

TOWN COUNCIL MEETING

FEBRUARY 26, 2002

6:30 P.M.

AGENDA

Blessing

1. Pledge of Allegiance and Roll Call
2. Correspondence
3. Proclamation Announcing the Week of March 10-16 as Girl Scout Week - Mayor
4. Consent Agenda
 - a. Consider and Approve Tax Refunds (#673-695) Totaling \$9,012.10 – Tax Collector
 - b. Consider and Approve a Transfer of Funds in the Amount of \$299 from Purchased Services – Physicians Acct. #001-2005-901-9012 to Purchased Services Collection Data Acct. #001-2005-901-9026 – Dept. of Police Services
 - c. Consider and Approve a Transfer of Funds in the Amount of \$500 from Shelving Acct. #001-6030-999-9904 to Map Cabinets Acct. #001-6030-999-9903 – Town Clerk
 - d. Consider and Approve a Transfer of Funds in the Amount of \$1,000 from Maintenance of Equipment Acct. #001-6030-570-5200 to Codification of Ordinances Acct. #001-6030-999-9902 – Town Clerk
 - e. Consider and Approve Accepting a Grant Entitled, “Open Choice Grant” Totaling \$297,182 and a Corresponding Appropriation of Funds in the Amount of \$23,182 from State Grant Revenues to Program Expenditures in the Open Choice Fund – Bd. of Education Business Manager

- f. Consider and Approve a Transfer of Funds in the Amount of \$255 from Maintenance of General Plant Acct. #431-8920-932 to Property Taxes Acct. #431-8940-408 – Water Division

5. Items Removed from the Consent Agenda
6. Consider and Approve Three (3) Appointments to the Position of Constables for a Term of Two (2) Years to Expire 1/8/2004
7. Consider and Approve Mayoral Appointments to the Public Celebrations Committee For a Term of Two (2) Years to Expire 2/01/04
8. Consider and Approve One (1) Appointment/Re-Appointment to the Position of Commissioner on the Inland Wetlands Watercourse Commission for a Term of Five (5) Years to Expire 3/1/2007
9. Consider and Approve the Appointment of Michael Spiteri as the Board of Education Liaison to the School Building Committee for School Renovation Project to Fill a Vacancy Resulting from the Resignation of Michael Votto as Bd. of Education Liaison to Said Committee as Requested by Chairman Robert F. Parisi
10. QUESTION AND ANSWER PERIOD
11. PUBLIC HEARING to Consider Adoption of a Proposed Ordinance Entitled, “Noise Ordinance” as Requested by Councilor Stephen Knight, Chairman of the Ordinance Committee – 7:45 P.M.
12. PUBLIC HEARING to Consider Amending Chapter #122 of the Code of the Town of Wallingford Entitled, “Food Service Establishments” as Requested by Councilor Stephen Knight, Chairman of the Ordinance Committee – 8:00 P.M.
13. PUBLIC HEARING To Consider and Act Upon an Ordinance Appropriating \$770,000 to Design a Denitrification System for Wallingford’s Wastewater Treatment Plant and Authorizing the Issue of \$770,000 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.
14. Report Out from Public Utilities Commission and Possible Action Regarding Status of PP&L’s New Power Plant; Its Operation, and Lease Payments as Requested by Councilor James Vumbaco

15. Consider and Approve a Waiver of Bid to Hire Temporary Help for the Tax Collector's Office and a Corresponding Transfer of Funds in the Amount of \$29,750 from Computer System Acct. #001-1401-999-9917 to Purchased Services – Accounting Acct. #001-1401-901-9007 to Fund Said Temporary Positions - Comptroller
16. Consider and Approve a Waiver of Bid to Hire Outside Legal Counsel to Assist In the Drafting of Contracts for the School Building Committee
17. Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes With Respect to the Purchase, Sale and/or Leasing of Property - Mayor

TOWN COUNCIL MEETING

FEBRUARY 26, 2002

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, February 26, 2002 in the Robert Earley Auditorium of the Wallingford Town Hall, called to Order by Chairman Robert F. Parisi at 6:37 P.M. Answering present to the Roll called by Town Clerk Rosemary A. Rascati were Councilors Brodinsky, Farrell, Knight, Papale, Parisi, Rys, Toman & Vumbaco. Councilor Doherty was ill. Mayor Wm. W. Dickinson, Jr. arrived at 6:50 P.M. due to his attendance at a D.A.R.E. Graduation. Asst. Town Attorney Gerald E. Farrell, Sr. and Deputy Comptroller Eva Lamothe were also in attendance.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Correspondence

ITEM #3 Proclamation Announcing the Week of March 10-16 as Girl Scout Week – Mayor

In the Mayor's absence, Chairman Parisi read the Proclamation into the record (Appendix I) and recognized the girl scout troop in attendance at the meeting and the values that scouting instills in our youth.

Upon his arrival, Mayor Dickinson also recognized the girl scout troop in attendance and the important part the organization plays in shaping the lives of our youth.

ITEM #4 Consent Agenda

ITEM #4a Consider and Approve Tax Refunds (#673-695) Totaling \$9,012.10 – Tax Collector

ITEM #4b Consider and Approve a Transfer of Funds in the Amount of \$299 from Purchased Services – Physicians Acct. #001-2005-901-9012 to Purchased Services Collection Data Acct. #001-2005-901-9026 – Dept. of Police Services

ITEM #4c Consider and Approve a Transfer of Funds in the Amount of \$500 from Shelving Acct. #001-6030-999-9904 to Map Cabinets Acct. #001-6030-999-9903 – Town Clerk

ITEM #4d Consider and Approve a Transfer of Funds in the Amount of \$1,000 from Maintenance of Equipment Acct. #001-6030-570-5200 to Codification of Ordinances Acct. #001-6030-999-9902 – Town Clerk

ITEM #4e Consider and Approve Accepting a Grant Entitled, "Open Choice Grant" Totaling \$297,182 and a Corresponding Appropriation of Funds in the Amount of \$23,182 from State Grant Revenues to Program Expenditures in the Open Choice Fund – Bd. of Education
Business Manager

ITEM #4f Consider and Approve a Transfer of Funds in the Amount of \$255 from Maintenance of General Plant Acct. #431-8920-932 to Property Taxes Acct. #431-8940-408 – Water Division

Motion was made by Mr. Knight to Approve the Consent Agenda as Presented, Items #4a-f, seconded by Mr. Farrell.

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

ITEM #5 Withdrawn

Consider and Approve Three (3) Appointments to the Position of Constables for a Term of Two (2) Years to Expire 1/8/2004

Motion was made by Ms. Papale to Appoint James Rainey, Howard Marshall and Wm. Nolan to the positions, seconded by Mr. Vumbaco.

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

Town Clerk Rosemary A. Rascati performed the Swearing-in Ceremony for Mr. Marshall and Mr. Rainey who were in attendance.

ITEM #7 Consider and Approve Mayoral Appointments to the Public Celebrations Committee For a Term of Two (2) Years to Expire 2/01/04

Motion was made by Mr. Knight to Appoint the Following Individuals to the Committee:

- | | |
|--------------------|------------------|
| Anthony Avitable | Jean Holloway |
| Raymond Bartel | Joan Ives-Parisi |
| Francis W. Carroll | Albert Killen |
| Alicia Cassidy | Edward G. Lamb |
| Rosalie Cross | Linda Lewis |
| Lorraine Devaney | Carolyn Massoni |
| Tom Dooley | Beverly Poletti |
| Barbara Dsupin | Jane Rizzo |
| Uria Fishbein | Jean Valenti |
| Michelle Koziy | Tony Vechitto |

Seconded by Mr. Rys.

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

ITEM #8 Consider and Approve One (1) Appointment/Re-Appointment to the Position of Commissioner on the Inland Wetlands Watercourse Commission for a Term of Five (5) Years to Expire 3/1/2007

Motion was made by Mr. Knight to Re-Appoint Ellen Deutsch to the Position, seconded by Mr. Farrell.

Mr. Farrell stated, Ellen has done a great job on the Wetlands Commission. It is a lot of very technical material and she has gained a real mastery of that in her many years on the commission. We are lucky to have Ellen.

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

Town Clerk, Rosemary Rascati, performed the Swearing-in Ceremony for Ms. Deutsch.

ITEM #9 Consider and Approve the Appointment of Michael Spiteri as the Board of Education Liaison to the School Building Committee for School Renovation Project to Fill a Vacancy Resulting from the Resignation of Michael Votto as Bd. of Education Liaison to Said Committee as Requested by Chairman Robert F. Parisi

Motion was made by Ms. Papale, seconded by Mr. Vumbaco.

Ms. Papale stated, Mr. Spiteri is very involved in what is going on with the Board and I think he would be a perfect candidate.

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

PUBLIC QUESTION AND ANSWER PERIOD

Jack Agosta, 505 Church Street, Yalesville was glad to see a local girl scout troop in attendance observing government in action. He asked if any plans have been identified for the former Blakeslee house on Route 68? Will the structure be moved or left in place?

Mr. Farrell answered, it will be left there. The Preservation Trust owns the property that it sits on. It has been covered over with a tarp to prevent water from getting in the building and also to make it look more presentable. It almost looks like a Christmas gift, all wrapped up, someone said.

Mr. Agosta asked, how long before it is completed?

Mr. Farrell answered, we are working on the Silver Museum building first. It is hard to do more than one building at a time.

Pasquale Melillo, 15 Haller Place, Yalesville asked if it is true that the new power generating plant is going to consume much more water than originally agreed to in the contract?

Chairman Parisi answered, I have not heard that.

Mr. Melillo asked, is it true that they are trying to change many parts of the contract?

Chairman Parisi answered, not that I am aware of. That cannot be done without this Council's knowledge.

Robert Sheehan, 11 Cooper Avenue referred to the \$2.9 million "windfall" the Town received from the sale of Anthem/Blue Cross stock. He stated, the public was led to believe at a Town Council meeting that the stock could not be sold all at one time but, evidently, it was and it is now in the general fund. The item was not going to be discussed at that meeting; it was going to be discussed at a later date. Evidently, it is an open and shut case now because I don't expect any discussion on it because there is a lawsuit pending against it. This is not the first time something like this has happened; the discussion has been cut short for a later date and that date never comes and I assume the date is not going to come on this.

Chairman Parisi stated to the Mayor, a few meetings back discussion was held on the Anthem/Blue Cross stock and we curtailed that discussion for a later date. Mr. Sheehan is saying that he read in the paper that the stock had been sold. The first question is; has it all been sold at once or in stages as we were all led to believe?

Mayor Dickinson answered, I believe the discussion was shut off as to the use of the money. It was not regarding the sale of the stock. The issue at hand that evening was whether we should sell the stock and the Council voted, I think it was unanimously, to sell the stock as we are not allowed to hold onto stock as part of the general fund. The second part of it; I don't know. It has all been sold. I don't know if it was sold at one time or whether it was over a series of days; I really don't know. At this point, it is all sold. The rules were imposed by the demutualization process and Equiserv, who was in charge of the sale, applied those rules. It wasn't the Town; we were reporting what we were told. If they were able to do it in a shorter or longer time, we really had no control over what time period they would sell. I do believe that the price was actually higher than what was initially reported. We received more money than we anticipated.

Mr. Sheehan asked, have we received the \$2.9 million?

Mayor Dickinson answered, yes, I believe we have received it; it is now held by the Finance Department as part of the general fund. The money being part of the general fund, in the amount; the amount is known and doesn't disappear. That is the whole reporting of the general fund. It will collect interest similar to whatever is in the general fund collecting interest. All of it is invested in short term; it is invested, I'm not sure; some of it may be longer term; but it is invested on a regular basis. Eva Lamothe, Deputy Comptroller, tells me that it is usually invested in certificate of deposits or U.S. Treasury notes.

Phil Wright, Sr., 160 Cedar Street stated, regarding appointments to committees/commissions, according to your Council procedures, "A letter to the Council from all perspective nominees indicating a desire for appointment or re-appointment accompanied by an application form provided by the Council shall be submitted at least seven (7) days prior to the date set for making such appointments. This requirement may be waived at the discretion of the Council. Any individual recommended to the Council for appointment or confirmation may be interviewed at the discretion and request of any Councilor." He continued, I happen to be on the Community Lake Study Committee, we're not doing much but I am on it, and I guess I have been re-appointed. Nobody asked me; nobody told me. There ought to be something about this, it's kind of formal.

Chairman Parisi replied, I think you are on it because it is a continuing committee, but we certainly can re-appoint; double-check with the people to see if they want to stay and re-appoint them, I don't have a problem with that.

Mr. Wright asked, don't you think you should?

Chairman Parisi answered, I don't really have any strong feelings one way or another but if you feel that it isn't being done the way that it should be, I have no problem.

Mr. Wright stated, I can't tell you what to do...

Chairman Parisi replied, you can certainly suggest something and I happen to agree with your suggestion and if the Council does, it's fine with me. I don't have a problem doing it. I think it is a good idea.

Mr. Wright commented, I suspect that sometimes because of the fact that nothing formal is done, people kind of just ride along and they really aren't very much interested and maybe they aren't interested at all and if someone asked them, they might give a yes or no and maybe then we would keep an active group on all of these committees.

Chairman Parisi stated, I would hope that any chairman of a committee who has someone who is continually absent would come forward and tell us about it. We will review it. I don't have a problem with it, in fact I think it is a good idea.

Mr. Melillo asked, why all the employees of Town government who contributed, made payments to their benefits relative to Anthem, shouldn't be getting their monies back?

Chairman Parisi commented, I believe that will be decided in court.

Mayor Dickinson replied, the court will be dealing with it but the basic issue is, the information that we have been given, the money that has been returned to owners, policy owners, is not in any way related to premiums paid. The only relationship is that it is a sharing of profits earned by Blue Cross or Anthem over a ten year period. It is not profits by product line. Money is paid in for insurance coverage and that coverage was received. The monies paid as a sharing of profits went back to the mutual company owners and has almost; according to Blue Cross, has no relationship to premiums paid.

Mr. Melillo commented, just relating to common sense, fair play, that should not be. Your interpretation should not be allowed, that is really your own legal interpretation. As well all know there is a big legal dispute relative to a legal suit that has been organized and is coming up. There are all kinds of legal interpretations. You have a dispute relative to what you and I are discussing right now and it seems to me that it should be outweighed by a good, old fashioned sense of fair play.

Mayor Dickinson replied, I am saying what I am saying so that there isn't a sense that there is an arbitrary decision-making on the part of the Town. It is something that has gone to court, there is a similar case with the state employees but, keep in mind that two insurance departments reviewed this process; the Indiana Insurance Department and the CT. State Insurance Department. Both approved the demutualization process. This has not been done without regulatory oversight. We believe our position is correct and I am sure that those who are plaintiffs in the lawsuits believe their position is correct and we will find out who is correct. It is not arbitrarily determined by us. We are receiving information from sources that were also involved in the process.

Mr. Melillo answered, if Town government decided to make a decision to give the employees their monies back, a share of the money relative to the sale of the Anthem stock, I don't believe any legal authority would be able to stop you, wouldn't you agree with that?

Mayor Dickinson answered, no I wouldn't. If there is not a valid, legal claim to the money, it would be, in my opinion, a gift and outside the authority of government to make arbitrary gifts. There would be no governmental interest served other than to provide a gift and I do not think

that would potentially be an appropriation within the guidelines of what local government is allowed to accomplish.

Chairman Parisi stated, I think we are getting into a philosophical area and this discussion, I don't believe, is really going to end up anywhere.

Mr. Wright asked the Mayor, are you on the Board of Directors or some kind of governing or overseeing board with CRRA, is that correct?

Mayor Dickinson answered, there are five towns making up this project. We are each members of the Policy Board. I am not a member of the Board of Directors of CRRA.

Mr. Wright asked, do you have some right to make some decisions or otherwise?

Mayor Dickinson answered, we have a role to play with regard to our project; the five town project with the Resource Recovery Plant in Wallingford; that is our function.

Mr. Wright asked, this five town group; were we involved in the ENRON purchase of stock and stuff?

Mayor Dickinson answered, no, I have been told that our project is not at all effected because the funds used for that investment or whatever the arrangement was, were funds received from other projects. Wallingford project is outside of that.

Mr. Wright asked, it will have no affect on our rates?

Mayor Dickinson answered, that is what I understand; it has no affect on our rates.

Mr. Wright answered, I am glad to hear that.

Mr. Parisi asked if the Mayor would like to acknowledge the Girl Scouts in attendance this evening.

Mayor Dickinson saluted each and every member of the Girl Scouts present, stating that the organization has a wonderful impact on the Town, in general, but the opportunities for each of the girls present is beyond what anyone could really hope for. He congratulated the troop, telling them how proud the Town was of them and asked them to keep up the good work.

(Applause)

Wes Lube, 15 Montowese Trail stated, about two years ago, the Council unanimously appropriated over \$11,000 to local architects to conduct a study on developing the former

Wooding property behind the old Town Hall. Did the study ever see the light of day? What happened to it?

Mayor Dickinson answered, to my knowledge, it has not been completed and it is for reasons involving higher priorities and has not been pursued in a very active way by the offices of the Town. That is pretty much the story on it. We have had other business to accomplish and that has not been pursued.

Mr. Lubee answered, two years is a long time and \$3 million sitting over there behind the old town hall is not a low priority item in a lot of people's minds, it may be in yours. I do think that the Council may want to consider having a sub-committee to see if they can put some fire under that and get the report out on that study. Let's decide, inasmuch as the Council has the responsibility for this property, let's not just let it ride. You appropriated the money; it doesn't take two years to complete a study. I think in all probability, it is just gathering dust. Let's see what the study generated; what did we get for \$11,000. Speaking of that particular property also brings to mind the subject of the arborist. I remember back during the days of the chain saw massacre at the park by the railroad station, we had someone on our staff who stepped into the shoes of the arborist, am I correct in my recollection?

Chairman Parisi answered, yes.

Mayor Dickinson answered, Henry (McCully, Director of Public Works) engaged the assistance of an arborist to provide information.

Mr. Lubee asked, what does an arborist do?

Chairman Parisi answered, they are specialists with trees and plants, I think. I am not sure about plants, but I know definitely, trees.

Mr. Lubee asked, I am just wondering that if the arborist that we consulted ever looked at the shrubs around the Wooding property? We have about 50 shrubs that we invested in over there and they are all brown. If the arborist could look at those, they might recommend what we could do to preserve the few that remain.

Chairman Parisi replied that he did not think that an arborist is needed, rather an undertaker. Maybe watering will bring them back or maybe they are just dead. If they are brown, they are probably firewood.

Mr. Lubee stated, I am sure they are there for a purpose; to try and shield the abutting residents and if that is the case if, through our neglect they turned brown, then we have a responsibility to replace them; re-install that shield.

Mr. Melillo stated, relative to this special meeting about the proposed industrial park this coming Thursday, is it true that it is possible that the proposal can be voted to be established and then if that is done, the taxpayers are going to wind up paying all the costs for construction?

Chairman Parisi answered, the proposal hasn't even been made yet. I don't know anything about it.

Mr. Melillo stated, the item should be tabled for its obvious that no one is answering my questions.

Chairman Parisi stated, the purpose of the meeting is to present the information. When you come to the meeting, we will all hear what the proposal is.

Mr. Melillo stated, it seems to me that they ought to get everything organized before the meeting. Why have we got this meeting scheduled in the first place? We are jumping the gun. It is too premature.

Chairman Parisi answered, that is why we are having a special meeting, we are going to start in the beginning and move forward.

Mr. Melillo stated, I hope nothing is going to be passed where taxpayers are going to be subsidizing big industry.

Mr. Wright asked if the meeting will be televised?

Chairman Parisi answered, yes.

Public Question and Answer Period was declared closed at this time.

ITEM #14 Report Out from Public Utilities Commission and Possible Action Regarding Status of PP&L's New Power Plant; Its Operation, and Lease Payments as Requested by Councilor James Vumbaco

Mr. Vumbaco stated, I put this item on the agenda because there are a lot of misconceptions out there about the power plant. There are a lot of rumors going around about excess water use, about vibration, etc., so I thought it would be good if Ray (Smith, Director of Public Utilities) came before the Council and public to dispel the rumors and update us on the plant now that they are operational. I had read a few months ago in minutes of one of the PUC meetings that there was some relief on lease payments for the months of June and July. Instead of the \$45,000 per month that was due, we only collected rent of \$19,000 and I thought an explanation of the special circumstances that resulted in lower payments to the Town would be helpful. I also thought that Mr. Smith should explain whether or not the decreased payments had any

effect on the utility's budget. He asked, are there any other provisions in that lease going forward where we might have to relieve lease payments again?

Mr. Smith explained, the contract called for specific payments to be made and the initiation of that was targeted at commercial operation. The contract in the lease section of those agreements reference that. The payments were to be first year approximately \$550,000 commencing with commercial operation. Leading up to that, however, starting in June of 2000, were payments of \$5,000 and escalating \$1,000 per month. We received payments, \$5,000 in June of 2000 and it went up to \$17,000 in May of 2001. The contract provided that, in the event that there was a force majeure that something beyond the control of the developer such as getting permits or getting notice to start work from the D.E.P. that those payments could be delayed by the number of days that they were held up. Then there is a number of other items in the force majeure provisions. They did have delays in the early stages. They didn't get out of the ground about two months after what they had initially hoped to. They actually started work at the end of August of 2000 on the project rather than when they initially hoped to get out there in May. The D.E.P. had some major issues to do with that. Since that time the project has paid the full amount and there are no provisions that they can go back. They never did make commercial operation in August. That did not occur until December but the time that they had been delayed beyond other parties, only ran through August. They commenced the payments, in full, in September, even though the project had not achieved its operational status.

Mr. Vumbaco asked for a brief description of what the force majeure items are. When I was looking through the contract, it didn't really stick out to me. My concern was, if there was a delay that was caused by the Town, I can see some relief, but I didn't quite understand why we would sign a contract that would give relief if it was someone else's responsibility, not ours.

Mr. Smith answered, we did. The pertinent sections of Force Majeure reads, "that a party is unable to prevent, avoid, mitigate or overcome, including the following, any act of God, labor disturbance, act of public enemy, of war, insurrection, riot, fire, storm or flood, explosion, breakage or accidents to machinery or equipment, order, regulation or restriction imposed by government, military or lawfully established civilian authorities....actions or inactions of any governmental authority having jurisdiction." That is where the D.E.P. had very much a strong position as did the Siting Council.

Mr. Vumbaco added, it was probably this good neighbor thing, too; a give and take on our part.

Mr. Smith answered, we were aware of the delays that they had and they ran into some conditions down there that they didn't anticipate. There was a significant disposal of ash back there from the 1970s that some of our records didn't contain. They dug it out, removed it and did not come back to the Town and ask for any additional monies. They did suggest that they would like to have us help but we did not help; they took care of that expense.

Mr. Vumbaco asked, did this affect the budget at all as far as the revenue stream was concerned?

Mr. Smith answered, I didn't. I got tied up today, I apologize. I will get back to you on that.

With regards to the water issue, Mr. Vumbaco stated, according to some of the literature they have put out, they are willing to crank up as much as possible to produce, which is obviously the reason they are in business, to make money. Are there any caps or issues with the water that won't affect the rest of the Town of Wallingford?

Mr. Smith answered, they are to be treated like any other customer. When we impose voluntary restrictions they are supposed to comply. We have already notified them via phone that we are in a potential restriction period and all those wonderful plantings they have put in down there to beautify that area may be in jeopardy. They ought to be looking at alternative methods rather than using the irrigation system. There are restrictions and they are limited to 250 gallons per minute; 350,000 gallons per day; or 60,000,000 gallons per year which was the cap that was established. That cap corresponds to a 4,000 hour per year usage. At this point they are not going to achieve that. Barring a total unavailability of the Millstone Plants and Seabrook Plants and a lot of facilities, it is unlikely that they will operate. If there is some type of terrorism attack and those plants are disabled and we need to provide electric power, we may be called upon to make sure that that plant runs just for basic security. Under that condition we would all want the plant to run as much as possible. Again, the 4,000 hours is their limit as far as operational abilities under the D.E.P. permits. This water use is correspondent to that, not what their expected use was. My guess is that it will be in the range of 1,500 – 2,000 hours. The cap is based on the full 4,000 hour operation. Additional language reads, "The owner agrees that during times of water shortage, as such may be declared by the Town from time to time, the owner shall comply with the limitations on water use that are imposed by the Town on industrial customers on a non-discriminatory basis." If we order every industrial customer to cut their use by 10%, they will have to comply. They have some flexibility that they may be able to...for example, if they are called upon to run July 1st and you have to run for 18 hours, they can curtail the morning run and it is probably financially better for them if they know the price would be higher in the afternoon anyway. They would have to adjust their operations.

Mr. Vumbaco asked, are those cumulative numbers or is that on a daily basis. If they are limited, can they run for 36 straight hours, use the water and then cut back on it?

Mr. Smith answered, yes. It is unlikely that they will run in the middle of the night but on an extremely hot day they may be running twenty hours a day but that is cumulative. Probably on the weekends, they wouldn't be running.

Mr. Vumbaco stated, there has been rumors around that the plant has been vibrating and causing all kinds of problems. Can you briefly explain the vibration problem and then we will talk environmental?

Mr. Smith stated, in a large piece of rotating equipment, there are certain imbalances that are inherent. We had them at the Pierce Plant and when you run generators up to 3,600 rpm and then bring them down again, they usually go through a point at which the imbalance becomes significantly noticeable. This is not the type of vibration that is going to affect anyone in the neighborhood, we would never notice it. It is a very quiet, subtle thing. It could impact the foundations and it is up to them to maintain their equipment in such a manner that it doesn't destroy any of the bases or harm any of the foundations or anything like that. It is in their best interest to keep the equipment running. Those vibrations would happen with any piece of rotating, electrical equipment. It is a matter of how significant it gets. If it becomes problematic, you can take it out and put almost like weights on your tires, then the thing will run smoother. It will still go through certain points in ramping up and ramping down where it will have more vibration than it would at 3,600 rpm which is critical speed for them.

Mr. Vumbaco asked, did the plant meet the air requirements through equipment or is it a combination? Did they have to buy any air credits in order to meet their air permits?

Mr. Smith replied, I am not familiar with that. I know that that's been their problem over the past several months, is meeting their air quality permits. The original catalyst that they had in their exhaust stream was not performing as it was guaranteed by the vendors. The vendor had to come in and do a lot of modifications to it. We were getting a little bit of information. We are not close to the project and I don't want to speak for them but I am certainly aware that there were a number of efforts to change some systems. They had problems with air flows. This is a state-of-the-art air emissions system. It was the first one of the tribe of this particular unit. It was touch and go for a while but they have got through their problems, they've changed all of the catalysts. The cranes were still on the property as of February 7th. I think that was the last unit they were trying to get in service.

Mr. Vumbaco asked, to the best of your knowledge, you don't think it is affecting the air quality in the area at all?

Mr. Smith answered, no. It has improved over what was there when Pierce (Plant) was running. Obviously, they have met all of the sound criteria. You can't tell if the plant is running when you are standing outside of the wall.

Philip Wright, Sr., 160 Cedar Street stated, when the water police come around and tell me that I can't water my garden or lawn, I am going to be looking for a scalp or other body parts of those at the PUC who said we had lots of water; we had water to sell. I didn't believe it then and I don't believe it now. I think it is a travesty to use good drinking water that the Town of

Wallingford residents deserve and should be able to use, to cool an industrial plant strictly for dollars and cents. It is strictly a matter of revenue, that is why we are selling water to that customer. I will lead the group that is going to be looking for scalps.

Chairman Parisi stated, I would carry that further and I wouldn't direct that at Mr. Smith, I would direct it at everyone who cast a vote on this item. You have a lot of scalps to collect but, so be it.

Robert Sheehan, 11 Cooper Avenue asked, who controls the number of hours they can operate? It has been presented here that the plant is going to run five days a week, sixteen hours a day; two shifts, eight hours each and they were going to only run maybe one hundred days. The water supply they were going to use on a daily basis was astronomical. It is a demand plant and they are here to make money.

Chairman Parisi asked, do you have a question? I don't want to go through the litany; we voted for this, it is built.

Mr. Smith answered, the State regulates the plant. They have a permit that limits them to 4,000 operating hours per year.

Mr. Sheehan asked, is that on one turbine?

Mr. Smith replied, no, it is on the whole project.

Mr. Sheehan stated, I was under the impression that the 4,000 hours applied to one turbine.

Mr. Smith explained, per unit; that is how they have calculated the water is assuming that all of the units ran at 4,000 hours. They told everyone during the course of all the discussions we had here is, that was the permit that they were going to seek. They said their expectations are that they would probably run in the order of 1,500 to 2,000 hours but they were going to go for the full permit. I don't think there was any misleading anyone on that basis. There is 8,760 hours a year and I think everyone heard that presentation. We had a number of discussions on that very debate because people wanted to know why they were asking for 4,000 hours if you only expect to run 2,000 hours. They stated that they were going to go with what they were permitted to operate.

Mr. Sheehan asked, if it is determined that they have to run more than that 4,000 hours, do they have to reapply to the state for any additional hours they are going to run?

Mr. Smith answered, yes. If you get into a situation as we did in 1996, when the state deems it preferable to have lights on because of a substantial portion of the power system is unavailable, then they are going to make those decisions on a year by year basis, yes.

Mr. Sheehan asked, do they recycle any part of the water that they use?

Mr. Smith answered, a small amount of the water that has been demineralized.

Jack Agosta, 505 Church Street, Yalesville referred to a written opinion by the Siting Council on the power plant which reads, "Wallingford Energy's use of town water, as much as 350,000 gallons per day, was not preferred by the Council. To protect the potable water, the company must come up with a plan to conserve water, especially during summer water shortages when the plant will likely be in full operation." There is a restriction right there, am I right?

Mr. Smith answered, you are correct. They would abide by any other impositions that we place on any similar type customer. The first area we are going to deal with is the irrigation. We consider that a non-essential use.

Mr. Agosta asked, does Bristol Myers Squibb or Cytec use more than 350,000 gallons per day?

Mr. Smith answered, yes. Let's assume that this customer uses all of this in a year; they ran 4,000 hours. They would probably be within our top six customers but not above that. If they ran only 2,000 hours, they would be in our top 25 customers. There would be 24 customers essentially larger than them who are presently on our system.

Mr. Agosta asked, if the Council imposes an ordinance restricting water usage, will they have to follow it as well?

Mr. Smith answered, if the Council says that the company is restricted by 10% and the same restriction is imposed on everyone else, the company would have to cut back what ever that number happens to be. When the Pierce Plant was running, it used to use 418,000 gallons of water per day, most of it going out to the cooling tower and that was Town drinking water. In its prime it used 41 million gallons per year back in the 1970s.

Chairman Parisi stated, we built the plant already and it is all approved. This discussion took place a long time ago.

Mr. Agosta stated, the plant should abide by what the Siting Council said.

Mr. Smith stated, they have not indicated to us that they are not going to abide by anything that we have done yet. We have put everyone on a water alert. Other communities are already into an emergency water alert. We have had some downturn of water use from other facilities. Some other companies have cut back and there is some margin that has been developed. We want everyone to understand that as we move into the summer there may have to be some

sacrifices and we consider lawns to be a non-essential use. People with irrigation meters will be the first called upon to forego that.

Chairman Parisi pointed out that an article appeared in the newspaper asking people to begin conserving now; get into the mindset of conserving; being aware of what we do.

Pasquale Melillo, 15 Haller Place, Yalesville asked if the plant has around the clock security guard personnel?

Mr. Smith was not certain what security measures were in place at the plant. He knew the company had met with the Chief of Police to discuss security. He was not privy to that information. He stated that it is his observation that they definitely have guards there and they are prepared to take action. They do have them around the clock.

Mr. Melillo commented that if there is a severed water shortage, he hopes that the people of Wallingford, the residential homeowners, are put ahead of big industry and big money.

No Action Taken

ITEM #15 Consider and Approve a Waiver of Bid to Hire Temporary Help for the Tax Collector's Office and a Corresponding Transfer of Funds in the Amount of \$29,750 from Computer System Acct. #001-1401-999-9917 to Purchased Services – Accounting Acct. #001-1401-901-9007 to Fund Said Temporary Positions – Comptroller

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

The request is due to the resignation of a senior clerk in the office effective February 8, 2002, pending hospitalization and recovery of a senior clerk in the same office, and implementation of the Tax Collector's Office to collect, receive, deposit, and update the customer record file for the Town's electric business presently scheduled for May, 2002. Electric invoices approximate 22,000 per month. The two vacancies will leave the office short staffed. Norm Rosow is not of the opinion that the Town's best interest will be served by immediately hiring and then training a new employee to use our information technology system, especially while implementing a policy and procedural change.

Mr. Rosow stated, Water & Sewer payments will also be collected besides the electric.

Mr. Vumbaco stated, there is an original budget of \$100,000 in this computer account that we are taking this transfer from. Why, after 8 months into this budget have we not spent any money out of this account? Why were we budgeting \$100,000 to begin with and will there be some usage of this account before the year is out?

Mayor Dickinson answered, we budgeted because of unknowns with the Gemini program that is now Munis. There were unknowns as far as what we might need in the way of assistance, support, equipment, what ever. It was meant to cover a wide variety of potential expense items. This is one of those expenses. We have to make sure we have people who are trained and ready to take over for the centralized cash receipting that will occur in the Tax Office. What has complicated it is as has been mentioned, some employees are not available and the need for personnel to be trained and available is critical. That problem, on top of the move of the Electric Division which is slated for April or May, at the point that they move from here we have to be ready to receive the utility bills here. This is a very legitimate expense and the money was budgeted in order to cover the unknowns that we keep encountering with the computerization of some of our processes.

Mr. Vumbaco stated, this money is not for training, but for hiring temporary personnel to fill the position. It is a different concept. If we budgeted for unknowns in the amount of \$100,000 and we have gone 8 months and haven't had any unknowns, do we expect any more unknowns or are we going to be budgeting again next year \$100,000? Looking at an account that, after 8 months has zero expenses charged against it causes me to be a little suspect; maybe there is a little over budgeting going on.

Mayor Dickinson replied, not at all. We have experienced a number of problems. As we have heard over a period of time with regard to the computer project and the application of that process with the Tax Office, Assessor's Office and the accounting processes in the Finance Department, those are three areas that have very direct impact and that is without getting into Purchasing at all which also has an impact. The Finance Department was legitimately worried about what could happen if they had no funds to draw upon should there be very possible problems.

Eva Lamothe, Deputy Comptroller added, at the time that we budgeted, the Accounting Department was not fully on the new system yet. We didn't go onto the new system until July 1st. We had no idea what kind of problems we would encounter, therefore, that is why we budgeted. So far we have not had to use that but we don't have everything on yet. We don't have the cash receipting and a few other modules on yet. We still don't know at this point. We may use some of that money between now and the end of the year, we may not, it depends on how it goes.

Chairman Parisi stated, we are going to have to continue this item; we have to go to the public hearing, unless there aren't any further questions.

Mr. Vumbaco stated, I always thought that you can't hold a public hearing before the scheduled time but you can hold it after the scheduled time.

Chairman Parisi acknowledged Mr. Vumbaco's statement, forgetting that to be the rule.

Pasquale Melillo, 15 Haller Place, Yalesville was opposed to waiving the bidding procedures. He felt the Town should encourage competition to make sure the taxpayer's were getting the best buy for their money.

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

Chairman Parisi thanked Mr. Vumbaco for correcting him on the public hearing matter.

ITEM #11 PUBLIC HEARING to Consider Adoption of a Proposed Ordinance Entitled, "Noise Ordinance" as Requested by Councilor Stephen Knight, Chairman of the Ordinance Committee – 7:45 P.M. (Appendix II)

Motion was made by Mr. Farrell to Continue the Public Hearing to March 12, 2002 at 7:45 P.M., seconded by Mr. Rys.

The public hearing was opened to the public at this time.

Robert Sheehan, 11 Cooper Avenue questioned who the enforcing entity would be and expressed his opinion that there are other laws on the books in Wallingford, namely the skateboard and blight ordinances, that are not being enforced. This is just another ordinance, in his opinion, that does not need to be enacted. It's common sense that after 10 p.m. you shouldn't be playing loud music or disturbing the public. Laws already exist to deal with that circumstance, why add another? He felt that the Police Department's time would be better spent on other matters in this town rather than enforcing the noise ordinance.

Corporation Counselor Adam Mantzaris stated that the ordinance calls for the Police Department to enforce it.

Mayor Dickinson stated, the issue here is, there is an effort to encourage people to be reasonable with regard to the noise they create. The ordinance does not cover what is referred to as an "impulse noise", something that is very short and trails off. There is an effort to say that if you are creating noise...be reasonable about it. Don't look to disturb everyone else and it gives the right of enforcement. If everyone pays attention to what noise they are creating and tries to adhere to the standards, it should be a better community.

Jack Agosta, 505 Church Street, Yalesville stated that some motorcycles have big mufflers on them and some have no mufflers. The Police Department should give a warning in the case where a vehicle is loud, advising the driver to correct the condition rather than fine them on the spot. He felt this was an ordinance that is going to be very difficult to enforce. Living on Church Street (Route 68), by the time a vehicle travels up the hill and a call is placed to the

Police Department to report a loud vehicle, the motorist is in Cheshire before a police cruiser can respond.

Chairman Parisi acknowledged that it won't be the easiest thing to monitor and enforce in some instances.

Pasquale Melillo, 15 Haller Place, Yalesville asked if the ordinance would also apply to factories? For instance, big die presses make a lot of noise.

Stephen Knight, Co-Chairman of the Ordinance Committee stated, there are state standards as well. If you recall the PP&L meetings we had, a great deal of the discussion surrounded how much noise the potential plant was going to make. If you recall, they even brought a decibel meter to one of the meetings to demonstrate the noise level they intended to make. A lot of discussion centered around what the state standards were and how they intended to meet them. This noise ordinance had to be sent to the State Dept. of Environmental Protection for their review and approval before we could even have it up here. Everyone is affected by this noise ordinance as well as the state statutes that cover such. There are severe restrictions on industrial plants.

Six amendments were offered to the ordinance by Atty. Mantzaris. He gave a brief explanation of the purpose for the amendments; the definition of sound level meter had to be added since it was inadvertently omitted; an explanation of what was included in premises such as rights-of-way, public rights-of-way, railroad rights-of-way; the remaining four amendments had to do with actual decibels. The proposed decibel amendments bring the ordinance into compliance with the state regulations. The last amendment has to do with the hours of the day during which one can operate a leaf blower and such equipment. The amendment offered allows the Public Works and Parks departments to perform the necessary operations of their respective departments without interference from the ordinance regarding the use of their maintenance equipment.

Mayor Dickinson asked, were we going to define "daytime" to sundown?

Atty. Mantzaris stated, daytime is not defined as sundown. An additional amendment would need to be made to the ordinance if that be the wish of the Council.

Mayor Dickinson suggested, the definition of daytime be 7:00 a.m. to sundown and nighttime would be sundown to 7:00 a.m. Sundown would change, obviously, whenever that occurs.

The following motions to Amend the Ordinance were made by Mr. Knight:

Motion to Amend Section 2 by adding the definition of a **Sound Level Meter** to mean an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels. The sound level meter shall conform to ANSI Specifications for Sound Level Meters S1.4-1971.

Motion to Amend Section 3.C.4 by adding the following: "The emitter's premises also includes contiguous public streets and highways, public rights-of-way, railroad rights-of-way and waters of the State.

Motion to Amend Section 4.C.1 by changing the allowed decibel level to an industrial zone to read "62" instead of "60".

Motion to Amend Section 4.C.2 by changing the allowed decibel level to a commercial and industrial zone to read "62" instead of "60".

Motion to Amend Section 4.C.3 by changing the allowed decibel level to a commercial zone to read "66" instead of "65", to a residential/day zone to read "61" instead of "60" and to a residential/night zone to read "51" instead of "50".

Motion to Amend Section 5.1 by changing "6:00 p.m. to 8:00 a.m." to read "sundown to 7:00 a.m." and to delete the note at the top of page 6.

Mr. Rys asked if the Police Chief was invited to attend this evening?

Atty. Mantzaris replied that he was, however, he informed Atty. Mantzaris this morning that he had to attend another function.

Chairman Parisi stated that it was unfortunate that he did not send someone in his place.

Mr. Knight stated, he was aware that this was taking place. In fact, another meeting took place this afternoon concerning the actual equipment of decibel meters and personnel from the Police Department did attend that meeting.

Mr. Rys wanted to ask the Chief, if vehicles travel by his home in the evening with loud music playing and the police were to stop the vehicle for the disturbance it was creating, would the ordinance or state statute be cited as the law that was being violated?

Atty. Mantzaris replied, the state regulations exempt a mobile source of noise; a moving source of noise. Our ordinance does cover that source.

Mr. Rys stated, there is a state statute that addresses disturbing the peace.

Atty. Mantzaris replied, that is a separate state statute.

Mr. Rys wanted to know, if the police are going to start enforcing the noise ordinance, are they also going to be enforcing the state statute which deals with disturbing the peace? If so, it would then encourage people not to create noise.

Atty. Mantzaris replied, disturbing the peace usually involves a large number of people together. If they could measure the noise from the vehicles, this ordinance could cover it but which law would be used to enforce it, I can't tell you. Again, the enforcement would be effective if someone reported the disturbance and, hopefully, an office could get there in time to measure it. That is always a problem with enforcement.

Mr. Rys referred to the proposed amendment to Section 5.1, which changes "sundown" to "7:00 a.m.", he hoped that landscapers wouldn't begin blowing leaves and cutting lawns, etc., at that time.

Atty. Mantzaris replied, this amendment was not only offered to assist Public Works crews who begin their work early but also people who work every day and are unable to do yard work until the evening or weekend.

Mr. Rys was concerned that conflict may occur among neighbors who begin their yard work or mowing at 7:00 a.m. any day of the week. For this reason, he was opposed to the amendment. He suggested that an exemption be added specifically for Public Works.

Atty. Mantzaris explained, any changes made tonight will have to be sent back to the D.E.P. for approval. His guess is that they would not approve a limitation only for the Town's Public Works Department and not for every citizen in the town.

Ms. Papale stated that she was not comfortable with the ordinance. The D.E.P. may approve the changes being proposed, but that doesn't mean that she has to like the ordinance. Many people work six days a week and you would think that they would be able to mow their lawn 6:00 P.M. She was hopeful that the D.E.P. would endorse this change being referenced.

Mr. Knight stated, Section 5.1 refers to any gasoline or electric powered leaf blowers.

Ms. Papale asked, do the leaf blowers make that much more noise than the lawn mowers?

Mr. Knight answered, yes.

Ms. Papale stated, I can't see the whole thing but I change my mind when I hear things are going to be changed. The only complaint I have ever received in all the time I have been on the Council about noise, I think there were two; Infra Metals... and a complaint from someone about radios playing loudly from a garage. Infra Metals, I believe, was taken care of since I haven't heard about it for a long time. I talked to a lot of people this week and I didn't hear one word for or against the ordinance. There is a very substantial time commitment to serving on the Ordinance Committee, that is the reason I never sign up for this committee. It takes a lot out of the people who serve. The ordinances that the committee works so hard for, usually nothing happens with them. I am not so sure it will work.

Atty. Mantzaris replied, it is an experiment for Wallingford and it is worth trying and we can make changes to it as we go along.

Ms. Papale asked, what will we gain?

Chairman Parisi replied, a lot of people will have peace and quiet.

Atty. Mantzaris commented, maybe because we have it, people will be a little more careful when they drive around or take part in some activities. We hope they will.

Ms. Papale asked, is this Daylight Savings Time?

Atty. Mantzaris replied, whatever 7:00 A.M. is, is 7:00 A.M., not Daylight (Savings) or Eastern Standard; whenever it is 7 o'clock, it is 7 o'clock.

Ms. Papale stated that it concerns her that all this work has been done, the ordinance will be passed and it won't be enforced.

Atty. Mantzaris stated that there have been some serious problems; one of which is bothersome to a fellow Councilor and this ordinance would prevent the problem from occurring or at least would stop the people from running their motorbikes. There was no way to tackle the problem. This ordinance would be a tool for that.

Ms. Papale asked if the major problem is with the waste removal trucks?

Chairman Parisi answered, yes.

Ms. Papale stated, maybe the ordinance should be put on probation for a year; try it out. I will then be asking you (Atty. Mantzaris) what kind of response...

Chairman Parisi stated, I will tell you that we have had some success with the Blight Ordinance already. It isn't all futile.

Ms. Papale stated, when you see a blight problem, you call someone and the house is still there and it is addressed.

Chairman Parisi disagreed stating, it doesn't always work that way.

Ms. Papale was discouraged by the ordinance for she did not feel it would make a difference.

Mr. Toman stated that there is no police presence at the meeting and there is no one else with that expertise in attendance. He has concerns about the mechanism of enforcement with regards to this ordinance. On paper it looks good and every single law abiding person can think of many instances over time where they wish a policeman with power had been there to call into account people who aren't concerned about their fellow citizens at all or through day and night. He would like to hear from the Police Chief regarding his view of the importance of the enforcement of this ordinance. This ordinance could be a real boost to the department's service to the community and get good marks from the community. I can see that if this is enforced across the board well around town, citizens will take notice and remark that the police department is really looking out for them. Do the experts in enforcement think it is enforceable? Will they enforce it to the degree that we want it enforced? How are the machines going to be utilized? Are they going to be carried around? Locked up in the Police Station and not in the squad cars? I don't know and therefore am reluctant to approve

something that is on paper without a meaningful chance of enforcement. He asked Atty. Mantzaris what he thought about it?

Atty. Mantzaris replied, I understand from the demonstration this afternoon, that the measuring device is digital, automatic, relatively simple to operate. I expect that they could enforce it. I don't expect that there will be one noise complaint after another; I don't know. The Police Department may not be happy with it because they have enough other work to do besides this ordinance.

Mr. Toman was concerned that if the ordinance is adopted and not successfully enforced, it could give the Police Department a black eye and leave a lot of people frustrated. He asked if the rank and file and the administration of the Police Department are behind the ordinance?

Atty. Mantzaris did not know the answer to that question.

Chairman Parisi stated, in the past the Council has called departments in to question their actions with an ordinance and I don't think we would not continue that should it be necessary.

Raymond Smith, Director of Public Utilities stated, with regards to the utilities, noise created in emergency situations such as if we were out repairing water or sewer mains would be covered but, we have a process now in slip-lining or insituform lining that requires the contractor to work all night...to put in some plastic lining and cure it; refrigerated trucks would be running. Are we going to be impacted by the ordinance?

Chairman Parisi answered, no. If it is an extenuating circumstance and an emergency...it would be an exception to the ordinance, quite frankly. I am using my own judgment.

Atty. Mantzaris commented, if it satisfies the standards, it should be o.k.

Mayor Dickinson stated, it really isn't an emergency. It should have some language that is more specific and covers it. It is not really an emergency but it has to be done. It is just that they can't do it by stopping work because of the plastic that they use.

It was decided that an amendment for a special work-type exemption be added to address Mr. Smith's concerns.

Mr. Brodinsky explained that both he and Mr. Knight met with a sales representative from a company that manufactures dosimeters; noise measuring devices. The model they viewed was slightly larger than a cell phone, yet smaller than a police radio. Reportedly, there is about 1 hour of training required to school the officer(s) on how to first calibrate and then operate the meter. He then explained how they work. With regards to the willingness or enthusiasm on the

part of the Police Department to go out and enforce this, there is no doubt that this is going to involve a bit of a culture change. It is something they are not used to doing. It is a leadership issue and everyone has a stake in contributing to that culture change. If everyone pulls together and encourages the police officers, progress can be made. The ordinance will not stop all illegal noise and no one out there should expect too much out of it. It will help to some degree. Time is needed to get the ordinance passed, to get the police on board, the devices purchased, the public to understand that this is not a cure-all, a panacea, that it is going to solve all of their problems; it is not. This is a step in the right direction and will help. The ordinance committee worked very hard on this and it is regarded as something that will make Wallingford better and the quality of life better, but it is not going to cure everything.

Mr. Farrell stated that he feels the ordinance will help the Town. He believes in buying the dosimeter and asking the Police Department to do some enforcement activity. While they won't get every car that goes by with its radio blaring, as we have done with speeding and seat belts, we could set up some enforcement activity that would show that Wallingford is serious about this and would let people know that they really need to comply with the ordinance. He is hopeful that the police department will take up the issue and run with it. At the times that the Police Chief has been in attendance at the Ordinance Committee meetings, he seemed set to go forward with the issue once the ordinance was enacted.

Mr. Rys stated, with regards to Section 5-2, does that include 24 hours a day?

Atty. Mantzaris replied, that's right and that (noise from a sound amplifying device on or within any motor vehicle) does not need to be measured; if you just feel it, that is a violation.

Mr. Rys asked, the police can issue a summons for \$60 if the music coming from a car is loud enough to cause a vibration?

Atty. Mantzaris answered, that's right.

Mr. Rys was pleased stating, I think that's good. Once you give out a few tickets, things are going to calm down. I still don't agree with Section 5.1; it should read 8:00 a.m., not 7:00 a.m. If no one will make that amendment, I will.

Chairman Parisi asked, are we going to make an exception for the Public Works department?

Mr. Rys answered, I would go along with that if it is just for Public Works.

Mayor Dickinson stated, it was Public Works. Their hours are 7:00 a.m. to 3:30 p.m. so that by 7:15 a.m., they could be out to a site and to have them not be able to use certain equipment would be a problem.

Atty. Mantzaris stated, the amendment would cover it; governmental activities?

Mayor Dickinson replied, the problem is though that there is a separate section regarding leaf blowers; Section 5.1, "No person shall operate or permit the operation of any gasoline or electric-powered leaf blowers between 6:00 p.m. and 8:00 a.m. on weekdays and weekends." I would think that that specific item would take precedence over the general maintenance and repair that we have elsewhere.

Atty. Mantzaris replied, accepting it is specific as to governmental activities.

Mayor Dickinson stated, if you feel that covers it, that's fine.

Atty. Mantzaris stated, the governmental activities language suggests that it would cover any activity by the government; public works, recreation, utility, etc.

Mayor Dickinson pointed out, except that language talks about it being required over a twenty-four hour period of time, which is not the case for leaf blowers. That was meant to cover a situation for maintenance or repair.

Atty. Mantzaris suggested that the language, "which are required" and just have it read, "noise generated by governmental repair and maintenance operations."

Mayor Dickinson agreed.

Chairman Parisi suggested that the public hearing be continued to the next meeting to let all of the modifications be instituted and then it would most likely pass without any problem. He asked if anyone was opposed to the suggestion?

Mr. Knight withdrew his motion.

Motion was made by Mr. Farrell to Continue the Public Hearing to March 12, 2002 at 7:45 P.M., seconded by Mr. Rys.

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

ITEM #12 PUBLIC HEARING to Consider Amending Chapter #122 of the Code of the Town of Wallingford Entitled, "Food Service Establishments" as Requested by Councilor Stephen Knight, Chairman of the Ordinance Committee – 8:00 P.M. (Appendix III)

Motion was made by Mr. Knight to Approve the Amended Chapter, seconded by Mr. Farrell.

Eloise Hudd, Director of Health stated that the changes in the ordinance are there to reflect the changes in the State Regulation.

Robert Sheehan, 11 Cooper Avenue asked for a summary of what changes were made.

Ms. Hudd stated that the original ordinance was passed in 1977 and the definitions were changed to include "supermarkets". Changes were made with regards to requirements for the temperature of food; location and storage of pesticides; and who can apply pesticides in a food service operation.

Pasquale Melillo, 15 Haller Place, Yalesville asked if Ms. Hudd thought the proposed changes would be better for the consumers as far as their health and safety is concerned?

Ms. Hudd replied, yes. The changes were made to reflect public health changes in the state law.

Mr. Vumbaco asked if a copy of the revised chapter in the code will be sent out to all food establishments once it becomes effective so they are aware of the changes?

Ms. Hudd answered that she had a pre-meeting to which she invited all of the restaurantuers to come and hear not only the changes in the proposed local ordinance (chapter) but also the changes that took effect in the state regulations. Approximately 45 different restaurant individuals show up. It was a nice turnout. It can be available to those who would like it.

Mr. Vumbaco suggested that the ordinance (chapter) be revised to make it gender neutral. There are seventeen occasions in the ordinance (chapter) where the word "his" is used.

Motion was Amended by Mr. Farrell to Change Every Gender Reference that appears in the Chapter as "his" to "his or her", seconded by Mr. Vumbaco.

VOTE ON AMENDMENT: Doherty was absent; all ayes; motion duly carried.

VOTE ON CHAPTER AS AMENDED: Doherty was absent; all ayes; motion duly carried.

ITEM #13 PUBLIC HEARING To Consider and Act Upon an Ordinance Appropriating \$770,000 to Design a Denitrification System for Wallingford's Wastewater Treatment Plant and Authorizing the Issue of \$770,000 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.

Motion was made by Mr. Knight To Read the Title and Section 1 of the Proposed Ordinance into the Record and to Dispense with the Reading of the Remainder of the Ordinance in its Entirety, Incorporating its Text into the Minutes of this Meeting, seconded by Mr. Farrell.

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

Mr. Knight read the Title and Section 1 of the following ordinance into the record:

AN ORDINANCE APPROPRIATING \$770,000 TO DESIGN A DENITRIFICATION SYSTEM FOR WALLINGFORD'S WASTEWATER TREATMENT PLANT AND AUTHORIZING THE ISSUE OF \$770,000 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 \$770,000 is appropriated for the design of a denitrification system, facilities and improvements for the reduction of wastewater nitrogen content by the Wallingford wastewater treatment plant, including, preparation of plans and specifications, architect, engineering and consulting fees, construction phase engineering, appraisals, testing, surveying, administrative, advertising, printing, legal and financing costs related thereto (hereafter the "Project").

Section 2. To meet said appropriation \$770,000 bonds of the Town or so much thereof as shall be necessary for such purpose, shall be issued, maturing not later than the thirtieth 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, or, be combined with other bonds of the Town and such combined issue shall be in the denomination per aggregate maturity 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 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. In connection with the issuance of any bonds or notes authorized herein, the Town may exercise any power delegated to municipalities pursuant to Section 7-370b, including the authority to enter into agreements moderating interest rate fluctuation, provided any such agreement or exercise of authority shall be approved by the Town Council. In order to meet the capital cash flow expenditure needs of the Town, the Mayor, the Comptroller and the Town Treasurer, or any two of them are authorized to allocate

and reallocate expenditures incurred for the Project to any bonds or notes of the Town outstanding as of the date of such allocation, and the bonds or notes to which such expenditures have been allocated shall be deemed to have been issued for such purpose, including the bonds and notes and Project herein authorized; or

(ii) temporary notes of the Town may be issued pursuant to Sections 7-264 or 7-264a of the General Statutes of Connecticut, as amended. The amount of such notes to be issued, if any, shall be determined by the Mayor, the Comptroller and the Town Treasurer, or any two of them, and they are hereby authorized to determine the date, maturity, interest rate, form and other details and particulars of such notes, and to sell, execute and deliver the same. Said notes shall be secured by the full faith and credit of the Town and may be further secured in any other manner set forth in Sections 7-264 or 7-264a, aforesaid, as determined by the Town Council; or

(iii) any combination of bonds or temporary notes may be issued, provided that the total, aggregate principal amount thereof outstanding at any time shall not exceed \$770,000.

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 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. The Mayor, the Comptroller and the Town Treasurer, or any two of them, are authorized in the name and on behalf of the Town to apply for and accept any and all Federal and State loans and/or grants-in-aid of the Project and is further authorized to expend said funds in accordance with the terms hereof and in connection therewith to contract in the name of the Town with engineers, contractors and others. To meet any portion of the costs of the Project determined by the State of Connecticut Department of Environmental Protection to be eligible for funding under Section 22a-475 *et seq.* of the Connecticut General Statutes, as the same may be amended from time to time (the "Clean Water Fund Program"), the Town may issue interim funding obligations in anticipation of project loan obligations and project loan obligations in such denominations as the Mayor, the Comptroller and the Town Treasurer, or any two of them, shall determine. The Mayor, the Comptroller and the Town Treasurer, or any two of them, are hereby authorized to determine the amount, date, maturity, interest rate, form and other details and particulars of such interim funding obligations and project loan obligations, subject to the provisions of the Clean Water Fund Program, and to execute and deliver the same. Said obligations 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 obligation 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 Mayor, the Comptroller and the Town Treasurer, or any two of them, are hereby authorized to execute and deliver to the State in the name of and on behalf of the Town Project Loan and Project Grant Agreements under the Clean Water Fund Program.

Section 6. 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 7. 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.

Robert Sheehan, 11 Cooper Avenue asked, at the last meeting a budget amendment in the amount of \$45,000 was requested by the Water & Sewer Division. I thought that was going to be used for part of this project.

Roger Dann, General Manager of the Water & Sewer Divisions responded that the amendment was not part of this project.

Mr. Sheehan asked, why wasn't the amendment included in this \$770,000 this evening?

Mr. Dann answered that it is separate and distinct. The division does not anticipate re-using any of the components that we intend to purchase with that \$45,000 in the final project, therefore we saw it as a separate purchase; a maintenance item rather than a capital purchase associated with this project.

Jack Agosta, 505 Church Street, Yalesville asked how much money was in reserves that could be used for this project?

Mr. Dann replied that, at this point, a determination has not been made as to what reserves are available for this project. The division is in the process of preparing its budget for the next year and, at the same time, they are also projecting what the rate requirements may be for the next several years. Until those processes have been completed, it is going to be difficult to say what funds may be available at the point in time where this particular project is being funded to help offset some of the costs of the project directly. If there are funds available at that time, it would be given consideration to the extent that the borrowing on the project can be reduced. It is a little premature to say that funds can be dedicated to the project at this time.

Mr. Agosta asked what the projected time frame is for this project?

Mr. Dann responded, it is projected to be the middle of 2005 for the project to be on line. There is a potential that it may be done a little sooner than that.

Pasquale Melillo, 15 Haller Place, Yalesville inquired as to whether or not the bidding process will be utilized for this project.

Mr. Dann explained that the ordinance amount is based upon bids that have been received for engineering services. The construction activities will also be bid out once the design is completed.

Mr. Melillo asked if the project was mandated by federal or state government?

Mr. Dann answered, both. It is a federal requirement for the state to develop a list of impaired water bodies. Having done so, the state then must develop permitting activities that are consistent with remedying the identified deficiency that causes that water body to be impaired. Long Island Sound has been identified as an impaired water body as a result of excess nitrogen. Therefore the state has developed permits which apply to all point dischargers to regulate and ultimately reduce the levels of nitrogen that are contributed to the Sound.

Raymond Smith, Director of Public Utilities stated that the Division is on constant watch for any funds available to assist with this project, in response to Mr. Melillo's question pertaining to funding assistance.

The public hearing was declared closed at this time.

Motion was made by Mr. Knight that the Entitled, "An Ordinance Appropriating \$770,000 to Design a Denitrification System for Wallingford's Wastewater Treatment Plant and Authorizing the Issue of \$770,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose" be Adopted, seconded by Mr. Farrell.

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

ITEM #16 Consider and Approve a Waiver of Bid to Hire Outside Legal Counsel to Assist In the Drafting of Contracts for the School Building Committee

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

Asst. Town Attorney Gerald E. Farrell, Sr. explained that the school building committee will have to enter into various construction contracts and Atty. Jeff D'Onofrio's services were utilized in the past. Both the Board of Ed and the Law Department were very pleased with his work; he was very cost-efficient and has extensive experience in this field, far beyond the experience of the Town Attorney's office in drawing these types of contracts.

Mr. Brodinsky stated that sending something like this out to bid doesn't necessarily guarantee the lowest price. Awarding a bid to the lowest hourly rate is not what counts, rather the overall final bill. He asked if Atty. Farrell, Sr. had an idea as to what the hourly rate was proposed to be?

Atty. Farrell, Sr. was not sure. He was filling in for Atty. Small who intended to be present this evening for the meeting but took ill.

Mr. Brodinsky asked if the building committee had a budget for this?

Atty. Farrell was not sure.

Mr. Brodinsky pointed out that legal fees have a way of running away. It was said that during the last building project this particular attorney was very cost-effective, Mr. Brodinsky asked if there was a total cost for Atty. D'Onofrio's services and how many hours were billed? Was there an estimated number of hours, in advance, to compare with the final bill?

Atty. Farrell, Sr. replied, no.

Mr. Brodinsky asked, is time of the essence if we don't waive the bid tonight? What will the consequences be? Two weeks will make a difference?

Mayor Dickinson answered, my understanding is that there is a time factor. The issue is, at the current time, there is not a new contract for Konover Swinerton. That really needs to be finalized. The effort was to get language regarding a client representative and there seems to be difficulties in having the thoughts of the committee and the thoughts of the Konover Swinerton representative come together in a form that the law department is able to put together a contract. The belief was to use Atty. D'Onofrio to at least get that off of the dead letter pile it seems to be sitting in. There is some immediacy to that because we will soon, hopefully, be moving into other parts of the work to be done and we don't have a contract right now for moving forward.

Mr. Brodinsky asked, how many hours would that one project be, approximately?

Atty. Farrell, Sr. replied, up until tonight, I was told that Atty. Small would be in attendance for this item, to answer questions.

Mr. Brodinsky was uncomfortable with this request because he was not sure if the cost would amount to \$5,000 when all was said and done although he doubted it stating, it may be closer to \$50,000. There is no indication how large a cost this is going to be and he was not satisfied that there were any controls or audit system on making sure there were no runaway legal costs. He was not sure this item was right for a vote. If work needed to be done in the next two weeks and someone had an estimate as to how many hours it would be, the bid could be waived for ten hours worth of work, pending the next meeting. If that is not possible, he was going to vote against the request at this time. He did not have enough information this evening but may vote for it in the future should it come back before the Council.

Atty. Farrell, Sr. suggested that the Council amend its motion to authorize 20 hours which will probably meet the immediate need for this service for the next two weeks.

Mayor Dickinson stated, if the twenty hours covers the whole thing then it may not be necessary to come back to the Council. If there is need for more then, obviously, the request would have to come back.

Mr. Vumbaco stated that Mr. Brodinsky raised a good many of the same concerns he, himself, had. He did not like the fact that the Council was being asked to waive the bidding process without any estimate of cost and, once again, find themselves with their backs against the wall with having to act on something immediately. It is not as though no one knew the Konover Swinerton contract was going to come due soon and the language needed to be hammered out. He did not like the idea that the Council is always being put in a position where something needs to be acted on immediately. He was not in favor of voting for the amendment because he did not have sufficient information at this time.

Mr. Knight stated that he would vote for it for several reasons; the Town has used this attorney before and he is a known quantity; Atty. Small is very capable of overseeing Atty. D'Onofrio's work; he is satisfied that the building committee that is in place will exercise the oversight that they did on the previous school building project that Atty. D'Onofrio's was involved with; there is plenty of precedent and trust the people on the building committee and the Town's attorney to watch how money is spent and that the work is effectively done.

Mr. Vumbaco replied to Mr. Knight's comments, it has nothing to do with Atty. Small's integrity or anyone in the department. His objection is, once again, it is an emergency situation where an item is being put before the Council who are asked to approve it because it has to get done; there was no planning. It is not as though this contract came up yesterday; it has been a long, known process that this contract has to be re-written. Atty. Small had plenty of time to come before the Council to request action be taken. It has nothing to do with Mr. D'Onofrio's talents or Janis Small's. This emergency situation is created due to a lack of planning.

Pasquale Melillo, 15 Haller Place, Yalesville asked if anyone was present from the School Building Committee?

Mayor Dickinson answered, no.

Mr. Melillo was of the opinion that a representative from the building committee should have been in attendance. He was opposed to waiving the bid. He felt the item should be tabled since the Town Attorney could not be present to answer the questions the Councilors had regarding this matter.

Jack Agosta, 505 Church Street, Yalesville asked, why is it necessary to waive the bidding procedures?

Chairman Parisi replied, it probably doesn't have to, I think it is a courtesy.

Mayor Dickinson stated, but I think it is important that it is. If this attorney gets involved with the project and requires more time, then the argument would be, "It should have been bid from

the beginning. Now we are entrapped into hiring someone and waiving the bid when you started with them and we didn't know it." We are in a project already. There are duties that are changing for the firm involved and it is important to develop a contract that reflects what those duties will be. In order to bring that to a conclusion, someone with greater expertise than what the Law Department has is necessary. That is what the effort is, to bring the discussions to a conclusion with an actual contract. If this went out to bid it would take six weeks to go through the publications, the interviewing; it is not a productive process when we are in the middle of a relationship with a party already. The project has already begun, their duties are changing and we need to reflect that change in a new contract.

Robert Sheehan, 11 Cooper Avenue asked if the twenty hour limit applies only to this one contract?

Chairman Parisi answered, just this one.

Mr. Sheehan stated that there are going to be a lot of contracts involved with the whole building process. This is not going to boil down to one contract.

Chairman Parisi reiterated, it is just for this one and if it requires more time, we are going to have to give him more time.

Mr. Vumbaco asked when did the Administration learn that the contract needed to be reviewed for Konover Swinerton?

Mayor Dickinson answered, that is something that I am not familiar with but rather the building committee would be. There has been a series of discussions with Konover Swinerton over a period of time but it has not resulted in a meeting of the minds as far as a document that reflects what the committee wants. The Town Attorney's Office is getting more involved with it.

Mr. Vumbaco replied, you just stated that it was imperative that we get this contract signed because we are in the middle of a project and their responsibilities are changing. Obviously, this has been an ongoing thing for a period of time. Why, then, wasn't the need for a specialized attorney identified which would have allowed us to do the six week bid period? That is the issue I am raising. It has nothing to do with the capability of the individual or the project getting done or stonewalling the project. The point being that we are now being told that we have to have this done when I am sure six weeks ago we also knew that Konover Swinerton's project was coming to an end and that is the only point that I, as a councilperson, take umbrage with is that this is what constantly happens here. That is the reason I am not in favor of this bid waiver. This has nothing to do with the actual concept; it has to do with the procedure that we are following.

Mayor Dickinson stated, I was not aware of a problem with this until a meeting last week or the end of the prior week and, at that point, I became aware of the issue through a discussion with Janis Small and you have the item here. Until then, I was under the impression that things had been handled and dealt with with the contract issue. It turned out that wasn't the case and, until I heard from the committee, I wasn't aware of it. It was only about a week or week and one-half ago that I was aware that there is an issue here that has to be dealt with.

Motion was amended by Mr. Brodinsky that the bid waiver be approved only with the condition that the Town pay for no more than twenty (20) hours of service on this or any other project at Atty. Donofrio's usual and customary hourly rate and if additional dollars are needed for the service that the Town Atty. come back before the Council to request the necessary additional monies, seconded by Mr. Farrell.

NOTE ON AMENDMENT: Doherty was absent; Vumbaco, no; all others, aye; motion duly carried.

VOTE ON ORDINANCE AS AMENDED: Doherty was absent; Vumbaco, no; all others, aye; motion duly carried.

ITEM #17 Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes With Respect to the Purchase, Sale and/or Leasing of Property - Mayor

Motion was made by Mr. Knight to Enter Into Executive Session, Seconded by Mr. Farrell.

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

Present in Executive Session were all Councilors (with the exception of Doherty) Mayor Dickinson and Asst. Town Atty. Gerald E. Farrell, Sr.

Motion was made by Mr. Knight to Exit the Executive Session, seconded by Mr. Farrell.

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

The Council exited executive session at 9:42 P.M.

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

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

There being no further business the meeting adjourned at 9:42 P.M.

Meeting recorded and transcribed by:

Kathryn F. Zandri
Town Council Secretary

Approved by: Robert F. Parisi (by RR)
Robert F. Parisi, Chairman

4-9-02
Date

Rosemary A. Rascati
Rosemary A. Rascati, Town Clerk

4-9-02
Date

RECEIVED FOR RECORD 3-26-02
AT 3:55 M P AND RECORDED BY
Rosemary Rascati TOWN CLERK



WILLIAM W. DICKINSON, JR.
MAYOR

OFFICE OF THE MAYOR
TOWN OF WALLINGFORD
CONNECTICUT

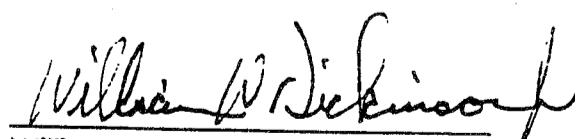
PROCLAMATION

- WHEREAS,** Tuesday, March 12, 2002 marks the 90th anniversary of Girl Scouts of the USA, founded by Juliette Gordon Low in 1912 in Savannah, Georgia, and
- WHEREAS,** throughout its long and distinguished history, Girl Scouts – the pre-eminent organization for girls – has inspired millions of girls with the highest ideals of character, conduct, and patriotism, and
- WHEREAS,** Girl Scouting will lead businesses and communities to teach girls the skills needed to take active roles in math, science and technology careers and to fulfill our country's economic needs, and
- WHEREAS,** through Girl Scouting, every girl, everywhere grows strong, gains self-confidence and skills for success, and learns her duty to the world around her, and
- WHEREAS,** through participation in Girls' Voices, a national community service project every girl will learn to use her own voice to address an issue of concern to her and perhaps make a change for the better in her community, and
- WHEREAS,** some 50 million women have enjoyed the benefits of the Girls Scouts program, as an American tradition, for 90 years,

NOW, THEREFORE, I, William W. Dickinson, Jr., Mayor of the Town of Wallingford, do hereby proclaim the week of **March 10-16** as

GIRL SCOUT WEEK

We ask our citizens to join with us as we congratulate the Girl Scout Organization and wish them success in the years ahead.



William W. Dickinson, Jr.
Mayor

DATED THIS 19th DAY OF FEBRUARY, 2002.
WALLINGFORD, CONNECTICUT

NOISE ORDINANCE

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

SECTION 1. PURPOSE

It is now generally recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety and welfare. This ordinance is enacted, therefore, to attempt to protect, preserve and promote the health, safety and welfare of the citizens of the Town of Wallingford through the reduction, control and prevention of excessive noise.

SECTION 2. DEFINITIONS

A. "DAYTIME" means 7:00 a.m. to 8:00 p.m.

B. "NIGHTIME" means 8:00 p.m. to 7:00 a.m.

C. "CONSTRUCTION" means any site preparation, assembly, erection, substantial repair, alteration or similar activity, but excluding demolition.

D. "DEMOLITION" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

E. "DECIBEL (dB)" means a unit of measurement of the sound level.

F. "EMERGENCY" means any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action.

G. "EMERGENCY VEHICLE" means any motor vehicle authorized by local, state or federal law to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.

H. "EXCESSIVE NOISE" means any sound, the intensity of which exceeds the standards set forth in Section 4 of this ordinance.

I. "IMPULSE NOISE" means sound of short duration, usually less than one (1) second, especially of high intensity, with an abrupt onset and rapid decay.

J. "MOTOR VEHICLE AND MOTORCYCLE" shall be defined as set forth in §14-1(47) and §14-1(46), respectively, of the Connecticut General Statutes.

K. "MUFFLER" means a device for abating sound.

ORDINANCE NO. _____

L. "PERSON" means any individual, firm, partnership, association, company, trust, corporation or other legal entity of any kind.

M. "PROPERTY LINE" means that real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and which separates real property from the public right of way.

N. "PREMISES" means any building, structure, land or portion thereof, including all appurtenances, and includes yards, lots, courts, inner yards and vacant land owned or controlled by a person. The premises from which sound is emitted includes contiguous public streets and highways, public rights-of-way and waters of the state.

O. "NOISE LEVEL" means the sound pressure level as measured with a sound level meter using the A-weighting network, designated dBA.

P. "SOUND" means a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, auditory response when impinging on the ear.

Q. "SOUND PRESSURE LEVEL (SPL)" means 20 times the logarithm to the base 10 of the ration of the sound pressure in question to the standard reference pressure of 0.00002 N/M . It is expressed in decibel units.

R. "RESIDENTIAL DISTRICT" means all Town owned property used for recreational or educational purposes and all residential districts so designated by the zoning regulations and zoning map of the Town of Wallingford, to wit: R-18, R-15, R-11, R-6, RM-40, RM-11, RM-6, RU-160, RU-120, RU-80 and RU-40.

S. "COMMERCIAL DISTRICT" means all business or commercial districts so designated by the zoning regulations and zoning map of the Town of Wallingford, to wit: CLB, CLY, CA-40, CA-12, CA-6, CB-40 and CB-12.

T. "INDUSTRIAL DISTRICT" means all industrial districts so designated by the zoning regulations and zoning map of the Town of Wallingford, to wit: I-40, I-20 and IX.

SECTION 3. NOISE LEVEL MEASUREMENT PROCEDURES

For the purposes of determining noise levels as set forth in this ordinance, the following shall be applicable:

A. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation as regards, especially, the equipment used by the Town of Wallingford.

B. Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this ordinance.

C. The general steps listed below shall be followed when preparing to take sound level measurements:

1. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.

2. The sound level meter shall be calibrated before and after each set of measurements.

3. The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least 4 feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements.

4. Measurements shall be taken and documented at a point that is located about one foot beyond the property line of the emitter's premises within the premises of the receptor. The emitter's premises includes his, her or its individual parcel or lot or group of contiguous parcels or lots under the same ownership.

SECTION 4. NOISE LEVELS

A. General Prohibition. No person shall, except as provided in Sections 4D and 4E, cause, allow or permit the creation, continuance or maintenance of any noise beyond the property lines of his, her or its premises in excess of the noise levels established in this ordinance. In the event a particular premises is non-conforming as to the permitted uses of the district in which it is situated, then the allowed noise levels shall be those of the most restrictive district.

B. Impulse Noise. No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during the nighttime in or to any residential district. No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure level at any time in or to any district.

ORDINANCE NO. _____

C. Noise Level Standards

1. No person in a residential district shall emit noise, except impulse noise, beyond the property lines of such person's premises exceeding the levels stated herein:

EMITTER'S DISTRICT

RECEPTOR'S DISTRICT

Commercial Industrial Residential/Day Residential/Night

Residential

55dBA 60dBA 55dBA 45dBA

2. No person in a commercial district shall emit noise, except impulse noise, beyond the property lines of such person's premises exceeding the levels stated herein:

EMITTER'S DISTRICT

RECEPTOR'S DISTRICT

Commercial Industrial Residential/Day Residential/Night

Commercial

60dBA 60dBA 55dBA 45dBA

3. No person in an industrial district shall emit noise, except impulse noise, beyond the property lines of such person's premises exceeding the levels stated herein:

EMITTER'S DISTRICT

RECEPTOR'S DISTRICT

Commercial Industrial Residential/Day Residential/Night

Industrial

65dBA 70dBA 60dBA 50dBA

4. All motor vehicles and motorcycles operated within the limits of the Town of Wallingford shall be subject to the noise standards and decibel levels set forth herein.

D. Exclusions. These regulations shall not apply to:

1. Sound generated by natural phenomena.
2. Sound created by bells, carillons or chimes associated with any building, clock, school or church.

3. Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency.

4. Sound created by safety and protective devices.

5. Farming equipment or farming activity.

6. Back-up alarms required by OSHA.

E. Exemptions. The following are exempted from these regulations:

1. Noise generated by construction or demolition activities during daytime hours provided, however, they do not commence before 7:00 a.m. on weekdays, before 8:00 a.m. on Saturdays and before 10:00 a.m. on Sundays.

2. Noise created by emergency situations.

3. Noise from domestic power equipment such as power saws, drills, sanders, spray paint compressors or similar devices operated during daytime hours.

4. Noise created by snow removal equipment provided such equipment is properly maintained and adequately muffled to prevent loud and/or explosive noises therefrom.

5. Noise generated by gasoline powered lawn mowers or lawn care equipment during daytime hours provided such equipment is muffled.

6. Noise created by parades, carnivals, celebrations, recreational and sporting events, and other special public events which have been sanctioned by the Town of Wallingford.

7. Noise created by activities preempted or controlled by the State or Federal governments.

8. Noise generated by firing or shooting at the Blue Trails Rifle Range and at the Wallingford Rod and Gun Club, Inc.

SECTION 5. SPECIAL PROHIBITED NOISE ACTIVITIES

In addition to the foregoing regulations, the following acts and the causing thereof are declared to be in violation of this ordinance:

1. No person shall operate or permit the operation of any gasoline or electric powered leaf blowers between 6:00 p.m. and 8:00 a.m. on weekdays and weekends.

ORDINANCE NO. _____

Note: they may be operated from 8:00 a.m. to 6:00 p.m. on weekdays and on weekends.

2. No sound-amplifying device on or within any motor vehicle shall emit noise such that adjoining or nearby motor vehicles or property are caused to vibrate or shake.

3. No person shall discharge into the open air the exhaust from any internal combustion engine or air compressor equipment unless such discharge is properly muffled and any noise therefrom complies with the noise level standards set forth in Section 4C.

4. No person shall create or cause to be created noise from any recreational vehicle such as dirt bikes, snowmobiles, go-carts, dune buggies, jet skies and like vehicle, which exceeds the noise level standards set forth in this ordinance.

SECTION 6. VIOLATIONS AND PENALTIES

Any person who violates any provision of this ordinance shall be guilty of an infraction and shall be fined \$60.00, or part thereof, for each day that the violation continues and each day's continuation shall constitute a separate and distinct violation.

SECTION 7. ENFORCEMENT

This ordinance shall be enforced by the Chief of Police of the Town of Wallingford and/or his designated subordinates.

I HEREBY CERTIFY that this Ordinance was enacted by the Town Council of the Town of Wallingford this _____ day of _____, 2002, 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: _____

FOOD SERVICE ESTABLISHMENTS

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

That Chapter 122, FOOD SERVICE ESTABLISHMENTS, of the Code of the Town of Wallingford, is hereby repealed and the following Chapter 122, FOOD SERVICE ESTABLISHMENTS, is substituted in lieu thereof.

§ 122-1. Definitions

The following definitions shall apply in the interpretation and the enforcement of this chapter:

ADULTERATED – The condition of a food:

- A. If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
- B. If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation or in excess of such tolerance if one has been established;
- C. If it consists, in whole or in part, of any filthy, putrid or decomposed substance or if it is otherwise unfit for human consumption;
- D. If it has been processed, prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;
- E. If it is, in whole or in part, the product of a diseased animal or an animal which has died otherwise than by slaughter; or
- F. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

APPROVED – Acceptable to the Director of Health, based on his determination as to conformance with appropriate standards and good public health practice.

CLOSED – Fitted together snugly, leaving no openings large enough to permit the entrance of vermin.

CORROSION-RESISTANT MATERIAL – A material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may contact it.

DIRECTOR OF HEALTH – The Director of Health of the Town of Wallingford or his designated representative.

EASILY CLEANABLE – Readily accessible and of such material and finish and so fabricated that residue may be completely removed by normal cleaning methods.

EMPLOYEE – Any person working in a food-service establishment who transports food or food containers, who engages in food preparation or service or who comes in contact with any food utensils or equipment.

EQUIPMENT – All stoves, ranges, hoods, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables and similar items, other than utensils, used in the operation of a food-service establishment, including preparation and storage.

FOOD – Any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

FOOD-CONTACT SURFACES – Those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

FOOD-PROCESSING ESTABLISHMENT – A commercial establishment in which food is processed or otherwise prepared and/or packaged for distribution for human consumption.

FOOD-SERVICE ESTABLISHMENT – Any fixed or mobile restaurant; coffee shop; cafeteria; short-order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; private, grocery store, supermarket (combined grocery, deli, bakery), public or nonprofit organization or institution routinely serving food; catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

KITCHENWARE – All multi-use utensils, other than the tableware, used in the storage, preparation, conveying or serving of food.

MISBRANDED – The presence of any written, printed or graphic matter, upon or accompanying food or containers of food, which is false or misleading or which violates any applicable state or local labeling requirements.

PERISHABLE FOOD – Any food of such type or in such condition as may spoil.

PERSON – An individual or a firm, partnership, company, corporation, trustee, association or any public or private entity.

POTENTIALLY HAZARDOUS FOOD - Any perishable food which consists, in whole or in part, of milk or milk products, eggs, meats, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

SAFE TEMPERATURES – As applied to potentially hazardous food, temperatures of 45° F. Or below and 140° F. Or above.

SANITIZE – Effective bacterial treatment of clean surfaces of equipment and utensils by a process which has been approved by the Director of Health as being effective in destroying microorganisms, including pathogens.

SEALED – Free of cracks or other openings which permit the entry or passage of moisture.

SINGLE-SERVICE ARTICLES – Cups, containers, lids or closures; plates, knives, forks, spoons, stirrers and paddles; straws, place mats, napkins, doilies, wrapping material; and all similar articles which are constructed, wholly or in part, from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other readily destructible materials and which are intended by the manufacturer and generally recognized by the public as for one usage only, then to be discarded.

TABLEWARE – All multi-use eating and drinking utensils, including flatware (knives, forks and spoons).

TEMPORARY FOOD-SERVICE ESTABLISHMENT – Any food-service establishment which operates at a fixed location for a temporary period of time, not to exceed two weeks, in connection with a fair, carnival, circus, public exhibition or similar transitory gathering.

UTENSIL – Any tableware and kitchenware used in the storage, preparation, conveying or serving of food.

WHOLESOME – In sound condition, clean, free from adulteration and otherwise suitable for use as human food.

§ 122-2. Food regulations

- A. Food supplies. All food in food-service establishments shall be from sources approved or considered satisfactory by the Director of Health and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding and safe for human consumption. No hermetically sealed, nonacid and low-acid food which has been processed in a place other than a commercial food-processing establishment shall be used.
- B. Food protection. All food while being stored, prepared, displayed, served or sold at food-service establishments or during transportation between such establishments shall be protected from contamination. All perishable food shall be stored at such

temperatures as will protect against spoilage. All potentially hazardous food shall be cooked to an internal temperature and held at the required temperatures as defined in the CT Public Health Code except during necessary periods of preparation and service. Raw fruits and vegetables shall be washed before use. Stuffing, poultry, stuffed meats and poultry and pork and pork products shall be thoroughly cooked before being served. Individual portions of food once served to the customer shall not be served again, provided that wrapped food which has not been unwrapped and which is wholesome may be reserved.

- C. Poisonous and toxic materials. Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitation purposes may be used or stored in food-service establishments. Poisonous and toxic materials shall be identified, stored and used only in such manner and under such conditions as will not contaminate food or constitute a hazard to employees or customers. Self-application of pest control products is prohibited, a pest control operators license is required.

§ 122-3. Personnel.

- A. Health and disease control. No person while affected with any disease in a communicable form or while a carrier of such disease or while afflicted with boils, infected wounds, sores or an acute respiratory infection shall work in any area of a food-service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other individuals; and no such person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the Director of Health immediately in writing.
- B. Cleanliness. All employees shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved hand-washing facility before starting work and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his hands.

§ 122-4. Equipment and utensils.

- A. Sanitary design, construction and installation of equipment and utensils.
 - (1) All equipment and utensils shall be designed and of such material and workmanship as to be smooth, easily cleanable and durable and shall be in good repair; and the food-contact surfaces of such equipment and utensils shall, in addition, be easily accessible for cleaning, nontoxic, corrosion-resistant and

relatively nonabsorbent, provided that, when approved by the Director of Health, exceptions may be made to the above materials requirements for equipment, such as cutting boards, blocks and baker's tables.

- (2) All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas.
- (3) All equipment shall be commercial grade and in good condition.
- (4) Single-service articles shall be made from nontoxic materials.

B. Cleanliness of equipment and utensils.

- (1) All eating and drinking utensils shall be thoroughly cleaned and sanitized after each usage.
- (2) All kitchenware and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink and all food-storage utensils shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day. All utensils and food-contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use. Non-food-contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.
- (3) After cleaning and until use, all food-contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination.
- (4) All single-service articles shall be stored, handled and dispensed in a sanitary manner and shall be used only once.
- (5) All food service establishments shall have a three (3) compartment sink with drain board for proper ware washing. If installed, a mechanical ware washing machine must be approved.

§ 122-5. Sanitary facilities.

A. Water supply.

- (1) The water supply shall be adequate, of a safe, sanitary quality and from an approved source. Hot and cold running water under pressure shall be provided in all areas where food is prepared or equipment, utensils or containers are washed.

- (2) Water, if not piped into the establishment, shall be transported and stored in approved containers and shall be handled and dispensed in a sanitary manner.
 - (3) Ice use for any purpose shall be made from water which comes from an approved source and shall be used only if it has been manufactured, stored, transported and handled in a sanitary manner.
- B. Sewage disposal. All sewage shall be disposed of in a public sewerage system or, in the absence thereof, in a manner approved by the Director of Health.
- C. Plumbing. Plumbing shall be so sized, installed and maintained as to carry adequate quantities of water to required locations throughout the establishment; as to prevent contamination of the water supply; as to properly convey sewage and liquid wastes from the establishment to the sewerage or sewerage disposal system; and so that it does not constitute a source of contamination of food, equipment or utensils or create an unsanitary condition or nuisance. A grease separator shall be required.
- D. Toilet facilities. Each food-service establishment shall be provided with adequate, conveniently located toilet facilities. The number of toilet fixtures shall be in conformance with State and local building requirements. Toilet fixtures shall be of sanitary design and readily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. The doors of all toilet rooms shall be self-closing. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials, and such receptacles in toilet rooms for women shall be covered.
- E. Hand-washing facilities. Each food-service establishment shall be provided with adequate, conveniently located hand-washing facilities including in or immediately adjacent to lavatories, all areas where food is prepared, and equipment/utensil washing areas, equipped with hot and cold running water through a mixing valve or combination faucet, hand-cleansing soap or detergent and approved sanitary towels or other approved hand-drying devices. Such facilities shall be kept clean and in good repair.
- F. Garbage and rubbish disposal. All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leak-proof, nonabsorbent containers, which shall be kept covered with tight-fitting lids when filled or stored or not in continuous use, provided that such containers need not be covered when stored in a special vermin-proofed room or enclosure or in a food-waste refrigerator. All other rubbish shall be stored in containers, rooms or areas in an approved manner. The rooms, enclosures, areas and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided, and each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Food-waste grinders, if used, shall be installed in compliance with state and local standards and shall be of suitable construction. All

garbage and rubbish shall be disposed of with sufficient frequency and in such manner as to prevent a nuisance.

- G. Vermin control. Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of vermin.

§ 122.6. Miscellaneous provisions.

- A. Floors, walls and ceilings. The floor surfaces in kitchens, in all other rooms and areas in which food is stored or prepared and in which utensils are washed and in walk-in refrigerators, dressing or locker rooms and toilet rooms shall be of smooth, nonabsorbent materials and so constructed as to be easily cleanable. All floors shall be kept clean and in good repair. Floor drains shall be provided in all rooms where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor. All exterior areas where food is served shall be kept clean and properly drained, and surfaces in such areas shall be finished so as to facilitate maintenance and minimize dust. The walls and ceilings of all rooms shall be kept clean and in good repair. All walls or rooms or areas in which food is prepared or utensils or hands are washed shall be easily cleanable, smooth and light colored and shall have washable surfaces up to the highest level reached by splash or spray.
- B. Lighting. All areas in which food is prepared or stored or utensils are washed, hand-washing areas, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well lighted. During all cleanup activities, adequate light shall be provided in the area being cleaned and upon or around equipment being cleaned.
- C. Ventilation. All rooms in which food is prepared or served or utensils are washed, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well ventilated. Ventilation hoods and devices shall be designed to prevent grease or condensate from dripping into food or onto food-preparation surfaces. Filters, where used, shall be readily removable for cleaning or replacement. Ventilation systems shall comply with applicable state and local fire prevention requirements and shall, when vented to the outside air, discharge in such manner as not to create a nuisance.
- D. Dressing rooms and lockers. Adequate facilities shall be provided for the orderly storage of employees' clothing and personal belongings. Where employees routinely change clothes within the establishment, one or more dressing rooms or designated areas shall be provided for this purpose. Such designated areas shall be located outside of the food preparation, storage and serving area and the utensil-washing and storage areas, provided that, when approved by the Director of Health. Such an area may be located in a storage room where only completely packaged food is stored. Designated areas shall be equipped with adequate lockers, and lockers or other

suitable facilities shall be provided in dressing rooms. Dressing rooms and lockers shall be kept clean.

- E. Housekeeping. All parts of the establishment and its premises shall be kept neat, clean and free of litter and rubbish. Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food-contact surfaces. None of the operations connected with a food-service establishment shall be conducted in any room used as living or sleeping quarters. Soiled linens, coats and aprons shall be kept in suitable containers until removed for laundering. No live birds or animals shall be allowed in any area used for the conduct of food-service establishment operations, provided that assistance dogs and dogs accompanying persons training such dogs as guide or assistance dogs may be permitted in dining areas.

§ 122-7. Temporary food-service establishments.

A temporary food-service establishment shall comply with all provisions of this chapter which are applicable to its operation, provided that the Director of Health may augment such requirements when needed to assure that food is served safely, may prohibit the sale of certain potentially hazardous food and may modify specific requirements for physical facilities when, in his opinion, no imminent hazard will result.

§ 122-8. Enforcement; fees.

- A. Permit. It shall be unlawful for any person to operate a food-service establishment within the Town of Wallingford or its police jurisdiction who does not possess a valid permit issued to him by the Director of Health. Only a person who complies with the requirements of the chapter shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person or place. A valid permit shall be posted in every food-service establishment. Permits for temporary food-service establishments shall be issued for a period of time not to exceed 14 days.

(1) Issuance of permits.

- (a) Any person desiring to operate a food-service establishment shall make written application for a permit on forms provided by the Director of Health. Such application shall include the applicant's full name and post office address and whether such applicant is an individual, firm or corporation and, if a partnership, the names of the partners, together with their addresses shall be included; the location and type of the proposed food-service establishment; and the signature of the applicant or applicants. If the application is for a temporary food-service establishment, it shall also include the inclusive dates of the proposed operation. At the time of filing the application, the applicant shall pay to the Director of Health the license fee as hereinafter provided.

- (b) Upon receipt of such an application and fee, the Director of Health and/or his agent shall make an inspection of the food-service establishment to determine compliance with the provisions of this chapter. When inspection reveals that the applicable requirements of this chapter have been met, a permit shall be issued to the applicant by the Director of Health. Said permit shall be renewable each year after full compliance with all sections of this chapter.
- (c) A plan review must be completed and submitted for review and approval at least ten (10) days prior to start of business for all newly constructed or extensively renovated existing establishments.
- (2) Whenever the Director of Health and/or his agent finds insanitary or other conditions in the operation of a food-service establishment which, in his judgment, constitute a substantial hazard to the public health, he may, without warning, notice or hearing, issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken and specifying the time period within which such action shall be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended and that all food-service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Director of Health, shall be afforded a hearing as soon as possible.
- (3) Reinstatement of suspended permits. Any person whose permit has been suspended may, at any time, make application for a re-inspection for the purpose of reinstatement of the permit. Within 10 days following receipt of a written request, including a statement signed by the applicant that, in his opinion, the conditions causing suspension of the permit have been corrected, the Director of Health shall make a re-inspection. If the applicant is complying with the requirements of this chapter, the permit shall be reinstated.
- (4) Revocation of permits. For serious or repeated violations of any of the requirements of this chapter or for interference with the Director of Health and/or his agent, in the performance of his duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Director of Health. Prior to such action, the Director of Health and/or his agent shall notify the permit holder, in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five days following service of such notice, unless a request for a hearing is filed with the Director of Health, by the permit holder, within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- (5) Hearings. The hearings provided for in this section shall be conducted by the Advisory Board of Health at a time and place designated by the Director of Health. Based upon the record of such hearing, the Board shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing. A

written report of the hearing decision shall be furnished to the permit holder by the Director of Health.

- B. Inspection of food-service establishments. The Director of Health and/or his agent shall inspect each food-service establishment located in the Town of Wallingford or its police jurisdiction and shall make as many additional inspections and re-inspections as are necessary for the enforcement of this chapter.
- (1) Access to establishments. The Director of Health and/or his agents, after proper identification, shall be permitted to enter, at any reasonable time, any food-service establishment within the Town of Wallingford or its police jurisdiction for the purpose of making inspections to determine the compliance with this chapter. He shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used and persons employed.
 - (2) The inspection shall be conducted utilizing the CT Department of Public Health standardized numerical inspection form..
 - (3) Issuance of notices. Whenever the Director of Health and/or his agent makes an inspection of a food-service establishment and discovers that any of the requirements of § 122-2 through 122-7 of this chapter have been violated, he shall notify the permit holder or operator of such violations by means of an inspection report form or other written notice. In such notification, the Director of Health and/or his agent shall:
 - (a) Set forth the specific violations found, together with the demerit score of the establishment.
 - (b) Establish a specific and reasonable period of time for the correction of the violations found.
 - (c) State that failure to comply with any notice issued in accordance with the provisions of this chapter may result in immediate suspension of the permit.
 - (d) State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Director of Health within the period of time established in the notice for corrections.
 - (4) Service of notices. Notices provided for under this section shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge or such notice has been sent by registered or certified mail, return receipt requested,

to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Director of Health.

- C. Examination and condemnation of food. Food may be examined or sampled by the Director of Health and/or his agent as often as may be necessary to determine freedom from adulteration or misbranding. The Director of Health and/or his agent, may, upon written notice to the owner or person in charge, place a hold order on any food which he determines or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the Director of Health and/or his agent, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without permission of the Director of Health, except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided for in Subsection B(3)(d) and on the basis of evidence produced at such hearing or on the basis of evidence produced at such hearing or on the basis of his examination in the event a written request for a hearing is not received within 10 days, the Director of Health may vacate the hold order or may, by written order, direct the owner or person in charge of the food which was placed under the hold order to denature or destroy such food or to bring it into compliance with the provisions of this chapter, provided that such order of the Director of Health to denature or destroy such food or bring it into compliance with the provisions of this chapter shall be stayed if the order is appealed to a court of competent jurisdiction within three days.
- D. Food-service establishments outside jurisdiction of the Director of Health. Food from food-service establishments outside the jurisdiction of the Director of Health of the Town of Wallingford may be sold within the Town of Wallingford if such food-service establishments conform to the provisions of this chapter or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Director of Health may accept reports from responsible authorities in other jurisdictions where such food-service establishments are located.
- E. Procedure when infection is suspected. When the Director of Health has reasonable cause to suspect possibility of disease transmission from any food-service establishment employee, the Director of Health shall secure a morbidity history of the suspected employee or make sure other investigation as may be indicated and take appropriate action. The Director of Health may require any or all of the following measures.
- (1) The immediate exclusion of the employee from all food-service establishments.
 - (2) The immediate closure of the food-service establishment concerned until, in the opinion of the Director of Health, no further danger of disease outbreak exists.

(3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.

(4) Adequate medical and laboratory examinations of the employee, of other employees and of their body discharges.

F. Enforcement interpretation. This chapter shall be enforced by the Director of Health for the Town of Wallingford.

G. Penalties. Any person who violates any provisions of this chapter shall be fined \$100.00 and each day that such violation continues shall constitute a separate and distinct violation.

H. A re-inspection fee of \$15.00 shall be assessed for each re-inspection, except the first, conducted as a result of an unsatisfactory inspection per licensed year.

I. Fees. The fee schedule shall be as follows:

A Food Service license is valid from July 1 through June 30 of the following year. The fee for applications received after March 31 will be one half (1/2) of the license fee listed below.

(1) Food service establishments with 0-15 seats: \$25.00

(2) Food service establishments with more than 15 seats: \$ 50.00

(3) Retail grocery stores and/or sandwich shop: \$ 25.00

(4) Supermarkets (combined grocery, deli, bakery): \$ 50.00

(5) Mobile food service units, each unit: \$ 25.00

(6) Temporary food-service establishments: \$ 5.00 for each day of operation but not to exceed \$25.00 for any one event.

(7) Public governmental agencies and private non-profit, educational or religious organizations must obtain a license, but no fee shall be charged

I HEREBY CERTIFY that this Ordinance was enacted by the Town Council of the Town of Wallingford this _____ day of _____, 2002, 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: _____

RECEIVED FOR RECORD 3-26-02
AT 3 55 M P AND RECORDED BY
Rosemary Rascati TOWN CLERK