

EMERGENCY TOWN COUNCIL MEETING

#15

JUNE 21, 1994

5:45 P.M.

AGENDA

REVISED

1. Roll Call & Pledge of Allegiance
2. Emergency Transfer of Funds to Repair the Air Conditioning System Which Cools the 911 Computer Equipment at the Department of Fire Services

EMERGENCY TOWN COUNCIL MEETING

JUNE 21, 1994

5:45 P.M.

An emergency meeting of the Wallingford Town Council was held on Tuesday, June 21, 1994 Pursuant to Section 1-21(a) of the CT. General Statutes. The matters to be acted upon at this emergency special meeting are absolutely necessary for the orderly continuation of the business of various departments of the government of the Town of Wallingford. The meeting was called to order by Chairman Thomas D. Solinsky at 5:45 P.M. Answering present to the Roll called by Town Clerk Kathryn J. Wall were Councilors Duryea, Gouveia, Knight, Rys, Solinsky and Zappala. Mayor William W. Dickinson, Jr. was present; Town Attorney Janis Small and Comptroller Thomas A. Myers were absent.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Consider and Approve a Transfer of Funds in the Amount of \$1,650 from Various Accounts Within the Department of Fire Service's budget to Maintenance of Equipment Acct. #001-2032-500-5200

NOTE FOR THE RECORD THAT THE FOLLOWING CONVERSATION TOOK PLACE PRIOR TO THE START OF THIS MEETING TO PROVIDE THE COUNCIL WITH PERTINENT INFORMATION ON THIS SUBJECT:

(You will note, therefore, that Mr. Killen comments during the early stages of the meeting, however his name is omitted from the list of Councilors present.)

Chief Wayne Lefebvre explained how the air conditioning system which cools the computer equipment for the 9-1-1 service had failed a few days ago. A fan and portable air conditioning unit was being used as a back up and it is his understanding that the back up air conditioner failed today as well.

The Mayor's microphone failed to pick up the preliminary comments made by the Mayor at the start of the meeting, therefore some of his conversation was inaudible on the tape.

Mayor Dickinson stated that the transfer form was absent of the Comptroller's signature certifying the availability of the funds, however the Council can approve the transfer contingent upon the certification being approved, otherwise we will need another special meeting...(inaudible).

Mr. Killen stated, under the emergency purchasing procedure you can spend more than what is spent in your original budget.

Mayor Dickinson responded, no you can't....(inaudible).

Mr. Killen stated, according to our Charter we are not supposed to make a transfer of funds without the dollars there.

Mayor Dickinson repeated, you can make the approval contingent upon the certification being made.

Mr. Killen disagreed.

Mr. Gouveia stated, we have an identical situation to one that took place about two weeks ago concerning Community Pool when I suggested that we transfer the funds that night so that we would not have to wait another two weeks to have the funds, the Mayor was very emphatic that we could not do that, although I recall this procedure being done in the past. Those items were signed at the time of the meeting. In this case, and by the way it would not have taken long that night for Mr. Myers to go upstairs and check if the monies were available, sign the form and come down to the meeting where we would still be and then could transfer the money. Again, it was, "no, we don't want to do this because we don't encourage this kind of procedure at the eleventh hour because mistakes have a tendency of occurring" an now we are saying its o.k. to flip-flop and do exactly what was argued against two or three meetings ago.

Mayor Dickinson responded, it is a very different situation. We have an emergency in the sense that damage to the equipment could occur, that is certainly not the case.....(inaudible)....secondly, there was an expressed desire to avoid special meetings. Here we are trying to make an effort to avoid another special meeting because you will have to be back here again, tomorrow, in order to deal with this transfer and we will go through another day of potential damage to the equipment. We are recommending what you can do. If you don't want to do it then we will have to be back here. The issue is damage to the electronic equipment without the air conditioning working and that could have an immediate effect of far more costly consequence than the repair of the equipment.

* * * * *

At this point the roll was called and the meeting officially started.

Mr. Solinsky asked, when did this trouble develop?

Chief Lefebvre responded, approximately 4-5 days ago. We brought in the small air conditioner, which failed today, and the fan as well as made phone calls and had written estimates sent to us. He had originally thought of waiting for the next Council meeting agenda but did not want to risk waiting. The type of equipment there is responsible for monitoring all our 9-1-1 calls and so forth, and he did not feel comfortable with waiting. It is a last minute request, of which he apologized for, but he felt he should come forward and try for the transfer now. If we have to wait another day we will. He did not wish to create havoc or controversy on this.

Mrs. Duryea made a motion to Consider and Emergency Transfer of Funds to Repair the Air Conditioning System Which Cools the 9-1-1 Computer Equipment of the Department of Fire Services in the Total Amount of \$1,650. from Various Accounts Within the Fire Services Department to Maintenance of Equipment Acct. #2032- 500-5200, Contingent Upon the Approval by the Comptroller, by Mr. Knight.

Mr. Gouveia asked, Chief, did you say that this happened four or five days ago?

Chief Lefebvre, yes.

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Mr. Zappala asked, don't you have an emergency repair account to pay for these things when they happen?

Chief Lefebvre, everything is depleted. There is no specific account for emergencies in our budget.

Mr. Zappala asked, will you be buying a new unit?

Chief Lefebvre responded, yes. The existing unit is twenty years old and grinding away all the time.

Mayor Dickinson commented, as I understand it the main unit failed four or five days ago, in the interim they used a fan and a secondary unit. Now the secondary unit has failed.

Chief Lefebvre explained, we took it (the secondary unit) out of the window at the Main Street firehouse because that was the only one available.

Mr. Solinsky asked, when will they get the equipment in?

Chief Lefebvre responded, they told us they could come down right away. Bel-val Heating and Air Conditioning out of Meriden was the....

Mr. Solinsky asked, will they come tomorrow?

Chief Lefebvre answered, that is what they told us. We are going to call them on it.

Mr. Zappala wanted to know why Mr. Killen removed himself from the Council bench and seated himself in the audience? Are we meeting legally?

Mr. Solinsky responded, that is a separate subject, why he moved away.

Did you (Council Secretary) talk to the Town Attorney? Is that the reference to the State Statutes that he gave you?

Kathryn Milano, Town Council Secretary responded, no, I have a request from Mr. Killen to the Town Attorney's Office dated 1990 asking for a legal opinion on the legality of holding an emergency meeting. The memo is in my office from Adam Mantzaris stating that under 1-21(a) of the CGS we can hold an emergency meeting.

Mrs. Duryea asked, what about the absence of the Comptroller's signature? Was he (the Town Attorney) aware of that?

Ms. Milano responded, that was not addressed at that time. Mr. Killen's issue is that, according to the Town Charter, no business can be acted, transfer funds, without the verification of the Comptroller.

Mr. Solinsky stated, if that is going to be part of the record then Mr. Killen should state that since he is not in this meeting.

Mr. Solinsky asked Mr. Zappala, is your question of legality answered?

Mr. Zappala, yes. I would like to know why Mr. Killen left the table.

Albert Killen, 150 Cedar Street, commented, there is no question on the legality of the meeting for whether it is legal or illegal does not seem to make any difference because you definitely cannot make a transfer of funds without the Comptroller's o.k. It is alright to say, "contingent upon something"...we can take all our actions contingent upon something....we can get all our business done at next Tuesday's meeting for the next year that we foresee, all contingency upon certain things happening if that is how you want to do business. That is not why rules are laid out that way. They are not laid out that way at all. The rule is that the Comptroller is the financial person for the Town who even tells the department head, "you may think you have \$300 in that account when you only have \$295" and it is his figure that goes. If it doesn't clear, it doesn't go. That is why the Comptroller is there. I will not participate in something like this.

Mr. Solinsky asked, Mr. Killen, you say the meeting is not illegal?

Mr. Killen answered, I have no problem with the meeting being legal.

Mr. Solinsky responded, then I think that you be seated up here and state your opinion on the motion that we have and that the motion is not correct.

Mr. Killen commented, I made my comments earlier before we got around to this particular issue and it carried no weight. I will not sit up there and participate.....

Mr. Solinsky stated, we are running a meeting.

Mr. Killen answered, it makes no difference, my word does not carry anymore weight whether I say it from that seat or this seat. No one is paying attention....pull out the Charter and either you agree that the Charter says it or it does not say it. If you want to approve the transfer regardless, it does not make any difference whether I am there or not. It would not even make a difference if you had a quorum or not. You may say, "we will make this contingent upon the fact that at the next meeting we will o.k. this transfer because we will have a quorum at that time." You can bend the rules six ways to one hundred. I won't bend them.

Mr. Rys asked, what effect will this have on the 9-1-1 system if we don't get the air conditioning corrected?

Chief Lefebvre answered, I did have the system (9-1-1) go down twice when the air conditioning first failed. We did not understand why it happened, we had the phone company in and nothing could be found. I am not here to say that it will fail this evening or tomorrow but there is a possibility of it and I was uncomfortable and being responsible for this equipment felt that I should act as quickly as I possibly could. I would have to wait until next Tuesday to effect a transfer under normal circumstances. With the way the heat has been, I did not want to chance it.

Mr. Rys responded, that is my concern. I am familiar with computer rooms and I know what happens when the air conditioning goes in a computer room. Either you shut down the equipment, don't run it or

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the equipment dies and when it does it costs money. Would it shut down our 9-1-1 system?

Chief Lefebvre answered, yes, when the heat effected it, it did shut down any and all incoming calls.

Mr. Rys commented, So in the interest of public safety it is contingent upon this Council to approve this?

Chief Lefebvre answered, that was my feeling.

Mrs. Duryea pointed out, this did happen five days ago, you have to realize that, too. It was not an emergency five days ago, yet it is tonight.

Mayor Dickinson stated, it has been air conditioned for the past four days with the secondary unit.

Mrs. Duryea responded, but it (the system) had to be fixed five days ago.

Chief Lefebvre stated that the opportunity presented itself tonight because he had to be present this evening anyway. He felt it was worth giving it a try. If it failed, so be it. I thought that I could get this paperwork signed, thinking that Mr. Myers would be here. He wasn't.

Mr. Zappala felt that we have rules that we have to follow. If it is the rule to approve it with a signature then I will vote against it.

Mr. Solinsky asked if there was anyone in the Finance Department to verify the funds?

Mayor Dickinson responded, there is no one upstairs, Chief Lefebvre did not arrive until after 5:00 P.M.

Chief Lefebvre admitted, we were scrambling to do this....it was an eleventh hour thought, I admit it.

Mayor Dickinson stated, the bottom line is that you can hang your hat on technicalities anytime you want, however, you are talking about a 9-1-1 system. If the system fails tomorrow...that is what we want to avoid. If we want to take that risk....I don't know how big that risk is. The Fire Chief is here saying that he is concerned. If we want to wait another day....if everyone is available for another meeting another day, fine, but you are talking about a 9-1-1 system where everyone calls in for medical emergency needs. That is one of the primary priorities of municipal services.

Mr. Solinsky stated, no one is arguing that fact.

Mayor Dickinson went on to say, it cannot be compared to the other things that we do. He felt that the Town would be at fault if we did not come forward with this to do something about it. If we didn't bring this forth tonight and it failed, everyone would want to know why nothing was said.

Mrs. Duryea stated, someone should have said something five days ago. There is always an exception when it suits the other hand. I am sorry, I have a problem with it, I will be here for another meeting tomorrow night. Have Mr. Myers sign the papers, I will not vote on it tonight.

Mr. Solinsky asked if Deputy Comptroller Eva Lamothe can be called in?

Mayor Dickinson offered to try and reach her but she has been out ill. He was not sure if she was out ill today.

Mr. Solinsky asked, does the money have to be in place in order to make an emergency purchase?

Mayor Dickinson answered, the emergency procedure is available for the purchase of goods so that you don't have to go through the public bidding process but you have to have the money approved. There is no authority of anyone to obligate the Town to a purchase without the money in hand. No one has that authority. On rare occasions you can think of a situation where you would have to, for instance, if it were the middle of the night and a tornado goes through the Town and there is a necessity to acquire some equipment to take down a power line, then you would have to do that. But, in 99.9% of the time there is absolutely no authority to obligate the Town or look to purchase something without the money immediately available in an account to do so. The emergency purchase provision deals with the circumstance of having the money but, in theory, being obligated to use the public purchasing process and not having the time to do that because it is an emergency. If there is uneasiness about it we will have to schedule another meeting.

Mr. Solinsky quickly polled those Councilors in attendance and suggested posting another special meeting for June 22, 1994 at 6:15 P.M. He asked, if the transfer is not approved tomorrow, what is the game plan?

Mayor Dickinson responded, if 9-1-1 goes down we are going to have to repair it with or without... (the approval). I cannot sit with public safety responsibility.....

Mrs. Duryea commented, I am tired of this, I will vote yes..... I am tired of being put on the spot. If we didn't have a special meeting tonight what would have happened? It wasn't going to get transferred. You have four votes here, now, you sucker'd me in. I am tired of the guilt trip. Yes, I know it is an emergency, if we didn't have a meeting here tonight already scheduled, would you have been here tonight? No.

Mayor Dickinson responded, If Chief Lefebvre came to me with this issue we would have to be here this evening. If we didn't have enough people here then we would have to be here another night. I don't like it any more than anyone else.

Mr. Gouveia left the meeting at 5:58 P.M.

Mr. Killen informed Chief Lefebvre that it is his call as to whether or not the situation is an emergency. If it is a true emergency then no one would take the Chief to task for acting upon it.

Mayor Dickinson stated that he will not encourage department heads to go out on their own to obligate the Town without money. In the middle of a fire there is no opportunity to do anything but fight the fire. There is opportunity here to notify and try to follow what the procedure should be. That is what we are trying to do. There is time here to let the Council know of the problem and try and deal with it in as close a reasonable manner as is possible. If we didn't let the Council know we would be criticized for that. We are letting the Council know and now everyone must make a judgement based upon what they feel are the facts before them.

Mr. Killen pointed out that the Chief, himself, stated that he took a shot at having the transfer approved this evening only because the Council was meeting on another matter. Had the Council not been meeting tonight he would not have taken a shot at it.

Chief Lefebvre responded, he would have tried for tomorrow evening.

Mayor Dickinson pointed out that the second unit broke down today, now he is at more of a risk today than he was before. He has nothing working but a fan at this point. That is what changed the situation.

Mr. Killen commented that he personally spoke with the Chief an hour before this meeting tonight at which time the Chief informed him that he was bringing this item forth at next Tuesday's meeting.

Chief Lefebvre agreed.

Mr. Killen wanted the facts to be presented to the Council, not people's ideas of what should be or could be. That was one of the reasons he left the Council bench earlier in the meeting to be seated in the audience.

Mrs. Duryea asked Chief Lefebvre to respond to Mr. Killen's comments to clarify the issue for her benefit.

Chief Lefebvre responded that Mr. Killen called his office this afternoon regarding another issue. After discussing that issue Chief Lefebvre began discussing the air conditioning problem he was faced with and the upcoming Council meeting Tuesday at which time he planned to present his request for a transfer. The idea then hit him after talking with Mr. Killen that time could drag on and by waiting he could be putting the system in jeopardy. He placed a call to the Mayor's Office asking if he could try and present it this evening. The Mayor suggested that he do so. The paperwork was rushed through his own department and he arrived at the Town Hall approximately 5:15 p.m. and the offices were closed. He assured the Council that he was not trying to practice any deceptive actions. The circumstance arose, he seized the moment, that is how we operate in emergency services.

Mrs. Duryea asked, why didn't anyone try to contact Mr. Myers at home? He lives in Town.

Mayor Dickinson responded that Mr. Myers was on jury duty and doubted that he was home. It was approximately 5:30 p.m. when the Mayor realized that the Chief did not have certification of funds for transferring. The meeting was to begin at 5:45 p.m. which left little time available for calling someone in.

Mr. Solinsky asked Mr. Killen, where in the Town Charter is it stated that the transfer must be approved by the Comptroller?

Kate Wall, Town Clerk, responded, page 32.

Mr. Killen read from the Charter..."When any department, commission, board or officer, except the board of education, shall desire to secure a transfer of funds in its, or his appropriation from funds set apart for one specific purpose to another, before incurring any expenditure therefor, such department, commission, board or officer shall make application to the mayor who, upon certification of funding availability by the comptroller, may approve and transfer an amount not to exceed \$200 per fiscal year per adopted line item within a departmental budget. The may shall render a monthly report of such transfers to the Town Council. Amounts requested above \$200 shall be approved or disapproved by the mayor and forwarded to the council whose duty it shall be to examine into the matter....." The fact that the language was left out in the second part of the section does not change the fact that the funds have to be certified, Mr. Killen stated.

Mr. Solinsky disagreed. He interpreted the section to read that the Mayor can approve or disapprove the transfer without the Comptroller's o.k.

Mr. Killen disagreed. He felt that Mr. Solinsky's interpretation did not make sense in the fact that a \$200 transfer required certification of funds but not a \$10,000 transfer?

Mr. Solinsky pointed out that it was written that way.

VOTE: Gouveia, Killen, Papale and Zandri were absent; Duryea & Zappala, no; Knight, Rys & Solinsky, aye; motion failed.

Motion was made by Mr. Knight to Adjourn the Meeting, seconded by Mr. Rys.

VOTE: All present, aye; motion duly carried.

There being no further business, the meeting adjourned at 6:13 P.M.

Meeting recorded and transcribed by:

Kathryn F. Milano
Kathryn F. Milano
Town Council Secretary

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Approved by:

Thomas D. Solinsky, Chairman

Date

Kathryn J. Wall, Town Clerk

Date

*These minutes
of the June 21st
Town Council
meeting have not
been approved
as of December 21st
KJW*

SPECIAL TOWN COUNCIL MEETING

JUNE 21, 1994

5:30 P.M.

A Special meeting of the Wallingford Town Council was held on Tuesday, June 21, 1994 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order at 5:37 P.M. by Chairman Thomas D. Solinsky. Answering Present to the Roll called by Town Clerk Kathryn J. Wall were Councilors Duryea, Gouveia, Killen, Knight, Rys, and Solinsky. Councilor Zappala arrived at 5:38 P.M. Mayor William W. Dickinson, Jr. was also present.

The Pledge of Allegiance was given to the flag.

ITEM #2 Consider and Approve a Transfer of Funds in the Amount of \$3,000 from Clerk's Wages Acct. #2032-100-1300 of Which \$1,000 is Transferred to Overtime Acct. #2032-100-1400, \$1,000 is Transferred to Vacation Replacement Acct. #2032-100-1500 and \$1,000 is Transferred to Sick Replacement Acct. #2032-100-1600 - Dept. of Fire Services

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

VOTE: Papale and Zandri were absent; Killen, no; all others, aye. Motion duly carried.

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

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

There being no further business, the meeting adjourned at 5:40 P.M.

Meeting recorded and transcribed by:

Kathryn F. Milano
Kathryn F. Milano, Town Council Secretary

Approved:

Thomas D. Solinsky
Thomas D. Solinsky, Chairman

Date

June 28, 1994
Kathryn J. Wall
Kathryn J. Wall, Town Clerk

Date

SPECIAL TOWN COUNCIL MEETING

JUNE 21, 1994

5:30 P.M.

AGENDA

1. Roll Call & Pledge of Allegiance
2. Consider and Approve a Transfer of Funds in the Amount of \$3,000 from Clerk's Wages Acct. #2032-100-1300 of which \$1,000 is Transferred to Overtime Acct. #2032-100-1400, \$1,000 is Transferred to Vacation Replacement Acct. #2032-100-1500 and \$1,000 is Transferred to Sick Replacement Acct. #2032-100-1600 - Dept. of Fire Services