

TOWN COUNCIL MEETING

APRIL 28, 1998

6:30 P.M.

AGENDA

1. Pledge of Allegiance and Roll Call
2. Correspondence
3. Consent Agenda
 - a. Consider and Approve a Transfer of Funds in the Amount of \$700 from Part Time Secretary Acct. #001-7011-101-1000 to Transportation Reimbursement Acct. #001-7011-300-3201 - Inland Wetlands
 - b. Consider and Approve Tax Refunds (#274-286) Totaling \$7,265.16 - Tax Collector
 - c. Consider and Approve a Resolution to Make Application to the State of CT. Department of Public Health for a Per Capita Block Grant in the Amount of \$21,463.52 - Director of Health
4. Items Removed from the Consent Agenda
5. PUBLIC QUESTION AND ANSWER PERIOD
6. SET A PUBLIC HEARING for May 12, 1998 at 7:45 P.M. to Discuss the Six Year Capital Budget of the Town of Wallingford
7. Consider and Approve a Transfer of Funds in the Amount of \$1,230 from Street Lighting & Signal Acct. #585 of Which \$615 is Transferred to Distr. Oper. - Supv. & Eng. Acct. #580 and \$615 is Transferred to Distr. Mntc. - Supv. & Eng. Acct. #590 - Electric Division
8. Consider and Approve a Waiver of Bid to Allow Cole Layer Trumble Company (CLT) to Perform the Requisite Technical Valuation Assignments Necessary to Bring Field and Related Work Up to a Current Status (Approx. 6/30/98) - Comptroller

9. Consider and Approve a Transfer of Funds in the Amount of \$20,625 from Finance Department Salaries and Wages Acct. #001-1401-101-1000 to Purchased Services - Property Appraisals Acct. #001-1401-901-9010 - Comptroller
 10. Consider and Approve a Resolution Authorizing the Mayor to Make Application to the State of Connecticut Department of Education for a Youth Service Bureau Grant in an Amount not to Exceed \$60,000 - Program Planner
 11. PUBLIC HEARING on a Proposed Ordinance Entitled, "Nuisance Cat Ordinance" - 7:45 P.M.
 12. PUBLIC HEARING on a Proposed Ordinance Entitled, "Open Burning Ordinance" - 8:00 P.M.
 13. Consider and Approve an Agreement for the Exchange of Land Between the Town of Wallingford and Property Owners on Prince Street to Allow for the Widening of Prince Street in Connection with the Town Hall Parking Lot Enhancement Project - Corporation Counselor
 14. Executive Session Pursuant to Section 1-21(a) and 1-18a(6)(B) & (E) to Discuss Tax Appeals; Smith v. Town of Wallingford and Plaza 15-5 v. Town of Wallingford
 15. Consider and Approve the Settlement of Tax Appeals; Smith v. Town of Wallingford and Plaza 15-5 v. Town of Wallingford
 16. Consider and Approve an Informal Settlement Agreement Between the CT. Department of Labor, Occupational Safety and Health and the Town of Wallingford, Department of Public Works - Town Attorney
 17. Executive Session Pursuant to Section 1-18a(e)(4) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Lease of Open Space Property - Town Attorney
 18. PUBLIC HEARING on an Ordinance Appropriating \$4,542,000 for the Acquisition of Various Parcels of Real Property for Open Space, Recreation and Town Purposes, and Authorizing the Issuance of \$4,542,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose - 8:15 P.M.
- Executive Session Pursuant to Section 1-18a(6)(D) of the CT. General Statutes Pertaining to Discussion on the Leasing of the Pierce Plant Site by the Town of Wallingford as Requested by Councilor Geno J. Zandri, Jr.



OFFICE OF THE MAYOR
TOWN OF WALLINGFORD
CONNECTICUT

WILLIAM W. DICKINSON, JR.
MAYOR

April 2, 1998

Dear Citizens:

Please take time and review this proposed budget. If adopted, it defines the variety and extent of services which can be offered to our community over the next fiscal year. While the content of the budget is generally restricted to one fiscal year, we have developed it using principles which enhance the long term fiscal health of our Town and its AA credit rating.

It is important to understand the revenue projections in this budget. The Grand List provides a 2.0% increase of approximately \$1,119,000. Revenues from sources other than property taxes such as grants and reimbursements total \$2,333,520. The health of the economy is the principal force causing these increases. In addition we are recommending the appropriation of \$3,083,178 from the audited cash balance, an increase of \$360,000 over the current year. While use of these reserves is recommended, we urge understanding that a change in the economy causing a reduction in such reserves would result in a revenue shortfall in a future year.

With regard to expenditures, the total budget increases from \$89,258,708 to \$93,113,325, an increase of \$3,854,617 or 4.3%. The Education portion of the budget rises 4.6% or \$2,345,037 for a total of \$53,744,621. General Government expenditures increase 4.0% or \$1,509,580 for a total of \$39,368,704. Analysis of General Government expenditures reveals the following: payroll costs rise 1.8% or \$271,574; operating-maintenance decrease \$792,516 or 5.5%; and capital costs increase \$2,032,401 or 64.1%. Capital projects include a new Town Hall roof, replacement of the Police Department radios, and Quinnipiac Corridor improvements. Operating-maintenance expenditures include a 10% increase in health insurance amounting to \$199,106 and the elimination of the contribution to the Pension Plan as recommended by the actuary.

Adoption of this budget will result in the mill rate remaining the same at 24.8 mills.

The Electric Division budget forecasts an average 4% increase in rate charges and a 3.3% increase in sales. Transmission and Distribution expenses decrease by 6% and Operating Expenses in general decrease by approximately 1%. The budget contains no increase in labor expenses because labor contracts are unsettled at this time.

The Water and Sewer Divisions' budgets assume no rate increases with reduced consumption levels. The Water Division's major projects concern the West Side Tankage construction, repair at Lane's Pond, and replacement of the Church Street water main. Operating expenses remain level with the current year and do not include wage increases still the subject of negotiation.

The Sewer Division plans for the replacement and repair of biological units in the waste water treatment plant. Evaluation of technologies for the removal of nitrogen at the plant is an additional project. Operating expenses increase approximately \$138,000 of which \$84,000 is depreciation.

We recommend these proposed budgets for approval.

Sincerely,



William W. Dickinson, Jr.
Mayor

jms

TOWN COUNCIL MEETING

APRIL 28, 1998

6:30 P.M.

SUMMARY

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4. Withdrawn	
5. PUBLIC QUESTION AND ANSWER PERIOD - Comments Re: Assessment Changes on Like for Like Replacement; Discussion on Advances in Fire Apparatus Technology; Questions Re: the Funding of the Youth and Social Services Director Position Prior to 7/1/98; Suggestion to have Arborist Inspect Wallace Park Trees; Comments Re: Mayor's Remarks to Record Journal Re: Removal of Trees at Johanna Manfreda Fishbein Park; Inquiry Re: Starting Time of Council Subcommittee Meetings; Question Pertaining to the Town's Computer System being Year 2000 Compliant; Request for Update on Quinnipiac Rive Linear Trail Project; Suggestion to have Council Representation on Computer Committee	1-8
6. SET A PUBLIC HEARING for May 12, 1998 at 7:45 P.M. to Consider and Act Upon an "Ordinance Appropriating \$1,670,000 for the Planning, Acquisition and Construction of Various Municipal Capital Improvements 1998 through 1999 and Authorizing the Issuance of \$1,670,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose" - Table Remove from the Table and Approve Setting a Public Hearing	8-10 62
7. Approve a Transfer of \$1,230 of which \$615 is Transferred to Distr. Oper. - Supv. & Eng. Acct. #580 and \$615 is Transferred to Distr. Mntc. - Supv. & Eng. Acct. #590 Contingent Upon the Public Utilities Commission Approving Said Transfer at their Meeting This Evening - Electric Division	10-11

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8. Approve a Waiver of Bid to Allow Cole Layer Trumble Co. to Perform the Requisite Technical Valuation Assignments Necessary to Bring Field and Related Work Up to a Current Status (Approx. 6/30/98) - Comptroller	59-60
9. Approve a Transfer of \$20,625 from Finance Dept. Salaries and Wages Acct. To Purchased Services - Property Appraisals Acct. - Comptroller	62
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11. PUBLIC HEARING on a Proposed Ordinance Entitled, "Nuisance Cat Ordinance" Adopted:	11-21 21
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13. Withdrawn	
14. Withdrawn	
15. Withdrawn	
16. Approve an Informal Settlement Agreement Between the CT. Dept. Of Labor, Occupational Safety and Health and the Town of Wlfd. Depart. Of Public Works	61-62
Executive Session - Purchase, Sale and/or Lease of Open Space Property - Town Atty.	11
18. PUBLIC HEARING on an Ordinance Appropriating \$4,542,000 for the Acquisition of Various Parcels of Real Property for Open Space, Recreation and Town Purposes, and Authorizing the Issuance of \$4,542,000 Bonds of the Town to Meet Said Appropriation and Pending The Issuance Thereof the Making of Temporary Borrowings for Such Purpose - 8:15 P.M. Adopted:	29-59 59
19. Withdrawn	

TOWN COUNCIL MEETING

APRIL 28, 1998

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, April 28, 1998 in the Bert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. ...si at 6:37 P.M. All Councilors answered present to the Roll called by Town Clerk Rosemary A. Rascati with the exception of Councilor Renda who was at home ill. Mayor William W. Dickinson, Jr., Town Attorney Janis M. Small and Comptroller Thomas A. Myers were also present.

A blessing was bestowed upon the Councilor by Ms. Trudy Brady, Diaconal Minister of the First United Methodist Church of Wallingford.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Correspondence - No item of correspondence were presented.

ITEM #3 Consent Agenda

ITEM #3a Consider and Approve a Transfer of Funds in the Amount of \$700 from Part Time Secretary Acct. #001-7011-101-1000 to Transportation Reimbursement Acct. #001-7011-300-3201 - Inland Wetlands

ITEM #3b Consider and Approve Tax Refunds (#274-286) Totaling \$7,265.16 - Tax Collector

ITEM #3c Consider and Approve a Resolution to Make Application to the State of CT. Department of Public Health for a Per Capita Block Grant in the Amount of \$21,463.52 - Director of Health

Motion was made by Mr. Rys to Approve the Consent Agenda as Presented, Items a-c, seconded by Mr. Farrell.

VOTE: Renda was absent; all ayes; motion duly carried.

ITEM #4 - Items Removed from the Consent Agenda - Withdrawn

PUBLIC QUESTION AND ANSWER PERIOD

Jim Krupp, 2 Jonathan Road stated that he brought to the Council's attention last year the issue of assessment changes on like for like replacement. It was not his intent to re-open that debate; a member of the Council did advise him that that particular policy did change effective last October. He then filed an appeal with the Board of Assessment Appeals and subsequent to that received their schedule for their hearing from which he was omitted. He had presumed that either the assessment had been denied or approved without a hearing. On March 19th Mr. Krupp had received a note from Chairman DeMarco of the Board of Assessment Appeals stating that because Mr. Krupp had not appeared for his scheduled hearing that the assessment had been denied. Mr. Krupp had responded to Mr. DeMarco that he had not been included on the schedule and asked that a hearing be re-scheduled for a later date. He received a memo from Mr. DeMarco subsequent to that which read, in part, "unfortunately, the Board of Assessment Appeals has no ability to grant your request for a re-scheduling of a new hearing regarding your appeal. I suggest you take immediate measures to protect your interests." Which Mr. Krupp assumed meant that he was recommending that he seek legal counsel. He asked, when a public agency makes an error, is it not incumbent on that agency to correct that error without forcing a private citizen to seek a very costly legal remedy? If the answer is yes, that what is Mr. Krupp's next step given the fact that there is a temporary vacancy in the Assessor's Office at this time?

Atty. Small asked Mr. Krupp to accompany her to her office so that she may review State Statutes pertaining to this matter. Mr. Krupp agreed to Atty. Small's request.

Pasquale Melillo, 15 Haller Place, Yalesville stated that there is a new invention that allows fire fighters to view objects through smoke via infrared technology. He urged Town officials to pitch in and coordinate their efforts to obtain the new equipment. He hoped that a recent OSHA (Occupational Safety and Hazard Administration) inspection and fining with regards to metal shops at the high school has caused the administration to review its policies in this area. Are we doing our best to make sure this does not happen again?

Mr. Parisi replied, the fine ended up being reduced. I am sure we are trying to comply.

Andy Kapi, 6 Deme Road stated I understand that the new Youth Social Services person is already on board, is that correct?

Mayor Dickinson stated, that is correct; his name is Craig Turner; he is here tonight.

Mr. Kapi asked, wasn't that position supposed to start July 1, 1998?

Mayor Dickinson replied, it is in the budget for July 1 but it is actually filling the vacancy in the Youth Service Bureau at this time.

Mr. Kapi asked, is he being paid out of the line item?

Mayor Dickinson responded, that is correct.

Mr. Kapi asked, was that planned or a happy expediency because that position was vacated?

Mayor Dickinson explained, the vacancy in the position resulted in testing to fill the position. It has been filled.

Mr. Kapi was under the impression that the whole position, itself, now combined as a new position was to begin on July 1.

Mayor Dickinson stated, the Youth and Social Service Department begins on July 1st.

Mr. Kapi asked, that required no action, no transfer of funds, anything procedurally to accommodate?

Mayor Dickinson replied, the earlier action as far as changing the job description occurred, other than that I don't believe there is anything....there is money in the account for payment of salary.

Mr. Kapi stated, I was looking for an "overlap" in this new position working along side Mary Alice (Welfare Director) and her team; I was looking for it in the other direction. It would have been a different priority of loyalties that I would have followed but I suppose that this is the best that we could ask for at this point.

Phil Wright, 160 Cedar Street stated that he took notice of all the trees that have been planted over the years in Wallace Park and asked if the Town has had its arborist take a look at them to see if there are some that should stay or go?

Henry McCully, Director of Public Works stated, none of the trees inside the park are effected by the new construction on Quinnipiac Street. There were six trees that were tagged on St. Patrick's Day and some of those trees have been removed from Quinnipiac Street.

Mr. Wright stated that the park has maple trees which are infamous for roots that protrude from the ground. If it is O.K. and they are not going to start ripping up the new brick sidewalk, then it is O.K. to leave them.

Mr. McCully explained, the trees are far enough away from the sidewalks.

Wright stated that the Mayor was quoted in the Record Journal on April 21st when an article and pictures appeared on the planting of the new trees in Johanna Manfreda Fishbein Park. In that article the Mayor was stated as saying, "I am glad to see the schedule is being met. Henry is very conscientious about dealing with trees." That comment did not sit well with me and probably not with very many other people who were concerned about the trees being ripped up at Fishbein Park. It seemed to be a slap in the face of all the conscientious people.

Mayor Dickinson replied, it was not meant that way; I was referring to the Public Works Director identification of an area of concern; his follow through, his indication that the new trees be planted in April and his accomplishment of that task within the time tables established. I meant, from my perspective, Henry takes the work seriously and looks to act in the best interest of the Town. There can be disagreements with that.

Wes Lube, 15 Montowese Trail asked questions pertaining to the procedural rules of the Town Council. Section 1A of the meeting procedures states, "All Town Council subcommittee meetings, with the exception of the Merit Review subcommittee, must take place at or after 6:00 P.M." He asked if the Council has notified all of its subcommittee Chairpersons that they are to abide by this ng?

Mr. Parisi responded, I would expect that they would be aware of that when we passed the rules. Is someone not following it?

Mr. Lube stated, you see the meetings publicized on Channel 20.

Mr. Parisi stated, not Council committees. I think you are in error; I don't think you are referring to Council subcommittees.

Mr. Lube referred to the minutes of the meeting at which the procedures were reviewed, revised and adopted. He read Mr. Zandri's motion into the record which stated that the meetings of Council committees not be held before 6:00 P.M. There was an amendment by Ms. Papale to exempt the

Merit Review Committee. There were no other amendments. Yet, the approved and recorded Meeting Procedures changed the word "committee" to "subcommittee". Mr. Knight said that he wanted to make sure that he understood the substance of the amendment and that all Town Council subcommittee meetings, which is really what we are talking about, so he used the word "subcommittee" for the first time but there was never any amendment to Mr. Zandri's motion. His motion was voted on as "committees". Because of this clarification, is it fair to assume that it applies both committees and subcommittees?

Mr. Parisi responded, right; it is the Council committees as listed on our letterhead; Education, Personnel Merit Review, P.U.C. Liaison, Ordinance, Finance, Planning & Zoning and Public Safety. Those are the Council committees.

Mr. Lube asked, what about other committees the Council has appointed that are now meeting?

Mr. Parisi responded, they are not governed by our rules. It was not the intention (of the motion) I believe.

Mr. Zandri responded that he agreed with Mr. Parisi by nodding his head in an affirmative fashion.

Mr. Parisi stated, it has been the rule for many years that committees set their own meeting times depending on the issue, depending on the people that you think may be involved in that issue. If it were a senior citizen issue, you could perhaps meet in the morning and it wouldn't be any problem. Most of the people might be retired.

.... Lube stated that the discussion which precipitated Mr. Zandri's motion was one of concern on the part of the Council that the public have the maximum opportunity to attend the committee meetings. Why is that same attitude not applied to the committees of the Council that are not listed on the Council's letterhead, he asked?

Mr. Parisi replied, I would venture to say that the majority of the committees usually meet at a time that is convenient for the public. I won't say that every one does. I would think that it is up to the committee Chairperson and if people found it to be inconvenient, I would suggest that they contact the Chairperson or Council and maybe we could ask them to reconsider their schedule. We never had a complaint so this may be a new issue entirely. If it is a legitimate concern we try to work on it and see if we can find a solution.

Mr. Lube stated, someone looking at the meeting procedures a year from now will not be clear on this.

Jim Krupp, 2 Jonathan Road stated, those members of the Town Council who are familiar with the business situation are aware of the imperative of becoming year 2000 compliant with our computer systems. It is my understanding and in speaking with Mr. Myers' that our current systems are not year 2000 compliant. Has any thought been given to the formation of either some sort of task force or committee, cross-functional, to address getting all of the systems operational by the end of this calendar year because the issue does not resolve around 12/31/99, as soon as one tries to roll out one year of 1/31/99, we are going to run into mental vapor-lock on some of these computer systems.

Mayor Dickinson stated, we currently have a committee that is reviewing the replacement of the data processing system located within the Electric Division office. That system has recently been in the process of an upgrade which does make it year 2000 compliant. The Comptroller's Office is also in the beginning stages of having an upgrade provided by Cole, Layer and Trumble, the firm that did the re-valuation which would provide compliance for their purposes as well as the Assessor's Office. We just approved a transfer for a new computer system for the Police Department which will be year 2000 compliant. The Comptroller's Office will also be acquiring proprietary software that will be compliant as well.

Mr. Krupp asked, is there a definite action plan to review and ensure that all town departments be compliant by 12/31/98?

Mayor Dickinson stated, with these various projects or programs it will all be compliant.

Mr. Krupp stated, otherwise the taxpayers could face a very hefty bill.

Mayor Dickinson stated, wherever we can visit that cost on the providers of the software, that is what we are doing.

Pasquale Melillo, 15 Haller Place, Yalesville asked for an update on the Quinnipiac River Linear Trail Advisory Committee project.

Mr. Centner explained that he, personally, went to Boston, Ma. Along with a number of the trail members to receive an award. Rep. Mary Mushinsky was unable to attend for she was involved in the signing of the Metacomet Ridge Pact in Hartford which is a pact started by the Meriden

Conservation Commission to protect the trap rock ridges from our area through nineteen towns down into the Long Island Sound area. Seven or eight members of the Quinnipiac River Linear Trail Advisory Committee (QRLTAC) go to Boston to receive the award. Mr. Centner, Karen Centner, Lois Doherty, Elaine Doherty, Jackie Iaderosa (nominator), Tom Burmeister, Bonnie Hill and Lynn Hoffman, Chair of the Publicity Subcommittee; it was the E.P.P.A. Regional Award for the New England Region for Environmental Concerns for the committee's activities along the river in terms of community service and clean-up. It was a nice ceremony. The committee has applied to a number of grants and are proceeding to apply for federal money. He is working right now with the Town Engineer and other committee members to get started and be put on a "tip" list in order to get the project recognized and receive federal dollars from ISTEA as they are administered through the State program. Some grant awards have been received from two areas however the committee is in the midst of accepting the grant awards so he cannot reveal them in public as of this time. The committee has been asked to write a letter to acknowledge the receipt of grant monies but before that information can be made public the State needs to acknowledge the funds and they will publicize the grant awards given to the committee. It is actually through the Town of Wallingford through the Linear Trail Advisory Committee.

Mr. Melillo stated, this is an election year so the committee has a tremendous opportunity to try and get as much money as possible for the project. Congresswoman Rosa DeLauro may be a big help also.

Mr. Centner stated, we expect to have an event in June in which the Governor hopefully will be in attendance and actually walk or bike part of the proposed trail. Congresswoman DeLauro has been supportive; she has been an endorser and has sent a letter of endorsement. She is already an Ex-officio Member of the committee.

Albert Killen, 150 Cedar Street asked, is the Council aware of the subcommittee working on the computers?

Mr. Parisi responded, no.

Mr. Killen stated, we don't need another fiasco like we had a couple of weeks ago where for six years a committee was working and the Council was not aware of it. Make sure the Council gets someone on board on the committee and be fully aware of what is going on and make the public fully aware.

Mr. Parisi stated that the suggestion was a good one.

Mr. Parisi asked the Mayor to include the Council on the computer committee.

Mayor Dickinson explained, generally, the committee has the Electric Division and this is the big project replacing.....all of you are aware of that. They generally meet in the morning.

Parisi stated, we may have someone who is available. Maybe we can work something out.

ITEM #6 SET A PUBLIC HEARING for May 12, 1998 at 7:45 P.M. to Discuss the Six Year Capital Budget of the Town of Wallingford

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

Mayor Dickinson stated, the motion should be to "adopt" the Capital Budget of the Town.

Motion and second were withdrawn.

Motion was made by Mr. Rys to Set a Public Hearing for May 12, 1998 at 7:45 P.M. to Adopt the Six Year Capital Budget of the Town of Wallingford, seconded by Mr. Centner.

Frank Wasilewski, 57 N. Orchard Street asked, why does the Council have to adopt an ordinance when the Six Year Capital funds are budgeted for in the budget and when the budget is adopted the Six Year Capital funds will be also? All this is subject to change; it could change from one year to the next. Next year you may want to change it.

Tom Myers, Comptroller explained, the Capital & Non-Recurring budget is adopted in the normal course of budget adoption on May 12th. We are trying to set a public hearing for a funding ordinance appropriating money to the Capital & Non-Recurring plan. That is a separate action from the budget action.

Albert Killen, 150 Cedar Street asked, isn't there money already in the budget that is going to be adopted by the Council to cover this?

Mr. Myers answered, there is money in the budget for the Capital & Non-Recurring plan for debt service. New debt will be incurred for the 1998-99 Capital Improvement Budget.

Mr. Killen stated, there is supposed to be earnings from the Electric Division going towards that.

Mr. Myers answered, there are.

Mr. Killen asked, how much are you going to raise? You get almost \$1 million from the Electric Division if not more.

Mr. Myers stated, the 1998-99 Capital Improvement Plan is \$1.6 or \$1.7 million.

Mr. Killen asked, is it going to reflect just the amount that is not going to be raised elsewhere?

Mr. Myers replied, it will reflect what's raised less what goes out for existing bonds and interests on bonds.

Mr. Killen asked, it should be a separate entity. If you are holding a public hearing on one particular item you should not be bringing in something else that occurred. You are adopting a budget to raise just enough money to cover one fiscal year.

Mr. Myers stated, this is exactly the way it has been done in the past. There is no variation from what has been standard town practice for the past thirty years.

Mr. Zandri asked, if we are setting a public hearing to fund the Capital Budget shouldn't there be a dollar amount associated with that public hearing? Normally it is part of the announcement when you set a public hearing of what the dollar figure is you are going for.

Mayor Dickinson explained, the dispositive thing is the publishing in the newspaper. This allows the publishing of the hearing date and there is a title given by the bonding counsel that provides the total and other pertinent information. The nature of this on the agenda is to let someone know that we are setting a hearing date but the publishing in the newspaper is the critical issue as far as the legal notice and then we have the hearing.

Mr. Rys withdrew his motion, Mr. Centner withdrew the second.

Mr. Rys stated that he has been advised by counsel that the proper motion should be to Set a Public Hearing May 12th to Adopt an Ordinance Funding the Six Year Capital Budget for the Town of Wallingford, seconded by Mr. Centner.

Mr. Parisi asked, do we think we have it right this time?

Attorney Small asked Mr. Rys to state that the public hearing will be held at 7:45 P.M.

Mr. Zandri stated, I think it should be stated that the funding will be for one year of the Six Year Capital budget.

..... Killen agreed. The motion, as it stands, appears as though you are going to adopt a budget for six years when, in fact, you are adopting it for one year.

Mr. Rys made a motion to Table This Item, seconded by Mr. Knight.

VOTE: Renda was absent; all ayes; motion duly carried.

ITEM #7 Consider and Approve a Transfer of Funds in the Amount of \$1,230 from Street Lighting and Signal Acct. #585 of Which \$615 is Transferred to Distr. Oper. - Supv. & Eng. Acct. #580 and \$615 is Transferred to Distr. Mntc. - Supv. & Eng. Acct. #590 - Electric Division

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

The transfer is for the purpose of providing for a retro-active award to Paul Nadeau as a result of labor arbitration settlement.

Mr. Zandri amended the motion that the Council Vote to Approve the Transfer Contingent Upon the Public Utilities Commission Passing the Same Transfer at their Meeting this Evening, seconded by Papale.

Albert Killen, 150 Cedar Street stated that the Electric Division transfer should never have made it to this agenda when it has not been acted upon by the Public Utilities Commission yet.

Mr. Parisi stated, it was due to the scheduling of the budget.

Frank Wasilewski, 57 N. Orchard Street stated, the last time the P.U.C. rejected a transfer it was when Dick Nunn was the Chairman. I have never in all the meetings that I have attended has the P.U.C. rejected a transfer. As sure as I stand here that transfer is going to go through.

VOTE ON AMENDMENT: Farrell and Renda were absent; all ayes; motion duly carried.

VOTE ON MOTION AS AMENDED: Farrell and Renda were absent; all aye; motion duly carried.

It is noted that Mr. Farrell left the Council meeting to attend the P.U.C. meeting. He will return.

ITEM #17 Motion was made by Mr. Rys to Move Agenda Item #17 Up to the Next Order of Business, seconded by Mr. Knight.

VOTE: Renda was absent; all ayes; motion duly carried.

ITEM #17 Executive Session Pursuant to Section 1-18a(e)(4) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Lease of Open Space Property - Town Attorney

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

VOTE: Farrell and Renda were absent; all ayes; motion duly carried.

The Council entered into executive session at 7:23 P.M.

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

Mr. Farrell returned to the meeting during executive session.

VOTE: Renda was absent; all aye; motion duly carried.

...e Council exited Executive Session at 7:45 P.M.

ITEM #11 PUBLIC HEARING on a Proposed Ordinance Entitled, "Nuisance Cat Ordinance" - 7:45 P.M.

The ordinance in its entirety was read into the record (Appendix I).

Claudia Dunton, 22 Grandview Avenue stated that the ordinance is a bad idea because it puts the blame on the animals rather than the humans. This town can afford a very cheap or free spay/neuter/vaccination program which hits the problem where it lies. If a neighbor is mad at another neighbor they can call up the dog warden and say that there is a feral cat in their backyard. If you are on vacation two weeks...according to what I read in the newspaper it is supposed to be a week posted before the animal is euthanized. If there are plenty of programs in other communities in this

country where they trap, neuter/spay, vaccinate and release them to the community so long as there is a sponsor who is willing to watch over the cats to make sure they are not a nuisance. The end result of this ordinance is going to be that you are going to have a very tough time putting justice where it belongs. We have the responsibility, as humans, to look after domestic animals. All those animals that are feral cats are either stray domestic animals that belong to someone or the prodigy of such. It is a disgrace not only in this state and country but in the world; it is a world-wide problem. To euthanize them when there are millions and millions, go ahead and let's do something smart. Let us put out the money and take care of the problem, that way the owners whose animals, because they are not spayed or neutered can often cause troubles. They found that when they are spayed, neutered and vaccinated, there are a lot less problems. If we have a very cheap or free deal here, they cannot use that as an excuse.

Dave Cantos, 4 Meadows Edge Drive stated that he used to own a cat and he does like them but he could understand how a situation such as this could arise. He, too, has a similar situation where he lives. Across the street there is an owner who has a group of cats, they are not properly fed, they are not vaccinated, they are free to roam and do so in back of a neighbor's yard where they populate and do other things. If he still had his cat he would be opposed to the ordinance because he does not like the way it is worded; the words, "domestic cat" and then the words, "not owned" appear in language which seems double-talk. It is written in a way that is almost like circular reasoning where you are stating that one should register and vaccinate the feral cats but the wording is such that if you are taking care of the cat, you own the cat. He stated that there are not bad cats, just bad owners and the Town, if they catch an owner of an animal(s) that is (are) not being properly taken care of and is (are) causing problems for neighbors, should slap the fine on the owner not just have a mass registration program and euthanizing program for the rest of the cats in town. He was not sure this ordinance, which still seems unclear, curbs the abuses.

Mayor Dickinson stated, there are two areas that this proposed ordinance effects; the feral cat which is being cared for but not owned by anyone and as listed in section 4., no person owning or keeping any cat can allow that cat to do damage to someone else's property or constitute itself as a nuisance. That is not necessarily just a feral cat, that could be any cat that is found to be a nuisance which is subject to the owner being fined as an infraction or the cat being held by the Animal Control Officer.

Kathryn Tramano, resident of New Haven, stated, I take care of wild colonies of cats outside in New Haven for approximately nine years and feel that I have experience on this issue. First of all, cats are not unsanitary, that is, genetically, not something that they are so I am not sure why that would be in the ordinance. Secondly, I am not sure what the definition of nuisance would be because that is

something that would be different for each person. Lastly, if someone is mad at their neighbor, this is a great way to seek revenge. It appears, especially from the last article, that the woman who spoke felt very threatened by cats whereas cats are solitary animals, they do not band together. Several of the articles stated that they do band together; they don't, they are solitary animals other than lions and prides. It is a genetic thing, they don't do that. Cats also do not carry a lot of diseases that she was worried about....

Mr. Parisi asked that the speaker not comment to other people's statements or personalities.

Ms. Tramano continued, it is illogical to prove....how can you prove that a specific animal is causing this damage? There is no way without videotaping it happening, catching a cat causing damage. How are you going to validate the evidence that this specific animal is causing this specific damage? That is very unclear.

Mr. Parisi answered, I think it is very easy to do but I don't want to get into a debate. Please make your statement.

Ms. Tramano replied, my statement is that this is an illogical and impossible way of controlling the situation. The only way to control the situation appropriately is to neuter and spay those cats and to press more responsibility on the owner, not the cat.

Terena Porto, Seneca Road stated, I am not here to debate or discuss your ordinance. I know in my heart that your ordinance is already a done deal. That's fine, I really don't care. I am not here to try to change it or try to correct it. I am here because I have something to say. You were told last month about a feral problem on Seneca Road and you were told about a neighbor who feeds a cat who is causing all these problems. You are looking at her; I am the neighbor. At least I am the one that is singled out. I am not the only one there that feeds these cats. We have others in the neighborhood who are doing the same but I am the one that is being harassed. Maybe because I am old and live by myself, I really don't know. You listen to the problem about the smell, the feces, the cats, the rabies, etc., and you are all very appalled. I have lived in this neighborhood for forty-two years and many of the other neighbors have lived there as long as I have. Never was it a cesspool, unbearable, unsanitary, etc. Between us we have raised twenty-seven children, we had cats and dogs and you name it. Of the thirteen families living there now, there are two families who are complaining and pointing the finger at me. I have done nothing wrong and I am tired of being singled out and this has gone on long enough and I find it very unfair. The outspoken resident neglected to tell you that she picks up the cat feces and throws them in my yard; she has sent the police to my

door; told me she will have me arrested; told me she will put the feces on my property line so that I cannot sit in my yard.....

Mr. Parisi asked that she refrain from making remarks about her neighbor.

s. Porto responded, I have a right to say this, you have heard her, now you should hear me. I have had reporters sitting in front of my house trying to get pictures of all of these cats that she claims are there. I have even had crank calls because my name was put in the paper. To me this is appalling. Last year in May when I talked to the dog warden and offered to pay to have these so-called cats trapped and put to sleep, I was told this was unacceptable because we cannot put down a healthy animal. When I talked to the Mayor, he asked me what it was that I wanted. I told him point blank, "I want the cats the hell out of my yard." And he said that he would have it taken care of. It has been a whole year and nothing has happened yet. This is appalling. I have had many kittens spayed and neutered; they have been given their shots, I have put them in homes at my expense. Now there is an ordinance in the works, everyone is gung ho. The traps have been set, they are going to catch the cats. For eight weeks we had traps in the back. They have caught three cats. I think the amount of cats in the neighborhood were said to be twenty. How come the dog warden can't catch these twenty cats? There are feral cats and it is sad. No one would help to correct the problem sensibly. These are God's creatures and I feel that they should be taken care of. My little bit of food that I put out is not causing these cats to destroy someone else's property. They do not even stay around, they eat and they leave. The entire town is full of feral cats. No one wants the responsibility so they point the finger at me or at you or someone else. Town officials must remember we, the people, have given you the honor of serving us and we feel that the Town should do something sensibly; a clinic where cats can be spayed reasonably, not \$65.00 a cat; where they can get their shots for \$40.00 not \$83.00 and perhaps this will check the feral cat problem. If my husband were alive this would not be happening to me; he is not here, he is gone. I refuse to be intimidated by anybody and I am going to fight this battle if I have to. I take care of my property as all my neighbors do. We have no mess, no smell, we don't live in the cesspool. Our yards are beautiful, we have lived there a long time and we have all managed. We have been happy for many years. The cat problem is not going to go away. It will be there forever and if not on Seneca Road then someplace else.

Joy Bristol, 160 Suffolk Court stated, I think the part of the ordinance which proposes to kill the cats is very wrong and killing should never be an option to solve any problem.

Lillian Pierce, 40 Valley Street was next to speak (Appendix II).

Carol Vorsory, 30 Strawberry Hill stated, ultimately I support the ordinance, I hope that it is passed. I am a cat lover and I really would not want to see harm come to them and I am almost changing my opinion as I listen to people but I want to share my concerns. They may be redundant but there are an increasing number of stray cats which are carrying disease and rabies. I am an owner with stray cats in my back yard continually. They can cause injury to children, property and to my own pet cats which has become a burden to myself and my family. The lack of placement that is allowed for cats once they are caught; in talking to A.C.O. (animal control officers) in the past, they were not able to help me out other than to lend me a cage and it was a burden for myself, as a resident, to have to go and get the cage to catch the cat, handle the cat and then try to find placement for this cat. I had called about eight facilities and humane societies. No one had openings for these cats. We have had up to eleven stray cats in our neighborhood over the last six years wandering into my yard. They have fought with my cats and one, a non-neutered male, caused us to incur expenses totaling \$600 - \$700. He tore through our sun room screen, entered the room and began fighting with my cats. We incurred veterinarian bills not to mention the cost to repair damage to our home. It has been a real problem and I have been growing angrier and angrier over the issue and wishing the town would do something. I have been in contract with the ACO and it has always been my burden to get the cage and handle the issue. The wording of the ordinance is unclear. I hope it deals with the individual stray that comes into the backyard. Colonies of cats could be a contributing factor to this. As far as holding an owner responsible, I don't see how that is enforceable. How do you prove who owns a cat that has been hanging around your yard for three months? I hope that with a follow up on this ordinance you will allow for budgetary allowances for the Town. The ACO will need manpower for I assume that they will have to come out, place the cat and advertise for it. Please look into other alternatives as far as spaying, neutering, etc., programs that might be a possible solution. I do support the ordinance.

Rep. Mary Mushinsky next spoke in support of the nuisance cat and feral cat ordinances. They are two separate ordinances and can be passed together or independently. It is the Council's choice. She thanked Mr. Knight for introducing the ordinance. She stated that she is the author of public act 96-243 which is a State law which authorized towns to enact this pair of ordinances. The law was passed with Wallingford in mind. Every year citizens voice cat complaints when she door knocks. This has been going on for years. Businesses complain about feral cats in dumpsters and homeowners about neighbors with large numbers of cats that cause property damage especially to cars and screens and persistent unsanitary conditions. I have had these complaints from all over town not only one or two neighborhoods. The feral cats are a problem because they are the ones that are not protected by rabies shots which owned cats are protected by. Cats are the number one domestic

source of rabies transmission to people. It is also a problem because they produce large numbers of offspring which end up being euthanized and we did some research on this a few years back, the number of cats euthanized far surpasses the number of dogs euthanized in Connecticut mainly because there is no control over the population. For this ordinance you may fine violators up to \$100. The nuisance cats ordinance concerns a problem because the free nature of the cats makes their behavior harder to control. They can scratch cars, break screens, defecate in children's play areas, etc. I have had constituents present me with bills from their estimates and it is only fair that we hold owners responsible for substantial damage. Substantial damage is when the cost is somewhere around \$300., not just one scratch. This is a humane pair of ordinances and the feral one, in particular, will finally permit low cost spay/neuter. It gives the Town a tool to bring the cats into the State's spay/neuter program. The feral cat ordinance would require registration of a feral cat maintainer; the person that keeps coming and feeding the cat and have them be responsible for the shots and the neutering. Once someone is responsible, they can be rounded up and processed through the pound then re-adopted to access the fund. Once they go through the pound, that feral cat maintainer is eligible for the low cost spay/neuter program and all of those animals can come in under the subsidized low cost spay/neuter. It will reduce the health risk when these feral cats are inoculated and increases the well-being of animals themselves. We can use the spay/neuter fund to finally stabilize these colonies so they don't continue to increase. Also, on the nuisance cat ordinance it finally...it is also a humane idea because it finally gives some legal relief to the neighbors. I have spoken with neighbors who want to bring harm to these furry creatures only out of sheer frustration. They have no way of controlling the property damage; they don't know what to do about it and they want to take it out on the animal which is really not the animal's fault. I thank you for being responsive by submitting this pair of ordinances; I hope you pass both of them. I will turn in a legislative research memo which give more detail on the penalties and use of the ordinances (appendix III).

Pasquale Melillo, 15 Haller Place, Yalesville stated, let's weigh everything carefully and as humane as can be for the cats.

Reginald Knight, 21 Audette Drive stated that he liked the idea of the cats not causing damage or foul odors but he worried about how the ordinance would be enforced. How are you going to identify which cat did what to whom? Also, you can like your neighbor but not what their cats are doing in your yard. Quite often you will end up with a situation where it is going to be, "he said, she said". It is going to be difficult to enforce.

Chris Gavin, 34 Seneca Road stated, I think this is a good ordinance to have. I think it makes a lot of sense. I am not one for having the cats euthanized but I am also not one for having the cats defecate

on my property which they have done. I am not one for having cats in the middle of the summer when you do have your car windows open, get trapped and get frenzied and they can't find their way out. They shoot through a car window at your three year old when you are getting ready to put that child and a two month old child in a car to bring to nursery school. That is a problem. If these cats were not in my backyard then I would not have this problem and I would never have come to the Town Council in the first place. Yes, I will admit that it started out of some frustration with a neighbor but it has since not even come to that. It is well beyond that now and it is more of an issue the safety of my family. If a cat gets tangled up with a raccoon that is rabid, then the cat becomes rabid and they may travel in colonies some place and gang up on cat people or dogs or what ever but my problem is for the safety of my children. If that cat was rabid that jumped out of my car at my three year old then I am stuck with a three year old that is afraid of cats and now I have to go through all of the rabies shots. I do agree with Rep. Mushinsky regarding the frustration level for and against the ordinance but I want to thank you for putting this up to a vote and I appreciate it.

Tim Cronin, 47 S. Ridegland Road stated, thank God I don't own a cat in this town; unfortunately, I own a dog and I don't like what the Town has done to my dog with its ordinance about dogs. The problem I see has already been hit upon. To use an example, when the State passed a law about lights being on during a rainstorm, I was traveling on Hope Hill Road and there were a few drops of rain and from over the hill by the fire station a car came by with his lights on. As we got closer together he started blinking his lights on and off going crazy. I checked all my gauges, I thought my car was on fire and I was in big trouble. The other driver got closer and he rolled down his window and told me I did not have my lights on. There was no need to have the car lights on it only began to sprinkle out and I think the law only pertains to State roads. We can get real technical over these things. There are people out there who have problems with cats and are rigid people who will make their life miserable. I have a neighbor who has two cats that come to my yard and defecate but, compared to what my 120 lb. dog does, it is nothing. If I wanted to be like the fellow with the car lights, this woman would be terrorized by this law. Her domestic cats are acting like they do everywhere. There are a lot of people that make this world go round and this will make their lives miserable.

Irene Buijnarouski, 32 Valley Street stated, these cats that come from my neighbor's yard into mine are not stray cats, they are domestic cats and are well taken care of. They come to my yard and drop their feces. I was told that they stake their territory and will come to that spot for the next twenty years. It was not encouraging news. I got a big water gun to spray them with. I would never hurt them because I love cats. I was brought up with a cat in the house. I was taught to be kind to animals. My son even bought me a yard guard for my birthday. You plug it into an outlet and put it out in the yard. It is supposed to make a noise that bothers the cats when they are in a certain range.

It is inaudible to humans. It did not work and it was \$150 down the drain. I then bought some powder that the ACO recommended we try. Put it all around the yard and the rain washes it away. I continued to put it out but the cats keep coming. They must like me. I like them too, they are nice cats. I was then told to get a fence. The fence man told me that I would be wasting my money to put up a six or eight foot fence for the cats will still come in the yard. Yes, the cats are God's creatures but I am one of God's children and the creatures do not pay the taxes on my yard and car. I am not a creature, I am a human being.

Claudia Dunton, 22 Grandview Avenue stated, we all know from reading the newspaper and watching the news that a lot of serial killers and major criminals start out life abusing small animals. Before I was talking about putting the blame on the humans; responsibility for their pets. What is going to happen with this ordinance should you pass it is that people who are keeping "the cats" will be afraid to come forward. There will be no visible support of these animals, even people who own a cat let them out for three days at a row, which I do not approve of. What is going to happen is that we are going to have torture here. It will become a real bad problem. Society is not served by giving someone a stepping stone to moving toward children and then adults. If you think this is all balderdash, talk to the police chief, look at crime statistics. This is how they start. Jeffrey Dahmer started that way; Ted Bundy started that way. This is a complicated issue. It is not, "the cat is in my yard; I love cats; please don't touch cats." It is complicated. I appeal to you again to put the blame where it belongs. Please go ahead and put out more money than the State is allocating. Let's get a spay/neuter/vaccination program so people take responsibility; that means all of us and you.

The public hearing was declared closed at this time.

Ms. Papale stated, I know people have mixed emotions on this topic. I believe that the problem we have in the town with domestic cats is as great as the problem we have with feral cats. The situation I see is that people that own cats have no way of keeping them out of the people's yards from next door. This is probably the larger problem of the two. If someone's domesticated cat keeps going into neighbor's yards and causing damage, would this be where the \$15.00 fine would come in?

Mr. Knight stated, yes, when they come to pick up their cat they are going to pay \$15.00 for housing the cat.

Ms. Papale asked what happens when someone calls the dog warden on a nuisance cat problem?

Mr. Knight stated, a have-a-heart trap is set; the cat is caught and taken to the pound; we advertise

for seven days; this is all contained in some state statute that is referred to in the ordinance. At the end of fourteen days if the cat is not claimed, the cat is subject to being euthanized which is most unfortunate but given the practicality of it, I am afraid it is probably necessary.

Ms. Papale asked, are both of the ordinances that Rep. Mushinsky was talking about in this one ordinance?

Mr. Knight answered, yes. This fell on me to do something about it since I am the Chairman of the Ordinance Committee. This is not something that anyone on the Town Council is really very happy to have to do. It is a result of human irresponsibility that there are these cats and hundreds of them; thousands of them; all over the Town of Wallingford and all over the State of Connecticut. It is a direct responsibility of humankind for this problem. I have seen the result of a large number of pets having been given free reign to roam the neighborhood and do their business in one person's yard. I own two cats that are the most spoiled rotten cats in Wallingford but I am in support of this ordinance and regretfully so. It is something that is unfortunately necessary. I would urge anybody that thinks this is an easy problem to encounter what Bob Parisi and I did when we visited one person in particular and saw the extent of the problem this person was having. Her yard was a cesspool; it was disgusting. It was pretty cool that day and we could see the feces everywhere, we could smell the urine everywhere. This is a very serious problem for a very small number of people but for them is a true quality of life issue. I am grateful for the work that Rep. Mushinsky did; she was very careful when she crafted this bill to use the word substantial. When we are talking about somebody's pets, we are not going to craft an ordinance that is going to be used as a tool for one neighbor to "get after" another neighbor for some minor inconvenience that they might suffer because of one neighbor's cat. We are talking about substantial and believe me there are instances in this town where the damage is substantial and that is the point of enacting this ordinance. Euthanizing cats is a last resort. From a practical standpoint that is probably not going to be the result and one of the reasons is, especially with having to do with the feral cats, these are not cute little "puddy tats" after they have been out there for a few weeks or months. These are animals that, by and large, have probably crossed the line and are very likely not to be easily domesticated once again, at least suitably enough to become somebody's companion. Again, human beings cause this problem and other human beings suffer from this problem and others including the people up here (Council) have the responsibility to do something about it. That is the point of this ordinance; it is regrettable but necessary.

Mr. Zappala stated that he, too, will support this ordinance as a member of the Ordinance Committee. He believes the ordinance will give the Animal Control Officer some control over the problem which she does not have at the moment. We all like to have pets; I have a dog and I put an invisible fence around my yard to keep the dog from bothering anyone else; it is my responsibility. It is sad that we can't do that with the cats. I would like to expand the ordinance by having everyone register their

cats but I hear that it is impossible to do. This does not have to do with ordinary cats that people have in their home as pets but the cats that people feed without realizing the damage they are causing to the neighbors. This ordinance should be able to curb that and to put some control over the situation. I would like this ordinance to be stronger but it is impossible to accomplish that so let's hope this works.

Mr. Zandri asked, is this only going to be enforced on a complaint basis?

Mr. Knight responded, yes.

Mr. Zandri asked, if a cat is trapped and its owner is known, will they be notified?

Mr. Knight responded, yes, it is a reasonable request and I believe that the Animal Control Officer will make every effort to notify the owner if she is aware of who that person is. The intent is to control a bad situation, not eliminate felines from the Town of Wallingford.

Mr. Zandri stated, if a cat is trapped and we are aware of who the owner is, it is the Town's responsibility to notify that owner immediately. I don't want to just advertise and if someone misses the advertisement we will end up with a problem.

Kathryn Lindemann, Animal Control Officer stated, I agree there is a problem in the Town, however, there are a few problems that I have with the wording of the ordinance as I have outlined in my memo before all of you this evening. With regard to the ordinance, although I believe what the Town is doing to do is commendable, I think we need to re-look at this. One reason is, how do we know that the cat we trap in someone's yard where there is substantial damage is actually the offending cat? Even with this impending ordinance, cats are free-roaming. Will we then have to enact an ordinance making it against the law for your cat to roam? We can't chain cats up. Will we then take away the owner's right to let their cat outside? I am concerned about that. Also, with regard to putting some kind of low cost spay/neuter program, there is one particular cat colony in town in a trailer park down the road from the Dog Pound and I did have T.E.A.M. (Tait's Every Animal Matters) come out to do a low cost spay and neuter program for \$25.00 to fix them and vaccinate them and the response was low. I am concerned that if you enact this ordinance with respect to the feral cat keepers registering them, I am concerned that they will not come forward because they will not have the money to.....

Mr. Parisi interrupted Mrs. Lindemann to say that we have had this discussion for several months and it is unfortunate that this has not been brought up before. I don't know why you wouldn't have; we did not have the information regarding the spaying for \$25.00.

Mrs. Lindemann responded, this is information that I believe now you need to know.

Parisi stated, I just wanted to make that a matter of record.

Mrs. Lindemann continued, I am also concerned that you will have a lot of people who will not come forward and say that they are keepers or managers of the feral cat colonies. How are these "keepers" or "managers" going to catch these animals to bring them to the vet? They would need a trap and people do not have money for traps. You have my memo and I hope you will consider it.

Mr. Centner asked, was Mrs. Lindemann invited to the Ordinance Committee meetings?

Mr. Parisi responded, yes, she was.

Mr. Centner stated, I have difficulty with the chain of events and why it is happening now. If she was invited then I think the Ordinance Committee would have given consideration to some of her points. I am not happy to have this information presented to me this way but I do appreciate the information.

Mr. Parisi stated, I think your colleagues would concur with your feelings. As I recall the Ordinance Committee had more than one meeting on the item. My colleagues have summed up my feelings; this is not a pleasant situation; it is not something that anyone truly enjoys enacting but as was stated, it is a matter of a quality of living issue for some people. My own feeling is that the people affected have a right to be free of this kind of a problem. I have had animals and will probably have them again. It is not a question of hating or disliking or wanting to hurt an animal, it is a question of a quality of life issue for people.

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

ITEM # 12 PUBLIC HEARING on a Proposed Ordinance Entitled, "Open Burning Ordinance"

Mr. Knight read Sections 1, 2 & 4 into the record (Appendix II).

Mr. Knight moved that the public hearing be open, seconded by Ms. Papale.

Reginald Knight, 21 Audette Drive asked, don't we have this ordinance on the books already? Why are we doing this again?

Mr. Knight responded, the Fire Chief's and Fire Marshal's offices have stated that this ordinance is necessary because there have been certain changes in State Statutes last summer that make it more difficult, if not impossible, for them to not permit anyone who wished to burn openly. Most people are under the same impression, that the Town already had such an ordinance. It turns out that we do not.

Reginald Knight asked if it was all right for the Boy Scouts to have a campfire on which to cook?

Mr. Knight pointed out the exclusions in Section 4, B.(2). It is not exclusive to the point where they cannot be permitted. A permit can be obtained for such use.

Reginald Knight stated, all a person would have to do is to put a pan of boiling water on top of a fire and claim that they are making something for human consumption. Also, someone could burn something in a barrel and put a chimney on it to technically meet requirements of the ordinance.

Mr. Parisi stated, that may be stretching it a bit.

Fire Chief Wayne Lefebvre stated, the ordinance has been repealed.

Mike Lamy, Fire Marshal stated, it was somewhere around 1975 because it had been replaced by language in the State Statute at that point. The language in the State Statute has since changed and are in 1998 and we are looking to better regulate it.

Albert Killen, 150 Cedar Street stated, I was surprised to hear there was no burning ordinance because one thing I have always missed is the smell of burning leaves. He asked if there is a new system of numbering ordinances? The copy he obtained from the Town Clerk's bench is numbered "12".

It was explained that the number corresponds to the number of the agenda item. There are several copies of ordinances and other materials on the agenda available to the public on the Town Clerk's bench. For clarification purposes the Town Council Secretary numbered each item with its corresponding agenda item number to assist the public in their selection of materials available. The Open Burning Ordinance is item #12 on the agenda this evening.

George Yasensky, Sanitarian & Certified Open Burning Official of the Town by D.E.P. stated that he has been certified as an open burning official and has been since the instance of State Statute when burning officials were appointed for the Town. There is regulation, there are applications for burning permits. Permits have been denied, not everyone gets a burning permit. Also, at the beginning of this ordinance it states, "To seek to ensure that the health and safety of its residents....", and at no time during the inception of this ordinance was anyone from the Health Department notified. We were just notified two or three days ago.

Mayor Dickinson stated, to clarify a bit; right now you cannot have open burning. A permit has to be issued. Permits are available either through the Fire Marshal or the Health Department. Conditions are reviewed and a permit either granted or not. What this ordinance does is indicate that a permit cannot be issued where it is an open backyard burning for a purpose other than stated in the ordinance. It curtails what is permissible or permittable under the State Statute. Currently, even though we don't have an ordinance you would still have to have a permit to have an open fire. What this proposed ordinance does is indicate that, on fewer occasions, are you able to get a permit for an open fire on your property.

Mary Ann Cherniak Lexius, Director of Health stated, I have spoken to the officials only a few days ago about this ordinance. I do feel that the Health Department does have an inextricable role here, just from a regulatory standpoint. I am a little puzzled as to what our role will be with this ordinance if, for example, a problem does occur and enforcement becomes an issue and D.E.P. Air Compliance Section is called in. D.E.P. will be calling me rather than the Fire Department, it is the way the law is written and there is a section in the State Public Health Code that places a burden of responsibility on the Director of Health to abate pollution. It is very general and is meant to be general. As you can see we do have a very definite role here and I am interested to see where this will all fit. I understand that it was D.E.P. regulations from the past that have been enforced in the permitting process. I needed to make that statement.

Mr. Knight asked Mr. Lamy to discuss the issue of enforcement with the Council.

Mike Lamy, Fire Marshal stated, the regulations that we are currently operating under were written in 1986. The Commissioner of the E.P.A. issued guidelines which specifically state when you can and when you cannot burn. For a member of our community to burn openly in their backyard for the disposal of brush, there is an allowance there for someone to do that with brush that is three inches in diameter or less. In Wallingford we have a plethora of available options in town that negate the need for open burning from a public safety, health and air compliance standpoint I can't see the need to do this in town. Our demographics have changed significantly since 1986. The Fire Department,

unfortunately, is on the receiving end of many complaints with regard to open burning. An example could be that a permit is issued to neighbor "A" and neighbor "C" 1,000 feet away may have a respiratory condition, henceforth we get a complaint and it generates a medical call. We have had documented instances where fires have gotten a little out of control because they weren't properly supervised, the wrong materials have been burned, meaning construction materials, people have posed of garbage in the fires and have kind of abused the permit, occasionally. What we are trying to do is tighten up the regulating ability of the Town of monitor this and make it better suitable for the community. We are trying to protect the people as well as the fire department from having to respond and spend man hours out there chasing these things around town. There really isn't an issue or need to have open burning for the disposal of brush in our community where we have options available such as the recycling center. We are not taking away people's right to have campfires nor are we trying to tell them they can't barbecue in their back yard. Our primary concern is for public safety and health; air compliance is certainly a back issue.

Wayne Lefebvre, Chief of Fire Services stated, it has created a lot of police complaints as well as complaints to the Fire Department when permits are given. People do not self-regulate. When given a permit, quite often, they go beyond what they have been permitted to burn and in neighborhoods. Most of our complaints come from neighbors complaining about other neighbors. The occurrence of asthma has increased in the Northeast tremendously. When we have fires in neighborhoods we get a lot of health complaints because of asthma and allergies to the smoke. It is to regulate where, in the community, this occurs. Agricultural burning must be done, of course, and will continue to be permitted.

Lamy added, the State regulations were worded loosely, specifically so that communities can tailor an ordinance specific to the needs of each individual community taking into account their demographics. We have outgrown the guidelines of the regulations authored originally in the 1970s, revised in 1983.

Mayor Dickinson stated that it should also be clear that we are not able to quantify numbers of situations where a fire got out of hand or a response necessary due to that. There is no ability to do so. We ran a check with the Police complaints regarding fires and looked for where that coincided with places where permits have been granted and I am told by the Health Department we really could not find any dovetailing or any coincidence where a complaint was received and a permit had been granted. As a policy matter for the future, if it makes the community safer, that is a legitimate area of concern but I don't want it represented or appear to be represented that we had a situation where areas where permits have been granted have gotten out of hand and a response was necessary.

Mr. Knight asked, who should have the authority to enforce the ordinance should it pass?

Mr. Lamy responded, the way the ordinance is worded, it allows for a fine that can be issued quickly by the Police Department. Currently, I am a certified open burning official as is Mr. Yasensky, the Health Inspector. In my opinion, it is an enforcement issue and therefore should lay with the Fire Marshal's Office which is an enforcement division of the Fire Department, as a whole. We are going to be an issuing authority and should be the enforcing authority so that we have the ultimate control. We would be able to track the information if an individual abuses a permit and deny a permit in the future.

Mr. Knight asked the Mayor, is the authority identified by Mr. Lamy the source which the Mayor would want to enforce the ordinance?

Mayor Dickinson stated, we currently have two departments who have issued the permits. Given what I have heard from the Health Department this evening, I cannot represent whether I think one or both departments should be doing this. A good part of the enforcement does come from D.E.P. and they will call the Health Department on any kind of air complaints. I am not at a point where I perceive that there should be a centralization given that the coordination would occur beyond any single department.

Mr. Parisi stated, Section 3.A. states, "The Mayor shall appoint one or more Open Burning Official"

Mr. Knight stated, appointing the officials is one thing; they would issue the permits. I am interested in the people who would respond to complaints. I would assume that it would be the Police Department, by and large, but I can also see where there would be cases where the Fire Marshal is involved as well.

Mr. Parisi stated, it depends on what the perception is of the person making the complaint. They could perceive it as a health issue; someone else could perceive it as a fire issue.

Mr. Zappala stated, I personally think that the Health Department should be involved in issuing permits. The Fire Department is aware of when the fire is going to occur. As has been done in the past and is procedure, if they follow the way the permit is issued, the Fire Department is aware of when the fire is going to occur. It is their responsibility to issue the permit under the direction of the Fire Department, so why the Health Department is being discarded at this point I fail to understand. In 1997 approximately forty-six (46) permits issued last year in 1997 of which eight (8) were issued to farmers and many of them were not even used after being issued. Have any of them created fires?

Mr. Yasensky stated, there were probably two or three instances where the privilege of permit were abused. Once abused, those people do not ever receive a permit again. Many of the permits issued were on properties of two acres or more and most were in rural areas. Several were in congested areas and they were scrutinized before the permit was given and under various conditions.

Mr. Zappala stated that he was in opposition of the ordinance; he is a member of the Ordinance Committee; he voted against it and will vote against it tonight for he feels that the Town is taking away the freedom of an individual to discard of his/her leaves or brush if he so chooses. There are times when it is impossible to dispose of them any other way. With a proper permitting system it can be controlled and if someone abuses the system they will not be issued a permit again.

Ms. Papale asked, who has been the open burning official until now?

Mr. Lamy stated, myself and George Yasensky.

Ms. Papale asked, was it an oversight that the Health Department was not brought in to discuss this ordinance?

Mr. Lamy responded, yes.

Ms. Papale stated, It is hard to believe that we sat through Ordinance Committee meetings and nobody even thought of having the Health Department there, being that one of them was an open burning official.

Mr. Lamy stated, I can assure you there was no malice, it was just an oversight and we have since had discussion with the Health Department on this issue.

Ms. Papale asked if there will still be two open burning officials if this ordinance passes?

Mr. Lamy stated, the Mayor, being the Director of Public Safety and appointing authority, would appoint who he feels should be the open burning officials. My own professional opinion is that there should be only one source of permits. We are not saying the Health Department's needs are any less significant than those of the Fire Department, it is just that when you come to a chain of command when enforcing things, the statutory requirements that Fire Marshal's use to enforce safety issues, State Statute #29-306 gives us the legal authority to abate fire hazards. We feel that the continuity would be best suited there and my suggestion is in discussing this matter with the Health Department, if there was a health need and they required a permit, it would be a simple matter of them filling the permit out, we would check the site for safety and once the observation was made

and the site deemed safe, the Fire Marshal's Office could sign off on it and that would be the end of it. We could track it, regulate it; we are the sole issuing authority and we could be the sole enforcing authority with the help of the Police Department.

Mr. Parisi stated, it was an oversight; there was no slighting of anyone and I don't believe that was intended. Secondly, it is very clear in Section 3.A. as to how the appointments would take place.

Mr. Zandri stated, we have two issues that we are dealing with. Obviously, fire is one of them and health is one. It would be my recommendation that any permit being issued would require two signatures; the Fire Marshal's signature and the Health Department's signature. This way both know what is going on, both have input on the issuing of the permit. I think we cover ourselves by handling it that way. It is my recommendation but it is up to the Mayor.

Mr. Lamy stated that Mr. Zandri's recommendation is a good suggestion.

Mr. Zappala stated, no permit can be issued for anyone, even if they have twenty acres, to burn brush, only the farmers. No one else is allowed to get permits.

Mr. Lamy responded, that is correct, we are not looking to prohibit commercial agricultural burning.

Mr. Parisi asked, if someone has twenty acres of land and they are doing some clearing or what ever, they would not be able to burn with a permit?

.... Lamy responded, we are looking to prohibit all residential open burning for the disposal of brush and other materials that find their ways into the piles.

Mr. Parisi stated, if someone owns twenty acres of land and wants to burn the same wood a farmer wants to burn, you are going to say they can't?

Mr. Lamy answered, it is the intent of the ordinance to prohibit residential. There is a reason why we worded it that way. How do we tell the person on North Main Street that they cannot burn and let the person on Tuttle Avenue do it because they have more acreage? Did we want to go there?

Mr. Parisi stated, I thought it was more of a center of town versus urban issue, in the case of a farmer.

Mr. Lamy stated, we worded it in a way that was fair to everyone in the community. We realize that different people will have different acreage.

Mr. Parisi stated, someone with a large piece of land is caught in the middle of this. Do they have to hire someone to haul the stuff away?

Mr. Lamy answered, that would be an option.

Mr. Parisi asked, isn't that an unfair burden on them?

Mr. Lamy responded, I am just giving you an opinion on the safety issues.

Mr. Yasensky stated, not every permit is issued; not every request is honored. The procedure is and was set up by the Chief that once a permit is issued, it is posted at Central Fire Headquarters. The permitted person calls, the Shift Commander is supposed to go out and check the pile as a safety measure. We check frequency of homes in the area for the health issues, what smoke would effect, etc. I have a bumper sticker on my truck that reads, "I love my country; I fear my government." The one thing I want to get across is that you are going to give some people one right and take a right of refusal away from another person. You should give them that right to apply for a right that is given to them under State Statute.

Mr. Parisi asked, what is it under State Statute that I may be missing?

Mr. Yasensky stated, under State Statute, D.E.P. Regulations, we issue burning permits. People call and request burning permits. There is a certain criteria that has to be met, if they don't meet it, they don't get the permit. You are denying certain people in certain areas in certain conditions that even have the right to apply for that permit for the right to even have the chance to burn. We have the right for denial.

Mr. Parisi asked, doesn't State Statute supersede local ordinance?

Mr. Yasensky responded, no, you can draw up a local ordinance that is stricter than the State regulations or statute. Right now I don't see that in the ordinance; it being stricter.

Mayor Dickinson stated, the ordinance, as proposed, is stricter than the State Statute in that State Statute is discretionary, a permit may be issued whereas under the ordinance it cannot be issued in certain circumstances.

Mr. Yasensky responded, to an extent it does not allow the freedoms to the people in town.

Mr. Lamy stated, the penalties aspect of the statute were repealed and we have introduced a penalty to act as a deterrent from people abusing the permit process as well.

Mr. Zappala stated, I am against it and I feel we are discriminating against people that have land and have no other source of disposing their brush. The way it has been and the way the permits were issued was correct and I don't see the use of changing it for we will be depriving people of their rights and I don't think it is fair.

Both the Town Clerk and Town Council Secretary questioned whether the motion was in its proper form at this time.

Mr. Knight stated that he had made the motion, Ms. Papale stated that she had seconded Mr. Knight's motion and Mr. Parisi stated that the motion was in order.

VOTE: Renda was absent; Zappala, no; all others, aye. Motion duly carried.

ITEM #18 PUBLIC HEARING on an Ordinance Appropriating \$4,542,000 for the Acquisition of Various Parcels of Real Property for Open Space, Recreation and Town Purposes, and Authorizing the Issuance of \$4,552,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose - 8:15 P.M.

Mr. Parisi stated, the ordinance, which is the subject of this public hearing, is available to the public at the desk of the Town Clerk at this meeting.

Motion was made by Mr. Rys to Read the Title and Section I of the Ordinance into the Record in its Entirety and to Waive the Reading of the Remainder of the Ordinance in its Entirety into the record and to Append a Copy of the Ordinance to the Minutes of this Meeting, seconded by Mr. Farrell.

VOTE TO WAIVE THE READING: Knight, Papale and Renda were absent; all others, aye; motion duly carried.

Mr. Rys read the Title and Section I of the ordinance into the record (Appendix III).

Mayor Dickinson stated that the Chairman of the Conservation Commission was in attendance this evening should there be a need to ask questions of him. In order for the Town to plan for the future density of population, retain some rural character to the community and provide the ability to plan for municipal services and the land on which to locate possible future facilities, it has been deemed appropriate that we purchase open space. The properties that are the subject of this public hearing are not identified or developed by the Town Council or the Mayor's Office, they were reviewed by the Conservation Commission who was asked to review large parcels in town and give recommendations regarding the purchase of open space. Following the Conservation Commission's action and review of properties, contact was made with property owners and very few owners of residentially-zoned property indicated a willingness to sell. As a result, you have action here tonight on these parcels and eminent domain is a potential on a number of the sites as a result of an inability to negotiate a purchase. On a personal note, the Grieb Road pieces on the list tonight are not within view of my home although certainly they do connect with a piece that is within view of my home, not the subject of the discussion tonight but could be at some point in the future. With those words regarding the process we have used and procedures, I would ask Mr. Borne who is Chairman of the Conservation Commission if he would like to make any comments.

Jeff Borne, Chairman of the Conservation Commission stated, we were here in executive session and we had a very productive conversation with the Council and I would like to say that the Conservation Commission is delighted that the Town Council has finally found a way to break into the acquisition of open space for the reasons that the Mayor has stated; to maintain some rural character of the town and to provide for future needs that the town is going to have. Every year we see these needs becoming greater and greater. The Commission was resurrected about a year and one-half ago with a charge to inventory and rank open space properties in the town. We have a draft plan of open space conservation which includes a listing and ranking of properties and our plan is ongoing. The ranking process is ongoing and the identification of properties is ongoing. That is where we are, that is what we are doing and we hope to continue to work with the Council and the Town of Wallingford in terms of taking steps to preserve open space.

Robert Sheehan, 11 Cooper Avenue asked Councilor Farrell, Liaison to the Planning and Zoning Commission, if the sixty (60) acre parcel known as the Terrell Reserve had already passed Planning & Zoning? Hasn't it already met with Planning & Zoning approval?

Mr. Farrell replied, from what I have read in the newspaper, that would be a generally accurate statement.

Mr. Sheehan stated, the developer has started to clear the land and evidently the only way we are going to obtain the property is through eminent domain. We are going to have to get involved in a court action, correct?

Atty. Janis Small responded, there is a possibility, that is correct. I don't have an agreement with m.

Mr. Sheehan stated, I realize Planning & Zoning is re-evaluating their regulations on open space subdivisions; there have been a couple approved this year and this seems to be the only one that we are interested in. I would like to know why this is the only one?

Mr. Parisi replied, the Conservation Commission ranked many parcels throughout the town through a system that they devised as to desirability and this parcel is on that list.

Mr. Sheehan stated, we have a (Planning & Zoning) commission that is appointed by the Council to look out for this very same concern/issue. It seems to me that you are going over their heads doing their job for them. If they want to start a moratorium, that is their prerogative.

Mr. Parisi stated, at its meeting of April 27th, the Wallingford Planning & Zoning Commission voted to approve proposed property acquisitions as per CT. State Statute section 8-24 for the properties at 23-25 Silk Street; 17 acres on Grieb and Durham Road; 25 1/2 acres on Grieb and Durham Road; 60 acres owned by Wallingford Terrell Reserve Associates. These properties were all approved for acquisition; we did not go over anyone's head.

Mr. Sheehan stated, this action is coming after the gentleman or corporation has met all the rules and regulations put to him by a commission appointed by the Council of this town. I am sure he came before them more than one time and revised his plan a couple of times to create more space within a subdivision.

Mr. Parisi stated, If I am correct, I believe the gentleman who pursued the approval is the builder.

Mr. Sheehan responded, he got approval from a commission and now they have passed a regulation which goes against what they did, correct?

Mr. Parisi stated, as you perceive it, that is what it is. You may find people who have a different slant on it.

Mr. Sheehan stated, it is an awful lot of money for the amount of land we are buying. Maybe I should go out and get a partner, buy some land and make it a subdivision and the Town will automatically buy it.

John Young, 104 Pierson Drive stated, I wish we were here about a year and one-half ago; we would have had to go through what we went through last year with this whole project. The Town should have acquired this land a long time ago as far as I am concerned. The sign on the property no longer says Landmark Industries or Builders, it now says T. & M Builders. What stake does T & M Builders have in this property on Route 68?

Atty. Small responded, they own the property.

Mr. Young asked, Mr. Robally, with Landmark Industries, went through all that work last year and then sold it?

Atty. Small answered, yes.

Mr. Young asked, if T & M Builders were sitting in that chair last year instead of Mr. Robally, do you think this would have been passed? I have asked the question before; how many of the Council are familiar with T & M Builders?

Mr. Parisi stated, I have heard of them.

Mr. Young stated, they have built enough property in the area. Do they have a reputation in this area? I asked the Mayor yesterday if there were any problems?

Mayor Dickinson stated, I indicated then that I don't know and our efforts regarding the purchase of open space are not related to current ownership. It really relates to whether a property is available for sale. As I indicated, we went through the list of properties that the Conservation Commission reviewed and, for the most part, the residentially-zoned property was not for sale of the large parcels. Where a private property owner has sold the property for development, I will admit it is in a different status than if it is that the person who owns the property is living on it and wants to retain that ownership. We did not find many willing sellers and we are here today; it is nothing to do with the reputation or plans or anything else regarding the current owner of the property.

Mr. Young stated, ever since this appeared in the paper last week, the fact that the Council was preparing to do this, you stirred up a hornet's nest. T & M has come in there within the last two or

three days and have gone through that thing with chainsaws and they have dug a ditch and put a footing in there within two days. They are knocking down these two big, beautiful peach trees and are making a road. Why couldn't they have waited until tonight? It is a shame what they have done already. I hope that the Council votes in favor of the ordinance tonight and can obtain a cease and desist order.

Mr. Harwood, 4 Chestnut Lane asked, what master planning tool is used to determine the type and quality of property that the Town has interest in purchasing?

Mr. Borne replied, it is my understanding that, through the function of the Conservation Commission which has conducted an inventory and ranking of about twenty-five properties to date, that that tool is what is used by the Council as property becomes available to acquire open space. We have a ranking system and that is a tool for the Council to use.

Mr. Harwood asked Mr. Borne to share the ranking system with the public.

Mr. Borne stated, although our plan of open space conservation exists in a draft, it is a tough thing to get finalized, it has been circulated so it is around in various forms; we have identified areas of conservation interests, other important open space areas, and then we applied to the properties that we have inventoried an evaluation system that is based on our opinion of the vulnerability of the property and its "green" or open space values. We have a ranking system of low, medium and high. A property that is ranked as "low" gets one point; if it is "moderate" it gets two points and if it is "high" it gets three points. In our ranking system to date, although there is some variance on how high or low properties rank, I don't think we have been able to eliminate any properties as being desirable for open space. But, of course, our inventory is somewhat selective.

Mr. Harwood stated, conservation, to me, conjures up the thought process of protecting the property for run-off, for green space for trees; rural-type characteristics if that is a proper categorization of what Mr. Borne said. I would ask, how do we factor in the impact on growth, development or lack of, into our land acquisition plans; specifically our ability to provide services, public safety, sewers, sewer capacity, water, electrical support, infrastructure, traffic, schools, recreation, water collection areas?

Mr. Borne replied, to simply all those elements you have mentioned; the Conservation Commission feels strongly that the economic justification for putting land in open space has been clearly demonstrated that it is the most economical use of land for the Town at this state in our development. We have examined some studies but a recent one that was done by the Town of Durham pointed out that for every dollar collected in residential revenues, the Town of Durham spent \$1.07 for those

properties and services. Their study further indicates that for every dollar of revenue derived from open space land uses, only \$.29 is required in services. That summarizes all the elements of infrastructure and services and those costs that you have carefully laid out. It is demonstrated in that study and in the costs and savings of open space benefits versus develop property benefits.

Harwood asked, that was a question I had; what is our fiscal offset for residential housing versus demand on services. Then we haven't done a study, we are using Durham's at this point?

Mr. Borne responded, at this point we are using studies that were done in Durham and in.....(at this time the tape machine experienced a malfunction for a short duration of time.).....Town of Wallingford and we would like to refine those a little bit but we would be happy to share those figures and numbers with you.

Mr. Harwood next asked, how did the Town determine that the parcels identified are appropriate for purchase at this time versus other parcels in the town?

Mayor Dickinson stated, in some ways that was mentioned earlier. We contacted property owners of pieces identified by the Conservation Commission and nearly all of the owners of the residentially-zoned property indicated an unwillingness to sell at this time for a variety of reasons. The properties at issue here are all under contract for development indicating that the owners had entertained and are dealing with the sale of their property which elevated them to a level at which, if there was interest in buying it we would have evidenced a willingness to purchase. As a general rule we did not find many owners who, with large parcels, were interested in selling.

Harwood stated, I find a dichotomy in what was said because what has been brought forth in the first question was, determination was whether properties available for sale, that is what the Mayor indicated, and then we are talking about potential condemnation of property which the Town historically, never is a bad word, but we almost never do and the Mayor has come out and said that numerous times, that he does not like to do that, in public. Yet, it appears we are going to some parcel of land that there is talk about condemnation. It is inconsistent. At that point I would say, if condemnation is a potential.....if we are talking about condemnation potential; that is what was stated, it has been in the paper, it has been talked about tonight already, is the parcel we are looking at; the Terrell property which used to be Ohr's property which probably was for sale many years ago; why have we picked that one out of the mix? Are there others that we may want to condemn that may offer more value? When I say more value; when I look at property I look at, what are we going to do with it? If we are growing in town, how many people do we think this town should handle in some year? How many people should this town support? Can you control that? That is what you

end up doing somewhat by open space, through the back door. If we think this town is going to be a town of 60,000 in the year 2020, how many schools will we need? How much water capacity will we need? Where are we going to pick those very important parcels to allow us to have the watershed for a specific target number? Where are we going to put the schools to handle the number of students? Are the parcels that are being picked best suited for another elementary, middle or high school? I am not sure how we are getting to where.....

Mr. Parisi stated, some of those plans exist already. Whether or not how accurate they are, the Water Division has a plan for water supply that goes well into the future. You can plan as far as you want into the future as to whether or not you are accurate, only the passing of time will tell you. I commend the Conservation Commission because they had an orderly plan and a very orderly approach.

Mayor Dickinson stated, that largest piece, the Route 68 parcel, is right on Route 68. We have heard many times about the congestion on Route 68. It is also in the vicinity of quite a few of our schools; Yalesville, Moran, Highland as well as Sheehan High School; it is a watershed piece of property being located very close to the Meriden reservoir. All of those factors come in to play. With regards to the Water Division, if we purchase the property some \$200,000 worth of work that the Water Division would benefit from will not be accomplished and the Town, at some time in the future, may have to undertake that. ON the other side of the coin is the whole issue of congestion on Route 68. Is it a piece that should remain open and available for municipal use or is it better to have 79 or 80 homes there? That is a public policy decision and that is why we are here tonight.

Mr. Harwood stated, if there is a potential for condemning that property, are there other parcels that are more to the Town that we should spend our time on?

Mayor Dickinson answered, it is possible that there are other pieces but what we found in contacting the property owners was a negative response. It is one thing to look to condemn, to take by eminent domain, a piece of property where the owner is living there and using it for farm or other purposes and it is another thing where the owner has indicated a willingness to sell and may or may not be under contract with another party to develop the piece of property. That difference in status is something that the Council takes into account.

Mr. Harwood stated, I am focusing on the Terrell Reserve property because it has gotten an awful lot of attention of the past few years, positive and negative. Positive in the fact that for many, many years access in more than one direction has never been provided for the Ridgeland area that is very congested. That has some negative effects if Pierson Drive opens up. But there is only one way to

get into that development effectively and it is very, very difficult for the upper ridges. For the fact that it has been batted around for so long, did we miss a golden opportunity to strike when it was on the market for so many years and it sat there and sat there and sat there? Now the Town is going to be into a premium position, I would suspect, considering you have two businessmen who went in there or partnerships or corporations that went in there, did all of the leg work associated with the development of the property, flipped the property, probably took a profit out of it and then the property goes to T & M who is anticipating turning a profit of \$10,000, \$15,000 each on the seventy-nine homes that could be built, added to our price. What is the price we are looking for per parcel that we have identified? We have a lump sum but we don't even know what the sixty acre site is, maybe you can help us with that so we can appreciate what the intent is?

Atty. Small explained, the dollar amount in the ordinance represents what we have determined to be the fair market value of each parcel. It includes, in addition to that, cost for possible eminent domain, bonding costs, etc. and at this point because I have an open dialogue with each of the owners still, we have not allocated publicly the amount per each parcel. That is the number we based upon the total value of all of those properties, based upon appraisals.

Mr. Parisi asked if Mr. Harwood would not mind relinquishing the floor to others with questions and that he could return to the microphone at a later time to ask the remainder of his questions?

Mr. Harwood complied with Mr. Parisi's request and asked for a copy of the document that was put together by the Conservation Commission, the gameplan and a master plan, should they exist for they have never been shared with the Town to the best of his knowledge in any document form. This will help the public to understand the process by which the Town decides.

Wes Lube, 15 Montowese Trail stated Oakdale Woods was built by T & M Builders and is the only subdivision builder who ever received an award from the Wallingford Chamber of Commerce for its contribution to the community. I am very much in favor of the Town acquiring open space and I think that most of the townspeople would agree. I am probably in the minority, however, in feeling that you are approaching this correctly in wanting to buy it. Nothing bothers me more than to hear people who feel that the Town should preserve their view without the property owner being properly compensated. However, land has various gradations of value. The least expensive is raw land and land which would be very expensive to develop because of its terrain, topography, wetness, rocks, etc. That land may or may not be for sale. If it is, it is a property that already had an established asking price and is very easily or more readily negotiated. When you have land that is not for sale

as the Mayor has mentioned on several occasions this evening, you have land there is land that is just going to stay green and that is the object of what you are trying to achieve. The fact that these people who own these major parcels who have been approached by the Conservation Commission and have not entertained a willingness to sell is a plus instead of a minus, in my way of thinking.

After raw land, the next gradation is an approved subdivision. Not everyone knows that fifteen years ago I retired after twenty years in real estate and most of that time I spent working with developers. I am very familiar with the problems that result in the approval of a subdivision. There is extensive time that is involved in the negotiating stages, the engineering, soil tests, etc., to determine the viability of the land and the various difficulties in dealing with the community, the utilities of the community to try and put the whole package together. Once that is achieved and a subdivision is approved, builders are like voracious, huge animals that swallow up land at an unbelievable rate. Some are fortunate enough to have landbanks. Once land is approved it has a tremendous attraction to a builder such as T & M who may need it now and therefore that, in itself, adds value over and above the costs involved. Not only has T & M had the subdivision approved but he has invested in developing utilities on the roads and now he turns around and sells these as either odd lots or as packages. Some subdivisions in neighboring towns will have a half dozen different builders operating within the same subdivision. We are heading for the very highest premium imaginable and that is when you have a builder actively engaged in developing in an approved subdivision. Why we have decided to forego all the other opportunities and even on this parcel which had a large for sale sign on it for a long period of time and we did nothing about approaching the owner when we could have bought it raw and we didn't. According to a Draft, obtained from the Office of Policy and Management of the Department of Transportation, which includes a map of the State with three gradations, dark, light and white, of towns identified. This gradation indicates where the State feels that growth will occur. Wallingford is white and white is described in their key as "shrinking or slow growing third of the State." Wallingford's biggest population burst was in the decade starting in the 1970s.

Mr. Parisi asked, are you in favor of the purchase or against it?

Mr. Lube stated, all of our growth has gradually petered down. The point that I was trying to lead up to is, this town is not a rapidly growing town, it has not been a rapidly growing town since 1980. It has slowed down considerably despite all that you see around here. Percentage-wise the population has not had a significant increase. To turn around and spend \$4.5 million for less than 100 acres of land is really a crime. I hope you will not go through with this.

Albert Killen, 150 Cedar Street asked, are we acquiring Silk Street? Has any action been taken by the Town?

Atty. Small responded, not under this ordinance. The Town is taking action but it is not complete.

Mr. Killen asked, if the Council had acted on Silk Street in open session yet?

Mr. Parisi answered, yes.

Mr. Killen referred to the last sentence in Section 1 which states, "The Mayor is authorized to negotiate the terms and purchase price of the purchase of the parcels and to sign purchase contracts.." and asked, where does the Mayor get this authority?

Mr. Parisi responded, the Council.

Mr. Killen stated, you cannot give away your authority to anyone you want to. Whereabouts does it say that? Can you make me king for a day?

Mayor Dickinson responded, the answer is in the Charter; the administrative offices are assigned the duty of performing the task necessary to the running of the Town and this would be one of those tasks.

Mr. Killen stated, if you look under the duties of the Council, probably in the last section.....(a copy of the Charter was given to Mr. Killen at this time by the Town Clerk. While Mr. Killen researched it the Council fielded questions from the public.)

Mr. Vinall, 107 Pierson Drive stated, I have been associated with the Terrell Reserve subdivision since its inception and knew a little bit about it before it became public when it was a six or seven acre parcel that had to be re-zoned in Nov. or Dec. Of 1996. When that was re-zoned to 1/2 acre it created a domino effect. I am against the subdivision; I have fought it as Mr. Rys would know; he and I and Mr. Young have attended every meeting through zoning, through wetlands, through two applications each on the Terrell Reserve in nine months. And with the exception of Ray Rys and Bob Parisi where were you (Council) when we needed you last year? Now it is too late. I hope you can do it. It would have been a lot easier if some of this action could have been taken last year or the year before. To get into litigation which is a definite possibility, hopefully it will not be expensive but I think it is the way to go. I am backing you, c'mon, it has been going on for a year and one half and all of a sudden when there are footings dug, trees coming down then you are saying we should put a halt to it. I hope it works but maybe we should look at some other priorities where it will not be too expensive. No one lives closer to this than I, I am right at the end. I am not against this, I am for it but with the exception of Mr. Parisi and Mr. Rys, no one else spoke at these hearings.

Mr. Parisi stated, with all due respect, at the time that this item was being discussed it was under another commission and we spoke as citizens and not as Councilpeople. I don't feel that we can blame any of the Councilors at this point.

Mayor Dickinson stated, this is not an effort to stop a subdivision. It is an effort to purchase open space. We have not found major parcels available for sale from other property owners who own and are not interested in selling. The owner obviously had been willing to sell and the property is there for development. Two, three years ago we were involved in some other costly projects. We have to put things in context. We are also trying to deal with the monetary side that we don't have major effects on taxes. The issue here is not because there is a particular subdivision that is at issue; the issue is the desire to purchase open space. This piece became elevated to a level of interest because other pieces that might have been of greater significance were not available for sale and not under contract with anyone. The context is one in which the Conservation Commission was acting, there were a lot of other projects that had been going on and we also have some additional ones now; we have the ability to purchase the property. It would have been great if we could have purchased property five years ago but we had other projects that were absorbing funds. The issue is not whether one particular subdivision is good, bad or indifferent, the issue is, if the Town is going to purchase open space and if it is located in an area that can be a benefit to the future of the Town or reduce congestion or any of the number of things that have been mentioned earlier. Now is the time to do it. If we don't have the will to do it then we wait to see if something else comes along. It may or it may not. What we are finding is no one is willing to sell unless we are willing to force the issue through eminent domain. If there is a public policy and a desire to have open space, that is our recourse.

Killen read the following language from the Charter, "The Council shall have the power to take, purchase, hold, condemn, lease, sell and convey such real and personal property as the purpose of the Town may require and can take by gift, grant, bequest and devise and to hold real and personal estate absolutely or in trust for any public use on such terms or conditions as may be prescribed by the grantor or donor and accepted by said Council and to provide for the proper administration of the same." There is no doubt that the power lies within this body and it was intended that it be there.

Mr. Parisi stated, it does not say that the Council can't authorize the Mayor to enter into negotiations. We have been doing it for years.

Mr. Killen argued the point with the Chair.

Mr. Parisi stated, you know that we have done this for years. This is not a brand new procedure; we did it when you were Chairman and we are doing it now.

Mr. Killen stated, if you did it one hundred and ten times and someone calls you on the one hundred and eleventh, does that make it right?

Mr. Parisi stated, we are not doing anything wrong when we, as a body, authorize the Mayor to enter into negotiations.

Killen stated, this was adopted by the people of Wallingford as their law. In there they made it very specific who should do certain things. If they wanted you to have that authority, they could have said that the power could be transferred or usurped, what ever term you want to use, by the Council upon occasion. It doesn't say that.

Mr. Parisi reiterated, it also does not say that in no way could the Council not authorize someone to act on its behalf.

Mr. Killen stated, I don't think you will find that in the Charter anywhere. What do we bother with this (Charter) for?

Mr. Parisi stated, we allow the Mayor to enter into and sign grants and things with the State of CT. and we never have a problem with that.

Mr. Killen concluded, what you have said to me is, we have heard you but we choose to ignore you.

Mr. Parisi stated that he could say the same.

1 Cronin, 47 South Ridgeland Road stated, \$45,000 an acre, which is what it works out to, is a lot of money for open space. If we had to build a school or some other necessary item, not a golf course, I can see the price tag. The money is outrageous for open space. The definition of open space is up for grabs. To me it means "feral" or wild. If you take the number of acres and divide it into the price it comes up to \$44,970. which is a lot of money for open space that you have no concept what to use it for.

Jim Vumbaco, 81 High Hill Road stated, I am one hundred percent in favor of open space but I don't think the Town has a plan right now. The Council is being asked to approve, at the request of the Mayor, \$4.5 million to purchase land when we really don't have a plan for what our open space is. We do not have a plan. I, as a taxpayer, do not want to see \$4.5 million of my money being spent on something that is not part of the grand plan. We have various forms of a master plan out as the Conservation Commission Chairman said; the public hasn't seen it; the Council hasn't seen it; I am

not even sure if the Mayor has seen it. Yet, we want to go out and spend \$4,542,000 of our money to buy land. I fail to understand that concept. We are told that the land was ranked. I would like to know what the rankings are of the twenty-eight parcels? It is my impression that we are buying this property because it came very high on the ranking and I would like to know what the ranking is.

Mr. Borne stated, the highest ranking a property could have is six.

.... Vumbaco stated, there are twenty-eight pieces of property and I am led to believe that we are buying these three or four parcels because they, in total rank high, on some sort of list from high to low. Is the property on Route 68 ranked first, tenth or twenty-seventh? What are the pieces on Grieb Road ranked at?

Mayor Dickinson stated, these are not necessarily the highest ranked pieces. All property owners were contacted and for the most part there is unwillingness to sell. These properties became elevated to the point of suggestion to purchase because they are in the context of sales being completed or plans of development being implemented. But there are other pieces that can be ranked higher purely in terms of open space but there is unwillingness on the part of the owners to sell and they have no plans to use their property other than agricultural or the purpose they now use them for.

Mr. Vumbaco stated, it is my understanding that the property on Grieb Road is in the process of being negotiated but the property off of Route 68, all you have to do is drive up there and see that construction has started. I don't know where you are getting this desire for him to sell scenario. Has the developer said, "O.K., make me an offer and I will sell it to you"?

Mayor Dickinson stated, no, I am referring to the original owner.

Mr. Vumbaco responded, that is a moot point. The original owner has sold it to a developer who has now sold it to a builder who has started construction because he probably has some one, two or three year financial plan where he is going to make some money on this deal. It is all part of his package. It doesn't fall within the criteria that we are being told here that this is a high-ranking piece of property that is available for sale because it is not, someone is building on it.

Mayor Dickinson stated, there are certain sympathies that go with the property owner who is currently farming property, wants to live on the property, has no plans to develop the property. Development results in the loss of open space. These properties, the original owner obviously, has seen a desire to have the property developed thus they become a subject of interest to the Town. Lacking other pieces that we might desire to purchase, these properties now become foremost

because they are the subject of development if they are open spaces that we want to own then now is the time to act on them.

Mr. Vumbaco stated, five minutes ago you stated that we are not buying it to stop development, we are buying it because we want open space. Now this particular land has been designated as developable property and it has begun and now that makes it desirable to purchase. It all goes back to my original statement, we don't have a plan. This town does not have an open space plan. We are all over the board about future need plans, we talked about desirability of property and tying into the Route 68 issue, I sat on the (Planning & Zoning) Commission during some review on that, there are a lot of wet problems up there. There were a lot of neighbors that came up and complained about water flowing into their backyards. Is the Town going to assume that liability? In the past ten years all we have ever heard is that we don't want to assume liability because of a greater risk to the Town and here we are buying a piece of property that, potentially, there is a liability for flooding out other people's property therefore the Town is going to have to spend additional dollars to fix that which I am assuming, if the P&Z Commission did their approval properly and I am sure they did, that is being taken care of.

Mr. Parisi commented, I think what we are trying to find out is, who is in favor of this and who isn't in favor of purchasing the land; it is a public hearing. That is what it is for.

Mr. Vumbaco stated, the bottom line is, we are thinking of spending \$4.5 million; I am in favor of the other pieces of property but I think that the Route 68 property should be stricken.

ly Kapi, 6 Deme Road stated that he agreed with Mr. Vumbaco about the distinction regarding the Route 68 parcel. To my way of thinking it violates what your proposed action is; the exercise of eminent domain power that you have violates a basic fairness. There is an element that I consider arbitrary and somewhat lazy about it. Eminent domain is more than a recourse of last resort, it is the kind of thing where you envision a very intense need and usage; a tiny strip of land to put in a water line; join two roads together; something very, very immediate in terms of the community's need for it. To take this property from someone who has put this level of effort into taking it through the process for development strikes me as eminently unfair. I tried to get some general idea as to what the thinking was in general, and was drawn to that curiosity by a couple of the Mayor's remarks; one was in the article immediately following the action following the executive session (April 14th) and one was at the budget hearings and one time he referred to it as "these properties were very high on the list" and another time he said, "they were near the top (of the list)." When I heard that in this era of Bill Clinton I thought, what about the properties at that top? The salient point apparently for selecting these properties is, do we think the owners or original owners are willing to part with them?

That seems to be the single factor that determines their placement on this item of action tonight. A remark was made to the effect that there was a general reluctance to think about using eminent domain in the context of a farm parcel. I understand that completely. It seems to me, however, that we are setting up standards for avocations or professions that we like or prefer or some that we are willing to defer to. I would not want to take a farmer's property because he was not interested in doing but this particular individual happens to be in this profession of developing property and for us to set up this arbitrary standard; his method of making a living, they are not popular characters in this day and age, maybe we can go after them? That strikes me as being arbitrary in addition to being unfair. The third element which I term as being lazy; I think in reading the article, Mr. Robally's comments indicated that he drove by there and saw a for sale sign there for three years before he launched into action to go after this. Where were we? I also recall that he had to go through five different owners to put together this parcel. It seems that there is a lot of leg work; it seems there is a lot of energy and initiative to take that to the point of fruition; take it through the P&Z process and suddenly be told that he is going to be given fair market value. My understanding of the eminent domain process is, we are going to get this property if we go with this, no matter what. The point is to eventually arrive at a price that is considered fair market compensation. I believe that, at some point, we go to a referee; a judge. We may end up paying significantly for the value added to this property by having it subdivided into seventy-nine parcels not ready for sale. In that regard, I am also curious as to the appraisals done, the dollars values in this ordinance, do they take that into account at all? Is this a fair market value?

Atty. Small replied, fair market value established by the appraiser is what a willing buyer would pay for property with the approvals that are in place.

..... Kapi stated, while I am in favor of the acquisition of open space property, I do have some difficulty with the way this is being done, I think that in the course of my research in this I read meeting minutes from 1994, April and May, and they were centered around some State grant monies that were available and were delayed and we asked for extensions on a couple of occasions, at that point the Mayor ran into some difficulties with members of the Council who wanted to press forward with the purchase. The outcome was that they voiced that concern on that night; we did continue but after additional years of delay, we ended up exercising only a part of those available State monies and bought a lesser parcel of land than was originally envisioned. Is that correct?

Mayor Dickinson stated, if the occasion is the one that I am thinking of, the property owner did not want to sell. The owners decided that there was an unwillingness to sell.

Mr. Kapi stated, perhaps if we moved more quickly at that time we might have caught them in a different frame of mind. Acquisition of open space has not been a high priority. There were other priorities, the school expansion project was mentioned extensively, Community Pool was mentioned by other Councilors, the Recreation Center was mentioned by others and apparently this has always been somehow second class to other pending projects. That is a judgment call as to how much we it to lay out at a given time and what the priority really is. We are probably going to pay more for Terrell Property then we had had we acted expeditiously a few years ago. What I am wondering is, if Mr. Robally was able to make the effort to locate five property owners, put together a parcel and make that happen, why can't we do something like that? For example, there were letters sent out to these folks asking if they wanted to sell. Were there follow-up phone conversations? Were they asked if they would consider any other type of negotiation to sell on a deferred basis the developmental rights to their property; to exercise an option for the right of first refusal? Why can't we go out and make that kind of effort and do those things? When they make the choice to divest themselves of the property, we're there.

Mayor Dickinson responded, there are follow-ups and there are expressions of interest in purchase of development rights or other arrangements. As a general rule, we found that people who lived and were using their large pieces of property were not interested in having someone else, in any way, own that property. The most difficult concept was the sale of development rights.

Mr. Kapi stated, this is not a personal thing on my part, it is a good thing for the entire community by not putting homes up there we will not have to expand the school system and we won't have to expand services; it will save us money in the long run. That is a good concept that Councilors have ressed many times in the past. During the hearings held by P&Z on this parcel, Linda Bush (Town Planner) was asked about the impact on the school system to these many lots being developed and putting people into the school system. She responded, "I figured the average number of students per dwelling unit as 1.2. We had a Town Attorney's opinion several years ago that you cannot take that into consideration. When you zone property residential you expect houses on it." If they zone an area for residential development, P&Z has to make decisions on giving applications based strictly on that and not on other extraneous issues on what it is going to do to the Town budget. They looked for that Town Attorney's opinion for me all day long, couldn't find it, do we know which Town Attorney that was?

Mr. Parisi asked Mr. Kapi to state where he was going with this information. He would like to give someone else an opportunity to speak to the issue.

Mr. Kapi concluded his comments saying, I have minutes from meetings years back with Councilors saying that we are overtaxing our school system; residential development costs the Town money in the long run; we have to deliver services. We have a P&Z Commission that is being told that they cannot think of those things when they make their decisions. Clearly, we have two different bodies looking in.....

Parisi stated, that is the law; they are governed by rules and regulations.

Mr. Kapi stated, I understand that there was a meeting in September, a joint liaison meeting, which was characterized to me as Town Councilors telling the P&Z Commission that they have to limit development and P&Z telling Town Councilors, you have to buy open space.

Mr. Parisi stated, I don't believe Town Councilors were telling P&Z Commission that they had to do anything. I think it was an exchange of opinions and ideas and I don't believe that anyone was telling anybody they had to do anything.

Mr. Kapi asked, how do we avoid the fix that we have been in, not achieving a plan because the charges of the two bodies are very different? Hasn't that put us in this dilemma now?

Mr. Parisi stated, not necessarily. I believe that each body does what they have to do.

Mr. Kapi concluded, in speaking with Tom Talbot (Asst. Town Planner) last night he indicated that the action taken last night by the P&Z was absolutely perfunctory routine, approval of sales that we raise and they imply no agreement with this policy.

Bob Wiedenmann, 17 Chestnut Lane stated, I am a local taxpayer and developer. I want to follow-up on something that Mayor Dickinson stated earlier; that my profession and the fact that I may own a piece of land has less value, in some people's eyes, than a farmer on his piece of land because of what his occupation is. What he said basically is, we won't take a farmer's land because he does not want to sell it but if a developer owns a piece of land and he doesn't want to develop it, it doesn't matter, we are going to take it anyway. That is what I heard.

Mayor Dickinson stated, the issue is, in resorting to the authority of eminent domain, where there is a willingness to pursue that. Where an owner has determined that they want to make money on their property, they are selling the property for development, the issue then is, is the Town concerned about open space and desires of limiting population in the town using the property for other municipal purposes, there are many different reasons for open space; should the Town purchase that property?

That is not to say that the farmer has a better occupation than the developer. The issue is the impact on the community. What density of population; how many schools; extension of services, etc., all of those things come into play as there is more development. The issue is, to what degree is the town concerned about it and how is that to be controlled? The only way to control the level of development is to purchase property and not have it be developed. Then there is some rural character the population does not grow beyond a point that maybe policy would say that it is beyond our ability to provide services or more costly to do so. It is not that one profession is better than another. There are pieces where people are not using them for anything, they are just sitting as open space. It is just a question of what use is made of that land.

Mr. Wiedenmann replied, a lumber yard has a piece of lumber; they want to sell it. It is not for the sake of selling it, it is for the sake of making a profit. We are in the land development business, that is what we do for a living. If we don't sell it we are out of business. I don't understand the concept of not allowing us to continue with our business. As a taxpayer, I enjoy open space; I would like to see the town buy open space. From an open space standpoint and from a taxpayer's view, we want to buy the best open space that we can. Let's look at it and say, I don't care if it is a farmer, a developer or whoever it is, we are going to buy the best open space for the town. If we figured these three pieces and decide that \$4.5 million is a reasonable number to spend this year or maybe for the next five years, what happens when the one that is better comes up next week or next month or two years from now? Are we going to spend another \$4.5 million? Where is the funding coming from? What is the long range plan from that aspect of it?

Mr. Parisi replied, you cannot foresee the future. The question was asked of the Town, where were two years ago? We were dealing with other projects two years ago; everything in its time. If something came up in the future that would be a decision that would have to be made.

Mr. Wiedenmann asked, given the circumstances, are we buying the best property? I am not clear as to whether or not we have located the best properties yet.

Naomi Law Terrell stated, I am very concerned about the money. \$4.5 million is a lot of money to spend on open space. I personally feel that if you are going to spend that kind of money, you should put it in the school system. We have little children in the first to third grades that cannot read and they need extra help and they don't have it. We have young people who are dropping out of school at sixteen because they don't have things in school that entertain them or teach them. We should have something for them, they are headed for public welfare and that is not where we want them to go. We don't have enough after school activities for young children. If we have over \$4.5 million is

worked for three whole years and have done every single thing P&Z wanted us to do on the plans and changed the plans and they have been accepted for housing. The wetlands had been agreed upon and people who are concerned about Pierson Drive are not very concerned about their neighbors. Ridgeland is a large piece of property with many, many residents. The people on the west side have no exit from that whole development except for two roads on Highland Avenue which are quite a ways down. When people bought a house on Pierson Drive, the way the Town left it, they should have realized, even though they may have bought it twenty to twenty-five years ago that eventually there was going to be a road out to Route 68. They need a road to get out of Route 68. If you lived in that west end of Ridgeland, you would not want to drive all the way down to get out of the development, rather than go to Route 68. You are also putting traffic in front of grammar schools and other schools where children are walking and some are on buses and if they could get more people out on Route 68 it would be to the advantage of all the people and all the children that live there. I cannot say enough good things about Landbank and everything they tried to do for the Town of Wallingford. I know more traffic will go on Pierson Drive, the people should have realized that when they bought the houses. They should not have thought that the Terrell property that has been owned by the family for more than one hundred years should stay like that. Who do you know today that can make a living on twelve cows; that was what my grandfather had, twelve cows. Today, you would starve to death on twelve cows. I feel that the time has come to think about the whole town and everyone in it and not specific individuals who want specific things. (applause)

Joan Malloy, Attorney with the Law Firm of Loughlin, Fitzgerald, Camp, Henrici, Malloy, Rizzo and Reed of 150 South Main Street in Wallingford asked, are there any commercial or industrial sites on your list of properties that you are considering for open space?

Mr. Borne responded, yes. To the chagrin of some people in Town government, some industrial properties have been identified as great open space parcels.

Atty. Malloy asked, can you tell me whether or not the appraisers treated the property as raw land or as approved building lots?

Atty. Small answered, the first two parcels are not approved subdivisions therefore he would not have valued them as such. The Terrell parcel was appraised as an approved subdivision.

Atty. Malloy asked, do you agree with my interpretation of the statute that the value of the property will be set as of the day of the taking?

Mr. Parisi stated, we are hear for a public hearing.

Atty. Malloy stated, it goes to the issue of true cost of acquiring this open space. If, in fact, it is determined that the property should have been appraised as building lots either because two of the parcels that you are considering have pending applications in front of P&Z, so there is a consideration as to whether or not they should be appraised as buildings lots, depending on the timing of the taking, they may, in fact, be legal building lots. I am simply trying to raise the issue to the Council that you

...re a number of issues here that you need to consider. One of them was the true cost of acquiring this property. Simply because the Town's appraiser has placed value on it, doesn't mean that that is, in fact, the true cost is going to be. The matter is still being discussed with the various land owners. There is no resolution and if, in fact, there is no resolution with the land owners, then there is a probability and maybe a high likelihood that you are going to have a contested issue in front of State courts in terms of value. As a follow-up to that, is the Town talking to the parties that have a contract on two of the three pieces?

Atty. Small replied, I believe that I have spoken to everyone but when the Town takes the property they take it and name the owner and anyone who claims an interest flowing there from, so certainly they would be listed in a statement of compensation if legally they are supposed to be. I have spoken to everyone. Whether or not I believe I have to speak to everyone, whether I believe I end up agreeing with everyone or have to agree with everyone, is another story.

Atty. Malloy stated, the Council needs to be very aware that there is strong disagreement about the value of the property and that the \$4.5 million may not be sufficient. The other question or issue I would like to speak to you is, Mayor Dickinson's comments that this proposed acquisition is not intended to be anti-development but I sat here tonight and listened to the comments of the public, the ...f, and the Council, in some cases. I hear that the Town is considering acquiring property before it has a clear plan of open space. There is a proposal out there but from the comments from those members of the public who appear to come to these meetings on a regular basis, it appears that the plan has not been presented to the public, has not been discussed in any detail with the public and you really have not had any public input about whether or not they agree with the draft plan and whether they would propose that the rating changed or somehow altered. The Mayor says, what we did was, we had a list of approximately twenty-five sites and we contacted those people. Now I happen to have a client who many years ago offered a piece of property to the Town of Wallingford. I consider it to be a significant size. I called him and I asked him, did you get contacted by the Town of Wallingford? He said, no. What does that say to me? Here is a person who has a piece of property who years ago expressed an interest in selling his property to the Town so that it can be preserved as open space and then the only three pieces that the Town is willing to go to condemnation for are three pieces that, lo and behold, have either got approvals or have pending applications.

Mr. Parisi asked, did this person come forward and express an interest of wanting to sell the land?

Atty. Malloy replied, years ago.

Mr. Parisi asked, what about now?

Atty. Malloy answered, I am not at this point in time.....

Mr. Parisi stated, the point remains that when there was publicity on this issue, there were people who came forward, who read it in the paper so it was obvious that they were interested in selling land. You are making it sound like we overlooked someone and perhaps did it on purpose.

Mayor Dickinson stated, the list was developed by the Conservation Commission. It involved pieces that would be very large, one hundred acres. What we found was that there was not a great interest in selling. We dealt with pieces that were close to others that are large; the Route 68 piece is not one hundred acres but is one of the larger pieces. The Conservation Commission developed the list of properties and analyzed them. Why the property that you are questioning is not on there, I don't know.

Mr. Borne stated, maybe it is.

Atty. Malloy stated, I am simply looking at this from an observation. Sitting here tonight and listening to the comments and then having an outside experience, I sit here and I say, it also translates to me that if I am an owner of a large tract of property it appears from the essence of what I am hearing tonight that if I enter a contract with a developer the Town is going to come in and condemn my property.

Atty. Small stated, two of the property owners knew the Town had an interest in the property; knew we had an appraiser on the property; knew we were interested in purchasing and signed contracts with a developer. They knew the Town had an interest, why they chose not to talk to us further, I don't know.

Atty. Malloy responded, I would suspect due to the price but I don't know.

Atty. Small replied, I believe you would be wrong in at least one instance. The idea that we moved in because a developer moved in is not accurate, it is not accurate. We were talking to these people

beforehand and they decided they did not want to deal with us and chose to deal with someone else at the time that we were interested in purchasing and were pursuing that.

Atty. Malloy asked, in essence they no longer have the right to contract with the party they want to contract with?

y. Small responded, no, you are saying the Town moved in at the point when a developer moved we were there basically at the same time.

Atty. Malloy added, but you were not able to work out an agreement; another party comes in and negotiates a contract.

Atty. Small stated, we never got that far because our appraisals were not finished.

Atty. Malloy asked, of the three pieces that are subject to condemnation, why are none of them pieces that are not subject to development?

Atty. Small answered, two of them, we were talking to them before they entered into any agreement. The idea that we moved in solely because a developer wanted them is not correct.

Atty. Malloy stated, I believe that if someone chooses to contract with a party and chooses not to contract with someone else, they should be allowed to carry out that contractual agreement.

Mayor Dickinson stated, then you have a public policy issue and that is a reason statutes allow for eminent domain and for our meeting tonight, to determine whether there is a public policy reason for the Town to own open space then there is the authority to do that. There will always be disagreement but the bottom line is, at some point, if the Town wants to own open space it may have to take the serious action of eminent domain in order to accomplish that task..

Atty. Malloy stated that she agreed but was simply pointing out that the appearance would be better if the Town was also trying to acquire property that was not under contract or subject to development.

At this time Mr. Parisi announced that Items #10, 13 & 19 will be removed from the agenda.

Jerry Kuntz, (address unknown), stated I have been a resident of the Town for the past twenty-eight years. The reason I am here is that I feel that \$4.5 million on open land that has been available for the past nine years.....that parcel has been available for nine years. I am a friend of Naomi's for many years and when this whole thing came about I could understand her plight. She wanted to sell this

land; she was never contacted by the Town because at that time the Town was interested in other problems that were going on. Therefore she put up a sign and lots of people talked to her about selling it, they did things about selling it but nothing ever came across until the land was bought by Mr. Robally. All of a sudden now people are upset because they must have thought that this thing was never going to come across; they were never going to lose their privacy up in Ridgeland which I would never go back to again since the last time I tried to deliver my products when I was selling on. I got lost in a snowstorm there and I never want to go back to Ridgeland again, believe me. I understand how the people are comfortable with their privacy there. I live in a part of the Town where I have the privacy of a park in my backyard and it would upset me if I found that someday, someone was going to build a road through there and there were going to be people all over my property but I have to live with that. That is part of owning property. You take that responsibility when you buy. You cannot judge or demand that your life is going to be the same forever. It never happens that way; there are changes all the time so deal with it. Deal with it in a way that is going to make it better for everyone, not just for yourself but for everyone in this town. We are talking about \$4.5 million that you are willing to spend to buy these properties up but, in essence, you have houses that are going to be selling for up to \$300,000 a piece or more in this property off of Route 68. These are not cheap houses; you are talking about a lot of tax money, up to \$3 million a year that is going to be put by these people to sell to own these houses. Isn't kind of a smart idea, before you think about this eminent domain stuff and get all involved in taking away the people's right to do what they think is right, to think about all the other things that are involved in this. Don't just jump into the fire. As the gentleman said earlier, the Town of Wallingford does not have a plan. Why are you doing this when you don't have a plan as to what you are going to do with that land once you have determined this eminent domain? In this case I don't believe the Town has the right to do this. You missed your golden opportunity; the window of opportunity shut when Mr. Robally purchased that land.

Richard Fiske, President of Ravenswood Development stated, I have heard a lot of conversation tonight and no one mentions names, no one mentions dollars, it is as though we are talking about fictitious pieces. I have entered into a contract with the Maseychik and Mellor families. I have been negotiating and dealing with those people, it has taken me three years to put that project together. I am a developer in your town and I work with your rule book; Planning & Zoning regulations. I come in and operate in good faith. I put this project together. The Town Attorney stated that she has talked to people; talk is cheap and there are all kinds of people running around saying that they want property. There is a letter the Town sent to the Maseychik family subsequent to the time I entered into a contract. I call that interference in a contract. You are appropriating \$4.5 million for land that I have entered into a contract with, have worked on for three years. The Terrill property is part of your package. If you have made your mind up maybe this whole meeting is a waste of time because it appears as though you have all made your mind up, you are going to take this land and I am going to

lose it because this is my living. I could build \$8 million worth of houses on that property and I am sure that T & M could build \$16 million worth of homes. I am not going to roll over and play dead for this. If you take the property, it is going to be litigated. I am telling you right now, you had better appropriate more than \$4.5 million because the Town offered the Maseyhicks \$750,000 for the property when my contract recorded on the land record is \$872,000. There is an arms length transaction between a willing seller and a willing buyer. You better raised your bond issue higher right now and you had better place a contingency on it because I am sure that the Town Attorney is going to tell you that you are going to go before a judge who may give credit for lots and maybe some for lost profit; there is an exposure here for the Town and I think you are leading the Town down a garden path. I find it odd that a week after I sign a contract with the Maseychiks and Mellors a letter comes from the Town. Any time before that it was just talk. I am the one who is getting hurt here. I have been in business thirty-five years and I have never had this happen to me before. You do what you want to do and then we will have to do what we have to do. I think you should appropriate more than \$4.5 million.

Bill _____, 213 S. Orchard Street stated, I come to offer comments as a taxpayer and Vice Chairman of the Conservation Commission. The commission looked very closely at all the properties and put a lot of work into this for over one year. The definition of conservation is "wise use". And the definition of protectionism is "no use". We are not offering a "no use" alternative to these properties but more of a "wise use" alternative to the properties. The bottom line, as a taxpayer, is that it will be less expensive to keep the properties in open space. There is more than just the Durham and Massachusetts study, the Hartford Advocate recently came out with a study on the appropriations of land for open space. It is a well known fact that open space will cost taxpayers less money. CT. Currently ranks low in open space acquisition. The Governor is going to appropriate _____s over the next ten years. CT. As a whole is getting on the bandwagon to obtain open space. I don't consider \$45,000 per acre high when you consider the alternative cost of what it would take to get that land back. (Applause)

Paul Body, 49 Hintz Drive stated, if someone has indicated a willingness to sell their property as evidence by their contact with developers that is different than a farmer who does not want to sell. The Town is not going to take the land from the farmer because they think it is a nice piece of property that they want. He has attended the P&Z and Inland Wetland meetings on this issue. That land, whether or not it is approved by zoning should never be developed. It is a very wet piece of property. Over half the land is watershed; half of that is critical watershed. P&Z allowed 75% of wetlands to be used as open space,. He did not think that was the intent of open space land and never was. If that land was treated as wetlands that were not to be considered as any aspect of it, protect it and maybe even put a border on it, maybe it would not be developable at all. He was not convinced

the land was very developable. It is continuant on to the Broadbrook Reservoir which goes to Mill River which goes to the Quinnipiac River and we have initiatives and things going on to try and keep that water clean. It is not good land to develop. If it is developed, it will never be available again. There is not a whole lot of land on the west side of town. It is not whether it is the best piece of land we can get for our money, it is can we get some land for our money. If we don't do it now it is not going to be available. Maybe it would have been a lot better if the funds would have been available and the land became available on the market and it would have been a lot more attractive in everyone's eyes if it had been available and we could have bought it then, but it is not. If we don't do it now we will never have the opportunity. This amount of money is less than 5% of one year's budget; it is not a particularly large chunk of change. I don't think it is a bad deal especially if the land is going to be here for Town use twenty, fifty or one hundred years from now. Go ahead and do it. Don't pass up the opportunity to get the land. (Applause).

Philip Wright, Sr., 160 Cedar Street asked, what is the ultimate cost going to be by time we add in debt service?

Mayor Dickinson stated, if all of it were borrowed it would be approximately \$2 million in debt incurred which brings the total to \$6.5 million.

Mr. Wright asked, does the golf course factor into this at all?

Mayor Dickinson stated, It doesn't factor into this. I can't absolutely say that it does not factor in at all. There was legislation proposed, I don't know the status of it. That possibly could be a source of reimbursement, depending on the legislation on some of it. It is all very conjectural.

..... Wright asked, there is a possibility that we could be reimbursed for the cost of the land out in your neighborhood if it goes to a golf course?

Mayor Dickinson replied, if ultimately there is a golf course on any of these pieces, there is a possibility that it could be subject to reimbursement. That depends on whether legislation is passed and the language of it. I have not seen the bill in question.

Mr. Wright stated, it is my understanding that the money may be available for the development of a golf course after the land has been bought. Is that correct?

Mayor Dickinson stated, it would probably be the case. If the Town did not proceed with the golf course the funds would not be available.

Mr. Wright asked, first you have to buy the land and then maybe the funds will become available to build the course?

Mayor Dickinson replied, it is possible it is true; I have no knowledge of the specifics.

Mr. Wright stated, on various occasions I have supplied the Mayor and Council with information, gesting that we buy open space. I am very much in favor of open space but I don't like the fact we are taking three pieces of property and wrapping them in one ball of wax and pushing it through without much consideration. The Conservation Commission did as good a job as they could possibly do under the circumstances. They were given this job and they first in the beginning of 1997. They worked very hard and for a whole year we were talking about open space the Mayor kept saying we had to wait for the Conservation Commission. Now, all of a sudden, the commission has not quite finished their work but they do have some information. Now you are putting them on the spot and it seems to me that the difference is that they really want you to buy these pieces of property and that is not my understanding of what the situation is. They are on the spot here. It is very unfair. They have done a service to the Town and I do believe that if this property was not up there on Route 68 we would not even be talking about it yet. I know that the Town is going to have to enhance the water supply up there to the tune of more than the \$200,000 that you talked about from what I understand. In addition to that, the Fire Department and Police Department and every other department is very much in favor of correcting problems that exist up there; the water that is coming in on people's property would largely be eliminated by this. I would like to see the piece of properties separated and a vote taken concerning the purchase of them individually. This is not the best use of Town dollars for open space. I think it is because there has been a lot of pressure put on and a lot of noise made about the property up there, that is why that property is of interest now, in my ion. Don't spend this \$4.5 million now, let these guys (conservation commission) finish their job then go after a planned expenditure for open space land.

Don Harwood, 4 Chestnut Lane stated, consider the following for the future:

- I would like to see the Town engage in a short term and long term plan that is comprehensive for land use and acquisition in this Town beyond just the Conservation Commission. I have not heard that any other groups were involved as significantly as the commission was.
- I would like to ask the Town to consider to clearly define what degree of control the Town would want as far as size and the items I mentioned earlier.
- I would like you to develop or consider an action plan for the future.

- I would like you to consider developing a land/open space acquisition funding pool.
- Consider focusing our attention on raw property and not pay a premium.
- Consider developing a program for first right of refusal; developmental rights and to approach things in a more pro-active manner.
- Consider focusing on the highest priority that the Conservation Commission puts together but blend that with the other elements of land development and planned growth.

My quick math indicates, in my opinion, that if we are throwing out a \$750,000 offer for twenty-six acres, we are throwing it out at \$30,000. We are probably throwing out a \$480,000 offer for the other parcel which means we threw out....we have to add \$50,000 in there to give us all the other ancillaries, we probably have a \$3 million offer out there for the Terrill property. I appreciate your time. I don't have a problem standing behind things that I speak out on and I would be more than willing to work with the Town in an effort to plan. I implore the Council and Mayor to plan.
(Applause)

Mr. Lube stated, it should be noted that the Appraisal Institute definition of Fair Market Value is what a willing buyer is paying to a willing seller. When you go to court for eminent domain and you have an unwilling seller the judge takes that into consideration and a premium is placed on that property to reflect that. You should ask yourselves if we really care whether the rolling hills of this Town are Town-owned or privately owned as long as that pastoral look is there that we all want to tect. It does not really matter who has title to that property. These three parcels are being eloped in strict complete accord with the P&Z's picture of the future of the Town. This is how they envision these parcels and these developers have complied in every respect or they would never have been approved. In this ordinance we are going to give the Mayor authorization to negotiate the terms and price and to sign purchase contracts and we will never again know, on account of executive sessions, what is going on anymore than we do about Silk Street. In view of the opposition that we have heard tonight, one of you should move to table this for re-consideration.

Mr. Kapi agreed with Mr. Harwood's comments regarding planning. If you don't have this kind of planning you allow people to speculate as to what is the value system by which we make judgments as to what we allow and what we don't allow. We are talking possibly about a generation plant in our industrial and waste treatment area. Those folks that live down there don't have a lot to say about that. We are also talking about setting aside parcels out in neighborhoods where Mayors and Councilors live. I don't think that is the germane issue but people look at that and wonder, what is

the plan? If you don't have that plan, have some parameters. Give some guidance to P&Z. You are always going to have those types of questions and those types of doubts. I disagree with the mechanism of eminent domain. This is not the court of last resort for overturning P&Z decisions. The folks who live in that neighborhood; I understand how you feel but procedurally, we have to go by the precedence that we set and patterns that we set and eminent domain is not a good mechanism because it is applied arbitrarily according to some standard that someone makes up; good for farmers, bad for developers; it is all too easy to be misconstrued if there is not a plan in place to set parameters for how we make those choices.

Ms. Terrill stated, the property I sold to Landbank has been on the market for sale for ten years with big signs on it and I have never ever been approached by the Town of Wallingford to them for any reason whatsoever except approximately one week before I signed the final papers with Landbank.

Mr. Centner stated, in response to the speakers who were concerned about a plan; I will illustrate what our plan is as I know it.

1. A commitment by the Town for open space

Our commitment came from this Council during our campaign. We united and promised open space.

2. Identify Town's needs

We asked our Conservation Commission to rank to indicate by a ranked list land and acreage sizes that we felt we were targeting. This commission is one and one half years old and this is a new venue to have a positive move towards open space from the Town Council.

3. Balanced our purchases town-wide

The important part about this is balance. What we are targeting is open space on east and west and where it will have its best use. The Route 68 parcel; right now that parcel is significant due to its current impact, if it were to be developed, on services, schools and traffic on Route 68. I can attest to Route 68, I live there; it is a total mess; it is an impasse at certain times of the day including the weekends. That is not serving the people of the Town well. It has significant future use as well. Softball fields, soccer fields; sports programs and after school activities and other

uses of town property is vital to the youth of the Town. The other two parcels are on the east side and part of a plan to balance acquisition that way.

4. Fund them

No the land total purchase price is not in any budget because we don't have a clue as to what it is really going to be. We did ask the Conservation Commission to provide us a list and it was a big list with very large parcels. We asked the Mayor to start on every one of them because we could not make up our minds on which ones we thought we wanted. We asked our Town Attorney to start appraising every item on that list and to get back to us. We then had an idea of the total dollars in the millions of what the budget would be.

Mr. Centner went on to say, right now we have followed our plan, tried to balance east and west and meet our goals. I am very satisfied with it. There is very little land left on the west side of Town. This is a very large parcel; it is an important parcel. I don't think we can find this size parcel on the west side of Town. It is very well-developed, has very poor circulation for traffic on what is out there already. And unless they want to start carving up what is out there and just put roads in to serve the area, I don't know if I would agree with that. Why didn't we do this sooner? This Council just came on in January; we just built that into a platform; we are committed; this is why we did not do this earlier. In closing, through our linear trail we have applied for many grants and are receiving money for outdoor recreation. We are active in our grant search. The Governor has indicated a \$160 million plan for open space. It is a ten to twenty year plan and he is shooting for \$16 million this year. We don't know if we are going to get any at all but at least the Governor has now recognized it and is targeting \$160 million. We want to be a part of that. It is all in there; it is not as clean or neat as it could be because it is now in a form that we are working with it but I am pleased to be here and to be a part of it and it is absolutely us taking action on a promise that we made. That is part of the reason why we are so firm on it. (Applause)

Mr. Zappala stated, Mr. Maseychik lives out of town and my telephone bills will show that I talked to him long before any contractor did about his land. For some reason the land owners do not want to deal at first with the Town and in the end we are forced to use our rights as the government to take over the land if it is possible.

Mr. Zandri stated, I am a firm believer that without a specific purpose, I am against taking land by eminent domain. The sixty acre parcel in Yalesville, to my knowledge, has no specific purpose designated for it. We missed an opportunity when it was first up for sale that we should have taken then and I am against going after this piece by eminent domain. We are going to pay a premium for that particular piece if we go this route. It has already changed hands since the final approval was made by P&Z. When it changed hands there was a profit made just in that one dealing that we will have to pay for. There are almost seventy building lots on it and each has a certain value to that developer. Again, we are going to end up in court; litigation is going to cost on both sides of the fence and the Town will have to pay for that as well. I am not against open space but I just think that we could get a lot more for our money if we utilize these dollars available tonight on other land that is available in this town. I also believe, and I mentioned this before when I was on the Council, that we should be approaching every property owner with big parcels to try and get right of first refusal on all pieces so that when they do become available that at least the Town will be notified of that and we can make our move at that point in time. I will be voting in opposition of this proposal this evening. (applause).

Mr. Rys stated, seeing that I am one of the parties that has been involved for nearly twelve years with the property on Route 68; going to public hearings and such; I did make a statement to the paper about the expansion of schools necessary, police, fire....and I really meant that. To the taxpayers of Wallingford I feel this is a good deal if we go ahead with this purchase of that property and the properties on the east side. I have heard mention and read in the newspaper \$3 million in taxes; I just figured out \$25,000 in taxes on each house would not even bring in \$2 million. I don't know where we are getting these figures. With cars and additions added, I still don't think we would come up with a million a year in taxes to the Town. I brought out this; I have been to public hearings; we have made a commitment as Mr. Centner said to purchase open space. This is the only available means for us to do it, I think the rest of the citizens in this town would appreciate what we are doing for them because a \$27 million school expansion just went through. It costs money to educate kids and when I spoke to the Superintendent of Schools it is two students per household. That equates to 160 up there (Route 68) and how many over there (Grieb Road)? Guess what? We will be looking for more space. (Applause)

Mr. Parisi echoed Mr. Centner's appraisal of the situation. He stated, I, too, feel that we followed a very organized procedure. I commend the Conservation Commission for the work that they did. They worked long and hard but it was all part of a procedure and plan. There is a commitment to open space. I will be supporting this.

Motion was made by Mr. Rys that an Ordinance Appropriating \$4,542,000 for the Acquisition of Various Parcels of Real Property for Open Space Recreation and Town Purposes and Authorize the Issuance of \$4,542,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose. A copy of Which is Attached Hereto be Adopted, seconded by Mr. Farrell.

JTE: Renda was absent; Zandri, no; all others, aye; motion duly carried.

(Applause)

Mr. Parisi referred Mr. Killen to page 12, line 23 of the Charter under the section entitled, "Duties of the Mayor".

ITEM #8 Consider and Approve a Waiver of Bid to Allow for Cole Layer Trumble Company (CLT) to Perform the Requisite Technical Valuation Assignments Necessary to Bring Field and Related Work Up to a Current Status (Approx. 6/30/98) - Comptroller

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

Mr. Parisi explained, this is to fill in for the staff that is on paid administrative leave in the Assessor's Office.

Philip Wright, Sr., voiced his opposition to waiving the bidding process. He asked the Comptroller to her information on how many bid waivers the Council has approved within the last twelve months to him.

Mr. Myers responded, yes, he would try and make an attempt since they do not all flow through his office.

Mr. Zandri asked, is there any indication as to how much longer we will be down staff? Do we have any idea if we are halfway through this ordeal?

Mr. Myers replied, we have no idea. The Police Chief has stated that it is going to take longer than anticipated.

Mr. Zandri asked, is there any way to check to get an idea of how much longer the police department anticipates investigating the Assessor's Office?

Mayor Dickinson stated, the detectives have been asked to inform themselves about functions that are performed in the Assessor's Office, understand rules and regulations that govern the activities of the office, analyze evidence of that work, determined whether or not it was performed in a manner that is correct under the appropriate rules and regulations, organize that material so it is understandable to clarify whether or not that information justifies further action by an official sort or not. A lot rides on investigation. It is impossible to judge how much longer it will take. They are looking for a conclusion of the matter as quickly as possible. That is the best I can say at this time.

Mr. Zandri stated, I would imagine at this point in time they would have some sort of an idea as to how much longer it will take; one, two, three, four, six months, what ever. If it is possible to find out, I would appreciate it.

Mr. Farrell stated, I can appreciate wanting to move this along but I don't want to have the Mayor in a position where he is trying to interfere in a criminal investigation just by pressing it forward. It sets a bad precedent by pressing for a conclusion when sometimes that is left to the professional judgment of our Police Department.

Mr. Zandri stated, I did not mean to put pressure on anyone to finish the investigation. I would want a thorough investigation. We also have to remember that the individuals on administrative leave are being paid and now we are appropriating money to call in outside help to do their job. The longer this goes on, the more of a financial bind it is for the community. That is my concern. I just wanted to see if we can get some sort of an idea of what we are dealing with. I was not trying to have anyone put any pressure on anyone.

.... Farrell stated, I did not think you were. I just wanted us all to realize that maybe that is a good reason not to press hard.

Mr. Parisi stated, it is the best kept secret I have ever seen in this Town. I commend who ever is responsible for that.

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

Motion was made by Mr. Rys to Move Agenda Item #16 Up to the Next Order of business, seconded by Mr. Knight.

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

ITEM #16 Consider and Approve an Informal Settlement Agreement Between the CT. Department of Labor, Occupational Safety and Health and the Town of Wallingford, Department of Public Works - Town Attorney

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

Mr. McCully, Director of Public Works explained, last month the department was excavating on S. Ridgeland Road and an anonymous phone call alerted O.S.H.A. (Occupational Safety Health Administration) to come to the excavation site. Upon inspection of the site we were cited for three violations; depth of the trench, it was four inches higher than it was supposed to be and at sixty (60") inches a trench box is supposed to be in place; a ladder was not in the trench for egress; and we were also cited for excavation material placed too close to the edge of the trench. No one was injured and the department prides itself on its safety policies which is why this came as a blow to the staff of the department. Steps have been taken to correct the situation. From now on all of the decision making responsibility will not be placed on the crew leaders who are trained and schooled on these situations. The staff will be sent to a combined excavation seminar that will be facilitated by O.S.H.A. for the Water Division, Public Works and other entities in town interested in attending. All the staff operating heavy equipment will be attending the seminar. Every effort will be made to make sure this does not happen again. The fines were originally \$1,600. Ed Niland, Highway Superintendent and myself requested a hearing in Hartford and we were successful in getting the fines reduced by fifty percent (50%).

Mr. Parisi commended Mr. McCully for requesting a hearing. He stated, many times the training aspect is overlooked and this is a good wake up call to review some of the programs or lack of them in the Town in general.

Mr. Centner asked, do you have enough safety equipment available?

Mr. McCully responded, yes. It was just poor judgment.

Philip Wright, Sr., 160 Cedar Street stated, this is the third O.S.H.A. citing we have had in the Town in a fairly recent period; one at the Board of Education, one at the Police Department and one in Public Works. As Public Safety Director, Mayor, do you have anything to offer to be done concerning this?

Mayor Dickinson stated, public safety is different than employee safety. The Risk Manager is one of the individuals who would be involved in this and department heads have active programs with regards to training. We have active programs in the utilities and public works.

McCully stated, the Town is in voluntary compliance with O.S.H.A., we are working to clean up every little aspect of safety in our buildings on an ongoing basis through the Risk Manager's Office.

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

ITEM #6 Motion was made by Mr. Rys to Remove Agenda Item #6 from the Table, seconded by Mr. Rys.

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

Motion was made by Mr. Knight to SET A PUBLIC HEARING for May 12, 1998 at 7:45 P.M. to Consider and Act Upon the Following Proposed Ordinance, "An Ordinance Appropriating \$1,670,000 for the Planning, Acquisition and Construction of Various Municipal Capital Improvements 1998 through 1999 and Authorizing the Issuance of \$1,670,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose" seconded by Mr. Farrell.

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

ITEM #9 Consider and Approve a Transfer of Funds in the Amount of \$20,625 from Finance Department Salaries and Wages Acct. #001-1401-101-1000 to Purchased Services - Property Appraisals Acct. #001-1401-901-9010 - Comptroller

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

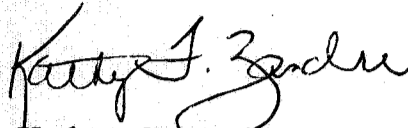
VOTE: Renda was absent; all others, aye; motion duly carried.

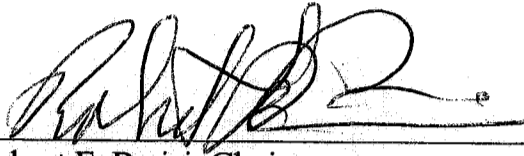
Motion was made by Mr. Farrell to Adjourn the Meeting, seconded by Mr. Rys.

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

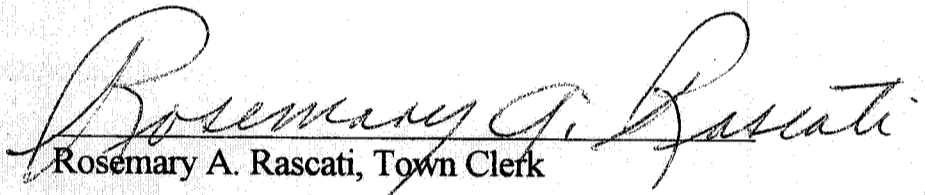
There being no further business, the meeting adjourned at 12:21 A.M.

Meeting recorded and transcribed by:


Kathryn F. Zandri
Town Council Secretary

Approved by: 
Robert F. Parisi, Chairman

6/19/98
Date


Rosemary A. Rascati, Town Clerk

6-19-98
Date

ORDINANCE NO. _____

NUISANCE CAT ORDINANCE

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

SECTION 1. POLICY DECLARATION

The Town Council finds that feral cats and cats that damage property of others or cause unsanitary conditions are a nuisance and that it is appropriate and necessary, pursuant to the authority of §22-339d of the General Statutes to enact an ordinance, to seek to control the population of feral cats and to seek to eliminate the incidence of cats causing damage to property of others or causing unsanitary conditions.

SECTION 2. DEFINITIONS

- A. "*Feral cat*" means a free-roaming domestic cat which is not owned.
- B. "*Keeper*" means any person or organization that harbors or regularly feeds or has in his or its possession any feral cat.

SECTION 3. REGULATIONS

- A. The keepers of feral cats in residential or commercial areas shall register, within one year of the adoption of this ordinance, with the Animal Control Officer at 5 Pent Road who shall thereupon provide information regarding the proper care and management of feral cats.
- B. The keepers of feral cats shall provide for the vaccination of such cats against rabies and for the sterilization of such cats.
- C. The refusal to permit the Animal Control Officer to impound a feral cat shall be deemed evidence of keeping.

SECTION 4. PROHIBITED ACTS

- A. No person owning or keeping any cat shall permit such animal to (1) substantially damage property other than the property of the owner or keeper or (2) cause an unsanitary, dangerous or unreasonably offensive condition. Violation of this provision shall be an infraction.

B. Any cat found to be damaging property other than the property of its owner or keeper or causing an unsanitary, dangerous or unreasonably offensive condition may be taken into custody by the Animal Control Officer and processed or disposed of pursuant to the provisions of §22-332d of the General Statutes. The redemption fee for the owner or keeper of any such cat shall be \$15.00.

I HEREBY CERTIFY that this Ordinance was enacted by the Town Council of the Town of Wallingford this _____ day of _____, 1998, 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: _____

ORDINANCE NO. _____

OPEN BURNING ORDINANCE

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

SECTION 1. POLICY DECLARATION

The Town Council is increasingly concerned about safety and environmental impacts associated with the open burning of brush and other materials. To seek to ensure that the health and safety of its residents is safeguarded, the Town Council, pursuant to the authority of Section 7-148 and Section 22a-174 of the General Statutes hereby enacts legislation prohibiting all open burning except as noted.

SECTION 2. PROHIBITION

Except as hereinafter provided, no person shall set, cause or permit an open fire within the limits of the Town of Wallingford. As used herein, "person" means an individual, firm, partnership or corporation. As used herein, "open burning" means the burning of any matter in such manner that the products of combustion from the burning are emitted directly into the ambient air without passing through an adequate stack or flue. Open burning thus includes burning done in simple outdoor structures such as barrels and drums as well as on the ground surface.

SECTION 3. OPEN BURNING OFFICIAL PERMITS

A. The Mayor shall appoint one or more Open Burning Official of the Town of Wallingford who shall be solely responsible for the issuance of permits for those open fires excluded from the prohibition of Section 2 of this ordinance that require a permit.

B. A permit application for any excluded open fire shall be made on forms furnished by the Open Burning Official. Each application shall describe the purposes of the fire, the nature and quantity of the materials to be burned and such other information as the Open Burning Official may require.

C. A permit issued under this subsection shall be applicable only for the occasion or the purpose for which it was obtained, and, except for fire-training exercises, shall be valid for one day only. Fire-training exercises which require a permit may be granted for up to three days.

SECTION 4. EXCLUDED OPEN FIRES

A. A permit shall not be required for the following open fires:

- (1) Barbecues or other outdoor open fires for the cooking of food for human consumption;
- (2) Fires to abate an immediate fire hazard provided that the abatement fire is supervised by a responsible fire official;
- (3) Fires for training firemen in methods of fighting fires where only liquid fuels are burned; and
- (4) Fires in salamanders or other similar devices used by construction or other workers for heating purposes, which fires are essential to street installation or paving activities, the repairing of utilities, or other similar work.

B. Permits shall be required for the following open fires:

- (1) Fires for the prevention, control, or destruction of diseases and pests, and agricultural burning for vegetation management; and
- (2) Campfires, bonfires and other fires for ceremonial or recreational purposes;

C. Permits are required for the following open fires and may only be issued by the Commissioner of the Department of Environmental Protection or his Designee:

- (1) Fires for the disposal of dangerous material such as toxic gases where there is not a reasonable alternative method;
- (2) Fires to thwart a hazard which cannot properly be managed by any other means or is necessary for the protection of public health; and
- (3) Fire-training exercises other than those excluded under Section 4A(4).

SECTION 5. STANDARDS FOR OPEN BURNING PERMITS

The Open Burning Official shall not issue a permit for an open fire when he determines that:

- A. A hazardous health condition will be created by such burning; or
- B. The fire constitutes a salvage operation by open burning; or
- C. A practical and alternative method for the disposal of the material to be burned exists, including but not limited to, the following techniques: chipping, cutting for forest products, landfilling, piling for protective cover for wildlife and stockpiling; or
- D. Such open burning would interfere with or prevent the attainment or maintenance of a relevant ambient air quality standard; or

E. The forest fire danger, as determined by the state forest fire warden, is high or extreme and the area is within 100 feet of a woodland or grassland; or

F. An advisory of an air pollution emergency episode stage is in effect; or

G. Garbage, paper, grass, metals, plastics, leaves, rubber, painted materials or demolition waste is to be burned.

SECTION 6. PENALTY

Any person who violates this ordinance shall be fined One Hundred Dollars (\$100.00).

I HEREBY CERTIFY that this Ordinance was enacted by the Town Council of the Town of Wallingford this _____ day of _____, 1998, 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: _____

AN ORDINANCE APPROPRIATING \$4,542,000 FOR THE ACQUISITION OF VARIOUS PARCELS OF REAL PROPERTY FOR OPEN SPACE, RECREATION AND TOWN PURPOSES, AND AUTHORIZING THE ISSUANCE OF \$4,542,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE

Section 1. The sum of \$4,542,000 is appropriated for the acquisition of various parcels of real property located in the Town of Wallingford as follows: (i) a 16 acre portion, more or less, of a property commonly known as 1136 Durham Road, described at Volume 246, Page 156 of the Wallingford land records, which portion of said property is more particularly described in a Lot Sketch on file in the office of the Town Attorney; (ii) 25 acres, more or less, of property commonly known as 343 Grieb Road, as more particularly described in a Certificate of Devise recorded in Volume 741, Pages 923 and 924 of the Wallingford land records; and (iii) 60 acres, more or less, of property identified as the Terrell, Ohr, Guliuzza, McNally, and Jeffrey Heights, Incorporated/Galko/Barnes Parcels on that certain map entitled "PROPERTY SURVEY SHOWING PROPERTIES TO BE ACQUIRED FOR TERRELL RESERVE AN OPEN SPACE RESIDENTIAL SUBDIVISION, CHURCH STREET (CONN RT #68), WALLINGFORD, CONNECTICUT, SCALE 1"=100', DATE MAR. 20, 1998" prepared by OCC Engineering, Surveying, Planning Consultants, 2091 Highland Avenue (Rte 10), Cheshire, Connecticut 06410 and certified substantially correct by William F. Orsine, L.S.. which map is on file on the Land Records of the Town of Wallingford; for open space, recreation or other purposes as the Town may from time to time determine, and for appraisal, testing, environmental remediation, surveying, title insurance and such other expenses necessary or appropriate for such acquisition, including expenses for acquisition by eminent domain, or for the acquisition of so much thereof as may be accomplished within such appropriation, and including administrative, printing, legal and financing costs related thereto. The Mayor is authorized to negotiate the terms and purchase price for the purchase of the parcels and to sign purchase contracts and documents necessary to transfer title to each of the parcels to the Town of Wallingford.

Section 2. To meet said appropriation \$4,542,000 bonds of the Town or so much thereof as shall be necessary for such purpose, shall be issued, maturing not later than the twentieth year after their date. The total amount of bonds to be issued shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for

the administrative, printing and legal costs of issuing the bonds. The bonds shall be in the denomination of \$1,000 or a whole multiple thereof, be issued in bearer form or in fully registered form, be executed in the name and on behalf of the Town by the manual or facsimile signatures of the Mayor, the Comptroller, and the Town Treasurer, or any two of them, bear the Town seal or a facsimile thereof, be certified by a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, which bank or trust company may be designated the registrar and transfer agent, be payable at a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, and be approved as to their legality by Murtha, Cullina, Richter and Pinney LLP, Attorneys-At-Law, of Hartford. They shall bear such rate or rates of interest as shall be determined by the Mayor, the Comptroller, and the Town Treasurer, or any two of them. The bonds shall be general obligations of the Town and each of the bonds shall recite that every requirement of law relating to its issue has been duly complied with, that such bond is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The aggregate principal amount of the bonds to be issued, the annual installments of principal, redemption provisions, if any, the date, time of issue and sale and other terms, details and particulars of such bonds, shall be determined by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, in accordance with the General Statutes of the State of Connecticut, as amended.

Section 3. Said bonds shall be sold by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, in a competitive offering or by negotiation, in their discretion. If sold at competitive offering, the bonds shall be sold upon sealed proposals at not less than par and accrued interest on the basis of the lowest net or true interest cost to the Town. A notice of sale or a summary thereof describing the bonds and setting forth the terms and conditions of the sale shall be published at least five days in advance of the sale in a recognized publication carrying municipal bond notices and devoted primarily to financial news and the subject of state and municipal bonds. If the bonds are sold by negotiation, the provisions of purchase agreement shall be subject to approval of the Town Council.

Section 4. The Mayor, the Comptroller, and the Town Treasurer, or any two of them, are authorized to make temporary borrowings in anticipation of the receipt of the proceeds of said bonds. Notes evidencing such borrowings shall be signed by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, have the seal of the Town affixed, be payable at a bank or

trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, be approved as to their legality by Murtha, Cullina, Richter and Pinney LLP, Attorneys-At-Law, of Hartford, and be certified by a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, pursuant to Section 7-373 of the General Statutes of Connecticut, as amended. They shall be issued with maturity dates which comply with the provisions of the General Statutes governing the issuance of such notes, as the same may be amended from time to time. The notes shall be general obligations of the Town and each of the notes shall recite that every requirement of law relating to its issue has been duly complied with, that such note is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The net interest cost on such notes, including renewals thereof, and the expense of preparing, issuing and marketing them, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the project. Upon the sale of said bonds, the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such notes then outstanding or shall be deposited with a bank or trust company in trust for such purpose.

Section 5. Resolution of Official Intent to Reimburse Expenditures with Borrowings. The Town (the "Issuer") hereby expresses its official intent pursuant to §1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid sixty days prior to and after the date of passage of this ordinance in the maximum amount and for the capital project defined in Section 1 with the proceeds of bonds, notes, or other obligations ("Bonds") authorized to be issued by the Issuer. The Bonds shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Comptroller or his designee is authorized to pay project expenses in accordance herewith pending the issuance of reimbursement bonds, and to amend this declaration.

Section 6. The Mayor, the Comptroller, and the Town Treasurer, or any two of them, are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to nationally recognized municipal securities information repositories or state based information repositories (the "Repositories") and to provide notices to the

Repositories of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this ordinance. Any agreements or representations to provide information to Repositories made prior hereto are hereby confirmed, ratified and approved.