

Town Clerk

TOWN OF WALLINGFORD, CONNECTICUT

TOWN COUNCIL MEETING

March 22, 2005

6:30 P.M.

This is a record of the minutes of the Wallingford Town Council at its regular meeting held on Tuesday, March 22, 2005 in the Robert Earley Auditorium of the Wallingford Town Hall. Town Council Chairman James M. Vumbaco Called the Meeting to Order at 6:35 P.M. Responding present to the Roll Call given by Town Clerk Kathryn Zandri were Councilors Vincenzo M. DiNatale, Lois Doherty, Gerald E. Farrell, Jr., Stephen W. Knight, Iris F. Papale, Robert F. Parisi, Michael Spiteri, Vincent F. Testa, Jr., and James M. Vumbaco. Mayor William W. Dickinson, Jr., Gerald E. Farrell, Sr., Assistant Town Attorney, and James M. Bowes, Comptroller, were also present.

Moment of Silence and Pledge of Allegiance

2. Correspondence – *There was no correspondence*

Chairman Vumbaco announced that two items were being withdrawn from the Consent Agenda, Items 3e. and 3h.

3. Consent Agenda

- 3a. Consider and Approve Tax Refunds (#609 - #633) totaling \$17,966.86 Account #001-1000-010-1170 – Tax Collector.
- 3b. Consider and Approve a Transfer in the Amount of \$8,176 to Gas and Diesel from Volunteer Tax Abatement – Fire Department
- 3c. Note for the Record Quarterly Reports for the Wallingford Public Library, The Senior Citizens Center and the Visiting Nurse Association - Mayor and Comptroller
- 3d. Approve the Appointment of Michael Brodinsky to the Zoning Board of Appeals as an Alternate to fill a vacancy – Chairman James M. Vumbaco

- 3e. Approve the Appointment of Mr. Richard Nunn to the Public Utilities Commission effective immediately for a three year term to expire March 1, 2008 – Mayor

Withdrawn

- 3f. Consider and Approve a Transfer in the amount of \$4,000 to Salaries & Wages – Part Time and from Maint. Of Equipment for \$3,400 and from Dog Tag Supplies for \$600 – Town Clerk

- 3g. Accept Excerpt of the Minutes for the February 22, 2005 Town Council meeting

- 3h. Approve minutes of the Town Council Meeting of March 9, 2005

Withdrawn

Ms. Papale: I'd like to make the motion to accept Consent Agenda Items 3a., 3b., 3c., 3d., 3f. and 3g.

Mr. Farrell: Second.

Chairman Vumbaco: All in favor? Opposed? So moved.

The Town Clerk swore in Mr. Brodinsky as Alternate to the Zoning Board of Appeals.

4. Items Removed from the Consent Agenda – *None*.
5. PUBLIC QUESTION AND ANSWER PERIOD

Frank Wasilewski, 57 North Orchard Street, asked if the Mayor's budget had gone to the printers yet.

Chairman Vumbaco: No, it hasn't.

Mr. Wasilewski, asked how much more are we going to spend on medical insurance this year?

Mayor Dickinson: We are dealing with the finals figures but it's anywhere from 15%-17%.

Mr. Wasilewski, asked what is the town-wide that is spent on medical? \$5 million? \$10 million? Or what?

Mayor Dickinson: It's around \$5 million on general government, utilities would be separate from that and education is separate.

Mr. Wasilewski, commented that it's a lot of money on medical and it seems to be going up every year but that we in the outside world set a limit on what they are going to spend on medical and after that the employees or retirees have to take up the slack. Somewhere we have to draw the line.

Mayor Dickinson: That is an element in all of the negotiations, co-payments on premium, increases on deductibles, increases on a number of the features of the program so that is an element in all the negotiations.

Mr. Wasilewski said he thinks that the town should set a limit on what they spend on medical. He said it isn't right that taxes go up every year.

Pasquale Melillo, 15 Haller Place, Yalesville said he understands that there is a consultant for Anthem Blue Cross and for town government for negotiations.

Chairman Vumbaco: There is an Anthem Blue Cross representative and then the town has retained an individual to represent its interests in the negotiations with the health benefit people.

Mr. Mellilo insisted that there was a consultant like he described.

Chairman Vumbaco: There's a representative who works for Anthem Blue Cross that deals with the community, and there is also a third party individual that works on the town's behalf dealing with them. Isn't that right, Jim?

Mr. Mellilo said that's good as long as we've got this competition going.

Wes Lube, 15 Montowese Trail spoke about a letter sent to the Mayor in February 2002 from Henry McCully and Tom Dooley requesting a transfer of \$10,000 for a wrought iron railing at the junction of Ward and Quinnipiac Streets, and said it was disproportionate to what was accomplished. He said it was demolished about two years ago by an auto, he guesses. He questioned why it never came up in a Council meeting. He asked if the railing would be replaced or if we are going to collect insurance on this railing. Whatever happened to the \$10,000 investment?

Chairman Vumbaco said he was not aware that the wrought iron was damaged.

Mayor Dickinson responded that he was not familiar with an issue of any damage to the fence and said he would have to inquire with the Risk manger or the Town Attorney.

Mr. Lube asked if we could have a report out on that as it's been out there for a long time and said that half of our investment is gone.

Chairman Vumbaco: We'll look into it.

Mr. Lube said thank you.

Pasquale Melillo, 15 Haller Place, Yalesville asked if town government is aware of highway federal funds are being made available for states, towns and cities across the country and that we should get together with our federal representatives and make sure we get our share of it.

Chairman Vumbaco said he understands that the funds come down into the state coffers and then to the towns. Anyone else?

Pasquale Melillo, 15 Haller Place, Yalesville spoke about the transmission lines and wanted to know if there was anything new.

Chairman Vumbaco said he understood that the first round of decision making is in April. **Mayor Dickinson** said the Siting Council is to make a decision on April 7.

Mr. Mellilo noted that the town has spent at least \$200,000 on this issue and wanted to know if we will be spending any more money.

Mayor Dickinson said that additional money has been appropriated and that the town has spent about \$180,000 and another \$40,000 has been appropriated making the total \$220,000. He said that it is impossible right now to tell if the town will be involved on an appeal and other procedural issues with the Siting Council and that it could continue to be an expense that we would have to make a decision whether we will fund or not.

Mr. Mellilo said that in his opinion we should not put in any more money.

Mayor Dickinson said that our letters to legislators are attempting to have legislation passed which would reimburse municipalities that have spent money, at least a portion if not all of the money spent in order to be represented on the matter and said whether that will pass or not is an open question.

(Item # 6 was delayed to allow time for the Executive Director, Mr. Casey, Habitat for Humanity of Greater New Haven to arrive at the meeting.)

7. Consider and Approve that Article IV, Temporary Seasonal Outdoor Sidewalk Dining As an Accessory use to Restaurants, of Chapter 62 of the Code of the Town of Wallingford be and is hereby continued in effect until repealed – Councilor Stephen W. Knight

Ms. Papale: I'd like to make a motion to consider and approve that Article IV, Temporary Seasonal Outdoor Sidewalk Dining As an Accessory use to Restaurants, of Chapter 62 of the Code of the Town of Wallingford be and is hereby continued in effect until repealed. This is on our agenda from our Ordinance Chairman, Councilor Stephen Knight.

Mr. Testa seconded.

Chairman Vumbaco: I have a letter that was received from Mr. Mansfield on Whittlesey Avenue, if you could read that into the record.

Ms. Papale: Before I do that, do you want me to read anything of the Ordinance.

Mr. Knight: No, that's OK.

(Ms. Papale read the letter which is appended to the minutes.)

Mr. Knight: I will just start off my comments by saying that I have not seen this and I will take it upon myself to speak to the people at Archie Moore's. I believe that some of the language in the ordinance deals with that, those requirements. I will take care of that. The reason that I had it moved from consent to an agenda item is that I believe that it was enacted through a public hearing, and we are about to extend it indefinitely. The original ordinance had a sunset provision of one year because we wanted to make sure that it was going to be adhered to and was something that the town wanted. It was due to sunset or become cancelled. Adam Mantzaris, one of our town attorneys, advised us that we, the Council, could extend it indefinitely with a vote. Almost universally, this has been considered a success. Those who have elected to offer this service to their patrons have, by and large, been very careful about the regulations, and I felt that we should offer this indefinitely. It will be extended with a positive vote from this Council, as with all ordinances, indefinitely.

Chairman Vumbaco: Is there any comment?

Mr. Farrell: Mr. Chairman, I'm going to abstain on this matter because if you read through the ordinance it references regulations of the Department of Consumer Protection, and I think it appropriate under the circumstance that I not vote on it.

Chairman Vumbaco: OK, thanks. Any other comments from the Council?

Mr. Testa: I was approached by somebody that had asked question about a concern. Do you think it's necessary that we have language in there that just states that it takes at least the restaurants have in their liquor permit specifically the ability to serve the alcohol outside? I throwing it out there for discussion. It seemed to me a moot point but he raised the issue that what happens if someone – I don't know how the liquor permits work- but if there was a problem, and they got into some trouble, if there were able to even deflect some of the legalities on the town by saying, oh, the town said we could do it. What do you think?

Chairman Vumbaco: What has to happen when they apply – I was in the business - for a liquor license, they have to have a drawing that's part of their attachment to their license application on the early basis showing where they are serving the liquor. So if in fact they are serving liquor in the outdoor portion, the restaurant at renewal time for their liquor permit will have to indicate that that is an additional serving area for liquor, and I think that covers it under the permit.

Mr. Testa: I was assuming that their liquor permit would have to have it but I just wasn't sure if anyone felt it would be necessary for us to specifically state that they can only do this if they have it allowed in their own liquor permit with the state. I'm bringing it up for discussion since it was raised with me.

Chairman Vumbaco: They can't sell liquor unless they have the permit to sell it.

Mr. Knight: There are a lot of areas in the state where the town has some oversight but there is certainly is state legislation that supercedes anything that the town – we are a creature of the state and we have to first obey and we cannot pass any laws contrary to state legislation as I understand it. That's the basics. That's why I wasn't concerned about that.

Chairman Vumbaco: Any other members of the Council? Personally, I think it works extremely well. I've had nothing but positive comments from the owners as well as the patrons of these facilities so I think it adds a flare as an additional use of our downtown area.

Frank Wasilewski, 57 North Orchard Street: This eating area is on their property or town property?

Chairman Vumbaco: It's on town sidewalks.

Mr. Wasilewski: Do we have to have liability insurance for those sidewalks while their patrons are eating or do they have to carry insurance where the town wouldn't be sued if something happens?

Chairman Vumbaco: In the ordinance, they carry the insurance. It says in Article IV. Section 2, Item B2 in the ordinance, " Certificate of insurance naming the Town of Wallingford, its officers, employees, agents and assigns as the additional insured party. Said Certificate of Insurance shall be in a minimum amount of \$2,000,000 against any and all damage and injury to property or person by reason of or related to the applicant's use of the public sidewalk."

(A full copy of Ordinance 62 is appended to the minutes.)

Mr. Wasilewski: When that came up last year, wasn't that their property that they were putting it on?

Chairman Vumbaco: No, it was always use of the town sidewalks.

Mr. Wasilewski: Our property goes from the curb to the building?

Chairman Vumbaco: Yes. I'm not sure in all cases from the curb to the building is town property but uptown on Simpson Court, I believe it is.

Mr. Wasilewski: It wasn't when they first applied because they put a handicap ramp at the realtor there. And they had to put that on their own property and not come onto town property and the tables that are out there are out more than the handicap ramp.

Mr. Parisi: I thought that they came before the Council for permission.

Chairman Vumbaco: To put the ramp in?

Mr. Parisi: Yes. They came before the Council.

Mayor Dickinson: I think the ramp is not on town property. Property lines are not consistent with the buildings. Some of the sidewalks are on private property. Some are on town property. The ordinance gives permission to be putting tables out on the town owned portion of the sidewalks. Otherwise I don't know that we would have any authority to be dictating what people do on their own property.

Mr. Wasilewski pointed out that the town cleans up the property.

Mr. Knight: Most of the litter that is there would be there anyway whether there is sidewalk dining or not.

Robert Sheehan, 11 Cooper Avenue, said that he thinks Mr. Wasilewski made an interesting point. We have a no smoking ban in the state of Connecticut for restaurants, bars whether it's on the sidewalk or not. He said that's a restaurant, and you're not supposed to smoke on the sidewalk either, and if you're going to enforce a law or make a law, do it right. He said that we don't enforce the laws that we have, and we are making too many laws. He asked that the town collect a fee for anybody that wants to do this. What happens to the person that doesn't serve beer or wine and he is just food

The vote was all ayes. Mr. Farrell abstained.

THE MOTION PASSED.

6. Discussion and Possible Action on conveying land at 299 Washington Street, Wallingford, to Habitat for Humanity of Greater New Haven – Chairman James M. Vumbaco

Ms. Papale moved to convey land at 299 Washington Street, Wallingford, to Habitat for Humanity of Greater New Haven.

Ms. Doherty seconded.

ROLL CALL VOTE: DiNatale - No; Doherty - Yes; Farrell - No; Knight - Yes ; Papale - Yes; Parisi - Yes; Spiteri - Yes; Testa - Yes; Vumbaco – Yes. (7 - aye; 2- no)

THE MOTION PASSED.

8. Consider and Approve contract language for the purchase of the Simpson School property by the LaRosa Building Group – Chairman James M. Vumbaco

Withdrawn

9. Authorization for Mayor to Execute the following agreements for a development known as Cheshire Crossings:

Intermunicipality Sewer Agreement between the Town of Wallingford and the Town of Cheshire.

Developer's Agreement, Sewer Service between the Town of Wallingford, the Town of Cheshire and Pulte Homes, Developer

Intermunicipality Water Agreement between the Town of Wallingford and the Town of Cheshire.

Developer's Agreement, Water Service between the Town of Wallingford, the Town of Cheshire and Pulte Homes, Developer
- Ray Smith, Director of Utilities

Ms. Papale made a motion to authorize the Mayor to Execute the following agreements for a development known as Cheshire Crossings:

(1) Intermunicipality Sewer Agreement between the Town of Wallingford and the Town of Cheshire.

(2) Developer's Agreement, Sewer Service between the Town of Wallingford, the Town of Cheshire and Pulte Homes, Developer

(3) Intermunicipality Water Agreement between the Town of Wallingford and the Town of Cheshire.

(4) Developer's Agreement, Water Service between the Town of Wallingford, the Town of Cheshire and Pulte Homes, Developer.

brought to us by Ray Smith, Director of Utilities. **Mr. Testa** seconded.

Ray Smith, Director of Public Utilities: Good evening. I believe the Council should recall that several months ago we described a situation where the Water and Sewer Divisions were going to supply water and sewer service to this development, which straddles the town line of Wallingford and Cheshire. Because of its location, we need authorization to enter into, obviously, Cheshire because they have franchise rights with the sewer division. Water is part of the South Central Regional Authority, and we have already received that agreement for us to serve that. These documents try to capture

(Mr. Smith con't) the essence of the deal that's been worked out amongst us, Wallingford, Cheshire and the developer. Because it's an unusual circumstance and we are going to be serving homes outside the town limits, we have placed on certain conditions, and we believe that these agreements do cover that. What I would ask tonight though, since we haven't received final comments from the Cheshire Town Attorney's Office and the Cheshire Fire Department, that your authority to have the Mayor sign these documents will be subject to final review by the Town Attorney's Office, assuming it's minor grammatical or wordsmithing in the documents but the essence of the agreement are in place, and we've worked very hard at this and taken many months. Joan Malloy is the attorney for the developer and a lot of work in the Town Attorney's Office as well as in my office, and Roger Dann has gone over these things, and we're comfortable with the language that's in there. If you have any specific questions, I'd be glad to respond to those.

Mr. DiNatale: You mentioned the franchise and its only applicable to the sewer service. This agreement mentions the water service as well but that's not ...

Mr. Smith: We're going to serve water and sewer to the 51 units in Cheshire.

Mr. DiNatale: It's a different franchise. You mentioned the ...

Mr. Smith: The Regional Water Authority has the franchise for Cheshire.

Mr. DiNatale: What will we be supplying to this development both homes in Wallingford and Cheshire, both water and sewer service?

Mr. Smith: That's correct.

Mr. DiNatale: So if it was just the matter of supplying water service to the homes in Cheshire would it be any of our business here?

Mr. Smith: We'd want Cheshire involved in the process because we've looked for Cheshire to be kind of a guarantor of any people-failure to make payment on the properties because Cheshire has liening power. We want to make sure that they don't usurp our authority for liens. If someone doesn't pay, we look to the tenant

(Mr. Smith con't) first and then the association and ultimately to Cheshire to guarantee payment.

Mr. DiNatale: So my question is for both water and sewer service, it involves the Council.

Mr. Smith: Yes.

Mr. DiNatale: There are other utilities like Yankee Gas. They are unique in that if they were to cross town lines or if they had a line in Wallingford's side and cross into Cheshire, it's really none of our business.

Mr. Smith: No, obviously we don't have a gas franchise. The gas franchise is all privately owned by Yankee Gas. Another example is TV service. There is a dividing line there between Cox and Comcast that they've worked out amongst themselves on how it's going to be handled but it doesn't involve the towns since we're not a service provider there.

Mr. DiNatale: Who are the franchises in Cheshire? They have their own sewer division?

Mr. Smith: Yes, they have their own sewer operation as part of the town government.

Chairman Vumbaco: We're serving electric too?

Mr. Smith: Well, as of about two to two and one half weeks ago, I thought we were but CL & P has reversed their position, and they've just advised us that they plan to serve the 51 units in Cheshire so it will be a split operation out there. It will be two electric systems, one on their side of the town line and one on ours. I had a verbal agreement with representatives of CL & P many, many months ago, and we were waiting for a recapture agreement document but it never arrived and suddenly we were notified that they plan to now service those units, which is their right.

Chairman Vumbaco: It will be an interesting community meeting when they start comparing their electric bills.

Mr. Smith: As you know Wadsworth Road runs down the middle of the town line split. People on one side will be in Cheshire with

(Mr. Smith con't) CL & P service, and there will be a lot more Christmas lights on the Wallingford side.

Mr. Parisi: You're saying that they're going to service their side of it?

Mr. Smith: CL & P? CL & P owns the franchise over there so CL & P will serve the electrical on that side of the line.

Mr. Parisi: If they didn't agree to work with us, it goes to CL & P?

Mr. Smith: Yes, CL & P has the state franchise for serving Cheshire. When there are border line arrangements, we usually execute what's called a recapture agreement which says that we will serve until such time as they get facilities if they so chose. We have a number of those on borders. One, for example, the street starts in Wallingford, loops around and comes back into Wallingford even though some of the homes are in Hamden which is U I territory, it just makes sense for us to serve it. That's their right and prerogative, and they are now choosing to serve it, and maybe they want the 51 customers.

Chairman Vumbaco: Could you comment on if we will now be able to provide service to those 2 or 3 homes that are now being served by CL & P because they still are Wallingford, right? Will you exercise the right as a Wallingford utility?

Mr. Smith: Are you talking about on the electric?

Chairman Vumbaco: Yes.

Mr. Smith: It has nothing to do with those agreements. We have gone before the Planning & Zoning to seek authority to allow us to install poles out in that area, poles for street lights and telephones and cable. That will enable us to get close to those homes, and we'd have to go to CL & P probably and buy out their plan to be able to serve those homes. You can't just go in and say they are ours now. They have an investment made, and we'll have to negotiate.

Chairman Vumbaco: OK, I didn't realize.

Mr. Smith: Yes, you can't just walk in and say we're here today. That is part of the recapture agreement that if we have the customer,

(*Mr. Smith con't*) for example, in Durham they can't just walk in and say we want to serve them, get your plan out. They have to give us the value of whatever we have invested.

Chairman Vumbaco: And you are going to pursue that you believe?

Mr. Smith: We will, if we are successful with Planning and Zoning.

Chairman Vumbaco: I'm just hoping since they are Wallingford residents that they are able to afford the same rates that the rest of Wallingford people can afford.

Mr. Smith: The facilities will certainly be close so we'll be able to do that.

Chairman Vumbaco: Great, thank you. Any members of the public have any questions or comments? If not, I'll bring it back to the Council. We have a motion and a second. All in favor? Opposed? So moved. Thanks, Ray.

10. Consider and Approve *System Operator* Job Description – Personnel

Ms. Papale made a motion to consider and approve the *System Operator* Job Description.. **Mr. Parisi** seconded.

Ms. Papale: This is brought to us by Terri Sullivan, our Personnel Director.

The vote was all ayes, and the motion passed.

Following action on Item #10, the Council returned to Item #9.

Item #9.

Chairman Vumbaco: We need to do a little housekeeping. The Mayor has informed us that we need to clarify the motion that we made on Item #9 so Iris is going to re-read that. We just need to have a motion to amend that vote so you can read the new motion.

Ms. Papale: It should be --Approval and Authorization for Execution of the four (4) of the Agreements

(1) Intermunicipality Sewer Agreement between the Town of Wallingford and the Town of Cheshire.

(2) Developer's Agreement, Sewer Service between the Town of Wallingford, the Town of Cheshire and Pulte Homes, Developer.

(3) Intermunicipality Water Agreement between the Town of Wallingford and the Town of Cheshire.

(4) Developer's Agreement, Water Service between the Town of Wallingford, the Town of Cheshire and Pulte Homes, Developer

subject to minor revision following receipt of the agreements and approval from the Town of Cheshire and approval of the Wallingford Town Attorney.

Chairman Vumbaco: Before we have the vote, Mr. Parisi brought up a good point. I think we should have a motion first to amend our vote. Iris was correct also.

Mr. Parisi: She has to remove her motion.

Chairman Vumbaco: You have to remove that, Iris.

Mr. Parisi: I make a motion to allow us to attach an amendment to our previous vote on this item.

Ms. Papale: Second.

Chairman Vumbaco: We have a motion and a second by Mr. Parisi. All in favor? Opposed? So moved. Now, Iris, you have to read it again.

Ms. Papale: Approval and Authorization for Execution of the four (4) of the Agreements

(1) Intermunicipality Sewer Agreement between the Town of Wallingford and the Town of Cheshire.

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subject to minor revision following receipt of the agreements and approval from the Town of Cheshire and approval of the Wallingford Town Attorney. So moved.

Mr. Parisi: Second.

Chairman Vumbaco: Ok, now we have it correct. We have a motion and a second. All in favor? Opposed? So moved. Thank, Ray. Item #11.

11. Consider and Approve a Transfer in the Amount of \$45,000 to Debt Service – Administration Expenses Account # 001-1402-800-9000 and from Debt Service – New Debt Financing Account # 001-1402-800-8582 -Comptroller

Ms. Papale moved to accept a Transfer in the Amount of \$45,000 to Debt Service – Administration Expenses Account # 001-1402-800-9000 and from Debt Service – New Debt Financing Account # 001-1402-800-8582. **Mr. Farrell seconded.**

The vote was all ayes, and the motion passed.

12. Executive Session pursuant to Section 1-200 (6) (D) of the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property – Mayor
13. Executive Session pursuant to Section 1-200 (6) (E) with regard to strategy and/or negotiation with respect to collective bargaining - Personnel

Ms. Papale moved that the Town Council enter into Executive Session pursuant to Section 1-200 (6) (D) of

- 12) the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property and
- 13) pursuant to Section 1-200 (6) (E) with regard to strategy and/or negotiation with respect to collective bargaining.

Mr. Knight seconded.

The vote was all ayes, and the motion passed.

The Council entered into Executive Session at 8:07 P.M.

Ms. Papale moved that the Council exit from Executive Session.
Mr. Knight seconded.

The vote was all ayes, and the motion passed.

The Council exited from Executive Session at 8:55 P.M.

Attendance at Item #12 - Town Council, Mayor, Assistant Town Attorney, Gerald E. Farrell, Sr.

From 8:11P.M. to 8:20 P.M., Mr. Richard Cassella, Manager, CEO, Credit Union, Mr. Roger Polumbo, Vice President, Credit Union, and Mr. Mike Sinisgalli, Executive Board Member, attended the session.

Attendance at Item #13 - Town Council, Mayor, Assistant Town Attorney, Gerald E. Farrell, Sr., Ray Smith, Richard Hendershot and Terence Sullivan

14. Possible Action regarding the Electric Production Unit Interest Arbitration Award as discussed in Executive Session – Personnel

No Action

15. Consider and Approve a Budget Amendment in the Amount of \$484,616 to various accounts and from Retained Earnings – Electric Division

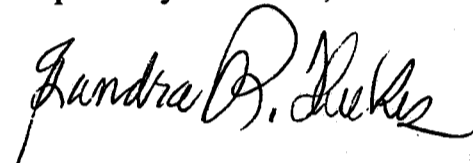
Ms. Papale moved to Approve a Budget Amendment in the Amount of \$484,616 to various accounts and from Retained Earnings for the Electric Division. **Mr. Farrell** seconded.

The vote was all ayes, and the motion passed.

Ms. Papale moved to Adjourn the meeting. **Mr. Farrell** seconded.

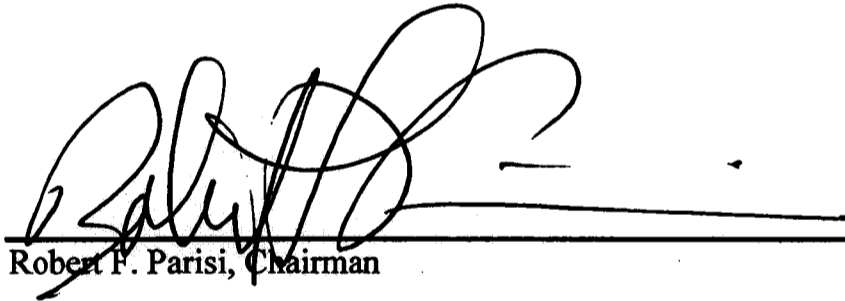
The vote was all ayes, and the motion passed.

Respectfully submitted,



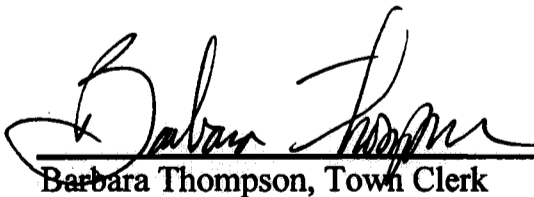
Sandra R. Weekes
Town Council Secretary

Meeting recorded and transcribed by Sandra R. Weekes



Robert F. Parisi, Chairman

9/12/06
Date



Barbara Thompson, Town Clerk

9/12/06
Date

RECEIVED FOR RECORD 8/9/06
AT 2 H 35 M P M AND RECORDED BY
Barbara Thompson TOWN CLERK

March 16, 2005

James Vumbaco
Town Council Chairman
Wallingford Town Hall
45 South Main Street
Wallingford, CT 06492

RE: Sidewalk Café dining

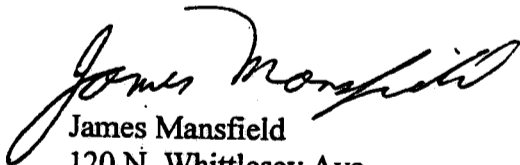
Dear Mr. Vumbaco:

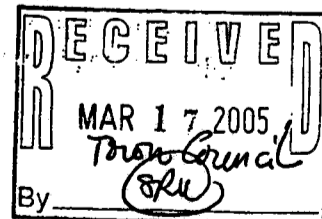
I have read in the paper that the measure for café dining is going to be coming before the town council for renewal. It does look nice for outdoor dining and I feel that it is a draw for the downtown restaurants to be able to offer outside dining. Downtown Wallingford is also a great place for walkers. People drive into town just to go walking and are walking throughout the day.

My one complaint is that with some outdoor dining it greatly restricts the space available for walkers. In front of Archie Moore's there is 27 inches of sidewalk available between the stanchions they erect for containing the dinners and the edge of the sidewalk. There is actually less space since the base for the stanchion takes up even more room. There is a little more room if you take into consideration the brick apron but using that space walkers have to contend with a tree and garbage can. Having the sidewalk change from 8 feet wide to less than 27 inches is rather restrictive and at times has caused foot traffic to alternate turns since it is only wide enough for one-way foot traffic. If anything could be done to take into consideration the walkers in town when this measure is reviewed again it would be greatly appreciated.

Thank you for your time and attention to this matter.

Sincerely


James Mansfield
120 N. Whittlesey Ave.
Wallingford, CT 06492



**AMENDMENT TO CHAPTER 62 "ALCOHOLIC BEVERAGES"
OF THE CODE OF THE TOWN OF WALLINGFORD**

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

That Chapter 62 of the Code of the Town of Wallingford, "Alcoholic Beverages" is hereby amended by the addition thereto of a new Article IV.

**ARTICLE IV
Temporary Seasonal Outdoor Sidewalk Dining as an
Accessory Use To Restaurants**

Section 1. Definitions.

- A. **ALCOHOLIC LIQUOR** means alcohol, beer, spirits and wine as defined by §30-1 of the Connecticut General Statutes.
- B. **RESTAURANT** means a space in a suitable and permanent building kept, used, maintained, advertised and held out to the public to be a place where hot meals are regularly served, not including such places or establishments where drive-up service, window-counter service or curb service of food is provided. If alcoholic drink is served in any restaurant, it shall be as an adjunct to the primary function of serving food and operate under a restaurant liquor permit as provided in §30-22 of the Connecticut General Statutes, as amended, and comply with all Liquor Control Commission regulations appertaining thereto.
- C. **OUTDOOR SIDEWALK DINING** means dining on a public sidewalk, after approval of the Town Council of the Town of Wallingford, where alcoholic liquor is served by waitstaff of a restaurant holding a permit from the Department of Consumer Protection, Liquor Control Commission, allowing the retail sale of alcoholic liquor.
- D. **PUBLIC SIDEWALK** means any portion of the street between the curb and the adjacent property line, including any space beyond the property line, devoted to and intended for the use of pedestrians and for purposes of this ordinance, shall be limited to the following:
 - (1) The easterly sidewalk of North Main Street from Academy Street and westerly sidewalk of North Main Street from Church Street southerly to Center Street including the sidewalks located in the Simpson Court area;
 - (2) The northerly sidewalk of Center Street from North Main Street easterly to Wallace Avenue and southerly sidewalk of Center Street from South Main Street easterly to Fair Street;
 - (3) The northerly sidewalk of Center Street from North Main Street westerly to North Colony Road and southerly sidewalk of Center Street from South Main Street westerly to South Colony Road;

(4) The northerly sidewalk of Hall Avenue from North Colony Road westerly to North Cherry Street and the southerly sidewalk of Hall Avenue from North Colony Road westerly to North Cherry Street;

(5) The northerly sidewalk of Quinnipiac Street from South Colony Road westerly to Washington Street and the southerly sidewalk of Quinnipiac Street from South Colony Road westerly to Washington Street.

E. ADJACENT means the public sidewalk which is contiguous with the frontage of the premises of the restaurant.

Section 2. Application Provisions.

A. Application forms shall be made available in the office of the Town Council of the Town of Wallingford, Room 220, Town Hall, 45 South Main Street, Wallingford, CT 06492.

B. A completed application shall include the following:

1. A copy of the deed or lease or other satisfactory evidence of proprietorship of the existing restaurant establishment;

2. Certificate of Insurance naming the Town of Wallingford, its officers, employees, agents and assigns as the additional insured party. Said Certificate of Insurance shall be in a minimum amount of \$2,000,000 against any and all damage and injury to property or person by reason of or related to the applicant's use of the public sidewalk.

3. An executed agreement to indemnify and hold harmless the Town of Wallingford, its employees, officials, and/or agents from any and all claims, actions, injuries or damages of every kind and description which may accrue to or be suffered by any person by reason of or related to the operation of outdoor sidewalk dining under this article.

4. A drawing to scale of the area for which the application to occupy the public sidewalk is made showing its dimensions; the number and placement of tables and chairs; the door which will lead out on to the dining area and whether the exit is from a dining room or a bar room; and the placement of a railing or other divider showing the area to be devoted to outdoor sidewalk dining and the area remaining for use by pedestrians.

5. The railing or other divider shall be constructed of sufficiently sturdy material and design as to prevent or discourage restaurant patrons from entering or exiting the outdoor sidewalk dining area except through the restaurant.

6. Any other information that may be deemed necessary to evaluate the application.

Section 3. Regulations.

Restaurants wishing to serve alcoholic liquor to their patrons on the public sidewalk must make application to the Town Council of the Town of Wallingford for permission and must, if permission is granted, comply with the following regulations:

- A. The outdoor sidewalk dining area must be adjacent to the restaurant.
- B. The service of alcoholic liquor in such outdoor sidewalk dining areas must be accompanied by a food purchase and must be performed by waitstaff only.
- C. All alcoholic liquor must be placed or situated on the dining table and must be in plain glasses, plain cups or other plain containers.
- D. The outdoor sidewalk dining area must be separated from the remainder of the public sidewalk by a railing or other divider which shall be at least 30 inches in height and be so configured that the entrance and exit to and from said area be through the restaurant.
- E. No alcoholic liquor advertising may be displayed in the outdoor sidewalk dining area and no umbrellas or awnings containing such advertising may be situated over the tables or chairs in said area.
- F. The area of the public sidewalk remaining for use by the public must be wide enough to permit travel by persons in compliance with the Americans with Disabilities Act.
- G. The outdoor sidewalk dining area may not be occupied later than 11:00 p.m. and all furniture, railings or other dividers and like appurtenances must be stored inside the restaurant by 11:30 p.m. Tables, railings and chairs may be placed outside between 9:00 a.m. and 11:00 p.m.
- H. Litter emanating from the outdoor sidewalk dining area must be collected by the applicant at all times.
- I. Outdoor Sidewalk Dining is effective from April 1 to October 31.

Section 4. Revocation.

Any permission granted by the Town Council to operate an outdoor dining facility may be revoked for any of the following reasons:

1. Violation of any regulation under Section 3.
2. Failure of the applicant to maintain good order and proper conduct of outdoor dining patrons.

3. False information supplied with the application.
4. Any activity or event which is at variance with information submitted in the application process or which causes the Outdoor Sidewalk Dining operation to be in non-compliance Sections 2 or 3.

Section 5. Duration.

This article shall be effective until January 15, 2005 unless extended by action of the Town Council.


Section 6. Effect.

This Article IV shall supersede any contrary or inconsistent provision in Chapter 62 or in any other chapter of the Code of the Town of Wallingford.

I HEREBY CERTIFY that this Amendment to the Code was enacted by the Town Council of the Town of Wallingford this 24th day of February, 2004, in accordance with the provisions of the Charter of the Town of Wallingford.



Kathryn F. Zandri
Town Clerk

APPROVED: 

William W. Dickinson, Jr., Mayor

DATE: March, 2004

211.51.21076