

TOWN COUNCIL MEETING

APRIL 8, 1997

6:30 P.M.

AGENDA

1. Pledge of Allegiance and Roll Call
Voice of Democracy Speech - Kathleen Murphy
2. Consent Agenda
 - a. Consider and Approve Tax Refunds (#315-320) Totalling \$3,476.96 - Tax Collector
 - b. Note for the Record Anniversary Increases Approved by the Mayor to Date
 - c. Note for the Record Mayoral Transfers Approved to Date
 - d. Note for the Record Financial Reports of the Wallingford Public Library; Visiting Nurse Association; Senior Citizen Center
 - e. Consider and Approve a Transfer of Funds in the Amount of \$1,660 from Health Insurance Acct. #001-8035-800-8300 to Full Size Van Acct. #001-2020-999-9902 - Animal Control Officer
 - f. Consider and Approve an Appropriation of Funds in the Amount of \$1,900 to Local Match Acct. #012-1040-060-6000 and to Pension Acct. #012-9000-800-8020 - Youth Service Bureau
 - g. Consider and Approve a Transfer of Funds in the Amount of \$1,900 from Elderly Meals Acct. #001-3070-600-6771 to Social Service Contribution - Youth Service Bureau Acct. #001-3070-600-6881 - Youth Service Bureau
 - h. Consider and Approve a Transfer of Funds in the Amount of \$2,312 from FICA & Medicare Acct. #012-9000-900-8010 and \$1,000 from Battered Women's Shelter Acct. #012-9000-901-9008 of Which \$2,312 is Transferred to Consolidated Pension Plan Acct. #012-9000-800-8020 and \$1,000 is Transferred to Youth Projects Acct. #012-9000-600-6600 - Youth Service Bureau
 - i. Consider and Approve a Resolution Authorizing the Mayor to Re-Apply to the State for Youth Service Bureau Continuation Funds in an Amount Up to \$60,000. - Youth Service Bureau

3. Items Removed from the Consent Agenda
4. PUBLIC QUESTION AND ANSWER PERIOD
5. Consider and Approve One Appointment to the Position of Commissioner on the Zoning Board of Appeals to Fill a Vacancy Which Expires 1/8/99
6. Consider and Approve Confirming One Mayoral Appointment to the Position of Commissioner on the Public Utilities Commission for a Term of Three Years to Expire 3/1/2000
7. Consider and Approve a Transfer of Funds in the Amount of \$7,950 from Maintenance of Pools Acct. #001-4001-560-5110 to Capital/Wall Padding Acct. #001-4001-999-9904 - Parks & Recreation Dept.
8. PUBLIC HEARING on a Proposed Ordinance Entitled, "Demolition of Old Buildings or Structures" - 7:45 P.M.
9. Consider and Approve a Transfer of Funds in the Amount of \$8,972 from Materials & Supplies Acct. #001-5015-401-4100 and \$11,028 from Regular Salaries Acct. #001-5015-101-1000 for a Total of \$20,000 to Overtime Acct. #001-5015-101-1400 - Dept. of Public Works
10. Discussion and Possible Action Regarding a Release of an Open Space Easement as Part of the Pilgrim's Harbor Property Condominium and Golf Course Project
11. Discussion on a Proposal by Habitat of Wallingford to Obtain Town-Owned Property for a Habitat Project - Habitat Site Selection Committee
12. Consider and Approve an Appropriation of Funds in the Amount of \$40,000 for Engineering Fees to be Incurred in connection with a Board-Approved Plan to Repair a Slab Condition at Moran Middle School - Superintendent of Schools
13. Consider and Approve Granting a Waiver of Bid to Criscuolo/Shepard to Perform Engineering Tasks for Slab Repair Work at Moran Middle School - Superintendent of Schools
14. Consider and Approve Authorizing the Board of Education to Make Application to the State for Approval of and Reimbursement for a Pre-School Special Education Project
15. Consider and Approve Designating the Board of Education as the Building Committee for the Pre-School Special Education Project

16. Consider and Approve an Appropriation of Funds in the Amount of \$40,000 in the 1997-98 School Budget Year for Architectural and Engineering Fees Associated with the Pre-School Special Education Project
17. Report Out by the Comptroller on the Debt Service, Pension and Surplus Funds of the Town as Requested by Councilor David J. Doherty
18. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Respect to Strategy and Negotiations Pertaining to Pending Litigation - Town Attorney
19. Consider and Approve a Transfer of Funds in the Amount of \$11,360. from Elderly Meals Program Acct. #001-3070-600-6771 to Purchase Services Video Engineer Acct. #001-1303-901-9010 - Program Planner

TOWN COUNCIL MEETING

APRIL 8, 1997

6:30 P.M.

ADDENDUM TO AGENDA

20. Consider and Approve One Appointment/Re-Appointment to the Position of Commissioner on the Inland Wetlands Commission for a Term of Five Years to Expire 3/1/2002
21. Consider and Approve One Appointment/Re-Appointment to the Housing Authority for a Term of Five Years to Expire 10/31/2001

TOWN COUNCIL MEETING

APRIL 8, 1997

6:30 P.M.

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TOWN COUNCIL MEETING

APRIL 8, 1997

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, April 8, 1997 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. Parisi at 6:36 P.M. All Councilors answered present to the Roll called by Town Clerk Rosemary A. Rascati with the exception of Councilperson Papale who was vacationing out of the State. Mayor William W. Dickinson, Jr. and Corporation Counselor Adam Mantzaris were also present. Comptroller Thomas A. Myers arrived at 6:40 P.M.

Rev. Stephen Baker of the Heritage Baptist Church bestowed a blessing upon the Council.

The Pledge of Allegiance was given to the Flag.

Mr. Knight took a brief moment to inform everyone that the architectural firm of Fletcher Thompson who has been working with the School Expansion Building Committee on the Yalesville Elementary and Middle School project has received an award entitled, the Project Team Award from the CT. Building Congress for the work done on the Yalesville Elementary School. It speaks to the professionalism of which this entire project has been handled by the School Building Expansion Committee.

Mr. Parisi extended congratulations to Susan Judd, resident of Wallingford, who received the Elementary School Counselor of the Year Award. Ms. Judd is employed by the Seymour education system.

The Fifth Annual Youth Recognition Awards Night was held on Thursday, April 3, 1997. Close to one hundred youths received certificates for their volunteerism over the past year. Some presidential awards were given that night as well.

Ms. Kathleen Murphy, second place winner of the Voice of Democracy Award, an event which involves national competition and is sponsored by the Yalesville V.F.W., was expected to give a presentation to all present prior to the start of the meeting however, Ms. Murphy could not be present due to the fact that the play practice she was attending prior to the meeting did not finish up until very late.

ITEM #2 Consent Agenda

ITEM #2a Consider and Approve Tax Refunds (#315-320) Totalling \$3,476.96 - Tax Collector

ITEM #2b Note for the Record Anniversary Increases Approved by the Mayor to Date

ITEM #2c Note for the Record Mayoral Transfers Approved to Date

ITEM #2d Note for the Record Financial Reports of the Wallingford Public Library; Visiting Nurse Association and Senior Citizen Center

ITEM #2e Consider and Approve a Transfer of Funds in the Amount of \$1,660 from Health Insurance Acct. #001-8035-800-8300 to Full Size Van Acct. #001-2020-999-9902 - Animal Control Officer

ITEM #2f Consider and Approve an Appropriation of Funds in the Amount of \$1,900 to Local Match Acct. #012-1040-060-6000 and to Pension Acct. #012-9000-800-8020 - Youth Service Bureau

ITEM #2g Consider and Approve a Transfer of Funds in the Amount of \$1,900 from Elderly Meals Acct. #001-3070-600-6771 to Social Service Contribution - Youth Service Bureau Acct. #001-3070-600-6881 - Youth Service Bureau

ITEM #2h Consider and Approve a Transfer of Funds in the Amount of \$2,312 from FICA & Medicare Acct. #012-9000-900-8010 and \$1,000 from Women's Shelter Acct. #012-9000-901-9008 of Which \$2,312 is Transferred to Consolidated Pension Plan Acct. #012-9000-800-8020 and \$1,000 is Transferred to Youth Projects Acct. #012-9000-600-6600

ITEM #2i Consider and Approve a Resolution Authorizing the Mayor to Re-Apply to the State for Youth Service Bureau Continuation Funds in an Amount up to \$60,000 - Youth Service Bureau

Motion was made by Mr. Rys to Approve Items #2a-2i of the Consent Agenda as Presented; seconded by Mr. Farrell.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #3 Withdrawn

PUBLIC QUESTION AND ANSWER PERIOD

Frank Wasilewski, 47 N. Orchard Street read the following quote into the record, "The more I learn about government and especially about this democracy the more deeply convinced I become that one of our greatest strengths as a people is our free right to full and free expression." He did not identify the author of the quote.

He went on to say that after reading that quote he reviewed some of the past Town Council Meetings and specifically the last one held to see how much time a person is allowed to give free

expression. He stated that he has been treated very fairly in Wallingford each time he gets up to speak at the meetings. He tries to keep his comments short and to the point. Whether or not he obtains an answer that night does not bother him because he still had freedom of expression. At the last meeting, for the Council's information, during the Public Question and Answer Period one person was given 7 minutes; Mr. Wasilewski got 6 minutes; another fellow got 8; another person 7 and one got 9 (minutes) which was about equal. When it came to the 911 debate one speaker was allowed 8 minutes in which to talk; another, 8 minutes; a third speaker, 6 minutes; another, 6 minutes; the next person was cut off after 45 seconds and the person after that got 7 minutes.

Mr. Parisi stated, the person that was supposedly cut off was not cut off from speaking. The person that was cut off was requested from delivering personal messages. I think there is a difference. No one has been stopped from speaking and your times verify that. The last meeting was a marathon meeting and some people had extra time to talk because it was probably the first time that they had ever been here. That was the rationale. No one was stopped from speaking, some people may have chosen not to continue to speak.

Mr. Wasilewski stated, I think that we should give everyone equal time as long as they are speaking of concerns to the Council and the Town of Wallingford. This person who was speaking is a concerned citizen who spends a lot of time trying to make Wallingford a better place to live in. We should be a little more understanding of each other and let each one have their peace. I would like to see more people get involved in our meetings in Wallingford.

Emil Lawrence, 1149 S. Curtis Street stated, on the front page of the March 29th Record Journal it reported a sewage spill at Meetinghouse Brook near S. Curtis Street of which the Mayor, Health Department and D.E.P. were notified, according to the paper. He asked the Mayor if he had been notified and if he showed up to view the problem personally?

Mayor Dickinson responded that he spoke with the Police and Fire Departments to have them inform the residents of the streets closest to the brook to stay away from the brook until water samples can be taken. We are also looking to have our chemist perform water samples. It is primarily a City of Meriden issue. We did our best to notify the residents of Wallingford. Those residents in the Swan Avenue and Circle Drive areas were also notified.

Mr. Lawrence stated, this is not something new. We met with you several years ago on this issue. At that time we wanted Meriden to build a receptacle around the sewage treatment plant to catch

the sewage or buy another system to act as a standby. At that meeting you stated that we could not force Meriden into doing it.

Mayor Dickinson responded, it is not our jurisdiction to force Meriden to do anything. D.E.P. is involved.

Mr. Lawrence responded, D.E.P. never showed that day.

Mayor Dickinson stated, even if they did not the fact that there was effluent that breached the brook brings D.E.P. into the issue. I believe that they, having been notified, are the entity to have jurisdiction on it. If anyone can force the issue with Meriden it would be D.E.P. The newspaper article stated that Meriden is not going to be fined so D.E.P. is involved in the matter.

Mr. Lawrence commented, we had a little spill in Wallingford and were fined I don't know how much money.

Mayor Dickinson answered, we seem to get different treatment.

Mr. Lawrence stated, that area is all wells up there. The City of Meriden could care less about our wells. They built the pumping station right on the brook. The sewage comes out of the door and runs right into the brook. Six or seven years ago they had a four inch pipe pumping sewage out of that building and into the brook. It is going to get into our water table and ruin every well up there.

Mayor Dickinson commented, in terms of the total issue the D.E.P. has a major priority regarding cleaning up the rivers. Even if the D.E.P. was not motivated by the seriousness of the issue with regards to the wells, it has been clearly stated that their policies regarding cleaning up the rivers would encompass concerns over what happened at the pump station. He will look to get an answer and pass it on to Mr. Lawrence.

Mr. Lawrence stated, our pleas to get city water in our neighborhood have fallen on deaf ears. While Yale Avenue was dug up I asked that the water pipes be put in. They came up and surveyed the area and gave us a bunch of convince you, confuse you business that they can only service half the area. That is not the solution. I want to go on record as saying that if our wells get polluted and unusable which one is supposedly in the area right now, I want to go on record as saying that everyone up there deserves better treatment than what is going on. We should get city water at no expense to us. I will not pay for the pipe to come across my front lawn for water. I think that Meriden and the Town of Wallingford owes it to us.

Geno Zandri, 37 Hallmark Drive stated, now that it is public knowledge what position the Town has taken on deregulation I have a few questions. I think it is also common knowledge that Senator Brian McDermott who represents Wallingford served on the Energy Committee in Hartford which drafted the wording in the new regulations of which I have a copy of here. It is my understanding that Mr. McDermott was involved in the wording representing the Town of Wallingford as well as the other municipalities that have their own electric divisions. My question to the Council is, are you aware of any public forum or meeting held in the Town of Wallingford by Senator McDermott at which the public had an opportunity to go and have the options available to the Town on deregulation explained to them?

Mr. Parisi responded, I am not aware of any but that does not mean there weren't any.

Mr. Zandri asked, are you aware of any P.U.C. Meeting where the issue was held in a public forum or where there was a vote taken on what position the Town would take on deregulation?

Mr. Parisi responded, there was a discussion last night down the P.U.C. There was a Council sub-committee meeting with the P.U.C. at which that issue was a topic of discussion. We have had, periodically, some reports from the P.U.C. as to where deregulation was but we had not had anything within the past month.

Mr. Zandri stated, the vote on this bill was a few weeks ago and to my knowledge there was no public meeting of the P.U.C. on this topic or was a vote taken on what position the town held as far as deregulation. My third question is, was there ever a meeting of the Town Council on this issue where the public could have input and we could understand what the options were for the Town?

Mr. Parisi responded, no, there has not been yet.

Mr. Zandri asked, where did Mr. McDermott get his authority to represent the Town of Wallingford on this issue?

Mr. Parisi answered, I guess by the very fact that he was elected, maybe.

Mr. Zandri stated, he is representing the wishes of the Town of Wallingford regarding deregulation. I don't understand how he could represent the Town without the authority to do so from a Town body.

Mayor Dickinson responded, Senator McDermott was aware of the positions of public officials. He was aware of my views and I believe he was aware of the P.U.C. commissioners as well as the staff and we stand totally behind the position taken by the Town. We think it is in the interest of all the people in Town; it

maintains options for them; in the future they can opt for deregulation or not but it does not put us in an unknown basket that could adversely affect us. We are in a different position than the rest of the State because we own our own electric franchise and as such we should be in a different position and have options open to us that others do not have. I think Senator McDermott informed himself, as he should, as to the complexity of the issue and I think he formed his own opinion. I believe his opinion to be a correct one but he was aware of what elected and appointed officials in the Town felt were the important points and what was the best position for the Town.

Mr. Zandri stated, the only thing that concerns me regarding this issue is that the public was cut short and had no input what so ever as to what their options were and whether or not they wanted to go this route or explore some other options.

Mayor Dickinson responded, the public is not cut short. The process at the State level involves public hearings at which any resident can appear. Any senator or representative can receive phone calls, letters, any means of communication available to the resident. They are open to that communication throughout the session. I don't believe that there is any inability for a member of the public to talk with the representatives and senators at the State level.

Mr. Zandri responded, it is a local issue and it affects us locally, differently than any other town in the State. It is something for which there should have been a forum or a meeting locally where the Town's options could have been aired.

Mayor Dickinson answered, nearly every piece of legislation passed in Hartford will affect the Town and its residents and we regularly take positions on legislation, analyzing what we think the impact is and what we advise our representatives in Hartford to know and we advise them what to do on our behalf. Sometimes they follow our advice and sometimes they don't. That is part and parcel of the job we do in managing the Town's assets and in providing services to the public. Not every piece of legislation that comes in can be reviewed by everyone. This is one piece, it is an important piece, whether it is the most important piece at the State level could be debated by many. Some may feel that the Sheff v. O'Neil question is far larger than the deregulation issue. Depending upon where you stand on the cornucopia of ideas that come out in Hartford you can decide one thing or another is the most important but every resident has the opportunity to express his or her views to elected people.

Mr. Zandri answered, the only difference between this legislation and other legislation is that this wording singled out six towns who will be treated differently than the rest of the State. That is the difference between this and Sheff v. O'Neil.

Mayor Dickinson responded, we are singled out because we own an electric franchise. We are the only six in the State to do so. That is the logical basis to provide different treatment for towns such as Wallingford than all of the others. The residents in town ultimately will decide through a referendum or through elected official's actions what course to take as time lapses and it is clearer as to what is in the best interest of the Town. Participation in deregulation is not prevented at all, it just gives us a little bit of an opportunity to assess what will be the effect elsewhere.

Mr. Zandri stated, I still think that the townspeople were cut short as far as Wallingford's concern. One of the proposals that I would like to see adopted for the Town is that since Wallingford residents and businesses are going to be excluded from participating in deregulation like the rest of the State and will only be able to purchase their electricity locally, here, I think that if any business or resident in the Town of Wallingford negotiates a better deal with an outside firm, Wallingford Electric Division should have to match that deal. That is something to think about. I know that deregulation will be coming before this Council in a couple of weeks as an item and I think it is something that all of you should consider.

Mr. Parisi stated, I had the opportunity to talk to Brian (Senator McDermott) last week based on the comments that you made at the last meeting. He was available to talk to.

Mr. Zandri responded, I was not saying he wasn't available to talk to. I am saying, with an issue that is as important as this and with the open government that we have here, in Wallingford, I am surprised that this issue was not discussed before the vote was taken in Hartford.

Albert E. Killen, 150 Cedar Street stated that Item #21 of the consent agenda is a resolution yet he did not hear the resolution read into the record. How can the Council pass it? This is not a simple transfer by any means.

Mr. Parisi responded, it is a yearly action so we put it on the consent agenda.

Mr. Killen pointed out, if you are going to adopt a resolution it should be read into the record. This goes hand in hand with something you did at a previous committee, you named a committee without naming any names.

Mr. Parisi stated, the Council has a copy of the resolution before it. It is a matter of record because it was voted on and read.

Mr. Killen responded, the minutes of this meeting should reflect the resolution.

Atty. Mantzaris stated, it is a matter of record. I don't think that a resolution has to be read to make it part of the record.

Mr. Killen disagreed and stated that a resolution is subject to referendum. How are you going to take it to referendum if you don't even know what it is all about?

Mr. Parisi responded, it is in the record.

Pasquale Melillo, 15 Haller Place, Yalesville asked, with summer approaching and the energy situation in the State unchanged since last year, are we organized so that we have as many energy suppliers lined up as possible especially if an emergency power situation arises?

Mr. Renda stated, he discussed this issue at the Council/PUC Liaison meeting last evening. It is his belief that this year will be no worse than last summer. If it is we are in a situation where we will be o.k.

Mr. Melillo next asked if any progress has been made with regards to selling the Durham property the Town owns?

Mr. Parisi responded, there is no new news.

Mr. Zappala stated that the Conservation Commission will be meeting soon to discuss the matter.

Mr. Melillo stated that the government agencies lack old-fashioned teamwork. They should re-think, re-group and reorganize for the common good of the average Wallingford citizen instead of focusing on their egos and power. Wallingford's bosses are the taxpayers.

He next asked about the status of Community Lake?

Mr. Parisi responded, it is in the works. We had a report out about three weeks ago on it.

Philip Wright, Sr., 160 Cedar Street asked why the Mayor does not present a State of the Town address to the residents similar to the State of the Government and State of the State addresses?

Mayor Dickinson stated that if there is an occasion where the people want him to give such a speech at a meeting he would be happy to do so. It has not been done before. The budget book contains a letter which outlines the most important features of the budget from his prospective and it is available to the public.

Mr. Wright referred to the Mayor's letter in the budget book and asked for an explanation of grant reimbursements and the \$1.2 million increase that is being taken from the budget appropriation by the Mayor.

Mayor Dickinson explained the grant reimbursements to Mr. Wright and also how the budget utilize \$2.7 million from the audited cash balance, the so-called "surplus", to offset taxes.

Mr. Parisi asked that these questions be reserved for the Public Hearing on the budget scheduled for April 14, 1997 at 6:30 P.M.

Reginald Knight, 21 Audette Drive commented that some of the speakers are nervous as they approach the Council to speak. He pointed out that while the public is speaking to the Council there is "chit chat" that takes place, little bits of laughter, there is some walking around, just about everything but paying attention to what the person who is speaking is saying. The person is before the Council trying to speak from their heart, trying to work for the Town. The Council should have the courtesy to listen. There should be no snickering or joking or laughing.

On a separate matter Reginald Knight stated that he is confused why the Town is raising its mill rate when we had a \$4.9 million surplus. We have to learn to work with what we've got, improve on it and make it work better.

Robert Sheehan, 11 Cooper Avenue asked, when will the public get a report out on the final cost of the new recreation center?

Mayor Dickinson responded, in the near future. All of the books have not been closed on it, we are finalizing the punch list.

Mr. Sheehan then asked, since we are getting a slight increase in our taxes, how much will have to be cut from the budget to negate the increase?

Mr. Parisi responded, \$400,000.

Mr. Sheehan urged the Council to work diligently to reach that goal.

ITEM #5 Consider and Approve One Appointment to the Position of Commissioner on the Zoning Board of Appeals to Fill a Vacancy Which Expires 1/8/99

Motion was made by Mr. Zappala to Appoint George Lane to the Position, seconded by Mr. Doherty.

VOTE: Papale was absent; all others aye; motion duly carried.

Rosemary A. Rascati, Town Clerk performed the Swearing In Ceremony for Mr. Lane.

ITEM #6 Consider and Approve Confirming One Mayoral Appointment to the Position of Commissioner on the Public Utilities Commission for a Term of Three Years to Expire 3/1/2000

Motion was made by Mr. Rys to Confirm the Appointment of David Gessert to the Position, seconded by Mr. Centner.

Frank Wasilewski, 57 N. Orchard Street confirmed that the Mayor had made a good choice in re-appointing Mr. Gessert to the Commission. Mr. Gessert is a hard-working, energetic, conscientious individual. He is one of the better commissioners that the utilities have had. The utilities are beginning to show a lot of progress because Mr. Gessert is pushing them to the limit.

Philip Wright, Sr., 160 Cedar Street agreed with Mr. Wasilewski. Mr. Gessert works very hard and asks all the right questions at the meeting. It is Mr. Gessert's experience in business that qualifies him to ask the right kinds of questions. He does a fine job. He wishes that the P.U.C. was comprised of five commissioners instead of three. In the meantime Mr. Gessert is a great asset.

Pasquale Melillo, 15 Haller Place, Yalesville asked Mr. Gessert to give a brief overview of what kind of trend is developing in the future with regards to our power needs.

Mr. Gessert invited Mr. Melillo to a P.U.C. meeting at which time Mr. Gessert would be happy to discuss the issue at length with him.

VOTE: Papale was absent; all others, aye; motion duly carried.

Mr. Gessert took a moment to express his gratitude to the Mayor, Council and public for everyone's support.

Rosemary A. Rascati, Town Clerk, performed the Swearing In Ceremony at this time.

ITEM #7 Consider and Approve a Transfer of Funds in the Amount of \$7,950 from Maintenance of Pools Acct. #001-4001-560-5110 to Capital/Wall Padding Acct. #001-4001-999-9904 - Parks & Recreation Dept.

Motion was made by Mr. Rys, seconded by Mr. Farrell.

Thomas Dooley, Director of Parks and Recreation explained that the transfer is being sought to fund the purchase of wall padding for the gymnasium at the new recreation center. Although budgeted for, the estimate was much greater than anticipated due to the fact that the gymnasium was still in the design phase last year when the budget was being put together. Not wanting to go without having any money in the wall padding account, he based the wall padding estimate on 6' pads at that time. When the design phase was complete it was decided that it would be in the Town's best interest to match the padding on the walls with the padding on the columns and padding in the entire gym, hence a higher estimate than originally planned.

VOTE: Papale was absent; all others, aye; motion duly carried.

Motion was made by Mr. Rys to Move Agenda Items #20 & 21 Up to the Next Order of Business, seconded by Mr. Centner.

VOTE: Papale was absent; all others, aye; motion duly carried.

ADDENDUM ITEM #20 Consider and Approve One Appointment/Re-Appointment to the Position of Commissioner on the Inland Wetlands Commission for a Term of Five Years to Expire 3/1/2002

Motion was made by Mr. Rys to Appoint Ellen Deutsch to the Position, seconded by Mr. Knight.

VOTE: Papale was absent; all others, aye; motion duly carried.

ADDENDUM ITEM #21 Consider and Approve One Appointment/Re-Appointment to the Housing Authority for a Term of Five Years to Expire 10/31/2001

Motion was made by Mr. Rys to Appoint Fred Monahan, Jr. to the Position, seconded by Mr. Farrell.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #8 PUBLIC HEARING on a Proposed Ordinance Entitled, "Demolition of Old Buildings or Structures" - 7:45 P.M.

Motion was made by Mr. Rys to Open the Public Hearing. There was no second to the motion.

Mr. Rys read the ordinance in its entirety into the record (Appendix I).

Corporation Counselor Adam Mantzaris apologized to the Council and members of the public present for the ordinance stating that he has had a chance this afternoon to more thoroughly research the legal basis for the ordinance. There are some legal problems with the

way the ordinance is worded. He suggested that the Council open the public hearing and then suspend it to the Town Council Meeting of May 13th. In the meantime he will have a chance to more thoroughly research this question and meet with the members of the Ordinance Committee and report out to the full Council.

Geno Zandri, Jr., 37 Hallmark Drive asked if there are major language changes to the ordinance?

Atty. Mantzaris responded, Section 3.b. requires notice to the Wallingford Historic Preservation Trust, to the owners of land which abut the building or structure to be demolished and to any other person who has registered a desire with the Building Inspector to be notified. His reading of the State Demolition Code Statute would now lead him to believe that the only notice the Town can require is the notice to the owners of the land that abut the structure to be demolished. We cannot require notice to the Historic Preservation Trust or any other organization or to any other person who has a desire to be notified of the demolition. That is one problem. With regards to Section 3.c., he was not certain of an objection situation. Section 3.d., follows Section 3.b., in which if the Building Inspector gets an objection from the people noticed in Section 3.b., he will delay the action for seventy days. Section 3.e., requires that all costs to be paid for by the applicant. The Statute only allows us to enact a waiting period of up to ninety days. The ordinance provides for seventy days which is appropriate. I don't think the ordinance can require that the cost of publication or notice be paid for by the person who wants to demolish a building. It may provide for objection however, he feels that is to notify the abutting owners so that they can prepare and make sure that the person to demolish appropriately protects the abutter's property. The problem is notification to anybody besides the adjoining property owners; the requirement that the cost of notification be paid for by the applicant; and fifteen days for an objection...the Building Inspector will have the authority under the ordinance and State Statute to delay the demolition for up to ninety days. That is what the ordinance should legally address. Since he set out his objections and problems to the ordinance perhaps it can be voted on tonight.

Mr. Zandri stated, if there are only minor changes the Council can amend the ordinance and vote on it this evening.

Reginald Knight, 21 Audette Drive stated, we are opening a big can of worms. We are arguing the power of the State against the private rights of the homeowner. What happens if someone wants to demolish a building and the Building Inspector delays the process due to an objection and the building falls down and hurts someone?

It will be the Town's fault. This should have a special meeting date and not be taken up at a regular Town Council Meeting.

Vincent McManus, 116 Main Street stated, I whole-heartedly endorse the comments of Atty. Mantzaris who stated that this ordinance is not ready for the Council's vote. It is my legal opinion that this ordinance, in its current form, is an invitation to endless litigation because I don't believe that you have the power to enforce it in the first place. As I read this article line by line there is literally something wrong with it in every line. I started out in the first chapter with its alleged justification or its legislative authority for passage which is proposed to be 29-406b of the General Statutes. That particular statute authorizes the Town to adopt a waiting period after a demolition permit is applied for by a State licensed and authorized demolition contractor but it does not authorize it to do it for the reasons that this ordinance requests. It does not authorize any of the waiting periods, it does not authorize any of the newspaper articles and indeed, sets the specific authority for regulating in this area with the Commissioner of Public Safety. And that specific statute sets in the Commissioner of Public Safety the authority to even set the definitions...some of which definitions for building and demolition have apparently been drawn from what he has regulated but I can tell you right now that this definition of structure has not been appropriately drawn from the regulations of the Chairman of Public Safety in the State of Connecticut. I believe that based upon the so-called demolition code of the State of Connecticut this body does not have the authority to adopt this particular ordinance and I can tell you this definition of structure would not survive judicial review. I can tell you that if this body wishes to make a laughing stock out of itself it will adopt some legal ordinance that will tell a public official that it should base its decision on whether or not to give a permit on something called, "anecdotal evidence". Does anyone else have another word for anecdotal evidence besides gossip, rumor, heresy or a number of other unpleasant things that your and I would not want our legal rights to be determined upon? In addition to that, the question comes in this particular ordinance as to whether or not this particular enactment as far as the demolition code, its own separate body of law, or whether its part of the State Building Code. If this is part of the State Building Code I can tell you that pursuant to CT. General Statutes Sec.29-254, you cannot do this at all, period. You are precluded from doing it, the procedure for amending the State Building Code is set forth in that statute. If this is part of our corporate body of law as part of our building code, I am telling you now that you cannot do this. I am telling you that if it is not part of the building code but rather part of the State Demolition Code, it is only one small part of this that has been authorized by statute for you to do and that is to adopt a waiting period after a lawfully authorized demolition contractor has made an application. The

point at law we have to notify abutting property owners, that is already part of the law. The parts that would survive judicial scrutiny already exist and have essentially been pre-empted by the State of Connecticut. I can tell you this that the Supreme Court of the State of Connecticut in a case that we all ought to be fairly versed in, Simon v. Canty, as a rule, the rules that determine whether a power has been delegated to a municipality are well-established. The legislature has been very specific in enumerating powers granted to the municipality. In determining whether the municipality has the authority to adopt a challenge provision we do not search for statutory prohibition against such an enactment rather we must search for statutory authority for the enactment. I can tell you right now that there is no statutory authority for what I would call the non-statutory parts of this ordinance, that is the parts that don't talk about a waiting period. Not the waiting period here, just the waiting period that is intended under that statute to give the local building inspector the chance to check out the things that he is supposed to check out. As far as the waiting, there is no point in talking about the other things that are already required and mandated by State law. This fine of \$500., unless this is part of the State Building Code, the authority to assess that fine exists nowhere. The maximum fine you could assess is \$100. If it is part of the State Building Code, you cannot do this at all because the procedure for amending the Building Code exists under the statute and you would have to go to Chapter 54 of the General Statutes. I would urge you in all fairness and sincerity to listen to your Town Attorney and kill this thing on arrival or give Atty. Mantzaris a chance to work on it.

Bob Weideman, 57 E. Dayton Hill Road stated, it is desirable to try and save old buildings that have unique architectural details or social significance. Encouraging the preservation of historical items may be good, however, I don't think that this proposed ordinance is fair and still may not accomplish much except add cost and delay the use of one's property. The entire Town would become an historic district. This is a back-door approach to creating an historic district that I feel many townspeople voiced strong opposition to. It penalizes and affects the property rights of current owners. It does not give anyone the right to go over your property to review the details of the historical significance. The person objecting to the application does not have any cost to provide that objection but the property owner may be faced with substantial expenses and cannot get a permit until all the costs have been paid. I thought that the republican platform and perhaps the democratic as well was trying to promote less regulation, not more governmental interference.

Ed Loughlin, 150 S. Main Street stated, I agree with my fellow attorneys which is uncustomary. I agree with all of the objections that have been stated. If we look at the purpose of the

CT. Demolition Statute it is, in fact, based upon the purpose of attaining safety. It is not an historic preservation statute. It should be limited in scope for the purpose to which it was drawn. Both Attorney Mantzaris and McManus have made that very, very clear. I think that some very good points have been made by Reginald Knight and Mr. Weiderman. The vagueness, even if this is legitimate, which I seriously doubt, the vagueness of it is extremely dangerous, exposing the Town to considerable risk of lawsuit against the Town, itself. In addition to all of the legalistic arguments, however, there is a very sound common sense every day guy, person, man and woman on the street point of view just based on common sense why this ordinance should not be adopted. If there is any chance at all that this Council this evening will seriously consider adopting this ordinance I would like to return to this microphone to give you what I consider a common sense approach. I want everyone to know that I am certainly not opposed to historic preservation. My wife and I live in a house built in the 1740s. We have spent a considerable amount of our time and limited funds preserving that house and are very proud of it. I would like to see that practice continue by other people. I do not seek legislation to force them to do it. There are many common sense arguments against this. I would like to reserve the right to come back to the microphone to make those points clear in the event that this Council will by any stretch of the imagination consider adoption of this ordinance.

Steve Lazarus, 63 Curtis Avenue stated, what we have are a group of attorneys and others who are determined not to see this happen. I would love you to take Ed Loughlin up on his offer. What I would like to advocate is to put on a positive hat and we try to figure out how we can make this ordinance work. There are lots of practical reasons why it cannot work. There are lots of things about it that are difficult but I think that if all the attorneys behind me were coming up here with constructive thoughts about how we can make it work, we'd stand a fighting chance. In fact, what I would like to say, for all of us to plan for today or tomorrow is a big task; to plan for next week is real tough; to plan for next year is almost impossible. You, as a government body do a good job of planning for next week and next year. While we are doing that though we are living in a community where there are buildings that have an entirely different lifespan than we do. We are talking about buildings which are 100, 200 & 300 years old, three or four lifetimes. It is very difficult for us to plan for those resources. There is no doubt that those buildings are resources which to some very, very small extent belong in the community. All that this ordinance was doing and I hope that it happens in some fashion is giving everyone a chance to think for a few weeks before the building is torn down. During those few weeks there is a chance for the people in the community to try and think of a way to relocate the building. We are not asking for the building to stay up forever. We are not looking to take rights

away from property owners. We are just asking them to wait for a few weeks. It is a small amount of respect to grant for a building that is 100, 200 or 300 years old. I hope we can think of practical reasons to have an ordinance like this instead of thinking of practical reasons why it is just impossible.

Richard Gee, 295 Highland Avenue stated, I am not speaking as an attorney. I do not represent anyone or any group. I am representing myself and wife only. We own property in Yalesville which is well over 100 years old. Like Mr. Loughlin we, too, have preserved it, have put a lot of time, money and effort into it, are proud of it and will continue to be proud of it. This ordinance serves no purpose and gives no credit to the average human being who wants to buy, sink their time and money into a piece of property and improve it. It is another example of government throwing more weight on the back of the property owner. It is another example of government requiring a property owner to pay more, wait more, it is just more roadblocks. I don't think it is needed, I don't think it serves any public purpose that cannot be served by an individual using common sense as Ed Loughlin has said. I oppose the ordinance but I will be very specific about one section. I hope you kill it tonight...I hope you kill it at some point but if you choose not to Mr. Mantzaris, if you would look at Section 2, paragraph b., the second sentence I have a problem with it. It says, the demolition is not to include the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in the appearance or design. I am assuming that if that repair or maintenance does involve a change in appearance or design then it is demolition. I have a bay window on my cottage. What if I decide that I want to put a plate glass window there? I am maintaining it and repairing it. I am changing the architectural appearance of my victorian cottage. Have I demolished it? No. Yet, I need to go through this process? I think it is poorly worded and it needs to be taken out or reworded. Thank you for your time and I oppose this ordinance wholeheartedly.

Richard Krombel, 38 N. Elm Street stated, often times you don't realize what you have until it is gone. Wallingford is fortunate, maybe even blessed to have the beautiful, historic buildings which line its streets, S. Main; N. Main; N. Elm. Buildings that towns like Meriden or Hamden can only dream about now. While many of us pay the mortgages on these older structures I don't consider myself or many of the rest of us the true owners of that property any more than the community owns them at large. Every community enacts statutes to protect what it holds valuable. You would no more want skateboarders weaving in and out of traffic or your neighbors turning up the stereo all hours of the night or a sand and gravel operation next door. The ordinance before you tonight is designed to preserve what Wallingford values, its living and irreplaceable history. It does not prevent demolition of a structure as so many people have tried to misconstrue tonight, it simply gives those who

are concerned about the value of the property several weeks to try and see if they can offer an alternative use for the property, to perhaps arrange for the sale or transfer of that property or to maybe even remove the structure as was done with the Tabor House and preserve it elsewhere. If a building is 100 or 200 years old, is several more weeks that much to ask? The most significant thing about a building, or the most graceful item about a building that is over 100 years old is the living testimony it provides to Wallingford's history. I urge you to support this ordinance.

Pasquale Melillo, 15 Haller Place, Yalesville, stated, it would be a blatant violation of the Constitution relative to confiscation of private property. This ordinance should be tabled and not go any further.

Larry Morganstein, 177 S. Main Street stated, we are not looking to save every house or make it a museum piece but I think what people are saying before is that we are looking for reflection, the time for people to consider what value a building may have to a community and the fabric of that community. Not every building has that kind of value but you do have a lot of communities that have some sort of statutes that work towards this. I would like you to consider the spirit of what people are trying to accomplish. There are many communities that have lost something that is irreplaceable. What do we have to lose? Yes, individuals have rights to their property, I have a home that dates back a few hundred years as well. I would be willing to have that be a price to pay. I hope you consider that tonight. I could provide plenty of literature on cities and towns that have lost valuable buildings and places that meant something to the people that lived there that are lost that are now parking lots. Is that a community gain? This town still has a lot of character. In some ways there are buildings less than 100 years old that also capture style and a history that would not be covered under this ordinance. Their loss would also be a loss. We are not looking for every building to be considered. Please consider the spirit of the ordinance for maybe there is a way it can be enacted.

Jay Fishbein, 23 Pine Glenn Terrace stated, while the house I live in is approximately 35 years old, the building I work in is over 110 years old and passage of this ordinance would have some effect on my building. I would like to thank the ordinance committee and Council for developing this ordinance and advancing it. I am here to support the adoption of the ordinance. The passage of such an ordinance would at least make a statement by the Town that it recognizes and appreciates its heritage. The effect of the ordinance would be very limited. It would only apply to structures that are 100 years old. The ordinance would only really accomplish a waiting period. It would not prevent the ultimate demolition or modification of the structure. A developer, contractor or property

owner would not suffer much imposition, if any at all, from the enacting of the ordinance because all they would really have to do is make advance application to the Building Department for the demolition or modification to their property. In closing he restated his support for the ordinance and urged the Council to pass the ordinance.

Barbara Sibley, 3 Eaton Trail, stated, I will be 56 years old this year and I would like to think that someday our grandchildren would, in fact, see some of the things that are on the list of different places here in town. I think that there is a lot of talk on the street that is erroneous and I would ask that you give Mr. Mantzaris the opportunity to look further into this and that it not die. I work in the Thompson building on Center Street. A lot of people probably remember the post cards in Wallingford that we see of the historical society. Our future is coming but the futures of the people behind us are not here yet. I would like to think of the different things that some of you remember as I do what Route 5 from Meriden down to Broadway in North Haven to the green used to look like; the houses that are gone from that area; the houses that are just memories in a lot of our minds. I remember when there used to be a chicken restaurant in the fields where Wal*Mart and KMart are now. I ask the Council to give Mr. Mantzaris the opportunity to do his homework on this. Give him the opportunity not just for our future but for the future of those people who are not here yet.

Reginald Knight, 21 Audette Drive stated, it is obvious by now that there is more to this than an issue at a Town Council meeting. There is an awful lot of emotions, points of view. We are telling people that they cannot do what they want with their own property. I understand historical value and I love beautiful things but there comes a point where you have to look after the individual's rights. This ordinance should not pass tonight, it needs a lot more talk and points of view before it should go.

Ed Loughlin, 150 S. Main Street stated, if it were only a matter of mere delay then I can agree with people who are proponents of this. I want to know about the real cost of this, however. Let's take a typical scenario. Let's presume that I own a three family tenement house somewhere between what I call Simpson Street School and Washington Street school and there has to be a couple of thousand of them in town that either are 100 years old or will be in a short period of time. This ordinance lets anyone in town sign up for notice. Any old nut in town can write a post card to the Building Inspector saying that he wants an investigation. Let's presume that the property is scheduled for sale at \$150,000. Let's presume that there is a \$75,000 mortgage on that house. It will probably take five days for the notice to go into the paper. Then there is a fifteen day period during which anyone can object or require a review. Then it could be postponed for seventy days.

Now you have five plus fifteen plus seventy which equals three months, ninety days. The owner of the property is being asked to suffer all the costs. Let's presume the cost of publication is thirty-five dollars. This man probably pays \$600 per year for insurance, that is \$50 per month. Three months is \$150. because his closing is delayed. I think that it is fair to say that the average house in Wallingford pays \$2,400 per year in taxes. That is \$200 per month. Let's now add another \$600 for the three months delay on that. If that house has a \$75,000 mortgage on it at 8%, that is

\$6,000 per year or \$500 per mo. So let's add on another \$1,500 for interest that he is going to pay on that mortgage for those three months. Then if you sold the property when he had intended to sell it he would have taken that \$75,000 to the bank for 4% which equals \$3,000 per year. So now let's add another \$750 for that. If you take the sum of all those totals it comes out to more than \$3,000. We are being asked to tell the homeowner to pay the \$3,000 because some guy downtown who signs up to get a list writes a postcard to the Building Inspector. I respectfully suggest, in fairness, that if everyone is so interested in obtaining what they consider just a mere convenient delay, that whomever files the postcard for this delay pay the costs. (applause) There is a possibility of three payers. All the proponents want the homeowner to pay it. I say no. He is not causing any expense to anyone. The second is the Town of Wallingford. Well, the taxpayers should never pay, we know that. I don't think the Council is about to adopt a resolution, considering the thousands of houses in this town over 100 years old that I can write a postcard about, and spend \$3,000 per house. I doubt that the Council is going to propose that the Town pay the costs. I think that if the proponents volunteer to have the sender of the postcard pay, I may take a different view of the ordinance. I ask you to consider what cost is all about. Is it \$35.00? Or is it \$3,000?

David Barkin, 207 S. Main Street stated, there are two flavors of people that might object to the ordinance. The one that I have heard most often repeated is those that see such an ordinance as removing the personal liberties, anything that would create any kind of conflict. I think that argument is facetious at best. A small delay for demolition purposes to see if there is anyone willing to remove a property is well worth it for what I see as a minor delay. The second flavor very eloquently presented is that those people who are trying to make profit on the Town at the expense of the other people in the community and I think that is the most insidious threat to any community. An ordinance like this provides only the smallest amount of protection and really should be endorsed by our Town and not just a few people in the Town that seem to reel the highest degree of power and who always object to anything that might get a little bit in the way of their making a profit. That is what should be considered here.

Richard Krombel, 38 N. Elm Street commented, there is one assumption that Mr. Loughlin made here; when is the last time you have tried to get a contractor to come and do anything for you? There is planning that goes into anything. People don't wake up in the morning and decide the building is coming down today. There is a little bit of planning that goes into that. Several weeks is enough of a planning cycle for anyone.

The Chairman declared the Public Hearing closed at this point in time.

Motion was made by Mr. Centner to Continue the Public Hearing to May 13, 1997, seconded by Mr. Rys.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #9 Consider and Approve a Transfer of Funds in the Amount of \$8,972 from Materials & Supplies Acct. #001-5015-401-4000 and \$11,028 from Regular Salaries Acct. #001-5015-101-1000 for a Total of \$20,000 to Overtime Acct. #001-5015-101-1400 - Dept. of Public Works

Motion was made by Mr. Rys, seconded by Mr. Centner.

Correspondence from Edward Niland, Superintendent of Public Works states that the department has dispatched its full crew for winter storms a total of 22 times since December 6th. In addition to overtime expenditures, those storms have resulted in \$59,777 being spent for salt and \$86,225 being spent for sand. As a result \$8,972 remains for purchase of sand and salt. Adequate supplies of sand and salt remain on hand to meet an additional medium storm. The department is requesting that the remaining \$8,972 be combined with \$11,028 remaining in the regular salary and wages account be transferred to the overtime account.

VOTE: Papale was absent; Parisi did not vote; all others, aye.

ITEM #10 Discussion and Possible Action Regarding a Release of An Open Space Easement as Part of the Pilgrim's Harbor Property Condominium and Golf Course Project

Motion was made by Mr. Rys, seconded by Mr. Centner.

Attorney Brian Stone representing Redstone Development, Applicant for Pilgrim's Harbor project; John Gilmore, Engineering Firm of Milone & McBroom and Ben Morris, President and Owner of Redstone Development were on hand for this item of discussion.

Atty. Stone stated that Pilgrim's Harbor, the original part which is south of Harrison Road, was originally approved in 1969. It was approved for a zone change for up to 400 condominium units and a golf course. A portion of the site, 46 acres, was designated as

the area for the residential development. The balance of the site was designated for open space or for the golf course. At the time of that approval by Planning & Zoning, one of the things they required as a condition of the approval was that the developer from 1969 grant an easement to the Town which restricted the use of that 108 acres for open space use. In 1974 another application was filed for the parcel on the north side of Harrison Road which was also approved for a similar development for up to 115 units of multi-family development with the balance for open space. The balance of the open space was also to be part of the golf course, that was the plan. The reason was that there was never enough land in the original plan to build an 18 hole course. A 9 hole course was built, the balance was never built and the property ended up in separate ownership between the north and south side of Harrison Road. Atty. Stone's client acquired options to purchase the entire site, the existing golf course, the remaining land and put together a plan to complete the golf course and apply to P&Z which approved the application. That approval called for two things; one, the completion of the balance of the nine holes of the golf course and some residential development on both the north and south side. It will still be a condominium form of ownership but there are single family detached dwellings instead of 115 units on the north side there is 31 units on the north side and 16 units go on the south side. The problem is that the original easement granted in 1969 restricts the area where the proposed 16 units which P&Z approved to being part of the golf course. Atty. Stone is asking the Council to modify the easement to allow for what was approved by P&Z which is for the 16 units of detached residential housing.

Mr. Centner asked what the total acreage amounted to that the easement would change?

Atty. Stone responded, 6 acres.

Mr. Centner pointed out that it would mean the removal of 6 acres land originally designated as open space to be used for 16 homes.

Atty. Stone stated, in fact, we are using 4.4 acres less of the area which was designated for development than we are allowed to because of the nature of the housing that is being constructed. The actual loss of open space is 1.6 acres, roughly.

Mr. Centner also pointed out that the housing density drops from a proposed 115 townhouse-style units to 47 units total of stand-alone singles.

Mr. Zappala asked about the status of bonding the project?

Linda Bush, Town Planner responded, P&Z cannot require a bond to guarantee that the homes are built or the golf course is constructed. The bond is for extensive extensions of the water and sewer utilities and for improvements to Harrison Road and for

improvements to the railroad crossing on Harrison Road. That is what the bonding is for. There is a certain scheduling of bonding of when they have to post the bond by. The total original bond amount was \$850,000. which is a lot of money for 47 condos and a 9 hole golf course. The Town Attorney's Office worked in conjunction with P&Z and the developer to come up with some modifications to that. The bonding has to be posted at certain times to guarantee certain things are done.

Mr. Zappala stated, many people have expressed their concerns to me regarding the fact that for many years there have been attempts to have the remaining 9 holes of the golf course completed and it has never happened. Some residents of Pilgrim's Harbor would like to see the golf course completed to its fullest which includes the crossing of the railroad tracks. Many residents feel that the golf course will never be completed. Is there any way we could guarantee that the 18 hole course will be completed as described by the developer?

Ms. Bush responded, no. We cannot force anyone anywhere in town on any project to build anything. Development is a private matter.

Mr. Morris of Redstone Development stated that the homes are being sold as a golf course community residence and that if there were no golf course coming it is doubtful that the homes would be able to sell. The work is scheduled to begin in the Fall if everything falls into place.

Motion was made by Mr. Farrell to Amend the Motion to Approve Said Action Based on the Stipulations that the Development be Completed Within Five Years, that it be in Accordance with the Planning & Zoning Approval and that the North Side of the Project be Limited to Thirty-One Units and the South Side of the Project be Limited to Sixteen and Authorize the Mayor to Sign and Execute Said Release. The Release is to be Drafted by the Illustrious Law Department, seconded by Mr. Centner.

VOTE ON AMENDMENT: Papale was absent; all others, aye; motion duly carried.

VOTE ON AMENDED MOTION: Papale was absent; all others, aye; motion duly carried.

ITEM #11 Discussion on a Proposal by Habitat to Obtain Town-Owned Property for a Habitat Project - Habitat Site Selection Committee

Robbie Robinson, 7 Clifton Street, Brendon McCormick, 1471 Tuttle Avenue and Sam Sargeant of 277 South Main Street were on hand for discussion of this matter.

Mr. Sargeant stated that Habitat has approached the Town before to discuss how Habitat can build a home or homes on land that is presently owned by the Town. At this time Habitat is putting the finishing touches on 24 & 26 Wallace Rowe which were two dilapidated three-family homes that are now converted into two two-family houses and they are currently working on the renovation of their offices behind St. Paul's Episcopal Church. They are confident as they approach a new project because they have a large group of volunteers behind them and a good network of suppliers for materials and also for funding. They are limited in their efforts to purchase land by their resources. They have managed to get hold of 24 & 26 Wallace Rowe through a State land grant program that no longer exists. It is difficult for Habitat to compete with for-profit developers when they have such limited resources. Habitat is asking the Council to set up a committee that will work with Habitat to come up with a solution that will allow Habitat to build their homes on town property so in the end it serves the needs of the residents of the Town of Wallingford and for the owners of the new homes.

Brendon McCormick next spoke of the needs of the individuals in the Habitat program.

Robbie Robinson next explained Habitat's capabilities as a non-profit organization and the project that was undertaken on Wallace Rowe.

The Council felt that it needs to know what parcel(s) Habitat is interested in so that they could obtain information on them. It is difficult to discuss the matter in the abstract. Habitat will need to identify very specifically what parcel(s) they are looking at and what the conditions of the offer would be.

Mr. Sargeant stated that Habitat is requesting that the Council form a Joint Habitat Site Selection Committee and asked if that was the intention of the Council?

Mr. Parisi responded, the request will be taken into consideration.

Mr. Sargeant asked, when will the Council have an answer?

Mr. Parisi responded, probably by the next Town Council Meeting.

No Action Taken.

ITEM #12 Consider and Approve an Appropriation of Funds in the Amount of \$40,000 for Engineering Fees to be Incurred in Connection with a Board-Approved Plan to Repair a Slab Condition at Moran Middle School - Superintendent of Schools

Correspondence from Superintendent of Schools Joseph J. Cirasuolo details how signs of possible structural weakness became apparent at Moran Middle School toward the end of 1/97. The signs all occurred on the first floor of the academic wing of the building. They consisted of a noticeable enlargement of a crack that had existed in the floor of a storage room, cracks within the cinder block of the wall between the storage room and a classroom, and a separation of that wall from the ceiling. Due to safety concerns and upon the suggestion of Gerald Powers, Supervisor of Buildings and Grounds, Dr. Cirasuolo authorized Mr. Powers to retain the services of a structural engineer. The firm of Criscuolo and Shepard Associates, PC from Branford, CT., were hired at a fee of \$7,000 plus reimbursable expenses. Since the administration needed an answer as soon as possible to the question as to whether or not Moran was safe for occupancy, Dr. Cirasuolo declared an emergency so that the engineers could begin their work immediately.

Upon conducting a thorough investigation, Criscuolo/Shepard concluded that while the Moran building in general was safe for occupancy, it would be prudent to discontinue the use of two classrooms. Through their investigation the engineer discovered that the portion of the building about which there was concern is built on a slab of concrete that was placed directly on the ground. That ground has compacted over the years leaving a void between the slab and ground beneath it. The void ranges in size from nine inches to one inch and extends under a noticeable part of the building. In this area, the slab itself has a shear failure crack. The classrooms whose use was recommended to be discontinued are above the place where the void is the largest. A written report from Criscuolo/Shepard is appended to these minutes (Appendix II).

Three options were presented to the Board for resolving the matter:

1. Simply fill the void so that the support for the slab is restored. The estimated cost for this option is \$75,000.
2. Replace sewage and drainage pipes that are in the area affected by the void and that are sagging because they are now suspended between the slab and the ground and then, fill the void. The estimated cost of this option is \$300,000.
3. Replace the affected pipes and then build structural floors under the part of the building that is now lying on a slab. These floors would not be supported by underlying soils. The estimated cost of this item is \$600,000.

Upon reviewing the entire situation and after considerable discussion with Mr. Shepard and the administration on this matter the Board approved a plan to fill the void under the slab at Moran, to replace the pipes that are affected by the void and to repair

the damage caused by this work. The estimated cost for this plan is \$340,000.

The Board decided to repair the affected pipes as well as to fill the void because of the Board's concern that the additional ground compaction that might result from the weight of the material that would be used to fill the void might cause at least some of the pipes to malfunction. If this did happen, the very material that would have been used to fill the void would have to be removed in order to repair the pipes. It would be more expensive, then, to repair the pipes after the void is filled than to do this work before the void is filled.

The Board decided to repair appropriately the damage that would be caused by all of this work because Moran is recently renovated.

The Board is asking the Town Council to cover the cost of the engineering fees that would be incurred in connection with the plan that the Board approved for repairing the slab condition at Moran. The estimated cost for engineering services is \$40,000 which is included in the \$340,000 estimated cost for the entire project.

Discussion ensued after which Mr. Doherty made a motion to Approve an Appropriation of \$30,000 for Engineering Fees to be Incurred in Connection with a Board-Approved Plan to Repair a Slab Condition at Moran Middle School, seconded by Mr. Zappala.

Some Councilors were of the opinion that the Board should fund the engineer's fees from the current fiscal year's surplus.

VOTE: Papale was absent; Doherty & Zappala, aye; all others, no; motion failed.

ITEM #13 Consider and Approve Granting a Waiver of Bid to Criscuolo/Shepard to Perform Engineering Tasks for Slab Repair Work at Moran Middle School - Superintendent of Schools

Motion was made by Mr. Rys, seconded by Mr. Knight.

VOTE: Papale was absent; Doherty, Knight, Parisi, Renda, aye; all others, no; motion failed.

ITEM #14 Consider and Approve Authorizing the Board of Education to Make Application to the State for Approval of and Reimbursement for a Pre-School Special Education Project

Motion was made by Mr. Rys, seconded by Mr. Centner.

The Board of Education has been giving a considerable amount of thought and attention to the question of where to locate the pre-school special education program which is presently housed at Moses Y. Beach School. This question has arisen because the program has grown considerably in enrollment. Where in 1992, the program required the equivalent space of two classrooms, the program now requires the equivalent space of five classrooms. With the school system's enrollment continuing to grow, participants in the pre-school special education program will very likely also grow in number and there will be the need for even more space for the program. Within a year or two there will not be space for even the present enrollment in any elementary school.

Dr. Cirasuolo explained that the project would entail the purchase of five of the temporary modular classrooms the Board has been leasing. Two of them are already at Cook Hill School and three currently located at Dag Hammarskjold will be relocated to Cook Hill as well. All will be connected with a corridor and the necessary plumbing and electrical work will be performed.

The Board requests that the Town Council grant it permission to submit an application for State approval and reimbursement for the project. Wallingford's reimbursement rate in 1997 for school construction projects is 54.64%. If the Board receives permission from the Town Council, this project would be submitted to the state legislature for approval in 1998.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #15 Consider and Approve Designating the Board of Education as the Building Committee for the Pre-School Special Education Project

Motion was made by Mr. Rys, seconded by Mr. Centner.

VOTE: Papale was absent; all others, aye; motion duly carried.

ITEM #16 Withdrawn

ITEM #17 Report Out by the Comptroller on the Debt Service, Pension and Surplus Funds of the Town as Requested by Councilor David J. Doherty.

Motion was made by Mr. Rys to Hear the Report, seconded by Mr. Knight.

Thomas Myers, Comptroller, gave a two hour presentation on the Town's financial position, explaining at great length and detail the debt service, pension and surplus funds of the town as covered in the Comprehensive Annual Financial Report. He reported out how the Town with its Aa credit rating, ranks in the top twenty

percentile (20%) of the 35,000 cities and towns in the U.S. This ranking puts the Town in a more favorable position when borrowing money. It ensures that when the Town takes bonds to market we borrow at the lowest possible market rate and allows us to market our bonds without credit enhancement.

On June 30, 1996 the general fund had a total fund balance or equity position of \$13.2 million. Of that amount, \$3.1 million was reserved for encumbrances which are unpaid bills at the end of the fiscal year. An additional \$1 million is reserved for debt retirement for sewer bonds. \$2.3 million was designated to balance the 1996-97 balance leaving an undesignated or available amount of \$6.8 million. That balance serves two purposes; \$4.1 million or 5% of our budget is used as a credit rating reserve; \$2.7 million has been applied to the 1997-98 budget to balance it.

Mr. Myers next reported out on the enterprise funds of the Town and their respective reserve accounts. It is noted that the reserve accounts are comprised of cash and investment positions at the end of the fiscal year. With regards to the Electric Division; on June 30, 1996 cash investments and funds held by CMEEC totalled \$13.5 million. A minimum cash reserve of \$3 million is appropriate for our Electric Division which equals approximately one month's purchase power bill. Approximately \$400,000. has been designated for Economic Development; \$2.6 million has been designated for rate stabilization; \$1.4 million is designated for capital improvements which are already in progress. This leaves a balance of \$6.1 million of which \$1 million was used to finance the 1997 budget. The balance, \$5.1 million is designated by the utility managers to partially finance \$16.6 million of proposed capital improvements they may want to undertake in the years 1998 through 2002.

With regards to the Water Division; on June 30th they had \$2.9 million cash investments of which \$1.6 million has been determined to be the normal operating reserve. The remaining \$1.3 million is designated by the Water Division manager to finance future capital improvements and rate stabilization.

With regards to the Sewer Division; on June 30th we had \$3.7 million cash investments. The minimum cash reserve is \$1.2 million leaving a balance of \$2.5 million. It is anticipated that the remaining balance will be used to partially finance capital improvements and for rate stabilization.

Trust Funds of the town was the next topic of discussion. These funds exhibit a total balance of \$114 million. The funds are restricted and can only be used in accordance with the terms of the will or trust agreement. They are accounted for separately.

The Pension Funds of the Town were reviewed next at which time Mr. Myers was asked to address a statement which appears on page 14 which reads, "The actuary report for year ending June 30, 1996 indicates that the plan has an overfunded actuarial accrued liability of \$5.2 million and is 106% funded.

Mr. Myers explained that the pension plan covers all the full time employees of the Town and the non-certified employees of the Board of Education such as the secretaries, nurses, custodians, teachers aides, maintenance people, cafeteria workers. The funds does not cover the 500+ teachers or the administrators. The Town does not contribute to the State Teachers Retirement Fund. The method by which the Town accounts and finances its pension plan is governed by a national standard. The Town contributes a percentage of payroll determined by our actuary, the Segal Company, into the plan. The plan is overfunded, it is true. When the plan was underfunded the Town started out contributing \$.22 for every dollar of payroll. In 1996 because of the funding status of the plan and the progress the Town had made, the Town was only required to contribute 10.4% into the plan. In 1997 the Town is only required to contribute 7.7% of payroll. In 1998 the actuary has advised us that we will only pay 4.4% of payroll taking advantage of the overfunded situation. On June 30, 1996 the pension plan is \$5.2 million overfunded. In 1997 the plan will be overfunded as well. There may be a slight increase over the present amount of \$5.2 million due to the current stock market conditions. One of the factors that has contributed to the success of the plan is the last 30-36 month market cycle. Sixty percent of the pension plan is invested in the stock market while the remaining forty percent is in the bond market.

Since the Town had the discipline to build up the fund over a long period of time, the actuary recommended that the Town have the discipline to take a credit for that overfunding over a ten year period. That is the reason the contribution rate will be reduced from 7.7% to 4.6%. Rather than taking the gain in any one year the actuary recommended a smoothing or leveling effect over the ten year period. Because the Town's contribution rate is going down, less money paid in by the Town because more people are retiring, it is anticipated that \$2.3 million will have to be taken from the portfolio to meet benefit payments to the retirees. We have come to a reversing position. We have always been adding money to the portfolio for investment purposes, we are now going to be drawing down on those moneys in order to meet pension payroll requirements. The Town will still pay in, the employees will still pay in but it will not be enough to meet the payroll expense. We are going to have to reduce our investments and bring it back into our accounts to be used to pay retirees. It is not a bad situation and nothing to be alarmed about, it is simply different circumstances.

General Long Term Debt was discussed next. On June 30, 1996 the Town had a total bonded indebtedness of \$61.5 million. In addition to that the Town is carrying open authorizations for bonding projects that are in various stages of construction and planning for which we have not yet issued bonds of \$14.2 million. Our debt per capita is \$1,500. If we deducted from the total debt that which is paid by the utilities, the bonds that are paid by the electric, water and sewer, and the reimbursements that we receive from the State of Connecticut for school bonds, that is known as net debt. Our net debt on June 30th would be \$451.

Compensated Absences Debt is accrued vacation and limited sick time due employees. On June 30, 1996 the compensated absences debt for the Board of Education and the Town combined was \$3.5 million. For the Electric, Water & Sewer Divisions it was \$1.1 million. The utilities have collected money from the customers through the rates to pay the \$1.1 million in compensated absences debt. For the Town and Board of Education, however, that is a future debt. The \$3.5 million has not yet been collected and is not required to be collected by the accounting model used for cities and towns, nationally. There are very recent discussions by the governmental accounting profession to require that funding to happen on a current basis. If that happens it will be a debt that the Town will face and will have to fund. It is uncertain at this time whether or not that will become a reality.

Workers Compensation Claim is yet another debt that the Town is required to recognize and report yet is not required to be funded. On June 30, 1996 that figure amounted to \$1.9 million.

In closing Mr. Myers stated that on June 30, 1996 the Town of Wallingford had \$419 million in assets under management. That is cash in investment, land, buildings, inventories, money due the town, etc. The Town's annual revenues for 1996, including the utilities, was \$180 million. The Town's annual expenses were \$150 million.

Albert Killen, 150 Cedar Street expressed his feelings on the matter of the Aa credit rating pointing out that Cheshire, who also boasts a Aa credit rating, does not have an electric division supporting their credit rating. The Town could, if it so desired, sell the electric division at a forced sale to pay off the bonded indebtedness of the Town. He was disturbed over the fact that there would be a \$400,000.+ increase to taxpayers this year when there are numerous accounts within the Town's budget that could easily support a cut amounting to the same figure. He went on to quote from case law that it is against the policy of the law to raise taxes faster than the money is likely to be needed by the government. In the absence of statutory authority a tax cannot be levied for the sole purpose of accumulating funds in the public treasury such as for remote or future contingencies that may never

occur nor can it be levied in excess of the amount required for the purpose for which it was levied with the intention of using the excess for another purpose. Funds held by a municipality, whether raised by taxation or otherwise are in the nature of trust funds and the officials holding or disbursing them act as trustees for the benefit of its inhabitants. He reiterated that there are plenty of funds to take \$400,000 from to lower the tax rate. He noted that Mr. Myers pointed out that there will be upcoming capital projects such as Community Lake, Community Pool, the Senior Center. He then referred to the Six Year Capital Plan proposed by the Mayor which should reflect upcoming capital projects such as Mr. Myers listed and noted that there is only roadwork planned for the next six years. Nowhere do any of the above-listed capital projects appear in the Six Year Capital Plan of the Town. He criticized the Town for not having the foresight to budget for the projects.

Philip Wright, Sr., 160 Cedar Street stated that he is very much interested in the Senior Citizen Center Project and asked Mr. Myers if there were any funds set aside in the budget for the work?

Mr. Myers responded, in our overall bonding plan is included the Senior Citizen Center. Neither a commitment nor decision has been made. We have the ability to spend for the project if the Town so desires.

Mayor Dickinson added, we have prepared for that as a foreseeable expenditure.

Fred Valenti, 73 Liney Hall Lane, Pension Fund Committee Member, stated that he has been watching the pension fund since 1990-91. He qualified any statements made by him by saying that the Wallingford Pension Fund is a defined benefit plan. Any statements made tonight will not affect the employees of the town.

Mr. Valenti referred to Mr. Myers' statement that the pension fund is overfunded by \$5.2 million. Mr. Valenti stated that there is also another \$8 million. It is actually \$94 million but the actuarial does not use market value anymore, he writes down the actuarial value and this year that was a difference of \$8 million. That translates to being \$13 million overfunded and then some. In looking at the actuarial book closely, the Town's \$80 million obligation is as of June 30, 1997. At the end of February we hit \$105+- million and has dropped down approximately \$2 million since that time. If \$80 million is our obligation and the obligation does not go up between now and the end of June, we are \$23 million overfunded. He feels that the Mayor's Office or Comptroller needs to make an adjustment. If we currently have \$103 million and by June 30, 1998 we only earn 8% on that investment that translates to \$8 million. The employees contribute still another \$1.4 million. Add that to the \$8 million and that brings us up to a

grand total of \$112,640,000 in the fund. If we pay out of that only \$4 million, that brings us to a balance of \$108 in the fund. The balance is still climbing. We are not taking away from our equities or stocks or bonds. We are not selling our portfolio, it is still growing. He went on to say, if we make 10%, which we have been averaging, in fact, we have been earning as much as 14.8% for Fleet Bank returned us 17% and another returned 13%, if you look in the actuarial book it only shows a 10% return. It appears as though the actuarial is trying to find ways to substantiate putting more money in the fund. He suggested that a committee be formed to review the matter thoroughly. He referred to the Annual Report of 1994 which shows that back in 1993 we were overfunded. If you look at the new 1996 Annual Report it goes back to the same year and shows that the Town's pension fund was underfunded at that time. There are numbers being changed back and forth. The 1996 report shows that we were not overfunded until last year however, again, if you refer to the 1994 report it shows that we were overfunded some time ago. We do not have to add anymore funds, it will keep growing.

Mr. Valenti stated that some irregularities exist. He referred the Council to the 1996 Annual Report budget figure of \$1,710,000. In the printed matter will show a contribution by the Town of Wallingford of \$2.6 million. He asked, where did the other \$900,000. come from? Was it transferred from somewhere else? Why? Where? Did the Council approve this transfer? There was \$900,000 more put into the pension plan than the Council budgeted for. That was just for 1996. If you look back over the past seven years it amounts to \$6 million. It is all in the books. He stated that the Town's obligation or liability figure is inflated because the actuarial is still figuring that all of these employees are going to receive a 5% raise every year. It has been closer to 2.9% or 3% for a few years now so that \$80 million figure is inflated. He suggested that the Town get a new actuarial report. In 1978 the Town Council and Mayor Vumbaco adopted an ordinance to fully fund the pension plan over a thirty year period. It is not supposed to be fully funded until 2008. We accomplished that goal in fourteen years. How do you pay a thirty year mortgage in fourteen years? By making extra payments. That is what has been happening here. It is a serious matter. He urged the Council to look into the matter to see if things are being done right. The Charter gives the Council the authority to appoint a committee of three Councilors to look into matters such as this. There is more than enough money in there now and to keep putting it in, you are hitting the same people who have been paying for the past service, the present service and now they are going to be paying for the future service all within a twenty year time period. It is too much to ask of them. The consolidated pension fund covers all the people who are under that fund whether it is the Electric Division, town hall employees, whether it is the people that work in the schools that are not professionals or teachers, they are all covered under this consolidated fund actuarial. When the Council

voted the funds into the consolidated pension fund in the budget it is the same thing. It is all included. What has been happening is that they have been duplicating some of the contributions. They make another contribution from the P.U.C. and the schools or whatever. The Council needs to look into that.

Mayor Dickinson stated, the contributions from other sources are making up that difference from the utilities and education. It is not duplicated. The \$1,710,000 is not the utilities and education.

Mr. Valenti stated that the amount that the actuarial recommends as a contribution each year is usually the budget figure. The sums coming from other places come from those budgets so it does not appear in that line.

Mayor Dickinson reminded everyone that the Town hires an expert to provide advice on actuarial matters which are matters of great education and background.

Mr. Parisi echoed the Mayor's statement saying that the Segal Company is very well-known and respected in their field.

No action taken.

Mr. Farrell left the meeting during discussion of Item #17 due to the lateness of the hour.

ITEM #18 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Respect to Strategy and Negotiations Pertaining to Pending Litigation - Town Attorney

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

VOTE: Farrell & Papale were absent; all others, aye; motion duly carried.

Present in executive session were all Councilors with the exception of Councilperson Papale and Councilor Farrell; Mayor Dickinson and Corporation Counselor Adam Mantzaris.

Motion was made by Mr. Rys to Exit the Executive Session, seconded by Mr. Centner.

VOTE: Farrell & Papale were absent; all others, aye; motion duly carried.

Motion was made by Mr. Rys to Approve a Settlement as Discussed in Executive Session with the Town Attorney, seconded by Mr. Knight.

VOTE: Farrell & Papale were absent; all others, aye; motion duly carried.

ITEM #19 Consider and Approve a Transfer of Funds in the Amount of \$11,360 from Elderly Meals Program Acct. #001-3070-600-6771 to Purchase Services Video Engineer Acct. #001-1303-901-9010 - Program Planner

Motion was made by Mr. Rys, seconded by Mr. Knight.

VOTE: Farrell & Papale were absent; all others, aye; motion duly carried.

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

VOTE: Farrell & Papale were absent; all others, aye; motion duly carried.

There being no further business the meeting adjourned at 2:12 A.M.

Meeting recorded and transcribed by:

Kathryn F. Zanari
Kathryn F. Zanari
Town Council Secretary

Approved by:

Robert F. Parisi
Robert F. Parisi, Chairman

5-13-97
Date

Rosemary A. Rascati
Rosemary A. Rascati, Town Clerk

5-13-97
Date

DEMOLITION OF OLDER BUILDINGS OR STRUCTURES

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

SECTION 1. POLICY DECLARATION

The Town Council finds that the preservation of older buildings and structures situated within the Town of Wallingford which may have historical or social significance to this community is a desirable and significant objective. To accomplish that end, the Town Council, pursuant to the authority of Section 29-406(b) of the General Statutes, herewith implements a waiting period, including notice to certain persons and organizations, before such buildings or structures may be demolished.

SECTION 2. DEFINITIONS

a. "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

b. "Demolition" means any wrecking activity directed to the disassembling, dismantling, dismembering and/or razing of any structure. Demolition, however, shall not include the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in the appearance or design thereof.

c. "Structure" means an assembly of materials above or below ground level forming a construction for occupancy or use including, but not limited to, buildings, stadiums, platforms, towers, sheds, bridges and shelters. The term "structure" shall include the entire structure, but shall not include outbuildings, which, in the opinion of the Building Inspector, have no historical or social significance.

d. "Person" means any individual, firm, partnership, association, corporation or other legal entity of any kind.

SECTION 3. PROCEDURE, WAITING PERIOD

No permit shall be issued to any person for the demolition of any building or structure which is more than 100 years old, as verified by the Grand Lists of the Town of Wallingford, the Assessor's Field Cards, the Land Records or other credible documentary or anecdotal evidence, except as follows:

a. Upon application for a permit to demolish such building or structure, the Building Inspector, within 10 days of the filing of such application, shall publish a legal notice in a newspaper having a .

ORDINANCE NO. _____

substantial daily circulation in the Town, which notice shall be entitled "Older Building Demolition Permit Application" and recite the following information: the name and address of the owner of the building or structure to be demolished; the location of the said building or structure; and any other information deemed necessary by the Building Inspector to aid members of the public in locating the said building or structure.

b. Within said 10 day period, the Building Inspector shall send a copy of said notice by certified mail, return receipt requested to the Wallingford Historic Preservation Trust, to the owners of land which abut the land upon which the building or structure is situated, and to any other person who has registered his desire with the Building Inspector to be notified of such demolition permit applications.

c. If no objection to the application for said demolition permit is filed with the Building Inspector within 15 days of the publication of said legal notice, then the Building Inspector may issue the permit forthwith.

d. If written objection to the application for said demolition permit, stating the reason for such objection, is filed with the Building Inspector by any of the persons listed above within 15 days of the publication of said legal notice, then the Building Inspector shall delay issuance of the permit for a period of 70 days from the filing of the application.

e. All costs associated with the publishing of the legal notice and the certified mailing shall be paid by the applicant for such demolition permit. Notwithstanding anything to the contrary herein, no such permit shall be issued until all such costs have been paid.

SECTION 4. PENALTY

Any person who violates this ordinance shall be fined Five Hundred Dollars (\$500.00).

I HEREBY CERTIFY that this Ordinance was enacted by the Town Council of the Town of Wallingford this _____ day of _____, 1997, in accordance with the provisions of the Charter of the Town of Wallingford.

Rosemary A. Rascati
Town Clerk

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

DATE: _____



**CRISCUOLO
SHEPARD
ASSOCIATES, P.C.**

March 21, 1997

CIVIL ENGINEERS
STRUCTURAL ENGINEERS
GEO-TECHNICAL ENGINEERS
PLANNERS
LAND SURVEYORS
CONSTRUCTION INSPECTION
MATERIALS TESTING

ROBERT A. CRISCUOLO, P.E., L.S.

HARRY J. SHEPARD, P.E.

LAWRENCE J. MARCK, P.E.

PHIL L. NOTI, L.S.

GEORGE A. FRITH, SR., L.S.

Wallingford Public Schools
12 Kondracki Lane
Wallingford, Connecticut 06492

Attn.: Mr. Gerald Powers, Director of Buildings and Grounds

Re: Consulting Engineering Services for the
Structural Rehabilitation of the Existing Floor
Moran Middle School
CSA Project No. 97001.01

Dear Mr. Powers:

In accordance with your request, Criscuolo/Shepard Associates, P.C. (CSA) is very pleased to provide this proposal for continuing engineering services for the above referenced project. In general, this work is for services required for the town to rehabilitate the existing structural conditions identified in our investigation report dated February 1997. We understand that the Town wished to proceed with Rehabilitation Scheme 2 as outlined in said report. Specifically, we propose the following:

SCOPE OF BASIC SERVICES

ENGINEERING DESIGN AND CONTRACT DOCUMENT PHASE

1. Conduct additional field investigations and measurements of existing conditions to establish the requirements and limits of the requisite reconstruction.
2. Provide Engineering Analysis and Design Services for the rehabilitation program.
3. Prepare engineering design drawings and technical specifications defining the scope, extent and character of the work to be furnished and performed by the contractor.
4. Prepare contract documents suitable for public bid.
5. Based upon the design developed, prepare a detailed Engineer's Opinion of Probable Construction Cost.

420 EAST MAIN STREET
WALLINGFORD, CT 06405
TEL: 203/481-0749
FAX: 203/488-1720

AN EQUAL
OPPORTUNITY
EMPLOYER

Gerald Powers
March 21, 1997
Page 2

6. Furnish three (3) copies of preliminary construction documents for the Town's review and approval. Present and review the preliminary project documents to yourself and other town representatives as required.
7. Incorporate review comments received.
8. Furnish fifteen (15) sets of final contract documents for bidding and construction.

BIDDING AND AWARD PHASE

1. Provide assistance in advertising for and obtaining bids for the construction.
2. Coordinate and manage a pre-bid conference with perspective bidders.
3. Prepare and issue addenda as appropriate to interpret and/or clarify the bid documents.
4. Attend the bid opening, prepare bid tabulations, evaluate the contractor's qualifications and prepare a written award recommendation.
5. Upon your authorization, prepare and issue the Notice of Award.

CONSTRUCTION PHASE SERVICES

1. Provide Construction Administration Services.
2. Make periodic (at least twice weekly) site visits to observe the progress and quality of the work. Endeavor to protect the Town's interest and determine if the work is proceeding in accordance with the contract documents. Prepare written field reports of all site visits.
3. Provide any interpretations or clarifications of the contract documents. Prepare work change directives or change orders required.
4. Review and take action on all shop drawings, samples, materials information and other data submitted by the contractor for conformance with the information contained in the contract documents.
5. Attend and manage weekly job meetings.
6. Review and take action on all payment requisitions.
7. Conduct punch list inspections and prepare a written punch list.
8. Prepare assistance with project close-out.

Gerald Powers
 March 21, 1997
 Page 3

SCHEDULE

We understand the intent is to complete the project during the forthcoming summer school recess. Accordingly, we commit the resources to complete the following schedule, assuming that we are authorized to proceed with the work by April 1, 1997.:

Engineering Design and Contract Document Phase:	May 15, 1997
Bidding and Award Phase:	June 12, 1997
Construction Phase:	We anticipate requiring the contractor to be substantially complete by August 22, 1997

COMPENSATION

For the scope of services indicated, we propose the following lump sum fee proposals:

Engineering Design and Contract Document Phase:	\$18,500
Bidding and Award Phase:	\$ 1,500
Construction Phase:	<u>\$ 8,500</u>
Total	<u>\$28,500</u>

If additional services are requested and authorized, they will be billed at our current hourly rates as indicated in the Terms and Conditions.

If this proposal and Standard Terms and Conditions satisfactorily set forth your entire understanding of the arrangement between us, please endorse the enclosed copy and return it to us. This proposal will be open for acceptance until April 15, 1997.

Thank you for inviting us to undertake this work. We look forward to our continued association with you on this project.

Sincerely,

CRISCUOLO/SHEPARD ASSOCIATES, P.C.

Harry J. Shepard III, P.E.

THIS PROPOSAL AND STANDARD TERMS AND
 CONDITIONS ARE UNDERSTOOD AND ACCEPTED:

BY: _____

DATE: _____



**CRISCUOLO
SHEPARD
ASSOCIATES, PC**

STANDARD TERMS AND CONDITIONS

INVOICES:

Invoices will generally be submitted once a month for services performed plus reimbursable expenses incurred during the previous month. Reimbursable expenses are in addition to compensation for basic and additional services, and shall be subjected to a multiplier of 1.15. Reimbursable expenses shall include expenses incurred for specialty subconsultants and subcontractors, special testing, transportation, computer plotting, copies and reproductions, postage and handling, long distance communications and fees paid on behalf of the project. Invoices are due and payable as of the date of the invoice. Retainers, if required, shall be applied against the final invoice. A late fee of 1.5% per month will be charged on outstanding balances which are 30 days past the invoice date. CSA reserves the right to require payment for services rendered prior to transmittal or submittal of drawings, specifications, reports or other documents. CSA must be notified, in writing, within ten (10) days of any error in or disagreement with our invoices. We reserve the right to suspend services without liability for damages or delays caused by such suspension because of delinquent accounts. In the event we take action on overdue payments, you will be liable for all collection costs incurred, including but not limited to reasonable attorney's fees, and court costs.

ADDITIONAL SERVICES:

Any services provided which are not noted in the scope of basic services shall be considered additional services. Additional services, if requested and authorized, shall be billed on an hourly basis utilizing the hourly rates attached hereto.

OWNERSHIP OF DOCUMENTS:

All reports, field data and notes, laboratory test data, calculations, estimates, drawings, specifications and other documents which we prepare, as instruments of services, shall remain the property of CSA and we retain all copyrights. You may retain copies for information and reference in connection with the use and occupancy of the project. The documents shall not be used by any party on any other project without the specific written permission of CSA. We will retain all pertinent records relating to the services performed for a period of five years following submission of our report and plans, during which period copies will be made available to you as a reimbursable expense. You agree that all work we furnish you and your agents, which are not paid for, will be returned upon demand and will not be used for any purpose whatsoever.

INSURANCE:

We are protected by Workman's Compensation Insurance, Professional Liability Insurance and by Standard Public Liability Insurance. CSA will furnish information and certificates at your request. CSA will not be responsible for any loss, damage, or liability beyond the amounts, limits and conditions of such insurance. The limits of coverage can be increased for any project. If requested, we will increase our limits for your project for an additional fee equal to our cost for extended limits to be paid upon acceptance of this proposal. CSA will not be responsible for any loss, damage or liability arising from your negligent acts, errors and omissions and those by your staff, consultants, contractors and agents or from those of any person for those whose conduct we are not legally responsible.

STANDARD OF CARE:

In accepting this agreement for professional services, you acknowledge the inherent risks associated with construction. In performing our professional services, we will use that degree of care and skill ordinarily exercised, under similar circumstances by members of our profession practicing in Connecticut.

LIMITATION OF LIABILITY:

For any damage or costs resulting from error, omission or other professional negligence in the performance of our engineering, surveying and/or materials testing services, the liability of CSA to all claimants will be limited to an aggregate sum not to exceed our fee for our services or \$500,000.00, whichever is greater.

OWNER'S DOCUMENTS:

You will provide CSA with copies of all relevant existing reports, maps, plans, test data, etc., necessary to complete the project without charge. CSA will return the documents if requested to do so in advance.

RIGHT OF ENTRY:

Unless otherwise agreed, you will furnish right-of-entry on land for field inspections, field surveys, obtaining samples, borings and other explorations. We will take reasonable precautions to minimize damage that may result from our operations. If we are required to restore any damage to its former condition, this will be accomplished and the cost will be billed as a reimbursable expense.

OPINION OF PROBABLE COST:

If the determination of Probable Cost (Engineer's Estimate) is included in our scope of services, it must be utilized with the recognition that we have no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)'s methods of determining prices, or over competitive bidding or market conditions. Opinions of Probable Total Project Costs and Construction Costs are made on the basis of our experience and qualifications and represent our best judgment as experienced and qualified Professional Engineers, familiar with the construction industry. We do not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from our opinions of Probable Cost. If the Owner wishes greater assurance as to Total Project or Construction Costs, an independent professional estimator should be retained. Additional services to modify the Contract Documents to bring the Construction Cost within any limitation established by the Owner will be considered Additional Services.

ON-SITE SERVICES DURING CONSTRUCTION:

Should our services be provided on the job site during construction, it is understood that the Contractor will be solely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work, and for compliance with all safety regulations with jurisdiction over the work, and that these requirements will apply continuously and not be limited to normal working hours. Any monitoring of the Contractor's performance conducted by CSA personnel is not intended to include review of the adequacy of the Contractor's safety measures in, on or near the construction site.

BURIED UTILITIES:

The Client will furnish to CSA information identifying the type and location of utility lines and other man-made objects beneath the site's surface. CSA will take reasonable precautions to avoid damaging these man-made objects and will, prior to penetrating the site's surface, indicate to the Client the locations intended for these penetrations with respect to what CSA has been told are the locations of utilities and other man-made objects beneath the site's surface. The Client will approve the location of these penetrations prior to their being made and the Client will authorize CSA to proceed. The Client agrees to waive any claim against CSA, and to defend, indemnify and hold CSA harmless from any claim or liability for injury or loss allegedly arising from CSA's damaging underground utilities or other man-made objects that were not called to CSA's attention or which were not properly located on plans furnished to CSA.

CHANGED CONDITIONS:

If occurrences or discoveries that were not originally contemplated are encountered, the Client agrees to re-negotiate, in good faith, the scope and fees of this agreement.

TERMINATION:

This agreement may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with this Agreement and Standard Terms and Conditions. Also, you may terminate this agreement if you decide to suspend or abandon the project at any time and, CSA can terminate this agreement if re-negotiated terms to a changed condition can not be reached. CSA shall be paid for all services rendered and expenses incurred to the date of termination.

HOURLY RATES

Principal	\$ 85.00
Associate	\$ 75.00
Senior Engineer	\$ 65.00
Project Engineer	\$ 55.00
Engineering Technician	\$ 50.00
3-Men Survey Crew	\$110.00
2-Men Survey Crew	\$ 85.00
Senior Surveyor	\$ 60.00
Survey Technician	\$ 45.00
Computer Aided Drafting	\$ 45.00
Construction Inspection	\$ 40.00
Materials Testing Technician	\$ 40.00
Administrative	\$ 35.00