening. The transfer does not change the net increase of the water division for the fiscal year, it re-aligns their budget. The Charter clearly states that no line item shall be over expended but we are faced with a situation that must be corrected one way or another.

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Roger Dann, General Manager of the Water & Sewer Divisions explained that the over expended accounts are labor accounts and the end of the accounting provided the division with an update of accrual associated with outstanding labor contracts.

VOTE: Killen and Zandri, no; all others, aye; motion duly carried.

PUBLIC QUESTION AND ANSWER PERIOD

Mr. Daniel Lucas, 40 Sunrise Circle expressed his discontent with the motor vehicle tax assessment on his 1983 Ford Ranger pick up truck. His assessment has more than doubled this year while a friend's volvo increased only slightly. He felt that the staff of the Assessor's Office should physically inspect the vehicles of the individuals who are disputing the assessments.

Frank Wasilewski, 57 N. Orchard Street stated that the public has the right to know what takes place in an executive session under the open meeting rules of the State statutes. He referred to the executive session of July 26, 1994 in which the Council, upon exiting the session, voted to approve tax appeals for Judd Square Property and Silver Pond Apartments. Again, he felt that the public should have the right to know what the basis was for the appeal and why it was approved.

Reginald Knight, 21 Audette Drive stated his dissatisfaction with the recent PCB transformer incident which will cost the Town \$300,000 to clean up. He asked, how could it have happened in the first place? Why do we have such transformers in our possession?

Mr. Rys explained that the Electric Division is currently in the process of identifying PCB contaminated transformers in Town. Some transformers are thirty years old or more. They were not purposely purchased for their PCB oil. They may have been purchased prior to the public awareness of the danger of PCBs.

David Gessert, Public Utility Commissioner explained that the division has started a program this year aimed at identifying every transformer in Town which could be contaminated. A number of transformers have already been replaced which proved to be hazardous. The commission plans to be back before the Council within the next month to request additional funding for the clean up of some three hundred thirty-five contaminated transformers. At one time the standard transformer was constructed with PCB coolants for better insulating quality. Unfortunately it was later discovered that the coolant was a dangerous carcinogen.

Ms. Papale was under the impression that the individual responsible for the incident was identified and their insurance company would be picking up the \$300,000 tab.

Romeo Dorsey, Grieb Trail stated that seven or eight trees had been cut down on S. Orchard Street which did not exhibit any previous notices of removal.

Henry McCully stated that the trees were tagged, perhaps neighborhood children removed them which sometimes occurs.

Mr. Dorsey recommended removing an additional two or three of the same

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type of tree which possessed the thorn-like bark that the others had.

ITEM #3 PUBLIC HEARING on a Proposed Ordinance Entitled, "Tax Abatement for Dairy Farm and Fruit Orchard Property"

Motion was made by Mrs. Duryea, seconded by Mr. Rys.

The ordinance was read in its entirety into the record.

George Cooke, (no address given) felt that the ordinance should be revised to allow for continued tax abatement should the owner sell the property to family members who retain the land as a dairy farm or fruit orchard.

Philip Wright, Sr., 160 Cedar Street pointed out that it should not make a difference if it is sold to a relative or not if the land is retained as a dairy farm or orchard.

Mr. Gouveia responded that the new owner should then apply to the Town for tax abatement status on November 1st of the year during which the sale occurred.

After much discussion it was decided that the ordinance should be sent back to the ordinance committee to be revisited and possibly revised.

Motion was made by Mr. Killen to Send the Ordinance back to the Ordinance Committee, seconded by Mr. Zappala.

VOTE: All ayes; motion duly carried.

ITEM #4 PUBLIC HEARING on a Proposed Litter Ordinance

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

Sydney Parker, Judd Square resident reiterated his complaint made previously to the Council regarding the Quinnipiac Street to Foucault's area along the railroad tracks. Additional mattresses have found their way to the location to be discarded with the existing ones, not to mention the continuous accumulation of litter in the area. What happens when the landlord does not comply with the ordinance to clean the area?

Attorney Mantzaris explained that the ordinance addresses people who are caught littering and will not force the person who did not create the litter to clean it up.

Mr. Gouveia referred to Ordinance #238 regarding refuse and stated that he is not so sure that the will to enforce the ordinance nor the proposed litter ordinance exists.

Mr. Killen felt that the Town must be prepared to live by its own rules of the ordinance if we expect to enforce it. We surely cannot reprimand the owner of a parking lot for failing to keep it clear of litter if the Town does not do the same with its property.

Mr. Zandri suggested combining the proposed litter ordinance language into the existing refuse ordinance and dealing with the issue through one vehicle instead of two.

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Philip Wright, Sr., 160 Cedar Street felt that the language was much too broad and needed revising.

Mr. Gouveia explained that a lot of the language was "boiler plate" and only through public forum can the ordinance be fine-tuned.

Arlene Dunlop, Meriden, suggested that the Town consider placing signs in various locations prohibiting the act of littering and listing the fine for doing so.

Reginald Knight, Audette Drive, contributed the problem to people's frustration with being unable to dispose of various items at landfills or recycling centers.

Steve Hacku, 10 Colonial Hill Drive asked that something be done about a local advertising agency which deposits their complimentary publication on the driveways and lawns of many residences on the west side of town whether they want it or not. Since many do not, they don't bother to pick it up and therefore let it remain to become litter, in essence.

Mr. Gouveia took a moment of the Council's time to recognize and thank Mr. & Mrs. Walter Jones who first contacted him about this issue and have helped to bring this ordinance to fruition.

Motion was made by Mr. Gouveia to Amend Section 3c of the Ordinance by Eliminating the Words, "Parking Area" and Substitute Language to Read: ".owner of any property as described in section 3a shall remove all litter therefrom once daily."; Eliminate the Words, "Parking Area" from the Third Line of the Same Section and Substitute "Property" in Place of it, and to Eliminate Section 2d and Renumber the Remaining Subsections, seconded by Mr. Rys.

VOTE ON AMENDMENT: All ayes; motion duly carried.

Motion was made by Mr. Killen to Adopt the Ordinance as Amended, seconded by Mr. Gouveia.

VOTE: All ayes; motion duly carried.

The Chair declared a five minute recess.

ITEM #7 Consider and Approve a Transfer of Funds in the Amount of \$80 from Microfilm Acct. #8060-400-4040; \$8 from Books Acct. #8060-400-4150; \$149 from Maintenance of Equipment Acct. #8060-500-5200 and \$114 from Personnel Director & Asst. Account #1590-100-1200 for a Total of \$351 to Telephone Acct. #8060-200-2000 in the F.Y. 1993-94 Budget of the Probate Court

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

VOTE: Killen and Zandri, no; all others, aye; motion duly carried.

ITEM #8 Consider and Approve a Transfer of Funds in the Amount of \$896 from Wages - Central Garage Acct. #001-5050-100-1300 to Pickup Truck Acct. #001-5030-999-9919 - Public Works

Motion was made by Mrs. Duryea, seconded by Mr. Rys.

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Henry McCully, Director of Public Works explained that this is the second time this truck was bid. The first bidding session solicited one bid from Scranton Motors of \$19,028.00.

Mr. Rys was glad to see the bid come in \$100 lower than last time, sometimes by re-bidding the new prices are higher.

Mr. Knight commended Mr. McCully for budgeting fairly accurately so as to only be \$896 short of the bid price. Bids can sometimes come in much higher than anticipated.

Mr. Zappala felt that the department was aware of what the cost of the vehicle should be since the Fall and should have budgeted enough funds to cover the purchase of the vehicle.

Mrs. Duryea stated that, because of her position on the Mayor's budget with regards to voting no on transfers, should would be voting in opposition of this transaction this evening. It was not be interpreted as a reflection of Mr. McCully or his department whom the Council has always supported in their request for equipment in the past.

Ms. Papale feared that departments will begin to over budget their line items in the future to avoid being caught in similar situations. She did not agree with the stand that the democrats were taking on this issue. She will continue to vote in favor of those items that truly warrant transfers and against those situations which do not.

VOTE: Knight, Papale, Rys and Solinsky, aye; all others, no; motion failed.

ITEM #9 Consider and Approve Re-Appropriating Funds in the Amount of \$7,116.20 to the Revenue and Expenditure Accounts of the Mayor's Council on Substance Abuse Budget for F.Y. 1994-95 in Association with Donations Received for Project Graduation.

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

Mr. Killen stated that a public hearing should have been held on this item since it does amend the budget which is an ordinance.

It is noted that this account is considered a special fund and is not part of the regular budgetary process.

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

ITEM #10 Consider and Approve a Budget Amendment in the Amount of \$300 Increasing Revenue Acct. #012-1040-700-7010 and Increasing Youth Projects Acct. #012-9000-100-1350 of the Youth Service Bureau

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

Mr. Gouveia asked, is there any specific criteria that the Town must meet in order to receive the grant?

Susan McLaughlin, Youth Service Bureau Coordinator responded that the program provides an opportunity for middle school volunteers to work

with senior citizens on projects throughout the Town. There are no restrictions to the grant, simply that the projects be community-based. It provides positive linkages between the children and the community.

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

Motion was made by Mrs. Duryea to Move Agenda Item #21 Up to the Next Order of Business, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

ITEM #21 Consider and Approve a Resolution Authorizing the Mayor to Make Application to the State of Connecticut for Drug Enforcement Grant Funds - Mayor's Office

Motion was made by Mrs. Duryea to Approve the Resolution and Append a Copy to the Minutes of the Meeting, seconded by Mr. Killen.

Mr. Knight asked if the odds of the Town receiving the funds have decreased over the past five years the grant has been offered?

Don Roe, Program Planner responded, yes they have. The funding amounts that the Town has secured have decreased. In the past program year our award was \$28,000 even though the Town had applied for \$50,000. There are now more communities that are seeking the funds. In addition, the State has added entitlement communities the size of Meriden to the original list. The funds are used for the D.A.R.E. program, Here's looking at you 2,000 drug program as well as the Narcotic Enforcement Division of the Police Dept.

Mr. Rys asked if this has had any effect on slowing down the drug usage in Town?

Mr. Roe stated, he only coordinates the drug application. He has no other information on the subject.

VOTE: All ayes; motion duly carried.

ITEM #11 Review Final Report on Water Supply Development at Tyler Mill - Water Division

A copy of the report will be on file at the main branch of the public library.

Roger Dann, General Manager of the Water & Sewer Divisions explained that the purpose of the study was to look at the bulk of the Tyler Mill Property, approximately 780 acres, which was purchased primarily for open space purposes as well as for its potential for future water supply. Since the time of the purchase the property has been used primarily for recreational purposes. There has been no activity in the area of water supply development since other sources of supply are more cost-effective to develop. For the purposes of our long-term water supply planning the site has been included as one of the future sources of supply. It fits in the thirty to fifty (30-50) year planning period. To date, the activities which have been entertained for this site have been somewhat limited. The purpose of the study is, in looking at the potential for competing needs to utilize the

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property, we want to be sure if, in fact, we retain this property for future water supply purposes, that there is a legitimate water supply to be developed on the property. The study was performed to look at the feasibility of developing water supply on the site from a technical, cost-effective and permitibility perspective. In order to accomplish this the Water Division hired the firm of Lenard Engineering, Inc. Jim Erickson and Jim Perry are representatives from Lenard Engineering present this evening to report out a summary of conclusions.

Figure 23, page 89 of the Study exhibits the proposed reservoir area of approximately 170 acres of which 80 acres are wetlands. It is rendered to show the optimum maximum reservoir on the site as well as construction of a required topical dam. Improvements in the intake structure along with modifications to the McKenzie Pump Station will be a necessary course of action.

Figure 18, page 59 of the study reflects the estimated cost estimate of the project to be approximately \$18.5 million to obtain 3.4 million gallons per day safe yield which averages out to a cost of \$5.40 per gallon. This is the most cost-effective way to develop the area as a reservoir.

Figure 19, page 67 shows favorable ground water conditions exist due to an aquifer which should yield 500,000 to 1 million gallons per day from groundwater wells. The total cost to partake of the groundwater option is approximately \$1.2 million. If the groundwater requires treatment a small infiltration system will need to be constructed bringing the cost of the groundwater option to \$2.7 million. The overall costs compared to the surface water options is anywhere from \$1.2 per gallon safe yield to as high as \$4.50 per gallon compared to the \$5.40 per gallon cost as given in the optimum reservoir solution.

While discussing the permitting factor of the project the Council was informed that the creation of wetlands would be necessary to try and offset or balance the impact of the project on the cold water fisheries (Muddy River).

Lenard Engineering stressed that we are looking at our grandchildren's potential water supply which should not be compromised for short sighted reasons. It is a very significant project and there must exist a clear, justifiable need to warrant the impact on the environment. The Department of Environmental Protection (D.E.P.) recommends against the development of the Tyler Mill property for any use which is incompatible with reservoir requirements. They were careful to explain that they do not mean to portray the dam option at its location as the option that would most likely be the option that was constructable during the 30, 40 or 50 years from now but the fact that Dayton Pond, which is just downstream from this reservoir, that there is an aquifer on the property that has some potential and that there is additional reservoirs in the system, the Town would be required to look at other options. Those options would be increasing storage at other reservoirs, raising reservoirs by several feet, if not more, to obtain storage in other reservoirs to be able to access the raw water of the Muddy River. The bottom line is that the water quality would still be impacted in the Muddy River regardless of what is constructed in that watershed area. Preserving it for the purpose of being able to assess those options with today's information is what is important.

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Mr. Zappala was of the opinion that there are too many permits required, too much wetlands effected and too much time ahead of us for the project. The requirements are too cumbersome. He pointed out that land which was part of the Tyler Mill property was farmed for years. He felt that we would be dreaming to think that we would be able to build a reservoir on the site in fifty years not knowing the environmental restrictions which may be in effect at that time.

Mr. Dann responded, it will be extremely difficult to predict what will be the regulatory climate in the thirty or fifty year time frame. At the time that we would turn to this resource, in all likelihood, we would have exhausted all of the other options to us. That lends a greater priority to this project at that point in time than what we could possibly display currently.

Mr. Zappala interpreted the report to read that it is nearly impossible to use the property for any other means but recreational. If we currently have a need for recreational property then we should use the land for just such purpose now.

Mr. Dann did not disagree but stated that the issue is one of developing recreational uses which are compatible with the long term objective of water supply potential as well.

Mr. Zandri stated, in reviewing the report it seems that the area is a definite potential water supply to the Town perhaps fifty years down the road. If we are going to develop it in the interim we need to keep that fact in mind. We will always need to be protective of that possibility. The reason this issue surfaced to begin with was due to the fact that the area was being looked at as a potential golf course site. If golf courses are attended to properly they can be compatible with the potential future use of the land. We have to decide whether or not it is effective for us to spend the dollars it will require to establish a golf course knowing that it will potentially have a limited amount of use from twenty to thirty years and still be able to protect the potential water supply down the road.

Raymond Smith, Director of Public Utilities, stated that Mr. Zandri's summary was very accurate. The vision has never dissuaded from that viewpoint. He reminded everyone that only thirty years ago the Ulbrich reservoir was developed. We should not throw away this resource. If the land is going to be developed it must be done with that in mind, what happens in the tail end. He spoke with individuals in Bristol since that town has a golf course in the middle of their reservoir area and has been in operation since 1902. The pond straddles the golf course itself at two or three fairways. In addition, he secured a copy of the "Cape Cod Study" where they looked at the potential impacts of golf course development on the Cape which has serious potential water supply problems. In summary, they (greenskeepers) stated that the water coming off the golf course was better than the water coming back onto the course. He recommended that the Golf Course Study Committee follow up with contacting the National Golf Foundation and American Society of Golf Course Architects since they deal with this issue around the country.

He went on to say that the divisions will take all steps necessary to do whatever else is possible in the meantime, i.e., recycling of water or conservation to protect the current supply. Some unforeseen

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problem could arise to accelerate the thirty year horizon. We can't give that potential water supply away. Can it be used for other purposes?, that is another study or direction that is outside of the scope of the P.U.C.'s responsibility. The department will be happy to work closely with whomever is gathering information and will assist in whatever way is possible.

Mr. Gouveia asked, should we be looking at some sort of feasibility study to get water to the trash plant without having to pump it, treat it and filtrate it to the plant where it does not need to be treated or filtrated? He was disappointed that the issue was not addressed at all in this study as well as the two previous studies.

Mr. Smith responded, the problem with constructing a duplicate distribution system is that you are so many miles from the source, you would be tearing up the countryside to get across to the mains. It is very cost-prohibitive. The more logical solution is to take water from the wastewater treatment plant, reprocess it through reverse osmosis or other treatment systems and re-utilize that because then you can construct a fairly moderate smaller district. It would take a lot of pressure off the treated water. It is feasible, but is costly.

Mr. Knight stated, it is a fact that we will require additional water supply somewhere around the year 2030. Whether it comes from the Tyler Mill area or other wells in other parts of town, we are going to need more water. It seems at this point that the most important thing to do is to get some feel for what other alternatives there may be than this reservoir. If, indeed, the regulatory climate remains the same other alternatives will have to be found.

Mr. Killen was disturbed that the State warrants all types of environmental impact studies be done associated with the project before the permitting process can be considered without guaranteeing that the State will permit the project at all.

Mr. Solinsky asked, is there anymore capacity to take out of the Muddy River further down?

Mr. Dann responded, the further down the river you go, the more watershed you potentially could have and the greater the difficulty in terms of loss of local control over some aspects of the process such as the capital costs associated with pumping greater distances.

Mr. Solinsky asked, as the river goes downstream people take from it, and when the water reaches the end of the line they don't want it dry they want the water to continue. Taking all of that into consideration, can we take more of the river and still keep everyone satisfied downstream?

Mr. Dann answered, the answer to that question is partly contained in the environmental impact aspects of the permitting that we would have to show that at least in the reach of stream that we significantly effect that the environmental impacts can be mitigated sufficiently. How far down stream are those impacts are felt before the additional watershed that is picked up is sufficient to make our withdraw a relatively small percentage of the stream flow therefore making the impact below us minor, would have to be looked at.

Mr. Solinsky then asked, is it true that we will lose approximately 350 gallons per day to the dam?

Mr. Smith answered, there is a certain amount that is lost under the dam. Most dams pass water. It is not cost-effective to try and recoup the loss. In reference to Mr. Solinsky's previous question he stated that an environmental impact study would have to reach all the way down the Long Island Sound. We would have to be sure that we don't cause salt water intrusion backup in the lower tributaries down towards New Haven.

Mr. Solinsky asked, if you put a new dam in at a reservoir is there a percentage of water from the river and from the actual river coming over from McKenzie vs. the actual new watershed area?

Mr. Dann responded, in the model of the safe yield, the methodology by which that is calculated, the inputs of the new reservoir include the runoff from the additional watershed and the amount of seepage which is estimated as well as from previous work done by Whitman and Howard associated with the water supply projects the volume of water lost over the spillway during the course of any given year. Those were all factored into the model and associated with developing the available safe yield at the downstream location.

Mr. Erickson added, the amount of water released downstream for fisheries or other cold water uses below the Tyler Mill dam was factored in. Approximately .2 million per day was deducted from the available yield. If .2 million gallons were coming in each day then we would have to release .2 million gallons out of the dam at all times in order to satisfy current D.E.P. requirements for downstream flow. That number will have to be negotiated with D.E.P. as part of the permit process.

Romeo Dorsey, Grieb Trail was glad to see the Water Division planning ahead but when the Ulbrich Reservoir was dedicated it was stated at that time it would last until the year 2025. The land north of the reservoir should be looked at for watershed area since it is not good for anything else. The land is currently for sale. We should purchase it to extend the Ulbrich Reservoir north.

Mr. Smith responded, the problem is that you do not increase the safe yield leading to it. In times of low water period you won't be able to collect any more water.

Frank Wasilewski, 57 N. Orchard Street stated that he has suggested recycling water numerous times at the P.U.C. meetings. The Town had an excellent opportunity recently to recycle from the wastewater treatment facility. A trench the width of two trailer trucks was recently dug adjacent to the treatment plant that could have been piped and passed by the incinerator plant which currently uses 52 million gallons of water per year. He agreed that land should be set aside for a future reservoir. Before doing so, however, the water should be tested in the aquifer.

Lester Slie, 18 Green Street stated, according to the report, the last resort that the State would permit would be the reservoir. According

to the Army Corps of Engineers the 404 permit would be very difficult to obtain if building a new dam. We would have to go through Wetlands, Wildlife, Recreation, Building and Public Opinion before finding out whether or not the dam can be built. By building the dam we would be changing the temperature of the cold water to warm water therefore killing off the trout population. He asked, isn't there an area of Northford Road that the water company does not own which deposits pollutants?

Mr. Erickson answered, there are agricultural uses on the watershed identified in the report as given on D.E.P. maps. Those are identified as potential degradents to the water as of today.

Mr. Slie asked, if you build a dam near Woodhouse, how much will it cost to raise the road? What will happen to the soccer field?

Mr. Erickson responded, a dam at location number four would have no requirements for Woodhouse Avenue to be raised.

Mr. Slie stated that he has spoken to many greenskeepers in the State and they informed him that so long as the greenskeepers watch their step there will be no pollution to the water at all. He has written letters to Earthgro, Miracle Gro and a Portland, Oregon fertilizer company, etc., and all state that they have fertilizers which will not pollute any water. He hopes that the people of the Town will see that the option of building a dam will cause have the land in that area to be under water. The scenic route will no longer exist. He asked, is it true that we are using less water than we have in the past?

Mr. Smith responded, yes, water use, in general, is down slightly.

No further discussion was held at this time.

WAIVER OF RULE V Motion was made by Mrs. Duryea to Waive Rule V of the Town Council Meeting Procedures for the Purpose of Entering Executive Session Pursuant to Section 1-18a(e)(1) of the CT. General Statutes with Regards to the Appointment of a Public Officer, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

Motion was made by Mrs. Duryea to Proceed Into Executive Session Pursuant to Section 1-18a(e)(1) of the CT. General Statutes with Regards to the Appointment of a Public Officer, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

Motion was made by Mrs. Duryea to Exit the Executive Session, seconded by Mr. Killen.

VOTE: All ayes; motion duly carried.

WAIVER OF RULE V Motion was made by Mrs. Duryea to Waive Rule V of the Town Council Meeting Procedures to Appoint a Public Officer, seconded by Mr. Killen.

VOTE: All ayes; motion duly carried.

Motion was made by Mrs. Duryea to Appoint Frank Rondo to a Vacancy on

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the Board of Tax Review for a Term to Expire 1/1/95 and to Waive Rule 12b of the Town Council Meeting Procedures Concerning the Seven (7) Day Waiting Period Prior to the Swearing In of an Appointed Officer, seconded by Mr. Zappala.

VOTE: All ayes; motion duly carried.

Kathryn J. Wall, Town Clerk performed the Swearing In ceremony at this time.

ITEM #12 Discussion Concerning Town-Owned Property Located in Durham, North Branford and Guilford as Requested by Councilor Thomas Zappala

Motion was made by Mrs. Duryea to Hear Discussion, seconded by Mr. Killen.

Mr. Zappala stated that it was brought to his attention that the Town owns quite a bit of land outside of Wallingford. It was purchased approximately thirty-five years ago and has remained untouched to date. We are paying taxes to the towns in which the land exists while providing those same towns with open space. Are there any plans for future use of the land? If not, perhaps we should sell it and use the proceeds to purchase open space in Wallingford.

Mr. Dann explained that the North Branford property is relatively small and is associated with the reservoir and acts to protect it. Similarly the Guilford property surrounds Lanes Pond reservoir and, again, is a small piece which has no attractiveness nor would be in our best interest to dispose of. The Durham property was purchased in the mid 1960s as a potential water supply area. Originally there was discussion regarding a regional water supply. Approximately 158 acres, known as the Fitzgerald Property was originally purchased. The remainder of the property that was to be purchased as a necessity to develop the water supply never was. The sites that were identified for reservoir purposes were never obtained although a large part of the upper watershed area was. There are other areas in Durham we own some of which are directly in watershed areas to the Pistapaug Pond. Some are in areas which are so steep and difficult to develop that they would have no value to anyone else. Associated with the funding ordinance was an open space grant with State funds involved and quite possibly federal funds. The Town made certain commitments which governed how we would pursue disposal of that property should we choose to do that. There is a dedication agreement filed on the land records in Durham which indicates that the Town did receive State grant in aid for the acquisition of the property for conservation, recreation, open space purposes and in consideration for the grant in aid the Town of Wallingford covenants and agrees with the State of Connecticut that the land shall not be conveyed or converted to any other use other than recreation or conservation purposes as defined with certain referenced State statutes except with the approval of the State Council on Agriculture and Natural Resources as provided for in Section 7-131i of the CGS. That covenant runs with the land and is binding on the Town of Wallingford and any successors or assigns.

Mr. Zappala felt that we should not keep the property in Durham that we cannot use while paying taxes on it at the same time.

Mr. Killen recalled that the town purchased the land for the purpose

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of building a dam in the area. It was brought in conjunction with Durham. At that point there seemed to be a disagreement over which town would draw the higher percentage of water from the reservoir. In the meantime a builder who owned prime land in the area was being prevented from developing his property.

Mr. Dann referred to the State statute which references the issue of how the town can pursue any type of sale of the property. One of the stipulations of the sale is that the State would receive 90% of the proceeds due to the fact that the land was purchased with State grant funds.

Mr. Gouveia stated that the area can be made into a public park via open space exempting us from paying taxes on it.

It was determined at this time that no action would be taken in regards to this matter.

ITEM #13 Discussion and Possible Action Regarding Electric Rates Charged to North Branford Customers of the Wallingford Electric Division as Requested by Councilor Thomas Zappala.

Motion was made by Mrs. Duryea, seconded by Mr. Killen.

Northford is to North Branford what Yalesville is to Wallingford - a section of the parent town with its own branch of post office. Only the Northford residents of North Branford receive electricity from Wallingford while the remainder receive their service from United Illuminating Co. in New Haven.

Mr. Zappala was of the opinion that the Northford customers should not receive a better customer status than Wallingford customers. Not only does Northford benefit from our lower electric rates but they also receive taxes from Wallingford for our lines, poles, etc., which provides the electricity to them.

Mr. Smith explained that the tax burden to North Branford is \$19,880.00+-, down from \$32,000 of previous years. He forwarded correspondence to the P.U.C. back in January of 1993 which outlined a proposal to recapture those taxes via surcharge to the Northford customers. In the near future we will need to amend the rates when the new power contract is approved. A decision would need to be made whether to put the surcharge into effect then or now.

Mr. Zappala felt it was ten years overdue.

Mr. Gouveia listed the tax payments to North Branford for the past five years as being, \$27,000; \$35,450.; \$32,040.; \$35,591. and \$40,000 (appropriated for the past fiscal year - no actual dollar figure listed for taxes paid), respectively.

He thanked Mr. Zappala for bringing the issue forth since it has been a topic of discussion in the past. The Council, in the past, has always felt that this issue should be pursued by the P.U.C. commissioners who have chosen to ignore the situation. He referred to

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correspondence sent to him by Town Attorney Janis Small on April 21, 1991 when he posed the question to her as to whether or not the Town had the ability to charge the residents of Northford a different rate for the privilege of providing them good service and rates. They, in turn, tax us for those very elements which are essential to provide the service to them. In her letter, Attorney Small states, "The statute does not specifically address establishing different rates for different types of customers. The courts in Connecticut also have not addressed the issue with respect to municipally-owned utilities. A different rate may be charged if such is justified because of the difference in the cost of furnishing electricity to those outside of the city (case law cited) as compared to furnishing the commodity to those inside the municipal limits. In conclusion, the electric division could charge a different rate to non-residents if it bore some relationship to the cost of the service provided." A copy of the letter was sent to Mr. Smith, members of the P.U.C. and to Thomas Myers, Comptroller.

In reference to correspondence dated November 4, 1991 addressed to Edward Bradley, Former Council Vice-Chairman, from Dave Russell, Representative of Camp, Dresser & McKee, the firm which conducted the electric division study, Mr. Russell states, "Notwithstanding the fact that many communities do charge higher rates to customers outside of their borders without basing it on cost differences, we recommend basing the rate differential on cost differences as part of the next rate case, specifically we recommend the use of the utility basis for computing the total cost of serving outside customers and a net catch basis for customers within the town." "As the Town Attorney further stated there is no Connecticut statute specifically prohibiting differential rates and, if properly established, it could be lawful." It goes on to say, "...the different outside rate needs to be cost based and I think, in fact, that you could derive differential rates based on different costs for serving the outside vs. inside customers."

A copy of the letter was forwarded to Mayor Dickinson, Mr. Killen, all members of the Town Council, Mr. Raymond Smith, all members of the P.U.C. and Mr. Myers, Comptroller.

Additional correspondence dated November 12, 1991 from Town Attorney Janis Small to Mr. Bradley indicates, in part..."although further research has not yielded any Connecticut cases dealing with municipal electric rates, I have found Connecticut cases dealing with municipally-owned water companies and their authority to charge different rates to customers outside of their territory. I have not found any reason why the courts would not apply the same standards to electric rates." Another part of the letter reads, "...based upon these factors the court upheld the differential rates after review of this and other cases I am still of the opinion that a different rate may be charged of non-resident customers so long as it is reasonable. Reasonableness is established by evidence that the rate bear some relationship to a difference in the cost of service plus a reasonable rate of return. In conclusion, a different rate based upon cost of service is permitted." A copy of the letter was sent to Mayor

Dickinson, Raymond Smith, members of the Town Council, members of the P.U.C. and Mr. Myers.

Mr. Gouveia pointed out that there is plenty of evidence if we want to establish a different rate, according to our own Town Attorney as well as CDM. He supported the idea of doing so.

Mr. Knight asked, has there been talk of building a substation in Northford?

Mr. Smith responded, yes, there are three sites being considered.

Mr. Knight pointed out that the Town will be expected to pay taxes on that substation as well. He asked, has there been any study performed to determine whether or not there is a difference in cost to provide service to Northford?

Mr. Smith answered, the only cost difference is the taxes.

Mr. Knight asked if the D.P.U.C. would take a very dim view of trying to charge anything other than a franchise-wide rate?

Mr. Smith responded, yes, you cannot discriminate. He did point out that there are approximately 112 customers that are neither Wallingford or North Branford residents. There are a few Hamden, Durham, Meriden and North Haven customers as well. A determination would have to be made whether to put those customers in the Wallingford group or Northford group. Those towns do not assess us any taxes.

Mr. Gouveia stated, our cost to provide electricity does not increase because we do not pay taxes to those towns.

Mr. Knight commented, what we are trying to recoup, in essence, is the taxes assessed against the division associated with the property in the Northford area. That would be the only identifiable cost?

Mr. Zandri informed the Council that this issue was discussed at a past P.U.C. meeting and, at that time the commissioners did not want to touch the issue. One of the questions at that time was, what do you do about the other customers on the line that live out of town? So they dropped it after the discussion. We have to initiate another recommendation to them once again to get them moving on it.

Mr. Smith responded, by virtue of this meeting I will take this message back, assuming they don't shoot the messenger. By virtue of the minutes of the meeting they will receive the information.

Romeo Dorsey, Grieb Trail stated that at one time Northford was charged a different rate. He suggested that we leave well enough alone.

Philip Wright, Sr., 160 Cedar Street has heard this issued discussed before the Council and at P.U.C. meetings many times. He has never seen anything produced which reflects the true cost to provide electricity to Northford.

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He felt that a true economic study should be conducted. He asked, how many more linemen do we have because we serve them? How can we eliminate one foreman, one supervisor....real incremental costs have never been presented. How much money do we make as a result of selling the electricity to them? What is the advantage to the utility?

Mr. Smith responded, my "guesstimate" is that \$3 million of revenue comes in from the North Branford group. He acknowledged Mr. Wright's points as valid. He (Mr. Smith) has never evaluated how many people are on staff as a result of situation. His first reaction is that we can perhaps eliminate one meter reader, for example. All the customers, approximately 2,500, also contribute to the operating costs. They pay a share of the salaries, proportionate costs that go to the various departments of the community, a portion of the P.I.L.O.T., etc. That information should be researched perhaps.

Mr. Wright concluded, unless it can be proven that the Town of Wallingford is obtaining some benefit from servicing Northford customers then we should not be selling electricity to them.

No action taken.

ITEM #14 Discussion and Possible Action on Obtaining Reimbursement for Legal Expenses Incurred Due to a Conflict of Interest Complaint as Requested by Councilor Geno J. Zandri, Jr.

Motion was made by Mrs. Duryea, seconded by Mr. Killen.

Mr. Zandri made the following statement: "In performing my duties as an elected official of the Town of Wallingford I have been falsely accused for the second time on the same issue of having a conflict of interest regarding my views and actions on matters dealing with the operation of our electric business. After attending the preliminary hearing on this complaint by myself and observing the workings of our Ethics Board and because they ruled on the complaint without having the advice of a Town Attorney, I felt the necessity of hiring an attorney to represent me. As an elected official I feel that I should be reimbursed for my expenses on this matter. I am asking this Council to rule on my request. I am not looking for any more than any Town employee would get if they were named in a lawsuit in performing their duties as an employee of the Town of Wallingford and the Town would represent them in that case. I am looking for reimbursement for what it cost me to be represented on this particular complaint, suit, what ever you want to call it."

Mr. Knight stated that he could appreciate, as a fellow Councilor, he could appreciate if a citizen has a question about the performance of his duties and he had to go in front of the Ethics Board he would certainly want to know that he got himself the best representation possible. He was curious as to why Mr. Zandri did not consult the Council prior to retaining the attorney so that they were aware of what they were getting into? The Council is now being asked, after the fact, to provide funds for something over which the Council had no oversight on nor provided counsel on. Things are out of order.

Mr. Zandri responded, "There has been a precedent set here already when a town resident brought suit against the Town and was reimbursed for his attorney's fees because the Town, supposedly, mishandled the issue. In this particular case, when before the Ethics Board that evening, I was informed that I had the right to an attorney. My question to the Board was, "who will pay for the attorney?" Their response was that I was on my own. At that point I felt I had no choice in the matter. It was also a matter of protecting my name while working against a short timeframe. What is going to stop this from happening again two weeks from now? It took them five or six years to do this to me a second time, nothing will stop them from doing this all over again, have the Board meet without an attorney present to advise them of the rights and wrongs of the hearing, how to conduct that meeting...and for them to make a decision unanimously, which was shocking in itself, and then be on my own again to protect myself. I can go through a lot of money, here. I already went through a lot of money to protect myself.

Mr. Knight answered, "I feel I know where you are coming from by my question is one of procedure. If you felt that you were going to need professional representation and it was going to cost the town and taxpayers money, it should have been considered by this body (Council) prior to retaining an attorney and subsequently what ever the expenses are."

Mr. Zandri responded, "Let me put it to you this way. I am coming before this Council for this request because I am trying to avoid more cost, not only to me but to the Town because if I don't get reimbursed we are going to end up in a lawsuit and I really don't want to be put in the situation as a Councilor to have to sue the Town for my expenses. If it goes that route I will sue the Town for more than my expenses, in this case. I said it before, when we were dealing with boards & commissions, before they end up in court they should come to this Council to try and get an issue resolved here. That is why I have this item on the agenda this evening. I would like to get this issue resolved right here, right now. If I can't then I am going to be forced into the other alternative that I just as soon have the Town stay away from and myself stay away from. It is your choice.

Mr. Knight asked one more time, "Why was there no opportunity for this Council to...."

Mr. Zandri answered, "Because I did not think of it before hand. No different than the Board of Ethics saying that I am on my own. That is beside the point. It is whether or not you feel that I deserve to be reimbursed for my expenses. That is the issue here, not whether or not I come now or came before hand. The issue is whether or not you (the Council) want to be involved in another lawsuit."

Mr. Gouveia commented, "I find myself in a difficult situation. I know exactly what Geno is going through and I certainly would not mind taking up a collection to help him out. I look at the Board (of Ethics) as agents of the Town. They are empowered by the Charter to pass judgment on people and therefore they must be very, very careful how they conduct their businesses. I feel that this case had absolutely no merit whatsoever. I even suspect and I underline the word suspect that there was a malicious attempt to attach an individual because he says what he believes. Suspicion implies

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reasonable doubt, unfortunately for me and because it implies reasonable doubt and if I knew, beyond a reasonable doubt, that there was malice intended, then I would not hesitate for a moment to provide the funds necessary to pay for Geno's expenses. I am just suspicious of the fact that they may have, indeed, been malicious in their efforts. I believe that this was a planned, orchestrated, political attempt to discredit Geno Zandri, a vocal critic of the financial administration of the electric division. Mr. Zandri is not always right. I do not always agree with Mr. Zandri but Mr. Zandri is as ethical and honest an individual, private or public, as you will ever find. Geno Zandri has not made too many friends in public life. He is straight forward and forthright. He tells you "no" when he knows what you want to hear is "yes". That should be refreshing in politics. There are a lot of people in public life who always speak from both sides of their mouth while lying from both sides. Geno is not one of them. Geno speaks against the electric (division's) credit rider because he believes it is against the financial well-being of the Town. He does this even though he stands to lose hundreds, maybe thousands of dollars per year. In the mind of this Councilmember, the Board of Ethics' decision to initiate a hearing based upon a politically-motivated complaint was frivolous at best. There are plenty of ethical behaviors of concern in conflict and/or appearance of conflict of interests to go around. The Board of Ethics should spend their time looking into those and they should begin with their own members. Thank you."

Mrs. Duryea commented, "I was at the hearing for Geno and it was very uncomfortable sitting in the audience watching what was going on. Actually, after all the discussion ended I wondered how it got as far as it did based on the information provided. Very little information was provided and I think what happened to Mr. Zandri, by the way I concur with everything that Mr. Gouveia said about Mr. Zandri's character, I believe what happened was that Mr. Zandri was tried based on a difference of philosophy over the electric division. I have reservations as to even why the Board of Ethics was able to judge him because over the past years, year after year after year, the budget has been vetoed based mainly on the decision of the majority of the democrats on the Town Council, on their actions regarding the electric division. There was more than one person that made those decisions regarding the electric division, not just Mr. Zandri. This was a veto by our republican Mayor and this was a Board that was appointed by Mr. Dickinson and I just wonder how open-minded the panel could have been when they were reviewing Mr. Zandri's "wrong-doings". I sat in the audience helpless, witnessing what was going on....Mr. Zandri was exonerated, obviously, again for the second time and I was very disturbed by a gentleman who walked up the aisle and passed me in a very angry state. I don't know to this day who that gentleman was and he came by me saying, "well, we didn't get him through the Ethics Board so we will get him in the election". What a terrible thing to say for such a good and honorable Town Councilor. I also have...I am in a quandary also with Mr. Zandri's request because I am not quite sure that this is the vehicle to use to get the funds that he needs and I guess with that I will close for now."

Mr. Solinsky: Geno, how much are you talking as far as dollars?

Mr. Zandri: My total bill was \$2,122.00.

Mr. Solinsky: That was all for the attorney?

Mr. Zandri responded, yes.

Mr. Killen: I would like to support Geno's request but my problem is that I would have to be a hypocrite in being that it would require a transfer and you all know my position on transfers. Other than that I can only reiterate what Peter and Susan have said about the caliber of Geno's abilities and character. Note that Item #23 is an executive session item which has to do with settling an estate which quite a few Wallingford people, including our officials, were named and it did not cost them a single penny. Why Mr. Zandri should be treated any differently is beyond me. If this were just a matter of dollars coming elsewhere other than a transfer, I would have no compunction what so ever about going ahead and voting for it.

Mr. Solinsky asked Attorney Small if the funds could be paid out of her Outside Legal Services account?

Attorney Small responded, is that what your intent was?

Mr. Rys asked, shouldn't this be brought as a claim?

Attorney Small stated, that is essentially what it is.

Mr. Rys: Presented by Geno, right? Have you made a claim yet, Geno?

Mr. Zandri: No, I have come here because I felt that this was the proper vehicle to submit the request and to see what this Council wishes to do with it.

Mr. Rys: Generally, whenever anything happens that involves the law department it is submitted as a claim.

Attorney Small: Do you mean like processing an insurance claim?

Mr. Rys: Yes. I thought it would be submitted to the Town Attorney's Office as a claim and then submitted to the Council for advise on what should be done.

Attorney Small: How is that any different than what Mr. Zandri just did?

Mr. Rys: At least we could find out where the funding would come from. It is administrative?

Attorney Small: Is that the expectation, that it would come out of my account? If the Council approved the concept of it then I would have to do the paperwork. You would have to waive the bid too because it is over \$2,000. If you approve that you want the Town to pay it then I guess it could come out of my account.

Philip Wright, Sr., 160 Cedar Street stated that he has sat through every meeting of the Charter Revision Commission and, aside from term limits, the item that got the most discussion was the Board of Ethics. There were numerous suggestions by all sorts of people, those who were the pros and those who were the cons. But every argument was that the Board of Ethics does not function in an even-handed manner...that people get dragged before it and accused and that no one gives them back their reputation when they are through. He would not take a yes

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or no stand concerning Mr. Zandri's request, but if he were to it would be no because he has opposed the Town paying for numerous other cases of this sort. The thing that bothers him the most is that somehow, someone has got to do something about how the Ethics Board functions. There were numerous complaints by people at the Charter Revision Commission meetings and all sorts of suggestions made. Whether you do anything about paying the expenses or not, the one thing that he recommended be done is look carefully at how the Board functions.

Mrs. Duryea asked, if the claim is submitted and it is paid from the outside legal services account, does it have to come back to the Council for a transfer or is it handled directly by your office?

Attorney Small responded, she would not need a transfer but she would need a bid waiver and approval.

Mr. Zappala made a motion to reimburse Mr. Zandri \$2,122. for the Attorney's Fees Incurred by Him as a Result of the Complaint and to Waive the Bid, seconded by Mrs. Duryea.

Mr. Knight: I made some comments earlier and I want it clearly understood to everybody that what I am voting on has absolutely nothing, no accusatory ring to it at all with regard to Geno Zandri's character or his conduct in office. I am, however, disappointed that we are faced with something that is an accomplished fact...it is a done deal, the money has been spent without anyone signing off on it, no one was asked about it, no one on this Council, the Town Attorney's Office was not asked if it was appropriate for outside attorneys to be hired. All this is taking place after the fact and we are being asked to appropriate over \$2,000....a bid waiver has to take place....I have heard people argue procedure in this room until my head spins and I don't understand all of the procedures because I don't have the depth of experience on this Council like Bert Killen has and I listen as hard as I can to the procedural aspects of how you vote money and how it is appropriated and what account it comes out of, etc. It is very important to follow procedures. There are procedures in municipal government which should be followed and this is no exception. It is much, much more emotional, certainly but, from a procedural standpoint we are going against everything that we set up which applies to every other department. We would raise hell with anyone if they went out and spent \$2,122 that was not coming from an account. We would have a whole lot to say about it. Geno, my vote is based on that and, by God, you have got to understand that it has nothing to do with merits, lack of merits of the case and has a whole lot to do with the Council not being given the opportunity to vote that money in your defense in the first place.

Mr. Zandri commented: You can take the case that is on the agenda tonight. When the lawsuit is made and the Town sets up the attorney to defend the people in the Town and there is no idea how much money it is going to take to defend that position. We are in a lawsuit and we have to defend the people in the Town who are involved in that lawsuit and it could cost \$50,000 or \$100,000. You will never know until the case is over. The principle here is, as an elected official, I deserve the same treatment as any employee or any other official of the Town. That is the issue.

Mr. Solinsky: This is a different issue than someone going out and spending Town funds. It falls outside of that. The person is making a claim to the Council for being wronged and having to put out money of his own. We have the option of saying, no and no procedures have been broken. Geno is free to hire any lawyer he wants. He has not broken any procedures. If he came to us and said he needed money for a lawyer we could have said yes or no then and we can say it now. I know that in the past we have had similar cases when we have had Town employees in similar situations and the money was needed to pay the bill after the fact and the Council approved it. I don't see much difference in this. I think that Geno deserves to get the money for his fees.

Mr. Killen stated, an excellent example of not following procedures is contained in Item #23. You have all been reading the newspapers, it states that this is a done deed, yet we are going to go into executive session to discuss it. No one came before us. They are coming before us now. What is different about that case and Geno's?

Attorney Small stated, the settlement has not been accepted.

Mr. Killen: The Judge of Probate has o.k.'d the decision. It was in the newspaper.

Attorney Small disagreed. It has not been done yet.

Mr. Zappala stated, the reason he made his motion is that what happened to Mr. Zandri could easily happen to any of the Councilors. If Mr. Zandri sued the Town for the damages we would probably pay double what he is asking for now. What happened was truly unjust.

Mr. Gouveia asked, do you feel that the Board of Ethics, in pursuing sufficient probable cause, violated any of their own regulations?

Attorney Small responded: No to my knowledge. I think that they were given far more documentation at their probable cause hearing.

Mr. Gouveia asked, "Shouldn't an attorney have been present at the meeting?"

Attorney Small answered: Not necessarily in all cases. I would like to look at their procedures and maybe there should be some revision to the ordinance.

Mr. Gouveia referred to the Town Charter, page 36, section B,2,b. Hearings which reads in part, "All hearings pursuant to this subsection shall be open to the public. The Corporation Counsel or his appointed representative, who shall also be an attorney, shall attend such hearings and rule on all matters concerning the application of the rules..."

Attorney Small responded, that is referring to a formal hearing where the taking of evidence occurs. That does not happen with probable cause. That is not a formal evidentiary hearing.

Mr. Gouveia asked, what about the fact that they ruled on a similar case once before?

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Attorney Small: Their finding is their finding, it is not mine. My understanding from what was presented to them at the probable cause hearing, the documentation was far greater than what was actually presented at the hearing, itself. In looking at...trying to recall what documents they had at the probable cause....in my conversations with them I think that they felt they had to go to a full hearing on it. Part of it comes from perhaps insufficient knowledge of electric rates and what a credit rider is. They did have an opinion by me which said that the credit rider was not a budget item but if you read the letter, as a whole, it involves the budget at some point in time. They wanted to hear it out.

Mr. Gouveia: Didn't they act on a similar complaint before, five or six years ago?

Attorney Small: Voting on the budget, itself. This time is involved the credit rider.

Mr. Zandri: Which is a budgeted item.

Attorney Small: It is and it isn't. I don't think that they even understood what the credit rider was, nor did the complainant. My personal opinion, I don't fault the Board. I think that the complainant was advised as to what her burden would be at the full hearing and she failed to fulfill that burden.

Mr. Gouveia: Since you indicated that they were a little bit ignorant of some of the issues involved, shouldn't they have continued the meeting to another time and have an attorney present?

Attorney Small: That is a finding fact.....

Mr. Gouveia: These are serious matters, do they realize that?

Attorney Small: In looking at the ordinance.....it should be looked at for some of the language could be clarified and deal more with procedure in a more definitive way. That is what I would suggest. One of the problems that the Board of Ethics has is that it meets so infrequently that every time there is a complaint it is a new thing to them. There has not been enough before the members on the Board for them to develop a comfort level with the procedures that they are following and for them to know that they are following them perfectly, the way that they should be. The ordinance does need to be looked at.

Mr. Killen: The whole thing that it hinged on was the term "probable cause". The Council had one of the Board members before it (for re-appointment) and one of the things he was asked was, "do you have any idea as to what probable cause is?" and he said, "no, I really can't answer that." He felt that if he asked the five members he would get five different answers.

Attorney Small: It is not necessarily a very hefty burden. It is not a 51% type of rule.

Mr. Killen: All the Board had to do was to review Mr. Zandri's actions on the budget. One of the things he did vote on was to cut the amount of money that we spend for power supply from Connecticut Light and Power. If this man is cutting that then he his cutting off

his nose to spite his face. How could he have endangered anything by a credit rider which has absolutely nothing to do with CL&P?

Mr. Knight: I have listened to a lot of discussion for the past half an hour and I have made my statement with regards to procedures of this body. I will vote to reimburse Geno Zandri for the money spent. One of the reasons is that I do not want this to go on any further. I would like to see this whole matter put behind us and this Council function as a unit. I can see that this particular matter has the potential to divide this Council for the next eighteen months. I would like to do what little I can to prevent that from happening and the \$2,122 is a small price to pay if that is what it is going to be to take care of business in this body.

VOTE: Zandri abstained; all others, aye; motion duly carried.

ITEM #15 Discussion and Possible Action on the Responsibilities of the Public Safety Committee as Requested by Councilor Raymond J. Rys

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

Mr. Rys explained that he brought this up for a variety of reasons, one being that he was told that a meeting notice must be posted for the committee to meet. Another is, in looking at some of the charges, a lot of this seems to be redundant of what department heads do. He wanted to get a feel from the Council as to what their opinion is on what the Committee could do that is different. What is their role? If we have to post the meetings then we will need to have a secretary.

Attorney Small did not agree. The meetings will need to be posted, however, you will not need a secretary. You will only need to take notes and record the meeting. The minutes do not have to be as detailed as the Council minutes. You will only need to show that you met, what the subject matter was, who was present, what vote, if any, took place.

Mr. Rys asked, what happens if you want to talk sensitive issues? For example, during a recent meeting we discussed where the various zones of the Town are and you really don't want the public to know where they are and at what time a police officer is out there.

Attorney Small disagreed. Why shouldn't the public be aware of burglaries that are going on in the Town? Isn't that a tactic of the police department to alert the public?

Mr. Gouveia used the example, if only five patrolmen are available on a shift and suddenly all of them are put on the west side of town it leaves the east side unprotected. To announce that to the public would be a mistake.

Attorney Small felt that example was not a good one due to the fact that it is not a function of the committee to be determining such information. All meetings should be posted.

Mr. Rys wanted to make sure that he was following the correct procedures with regards to the committee.

Mr. Killen pointed out that the committee was formed to review the

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capital expenditures of the various departments involved with public safety, specifically to determine a 5 to 10 year capital plan for expenditures. It would be more appropriate to name it a Capital Expenditures Committee.

Mr. Gouveia stated, the committee should meet and come back to the Council with a recommendation regarding duties and responsibilities of the Public Safety Committee.

No action taken.

ITEM #16 Report Out by the Town Attorney on the Status of Her Review of the Town Council's Motion Regarding Non-Union/Classified Employee's Salary Increases as Requested by Councilor Geno J. Zandri, Jr.

Motion was made by Mrs. Duryea, seconded by Mr. Rys.

Attorney Small stated that Attorney Ciulla promised to have the opinion ready on Thursday, August 25th. At that time she will pass the information along.

No Action Taken.

ITEM #17 SET A PUBLIC HEARING for September 13, 1994 at 8:30 P.M. on an Ordinance Appropriating \$1,175,000 for the Planning, Acquisition and Construction of Various Municipal Capital Improvements 1994-95 and Authorizing the Issue of \$1,175,000 Bonds of the Town to Meet Said Appropriation and Pending the Issue Thereof the Making of Temporary Borrowings for Such Purpose

Motion was made by Mrs. Duryea, seconded by Ms. Papale.

VOTE: All ayes; motion duly carried.

ITEM #18 Note for the Record Mayoral Transfers Approved to Date

Motion was made by Mrs. Duryea, seconded by Mr. Rys.

VOTE: All ayes; motion duly carried.

ITEM #19 Note for the Record Anniversary Increases Approve by the Mayor to Date

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

ITEM #20 Note for the Record the Resignation of Robert Hammersley from the Position of Selectman for the Town and also Alternate on the Zoning Board of Appeals Effective August 19, 1994

Motion was made by Mrs. Duryea, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

ITEM #22 Consider and Approve Tax Refunds (#12-21) in the Amount of \$713.21 - Tax Collector

Motion was made by Mrs. Duryea, seconded by Mr. Rys.

VOTE: All ayes, motion duly carried.

ITEM #23 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Respect to Pending Litigation

- Nancy L. Cook, Administratrix of the Estate of Susan Smart vs. Nat'l. Railroad Passenger Corp., et al
- Labor Matters

Motion was made by Mrs. Duryea to Enter Into Executive Session, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

Motion was made by Mrs. Duryea to Exit the Executive Session, seconded by Ms. Papale.

VOTE: All ayes; motion duly carried.

Motion was made by Mrs. Duryea to Approve the Insurance Company's Settlement in the Cook vs. Nat'l. Railroad Passenger Corp., et al, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

ITEM #25 Approve and Accept the Minutes of the 6/14/94, 6/28/94 and 7/26/94 Town Council Meetings

Motion was made by Mrs. Duryea to Approve the Minutes of the 6/14/94 Minutes with One Correction to Page #33 which should include that Mr. Solinsky abstained from voting on the blanket purchase order bid list for F.Y. 1994-95 due to the fact that a relative of his is a vendor on said list; move to accept the minutes of the 6/28/94 Town Council Meeting and to accept the minutes of the 7/26/94 Town Council Meeting with one correction to the last page in which the vote should read, VOTE: Gouveia and Killen, no; all others, aye..., seconded by Mr. Knight.

Mr. Zappala abstained from voting due to the fact that although he did not dispute the accuracy of the minutes of 6/28/94, he felt that the Council failed to follow proper procedures in not voting on his amendment to the motion made regarding Item #20 regarding the School Expansion Project made on page #15, line 24. He will request the item be placed on the agenda of the 9/13/94 Town Council meeting.

VOTE: Killen and Zappala, abstained; all others, aye; motion duly carried.

ITEM #26 Note for the Record Correspondence

No Action Taken.

Motion was made by Mrs. Duryea to Adjourn the Meeting, seconded by Mr. Zappala.

VOTE: All ayes; motion duly carried.

There being no further business, the meeting adjourned at 1:12 a.m.

Meeting recorded and transcribed by:

*Kathryn F. Milano*

Kathryn F. Milano  
Town Council Secretary

Approved:

*Thomas D. Solinsky*  
Thomas D. Solinsky, Chairman

9-13-94

*September 13, 1994*  
Date

*Kathryn J. Wall*  
Kathryn J. Wall, Town Clerk

*September 13, 1994*  
Date

CERTIFIED RESOLUTION OF THE TOWN OF WALLINGFORD

Certified a true copy of a resolution duly adopted by the Town of Wallingford at a meeting of its Town Council on \_\_\_\_\_, (Date) and which has not been rescinded or modified in any way whatsoever.

\_\_\_\_\_  
(Date)                      \_\_\_\_\_ (Clerk)                      \_\_\_\_\_ (Secretary)

(SEAL)

WHEREAS, PURSUANT TO Ct. General Statutes 21a-274a, the Office of Policy and Management is authorized to extend financial assistance to municipalities; and

WHEREAS, it is desirable and in the public interest that the Town of Wallingford make application to the State in such amounts as may be available for undertaking a Drug Enforcement Program and, to execute a Grant Action Request therefore.

NOW, THEREFORE, BE IT RESOLVED BY THE WALLINGFORD TOWN COUNCIL

1. That it is cognizant of the conditions and prerequisites for State assistance imposed by Ct. General Statutes 21a-274a.
2. That it recognizes the responsibility for the provision of local grant-in-aids to the extent that they are necessary and required for said program.
3. That the filing of an application by the Town is hereby approved and that the Mayor is hereby authorized and directed to execute and file such application with the Office of Policy and Management, to provide such additional information as may be requested, to execute a Grant Action Request with the State of Connecticut for state financial assistance of such and agreement is offered, to execute any amendments, recisions, and revisions thereto, and to act as the authorized representative of the Town.