

TOWN COUNCIL MEETING

MARCH 10, 1998

6:30 P.M.

AGENDA

Blessing - Margaret Jay - Deacon, First Congregational Church of Wallingford

1. Roll Call and Pledge of Allegiance
2. Correspondence
3. Consent Agenda
  - a. Consider and Approve Tax Refunds (#244-249) Totaling \$4,440.75  
- Tax Collector
  - b. Approve and Accept the Minutes of the January 27, 1998 Town Council Minutes
  - c. Approve and Accept the Minutes of the February 10, 1998 Town Council Minutes
  - d. Approve and Accept the Revised Town Council Meeting Schedule for the Remainder of Calendar Year 1998
  - e. Consider and Approve an Appropriation of Funds in the Amount of \$3,587.00 to Revenue (Highway Safety) Acct. #1050-050-5883 and to Police Overtime Acct. #001-2005-101-1400 - Dept. Of Police Services
  - f. Consider and Approve a Transfer of Funds in the Amount of \$287 from 5" Supply Hose Acct. #2030-999-9958; \$257 from Battery Powered Sawzall Acct. #2030-999-9974; \$239 from Hydraulic Rescue Tools Acct. #2030-999-9977; \$119 from Stokes Basket Acct. #2030-999-9982 and \$273 from Professional Services - Audit Acct. #2030-901-9004 for a Total of \$1,175 to Contractual Clothing Expenses Acct. #2030-401-4800 - Dept. Of Fire Services

Items removed from the Consent Agenda

5. PUBLIC QUESTION AND ANSWER PERIOD

6. SET A PUBLIC HEARING for March 24, 1998 at 7:45 P.M. on an Ordinance Repealing Ordinance #182 and #288 Entitled, "Public Celebrations Committee" as Requested by Councilor Stephen W. Knight
7. Consider and Approve an Interconnection Agreement Between the Town of Wallingford and Southern New England Telephone Co. (SNET) Personal Vision, Inc. - Corporation Counselor
8. Consider and Approve an Amendment to Section 1(g) and 2(b)(4) of Wallingford Towing Regulations - Dept. Of Police Services
9. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Pertaining to Pending Litigation - Dellavecchia v. Factory Built Homes and the Town of Wallingford
10. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Pertaining to Pending Litigation Involving the Tax Appeal Entitled "Edward J. Smith, Trustee v. Town of Wallingford" - Law Department
11. Executive Session Pursuant to Section 1-18a(e)(4) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Lease of Property - Mayor's Office
- Consider and Approve Taking Action on Pending Litigation - Dellavecchia vs. Factory Built Homes and the Town of Wallingford - Law Department
13. Consider and Approve Taking Action on Pending Litigation Involving a Tax Appeal Entitled, "Edward J. Smith, Trustee v. Town of Wallingford" - Law Department
14. Consider and Approve Taking Action Regarding the Purchase, Sale and/or Leasing of Property - Mayor's Office

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ADDENDUM TO AGENDA

- 6a. SET A PUBLIC HEARING for March 24, 1998 at 8:00 P.M. to Amend Ordinance #418, "An Ordinance Appropriating \$148,000 for the Design of Renovations to the Wallingford Community Pool" as requested by the Director of Parks and Recreation

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SUMMARY

<u>Agenda Item</u>	<u>Page No.</u>
2. Correspondence - No items were presented	1
3. <u>Approve</u> Consent Agenda - Items 3a. - 3f.	1-2
4. <u>Withdrawn</u> - Items removed from the Consent Agenda - None	2
5. PUBLIC QUESTION AND ANSWER PERIOD - Issues raised were: Tax-Exempt Status of Wallingford Municipal Bonds; Speeding Drivers in School Zones; Fairfield Boulevard Project Final Accounting; Road Repair on Highland Avenue; Status of Parking Areas for Town Hall; Comments RE Allowing the Public to Speak Before and After the Presentation at a Public Hearing; Town's Deed v. State Control/Liability on Height of Dam at Community Lake.	2-4
6. SET A PUBLIC HEARING for March 24, 1998 at 7:45 P.M. on an Ordinance Repealing Ordinance #182 and #288 Entitled, "Public Celebrations Committee" as Requested by Councilor Stephen W. Knight	4-5
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7. <u>Approve</u> an Interconnection Agreement Between the Town of Wallingford and Southern New England Telephone Co. (SNET) Personal Vision, Inc. - Corporation Counselor	5
8. <u>Fail to Table</u> Amending Section 1(g) and 2(b)(4) of Wallingford Towing Regulations - Dept. Of Police Services <u>Fail to Act</u> on Amending same.	5-8
9. <u>Removed from the Agenda</u> - Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Pertaining to Pending Litigation - Dellavecchia v.	

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10.	<u>Removed from the Agenda</u> - Executive Session Pursuant to Section -18a(e)(2) of the CT. General Statutes Pertaining to Pending Litigation Involving the Tax Appeal Entitled "Edward J. Smith, Trustee v. Town of Wallingford" - Law Department	8
11.	<u>Executive Session</u> Pursuant to Section 1-18a(e)(4) of the CT. General Statutes Pertaining to the Purchase, Sale, and/or Lease of Property - Mayor's Office	8
12.	<u>Removed from the Agenda</u> - Consider and Approve Taking Action on Pending Litigation - Dellavecchia v. Factory Built Homes and the Town of Wallingford - Law Dept.	8
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14.	Consider and Approve Taking Action Regarding the Purchase, Sale and/or Leasing of Property - Mayor's Office <u>Approve</u> by Motion to Authorize the Mayor to Negotiate the Purchase of Properties Identified by This Council in Executive Session.	8-10

TOWN COUNCIL MEETING

MARCH 10, 1998.

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, March 10, 1998, in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. Parisi at 6:32 P.M. The Roll Call was taken by Town Clerk Rosemary A. Rascati. Present were eight Councilors: Mr. Parisi, Mr. Centner, Mr. Farrell, Mr. Knight, Mr. Rys, Mr. Renda, Mr. Zappala, and Ms. Papale. Absent was Mr. Zandri, who was away. Also in attendance were Mayor William W. Dickinson, Jr.; and Comptroller Thomas Myers. Assistant Town Attorney Gerald Farrell, Sr., arrived about 6:38 P.M.

A blessing was bestowed upon the Council by Deacon Margaret Jay of the First Congregational Church of Wallingford.

The Pledge of Allegiance was given to the Flag.

Chairman Parisi asked everyone present to share a moment of silence in honor of Dr. William W. Dickinson, Sr., who had recently passed away.

Chairman Parisi acknowledged the colorful arrangement of flowers on display tonight as a memento from the family of Mrs. Johanna Fishbein.

ITEM #2 Correspondence. There was no correspondence.

ITEM #3 Consent Agenda:

ITEM #3a Consider and Approve Tax Refunds (#244-249) Totaling \$4,440.75 - Tax Collector

ITEM #3b Approve and Accept the Minutes of the January 27, 1998 Town Council Minutes

ITEM #3c Approve and Accept the Minutes of the February 10, 1998 Town Council Minutes

ITEM #3d Approve and Accept the Revised Town Council Meeting Schedule for the Remainder of Calendar Year 1998

ITEM #3e Consider and Approve an Appropriation of Funds in the Amount of \$3,587.00 to Revenue (Highway Safety) Acct. #1050-050-5883 and to Police Overtime Acct. #001-2005-101-1400 - Dept. Of Police Services

ITEM #3f Consider and Approve a Transfer of Funds in the Amount of \$287 from 5" Supply Hose Acct. #2030-999-9958; \$257 from Battery Powered Sawzall Acct. #2030-999-9974; \$239 from Hydraulic Rescue Tools Acct. #2030-999-9977; \$119 from Stokes Basket Acct. #2030-999-9982 and \$273 from Professional Services - Audit Acct. #2030-901-9004 for a Total of \$1,175 to Contractual Clothing Expenses Acct. #2030-401-4800 - Dept. Of Fire Services

Motion was made by Mr. Rys to approve the Consent Agenda Items 3.a. through 3.f. as presented, seconded by Mr. Farrell.

VOPE: All ayes. Mr. Zandri was absent. Motion duly carried.

ITEM #4 Items removed from the Consent Agenda. No items were removed from the Consent Agenda.

ITEM #5 PUBLIC QUESTION AND ANSWER PERIOD  
Chairman Parisi said this Public Question and Answer Period would last 20 minutes. Each person may speak for three minutes. Anyone may speak for three minutes when the agenda items are taken up.

Mr. Pat Melillo, 15 Haller Place, Yalesville, asked Comptroller Myers if Wallingford is in the following category. Many municipalities have found that, of the municipal bonds they issued as tax-exempt, some were proved to be not tax-exempt.

Mr. Myers stated he is aware that some tax-exempt bond issuances have been challenged by the IRS through the courts and deemed to be taxable. However, none of the Town of Wallingford bonds are of such a classification. We conform to the processes that meet the tax-exempt portion of the IRS Code.

Mr. Melillo asked Councilor Frank Renda what is being done to crack down on speeding drivers in the school zones.

Mr. Renda said the Town has been receiving complaints on this. The Mayor is going to work on this problem with the Police Department.

Mr. Robert Sheehan, 11 Cooper Avenue, noted it has been almost a year since the Fairfield Boulevard facility opened. When will Mr. Dooley or Mr. McCully give the Council a final accounting?

Mr. Parisi replied that a final report was completed already.

Mayor Dickinson offered to mail the report to Mr. Sheehan.

Mr. Sheehan wanted the report made available to the general public.

Mr. Parisi stated that no one has asked for the report. We can have it for you at the next meeting.

Mr. Sheehan asked, when will the final road repair be done on Highland Avenue through to Buttonwood Circle?

Mayor Dickinson said he would check that with Public Works.

Mr. Rys noted that the asphalt plants are not open yet.

Mr. Sheehan said that in his neighborhood the workers took about four feet from his driveway and lawn. They put in new catch basins and storm sewers and put crushed stone on the roads. That was done as a capital project. The council passed a bond on it. Nothing has been done on Highland Avenue for quite a while.

Mr. Phil Wright, 160 Cedar Street, said that in prior minutes Mr. Myers had promised the public would be given a complete accounting of the Fairfield Boulevard project. That was to include what was spent in time and money by the Public Works Department plus the money spent for equipment. This should be discussed openly here by Mr. Myers, Mr. McCully, or the Parks and Recreation head.

Mr. Parisi said, I don't have a problem with doing it.

Mr. Wright also asked the Council to make progress on the parking areas by Town Hall. Just today, the lot at 88 South Main Street had 37 open spaces. So we still are not managing our parking. Also, is there anything new on the Wooding property?

Mayor Dickinson said, there is nothing new that I'm aware of.

Mr. Jason Zandri of Circle Drive asked about the agenda items regarding the setting of public hearings. He noted that in public hearings, usually, the public speaks first. But he urged the Council to allow anyone from the public to speak after a public hearing presentation is made. Sometimes information comes up that is not generally available, and the public may wish to question it.

Mr. Parisi said the public will be able to speak on each item as it comes up--anybody. We have no problem with that.

Mr. Melillo spoke again, stating he was representing himself and colleagues: Town Attorney Farrell, according to the deed to the Town of Wallingford, when the dam was busted it had to be restored to 12 feet. Have you looked into that?

Attorney Farrell said, the only people who would have a right to enforce that deed would be the donor or the State of Connecticut through the attorney general. It's really the State that has decided that the dam will only be six feet high, so I doubt that the State will dispute another agreement that the depth has to be 12 feet. I don't recall anyone coming to us and saying that it has to be 12 feet.



Mr. Melillo asked, if the dam is built to six feet and someone came through with a lawsuit against the Town, is it possible that that individual could win a lawsuit against the Town? Is there no way that the Town could be held liable?

Attorney Farrell said, I don't think any individual would do that. Almost anything is possible.

Mr. Melillo suggested that the Town's legal department should get together with the State's legal department and organize something that would minimize possible liabilities for the Town.

Attorney Farrell said, a 12-foot dam, which holds back more water, could lead to larger problems than a six-foot dam. I think the State considered all those things. As one of Wallingford's lawyers, we can always say it was the State's decision. Even if the deed was to us for 12 feet, it would be up to the State to consider that. It would be very hard for someone to prove that they suffered a loss from a smaller dam.

Mr. Albert E. Killen, 150 Cedar Street, commended the Attorney on saying there is a possibility. Another caveat in that deed was that the Town was supposed to build a rowing channel for Choate School. Someone took us to court on that, and they won.

The Chair declared the Public Question and Answer Period closed at this time.

ITEM #6 SET A PUBLIC HEARING for March 24, 1998 at 7:45 P.M. on an Ordinance Repealing Ordinance #182 and #288 Entitled, "Public Celebrations Committee" as Requested by Councilor Stephen W. Knight

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

Chairman Parisi called for discussion from the table. There was none. He called for discussion from the public.

Mr. Phil Wright asked, what is the intended change?

Chairman Parisi asked the Mayor to send Mr. Wright a copy of the proposed ordinance.

Mayor Dickinson said the proposal is just to change the number of people on the Public Celebrations Committee from 15 to 21.

Mr. Wright asked, this says Ordinances #182 and #288--and all you're doing is changing the number of people?

Mayor Dickinson said, yes. One of them has to do with the Public Celebrations Committee, and one has to do with the number of people.

VOTE: All ayes. Mr. Zandri was absent. Motion duly passed.

ITEM #6a - Addendum to Agenda SET A PUBLIC HEARING for March 24, 1998 at 8:00 P.M. to Amend Ordinance #418, "An Ordinance Appropriating \$148,000 for the Design of Renovations to the Wallingford Community Pool" as Requested by the Director of Parks and Recreation

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

There was no discussion.

VOTE: All ayes. Mr. Zandri was absent. Motion duly passed.

ITEM #7 Consider and Approve an Interconnection Agreement Between the Town of Wallingford and Southern New England Telephone Co. (SNET) Personal Vision, Inc. - Corporation Counselor

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

Chairman Parisi asked for discussion from the Town Council. There was none. He asked for discussion from the public.

Mayor Dickinson said this involves the Town and SNET Personal Vision. They are asking for an agreement with the Town, similar to the State DPUC regulations, to include the public access channels--the Education Channel, the Government Channel, and the Public Access Channel--in their broadcasts. The agreement runs through 2007.

Chairman Parisi asked, when will it start?

Mr. Harold Kramer, Director of Public Affairs for SNET Personal Vision/Americast, spoke briefly. He asked the Council to approve the agreement. It will allow us to put public access and educational and government access onto our network. I can't say when it will start, but North Haven's broadcast started last Monday.

Mr. Jason Zandri asked why this would take place.

Chairman Parisi said it is to cover the people who sign up for it.

VOTE: All ayes. Mr. Zandri was absent. Motion duly carried.

ITEM #8 Consider and Approve an Amendment to Section 1(g) and 2(b)(4) of Wallingford Towing Regulations - Dept. of Police Services

Mr. Rys read this Item #8, but no main motion or second were made.

Mayor Dickinson made a correction. He said that the action here is not to amend but to add Sections 1(g) and 2(b)(4) to the regulations.

Chairman Parisi asked if anyone were present from the Police Department. Seeing no one, he said the Council would table action on this item.

Mayor Dickinson explained that the proposal is made by the Town Attorney's Office and the Mayor's Office. The Police Department has not been the agency moving this change. Basically, it says that a tower who has more than one State-approved facility could have each facility appear on the towing rotation list.

Chairman Parisi replied that the Council would like to have the department head present.

Mayor Dickinson said the regulations are under the Police Department, and they have said it's fine with them. But it's something that they did not draft and have not dealt with.

Motion was made by Mr. Knight to Table Consideration of this Item #8, seconded by Mr. Renda.

VOTE: Aye: Knight, Rys, Renda, Parisi  
Nay: Centner, Farrell, Zappala, Papale  
Absent: Mr. Zandri

The Motion to Table Failed by a vote of 4 Ayes to 4 Nays.

Chairman Parisi said this item is listed under the Department of Police Services, so they are technically requesting it.

Mayor Dickinson said, they do administer it. But that is not where the request originated. My office received the original request to be on the rotation list more than once, and the Town Attorney's Office wrote the language.

Mr. Parisi said, our rules state that the department head should be here. If the Police aren't here, we shouldn't be hearing it.

Ms. Papale explained her vote against tabling. After the Mayor's input, I thought we could go ahead with it. Probably the tower who is involved is here tonight.

Chairman Parisi said, we do have to follow our own rules. This is one of the legalities when we are proposing an ordinance change.

Mr. Centner asked if more than one towing contractor is in this category of multiple locations?

Mayor Dickinson said he did not know of another. This is probably the first request.

Mr. Centner continued, so if he had two locations, he would appear twice; and, if he had three locations, he would appear three times?

Mayor Dickinson said he believed that if a tower met all the DMV qualifications and paid all the fees, it doesn't matter to the Town because that is the way he chooses to do business.

Mr. Knight asked if this change would allow somebody else who has twice as much equipment to divide his one business location in order to qualify for twice the calls? Or are we requiring two separate locations?

Mayor Dickinson stated, each location would need a separate license from the Department of Motor Vehicles in order to qualify. If they meet those qualifications, I think we would honor that with multiple listings. The gentleman here could possibly tell you about the licensing requirements.

Mr. John Pierlioni, 8 Beaumont Road, said each location would need either a dealer's license or a repairer's license. In addition, each would be inspected by the State DMV and would have to provide a bond. Also, the locations must be properly zoned in order to get the dealer's or repairer's license. It's \$1,000,000 for each location and three trucks for each location. I have two locations, licensed and insured, and with enough equipment. They came and inspected it and the Police Department inspected it, and we passed.

Mr. Knight thought, from Mr. Pierlioni's remarks, that he has a legitimate reason for his request. I wanted to be satisfied that someone would not circumvent the regulations.

Mr. Pierlioni added that Motor Vehicles would never give a second license for half of a facility. When you reapply for your license at Motor Vehicles, there are big insurance costs, plus dealer plates, etc.

Mr. Andy Kapi, 6 Deme Road, said it would be inappropriate to enact this change without someone from the Police Department here. They are going to be involved. Also, one of the procedures you approved last time was that you could waive that a department head would have to be here.

Then the following vote was taken:

VOTE: Aye: Centner, Farrell, Knight, Papale, Rys, Zappala, Parisi  
Nay: Renda  
Absent: Mr. Zandri

This vote was not effective since no main motion was made or seconded. No action was taken on this Item #8.

ITEM #9 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Pertaining to Pending Litigation - Dellavecchia v. Factory Built Homes and the Town of Wallingford

ITEM #10 Executive Session Pursuant to Section 1-18a(e) (2) of the CT. General Statutes Pertaining to Pending Litigation Involving the Tax Appeal Entitled "Edward J. Smith, Trustee v. Town of Wallingford" - Law Department

ITEM #12 Consider and Approve Taking Action on Pending Litigation - Dellavecchia v. Factory Built Homes and the Town of Wallingford - Law Department

ITEM #13 Consider and Approve Taking Action on Pending Litigation Involving a Tax Appeal Entitled, "Edward J. Smith, Trustee v. Town of Wallingford" - Law Department

Chairman Parisi announced that the above items would be removed from the agenda. Removed were Items #9, #10, #12, and #13.

ITEM #11 Executive Session Pursuant to Section 1-18a(e)(4) of the Connecticut General Statutes Pertaining to the Purchase, Sale and/or Lease of Property - Mayor's Office

Motion was made by Mr. Rys to Enter Into Executive Session as stated above, seconded by Mr. Knight.

VOTE: All ayes. Mr. Zandri was absent. Motion duly passed.

Chairman Parisi declared the Meeting to be in Executive Session at 7:15 P.M. The room was cleared of the public and the staff. Remaining in the Executive Session were the eight Councilors, Mayor Dickinson, and Town Attorney Gerald Farrell, Sr.

At 8:13 P.M. the public and the staff were called back into the meeting room.

Motion was made by Mr. Rys to Come Out of Executive Session, seconded by Mr. Farrell.

VOTE: All ayes. Mr. Zandri was absent. Motion duly passed.

ITEM #14 Consider and Approve Taking Action Regarding the Purchase, Sale and/or Leasing of Property - Mayor's Office

Motion was made by Mr. Rys to Authorize the Mayor to Negotiate the Purchase of Properties Identified by This Council in Executive Session, seconded by Mr. Farrell.

Chairman Parisi asked for discussion on this motion by the Council. There was none. He asked for discussion from the public.

Mr. Phil Wright, 160 Cedar Street, asked the property's location.

Chairman Parisi said the Council cannot discuss it. The Mayor is charged to do something on our behalf and the Town's behalf. We are not privileged to discuss it at this point.

Mr. Wright asked, is it a one-acre piece or 100 acres?

Chairman Parisi said, it is considerable.

Mr. Pat Melillo asked, can we discuss Item #14?

Mr. Rys said, the motion has been made on that.

Mr. Melillo stated, relative to the purchase, sale, and/or leasing of property, I would like to have the total package described to me.

Chairman Parisi said, we can't answer that. If it's discussed in public, it affects our position. At this point we cannot disclose it, in the best interest of the Town. There's nothing that we can discuss.

Mr. Melillo said, I stood all this time just to hear what you would say about Item #14. So I can't know anything?

Mayor Dickinson asked to have the motion read again.

The Secretary read the motion incorrectly.

Then Mr. Rys restated his motion: Motion to Authorize the Mayor to Negotiate the Purchase of Properties Identified by This Council in Executive Session.

Mr. Farrell was the seconder.

Mayor Dickinson said, at this point there are purchase agreements that have confidential material. At the point that it could be made public, when the Council is supposed to consider it--

Mr. Wright said he wanted to understand what went on in Executive Session. Has the Mayor proposed to the Council that we buy a piece of property for a particular dollar figure?

Chairman Parisi said, I don't want to--I think we can all wait, and it will all be discussed at the proper time. It's not proper for us to get into discussing it.

Mr. Wright said, I don't want to know where it was or how many acres it was. Was a proposal accepted?

Chairman Parisi said, there was a presentation.

Mr. Wright said, I really don't believe that you can't answer my questions.

On the motion stated above, the following vote was taken.

VOTE: All ayes. Mr. Zandri was absent. Motion duly passed.

Motion was made by Mr. Rys to Adjourn, seconded by Ms. Papale.

VOTE: All ayes. Mr. Zandri was absent. Motion duly carried.

There being no further business, the meeting was adjourned at 8:23 P.M.

Meeting/motions recorded and transcribed by:

*Kathleen L. Burns*  
Kathleen L. Burns, Interim Secretary

Approved by:

*Robert F. Parisi*  
Robert F. Parisi, Chairman

*4-14-98*

Date

*Rosemary A. Rascati*  
Rosemary A. Rascati, Town Clerk

*4-14-98*

Date