

CONTINUATION OF TOWN COUNCIL MEETING OF APRIL 14, 1992

APRIL 16, 1992

8:00 P.M.

AGENDA

1. Roll Call and Pledge of Allegiance
2. Consider and Approve Authorizing the Mayor to Make Application to the State for Grant Funds for the 1991-92 Budget, 148-BAS-1, of the Wallingford Community Day Care Center, Incorporated
3. Discussion and Possible Action on Approving a Resolution of Official Intent to Reimburse Expenditures with Borrowings
4. Discussion on the Opinion of the Town Attorney in Regards to the Council's "Adoption" of a Budget as Requested by Councilor Albert Killen
5. Consider Hiring an Outside Attorney to Pursue the Town Attorney's Opinion Further as Requested by Councilor Albert Killen
6. Consider and Approve a Waiver of Bid to Hire Outside Legal Counsel- Town Attorney's Office
7. Consider and Approve a Transfer of Funds in the Amount of \$3,000 to Chaconis vs. Planning & Zoning - Town Attorney's Office
8. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Respect to Pending Litigation - Town Attorney's Office
9. Consider and Approve a Waiver of Bid to Hire Expert for Pending Litigation - Town Attorney's Office

CONTINUATION OF TOWN COUNCIL MEETING OF APRIL 14, 1992

APRIL 16, 1992

SUMMARY

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CONTINUATION OF TOWN COUNCIL MEETING OF APRIL 14, 1992

APRIL 16, 1992

7:00 P.M.

A special meeting of the Wallingford Town Council was held on Thursday, April 16, 1992 in the Robert Earley Auditorium of the Wallingford Town Hall as a Continuation of the April 14, 1992 Town Council Meeting. The meeting was called to Order by Vice Chairman David J. Doherty at 8:10 P.M. Answering present to the Roll called by Town Clerk Kathryn J. Wall were Councilors Doherty, Duryea, Killen, McDermott, Solinsky & Zandri. Chairperson Iris Papale was out due to an illness. Mayor William W. Dickinson, Jr., Town Attorney Janis M. Small and Comptroller Thomas A. Myers were also present.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Consider and Approve Authorizing the Mayor to Make Application to the State of Connecticut for Grant Funds for the 1991-92 Budget, 148-BAS-1, of the Wallingford Community Day Care Center, Incorporated

Motion was made by Mr. Killen to Table this item until a representative from the Center was present, seconded by Mr. Solinsky.

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

ITEM #3 Discussion and Possible Action on Approving a Resolution of Official Intent to Reimburse Expenditures with Borrowings

Motion was made by Mr. Killen to dispense with the reading of the resolution and append it, in its entirety, to the Town Council Minutes and make available to the public copies in the Town Clerk's Office, seconded by Mr. Holmes (Appendix #1).

Mr. Myers, Comptroller explained that there were recent changes again in the Internal Revenue Service Code that occurred on January 30, 1992 with respect to regulations for issuance of tax exempt obligations, general obligation bonds, and the use of internal borrowings prior to the issuance of those bonds. The use of internal borrowings as an internal use of cash is an accounting technique which we have employed here in Wallingford over the past seven or eight years. There are two very distinct advantages of doing this, it keeps us out of the short term borrowing market and it reduces the overall costs of projects to which we would issue bonds. The resulting resolution tonight will not, in any way, change any policy or procedure which we have followed in the past. The IRS now requires us to cite that section of the IRS Code, specifically, in our bond authorizations. All of our bond authorizations and ordinances authorized this internal use of cash prior to the issuance of bonds. That specific section of the Code is 1-103-18 which should appear in our authorizations and ordinances. The IRS is getting stricter by the day. If we are not careful in our issuance, the federal government will be in our pocket and they can force us to rebate Wallingford funds to the Federal Government.

April 16, 1992

VOTE ON DISPENSING WITH THE READING OF THE RESOLUTION: Papale and Parisi were absent; all others, aye; motion duly carried.

Mr. Edward Musso, 56 Dibble Edge Road asked that the issue be explained to him for he didn't quite understand.

Mayor Dickinson did so for Mr. Musso.

VOTE ON ADOPTING THE RESOLUTION: Papale and Parisi were absent; all others, aye; motion duly carried.

ITEM #4 Discussion on the Opinion of the Town Attorney in Regards to the Council's "Adoption" of a Budget as Requested by Councilor Albert Killen

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

Mr. Killen read correspondence dated April 1, 1992 from the Town Attorney into the record (Appendix #2). He specifically referred to the fifth paragraph of the letter in which Atty. Small states that "the second phase (of the budget process) is set forth in Chapter XV, Section 3, which requires the Council to hold a public hearing and adopt a budget by the second Tuesday of May." He pointed out that the budget workshops are scheduled to end on April 30th, and for the Council to adopt a budget and then wait the ten days in which the Mayor decides whether or not to utilize his option to veto it, is a physical impossibility. He felt that this was a "stumbling block" thrown in the Council's path. He asked the Town Attorney if she was aware of the Council's workshop schedule when she drafted her opinion?

Atty. Small responded that she did not say that the entire process had to be completed by the second Tuesday of May. Only the second phase is to be completed.

Mr. Killen argued the point that in order for the Council to adopt a budget all phases must be completed.

Atty. Small answered that the Council's vote on the budget has to be taken by the second Tuesday in May. When the Council votes on the budget it has been adopted subject to the final phase which is, the Mayor has the opportunity to veto it. If he veto's it the Council has the opportunity to override; if you are successful in overriding it, when you voted on by the second Tuesday of May, that budget is the effective budget; if you failed to override the budget the Mayor's budget is the one deemed finally adopted by the Council.

Mr. Killen stressed the point that the Council has to complete the process.....if the Mayor is going to veto it and the Council has to complete its so-called "adoption" by the second Tuesday in May.....

Atty. Small: Your vote on the budget has to be completed by the second Tuesday in May. The Charter then sends you to the other section regarding the power of veto and override.

April 16, 1992

Mr. Killen continued to challenge the Town Attorney on her opinion.

Atty. Small stressed the point to Mr. Killen that he cannot take one sentence in isolation from the section, that he must read it in its entirety and all chapter and/or sections referred to. In reading all the chapters and sections together, it is her opinion that the second phase, which is the phase that you hold your public hearing and your vote, is the phase that has to be completed by the second Tuesday in May. Once that phase is completed then you must go to the section dealing with the power of veto and override. Pending the outcome of that determines which budget becomes the final, effective budget.

Mr. Killen argued the point that the term "adopt" is defined as to accept, consent, put into effective operation.

Atty. Small reiterated that would be the result if the Council overrides any veto. If the Mayor doesn't veto it that is a result, if he does veto it and you override, that is a result, if he veto's it and you do not override it then you have not adopted anything and it is deemed by the Charter not to have been adopted and the Mayor's budget, in the Charter's words, "deemed finally adopted by the Council". We can take one word in one sentence and isolate it or we can read it in its entirety in consistent with each section and that is my interpretation and the laws of statutory construction require me to do so.

Mr. Killen stated that the Charter refers to the budget as a "budget ordinance" and pointed out that it is not an ordinance. has not been cataloged as one and assigned a number, therefore it is does not live up to Section 7 of Chapter III of the Charter.

Mr. Killen then pointed out the fact that the veto power of the Mayor applies only to ordinances and the budget is not considered an ordinance since it has not been assigned a number and passed as an ordinance.

Atty. Small stated that an ordinance will have to be passed.

Mr. Killen stated that public hearings have to be held prior to the adoption of an ordinance. There is no public hearing held on the Council's budget prior to adopting it at the end of the budget workshops.

Atty. Small would have to research whether or not a second public hearing would have to be held after the Council is through with the workshops. She could not give an answer this evening and will look into it.

No action taken.

ITEM #5 - Withdrawn

ITEM #2 Remove From the Table to Consider and Approve Authorizing the Mayor to Make Application to the State for Grant Funds for the 1991-92 Budget. 148-BAS-1. of the Wallingford Community Day Care Center, Inc.

April 16, 1992

Motion was made by Mr. Killen to Remove it from the table, seconded by Mr. Holmes.

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

Motion was made by Mr. Killen to Consider and Approve the Mayor to Make Application, seconded by Mr. Holmes.

The agenda did not correctly list all of the actions necessary for the grant, therefore Rule V of the Town Council Meeting Procedures will have to be waived to include all the necessary motions and actions.

The State of Connecticut has offered to help the Wallingford Community Day Care Center, Inc. with funding for the Before/After School Program. The Department of Human Resources has recently informed the Town that it is eligible for a \$7,000 grant for the current fiscal year. This has resulted in the need to request from the Town Council approval of the application for funding.

Motion was made by Mr. Killen to Approve a Resolution Authorizing the Mayor to Make Application to the State of Connecticut for Funding pursuant to Chapters 133 and 300a of the Ct. General Statutes, and a copy of such Resolution will be appended to the minutes of the Town Council Meeting, seconded by Mr. Holmes (Appendix III).

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

Motion was made by Mr. Killen to Waive Rule V of the Wallingford Town Council Procedures to Consider and Approve a Resolution Authorizing the Wallingford Community Day Care Center to Borrow from the Town of Wallingford Amounts Necessary to Meet the Essential Operating Expenses of the Center Between the Time that the Center's Program is Approved by the State and the Time the Actual Funding is Received, seconded by Mr. McDermott.

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

Motion was made by Mr. Killen to Approve the Above-Mentioned Resolution, and Append a Copy to the Town Council Minutes (Appendix IV), seconded by Mrs. Duryea.

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

Motion was made by Mr. Killen to Approve the Agreement Between the Town of Wallingford and the Wallingford Community Day Care Center, Inc., seconded by Mr. McDermott (Appendix V).

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

ITEM #6 Consider and Approve a Waiver of Bid to Hire Outside Legal Counsel - Town Attorney's Office

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

Atty. Small explained that due to a conflict of interest on her part with the homeless shelter which also extends to the staff she supervises in the office, she must hire an outside attorney to handle the Chaconis vs. Planning & Zoning case. Attorney John Knott, Cheshire's Town Attorney will be hired to represent the Town. He will report to Janis to keep her informed of the proceedings.

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

ITEM #7 Consider and Approve a Transfer of Funds in the Amount of \$3,000 from Professional Services Acct. #001-1320-900-9010 to Chaconis v. P & Z Acct. #001-1320-900-9070

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

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

ITEM #8 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Respect to Pending Litigation - Town Attorney's Office

Motion was made by Mr. Killen to Move Into Executive Session, seconded by Mr. Holmes.

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

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

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

ITEM #9 Consider and Approve a Waiver of Bid to Hire Expert for Pending Litigation

Motion was made by Mr. Killen, seconded by Mr. McDermott.

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

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

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

April 16, 1992

There being no further business, the meeting adjourned at 10:06 P.M.

Meeting recorded and transcribed by:

*Kathryn F. Milano*

Kathryn F. Milano, Town Council Secretary

Approved by:

*David J. Doherty*

David J. Doherty, Vice Chairman

**MAY 26 1992**

Date

*Kathryn J. Wall*

Kathryn J. Wall, Town Clerk

**MAY 26 1992**

Date



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**RESOLUTION OF OFFICIAL INTENT TO REIMBURSE  
EXPENDITURES WITH BORROWINGS**

**RESOLVED:**

The Town of Wallingford (the "Issuer") hereby expresses its official intent pursuant to §1.103-18(f) of the Federal Income Tax Regulations, Title 26, to reimburse expenditures paid after the date of passage of this resolution in the maximum amount and for the capital projects set forth below with the proceeds of bonds, notes, or other obligations ("Bonds") issued by the Issuer. The Bonds shall be issued to reimburse such expenditures not later than one year after the later of the date of the expenditure, or the substantial completion of the projects. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Comptroller or his designee is authorized to pay project expenses in accordance herewith pending the issuance of reimbursement bonds and to amend this declaration. This resolution shall be made available in the office of the Town Clerk for public inspection within thirty days of its passage, and any amendment shall be made available for public inspection within thirty days of such amendment.

**ESTIMATED  
COST**

**PROJECTS**

\$ 2,655,000

1. Public School Roof Reconstruction as more fully described in an ordinance enacted by the Town Council on January 10, 1989, as amended, and incorporated herein by reference.

\$ 2,106,000

2. Planning and Construction of Code Compliance for Handicapped Accessibility at Town Schools, as more fully described in an ordinance enacted by the Town Council on June 28, 1988, as amended, and incorporated herein by reference.

**ESTIMATED  
COST**

**PROJECTS**

- |              |  |
|--------------|--|
| \$ 1,075,000 | 3. Lyman Hall High School Vocational Agricultural Center, as more fully described in an ordinance enacted by the Town Council on November 7, 1988, as amended, and incorporated herein by reference. |
| \$ 1,600,000 | 4. Modular Classrooms at Town Schools as more fully described in a ordinance enacted by the Town Council on February 13, 1990, and incorporated herein by reference.                                 |
| \$ 510,000   | 5. Settlement of Orchard Properties v. Town of Wallingford, as more fully described in an ordinance enacted by the Town Council on May 14, 1991, and incorporated herein by reference.               |
| \$ 800,000   | 6. Various Municipal Capital Improvements 1989-1990, as more fully described in an ordinance enacted by the Town Council on June 27, 1989, and incorporated herein by reference.                     |
| \$ 1,195,000 | 7. Various Municipal Capital Improvements 1990-1991, as more fully described in an ordinance enacted by the Town Council on July 10, 1990, and incorporated herein by reference.                     |
| \$ 965,000   | 8. Open Space Properties, as more fully described in an ordinance enacted by the Town Council on August 14, 1990, and incorporated herein by reference.  |

ESTIMATED  
COST

PROJECTS

\$ 180,000

9. Planning and Design of The South Elm Street Parallel/Relief Sewer, as more fully described in an ordinance enacted by the Town Council on January 14, 1992, as amended, and incorporated herein by reference.

\$ 2,045,000

10. Design and Construction Engineering Phases in connection with the Acquisition of an Air Stripping Plant for Water Supply No. 2 and a Filtration System for Water Supply Well No. 3, as more fully described in an ordinance enacted by the Town Council on March 8, 1988, as amended, and incorporated herein by reference.

\$20,658,000

11. Water Treatment Facility and Associated System Improvements, as more fully described in an ordinance enacted by the Town Council on May 24, 1988, as amended, and incorporated herein by reference.

\$38,300,000

12. Construction of a Sewage Treatment Plant, as more fully described in an ordinance enacted by the Town Council on January 22, 1985, and incorporated herein by reference.

\$ 250,000

13. Acquisition of Police Department Computer Equipment, as more fully described in an ordinance enacted by the Town Council on October 22, 1991, and incorporated herein by reference.

\$ 1,500,000

14. Acquisition of Certain Wallace Avenue and Center Street Properties, as more fully described in an ordinance enacted by the Town Council on July 9, 1991, and incorporated herein by reference.

**ESTIMATED  
COST**

**PROJECTS**

\$ 850,000

15. Various Municipal Capital Improvements 1991-1992, as more fully described in an ordinance enacted by the Town Council on June 11, 1991, and incorporated herein by reference.

\$ 472,000

16. Planning and Design Phase of the Town Electric Generation Expansion Project, as more fully described in an ordinance enacted by the Town Council on April 10, 1990, and incorporated herein by reference.

Fourth Budget Workshop

April 16, 1992

The Fourth Budget Workshop of the Wallingford Town Council was held on Thursday, April 16, 1992 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order at 7:07 P.M. by Vice Chairman David J. Doherty. All Councilors answered present to the Roll called by Town Clerk Kathryn J. Wall with the exception of Mr. Holmes who arrived at 7:25 P.M.; Chairperson Iris Papale who was ill and unable to attend, and Mr. Parisi who had a previous commitment. Mayor William W. Dickinson, Jr. arrived at 7:58 P.M.; Town Attorney Janis M. Small arrived at 7:26 P.M. Comptroller Thomas A. Myers was also present.

The Pledge of Allegiance was given to the Flag.

VISITING NURSES ASSOCIATION, Page 78

Department Requested - \$266,078  
Mayor Approved - \$266,078

Motion was made by Mr. Killen to Approve the Mayor's Approved Budget in the amount of \$266,078., seconded by Mrs. Duryea.

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

TOWN COUNCIL, Page 20

Department Requested - \$74,985  
Mayor Approved - \$74,985

Motion was made by Mr. Killen to Approve the Mayor's Approved Budget in the Amount of \$74,985., seconded by Mr. Solinsky.

The Town Council Secretary requested that the labor grade for the secretarial position be raised to Pay Grade 13 to bring the job in line with the other secretarial positions in the town.

Mr. Holmes made a motion to ask Chairperson Iris Papale Request in Writing to the Personnel Director that the Position of Town Council Secretary be Reviewed for Re-Classification of Labor Grade Status, seconded by Mr. Solinsky.

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

Mr. McDermott recommended that the Council consider setting aside funds in the amount of \$13,000 to join the Connecticut Conference of Municipalities. He suggested that the Board of Education and Public Utilities be contacted to see if they are interested in joining so the fees could be shared. The Council came to the conclusion that this issue be placed on the agenda of the April 28, 1992 Town Council Meeting.

Motion was made by Mr. Killen to Move the Entire Page as Presented, seconded by Mr. Solinsky.

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

DEPARTMENT OF LAW, Page 31

Department Requested - \$264,586  
Mayor Approved - \$264,586

Motion was made by Mr. Killen to Approve the Mayor's Approved Budget in the Amount of \$264,586., seconded by Mr. McDermott.

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

Motion was made by Mr. Killen to Adjourn the Meeting, seconded by Mr. Solinsky.

The meeting adjourned at 8:07 P.M.

At this time a Continuation of the Town Council Meeting of April 14, 1992 was called to order.

Upon adjournment of the Town Council Meeting, a motion was made by Mr. Holmes at 10:07 P.M. to Move Back Into the Budget Workshop of April 16, 1992, seconded by Mr. Doherty.

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

MAYOR, Page 27-28

Department Requested - \$182,274  
Mayor Approved - \$128,274

Motion was made by Mr. Holmes to Approve the Mayor's Budget as Approved in the Amount of \$182,274., seconded by Mr. Doherty.

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

Motion was made by Mr. Killen to Adjourn the Meeting, seconded by Mr. Solinsky.

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

There being no further business, the meeting adjourned at 10:24 P.M.

Meeting Recorded and Transcribed by:

*Kathryn F. Milano*

Kathryn F. Milano, Town Council Secretary  
April 21, 1992

Approved by:

Iris F. Papale, Chairperson

RECEIVED FOR RECORD

4/21/92

AT 4:10 P.M. AND RECORDED BY

Kathy J. Wall TOWN CLERK.

Date

Kathryn J. Wall, Town Clerk

Date

IMPORTANT NOTES/FACTS TO REMEMBER FROM BUDGET WORKSHOP #4

TOWN COUNCIL BUDGET

Mr. McDermott recommends joining Connecticut Conference of Municipalities (CCM) with a membership fee of \$13,000.

The Council concluded that the issue will be addressed at the April 28, 1992 Town Council Meeting. Contact the Board of Education and Utilities to consider sharing cost if interested.

Request Director of Personnel to review the labor grade status of the Town Council Secretary position to consider raising it from labor grade 11 to 13.