

TOWN COUNCIL MEETING

OCTOBER 22, 2002

6:30 P.M.

AGENDA

Blessing – Rev. Sydney Parker (Ret.)

1. Pledge of Allegiance and Roll Call
2. Correspondence
3. Consent Agenda
  - a. Consider and Approve Tax Refunds (#226-301) Totaling \$10,519.17 - Tax Collector
  - b. Approve and Accept the Minutes of the September 24, 2002 Town Council Mtg.
  - c. Consider and Approve a Transfer of Funds in the Amount of \$1,000 from Regular Salaries & Wages Acct. #207-3070-101-1000 to Overtime Acct. #207-3070-101-1400 – Youth & Social Services
  - d. Consider and Approve an Appropriation of Funds in the Amount of \$2,000 to Grant Revenues and Program Expenses in the ACES Sister School Grant Budget of the Board of Education
  - e. Consider and Approve a Budget Amendment in the Amount of \$6,500 Increasing Appropriation from Retained Earnings (Cash) and Increasing Maintenance of Structures & Improvements Acct. #431-8640-651 – Water Division
  - f. Consider and Approve a Budget Amendment in the Amount of \$11, 000 Increasing Power Purchased for Pumping Acct. #431-8620-623 and also by \$79,000 Increasing Miscellaneous Non-Operating Income Acct. #431-8960-421 – Water Division

g. Consider and Approve an Appropriation of Funds in the Amount of \$2,450 to Misc. Revenue Acct. #1075-070-7040; \$2,250 to Purchased Services – Entertainment Acct. #001-4001-901-9017 ; and \$200 to Park Beautification Acct. #001-4001-901-9018 to Receive Combined Donations from Stop & Shop, Northeast Utilities and the CT. Grey Rugby Club – Dept. of Parks & Recreation

4. Items Removed from the Consent Agenda

5. PUBLIC QUESTION AND ANSWER PERIOD

6. CONTINUANCE OF A PUBLIC HEARING on a Proposed Ordinance Entitled, “News Rack Ordinance” – 7:45 P.M.

7. PUBLIC HEARING to Consider and Act Upon an Ordinance Entitled, “An Ordinance Amending an Ordinance Appropriating \$3,770,000 for the Planning, Acquisition and Construction of Town-Wide School System Renovations and Authorizing the Issue of \$3,770,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose – 8:00 P.M.

(The purpose of the amendment is to increase the appropriation and bond authorization therein by \$705,000 from \$3,770,000 to \$4,475,000, and to ratify, confirm and adopt all prior authorizations and ordinances in connection therewith.)

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ADDENDUM TO AGENDA

8. Executive Session pursuant to Section 1-200(6)(B) of the CT. General Statutes Regarding Strategy & Negotiations with Respect to Settlement of a Pending Claim in the Matter of Cianci Construction Company – Town Attorney
9. Consider and Approve Settlement of a Pending Claim in the Matter of Cianci Construction Company as Discussed in Executive Session – Town Attorney

TOWN COUNCIL MEETING

OCTOBER 22, 2002

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, October 22, 2002 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. Parisi at 6:34 P.M. Answering present to the Roll called by Town Clerk Rosemary A. Rascati were Councilors Brodinsky, Doherty, Farrell, Knight, Papale, Parisi, Rys, Toman and Vumbaco. Mayor William W. Dickinson, Jr., arrived at approximately 7:17 P.M., Assistant Town Attorney Gerald E. Farrell, Sr. arrived at 6:37 P.M. and left the meeting at 7:46 P.M. at which time Corporation Counselor Adam Mantzaris arrived. Comptroller Thomas A. Myers was also in attendance.

A blessing was bestowed upon the Council by Rev. Sydney Parker (Retired).

The Pledge of Allegiance was given to the Flag.

ITEM #2 Correspondence

No items of correspondence were presented.

ITEM #3 Consent Agenda

ITEM #3a Consider and Approve Tax Refunds (#226-301) Totaling \$10,519.17 – Tax Collector

ITEM #3b Approve and Accept the Minutes of the September 24, 2002 Town Council Mtg.

ITEM #3c Consider and Approve a Transfer of Funds in the Amount of \$1,000 from Regular Salaries & Wages Acct. #207-3070-101-1000 to Overtime Acct. #207-3070-101-1400 Youth & Social Services

ITEM #3d Consider and Approve an Appropriation of Funds in the Amount of \$2,000 to Grant Revenues and Program Expenses in the ACES Sister School Grant Budget of the Board of Education

ITEM #3e Consider and Approve a Budget Amendment in the Amount of \$6,500 Increasing Appropriation from Retained Earnings (Cash) and Increasing Maintenance of Structures & Improvements Acct. #431-8640-651 – Water Division

ITEM #3f Consider and Approve a Budget Amendment in the Amount of \$11,000 Increasing Power Purchased for Pumping Acct. #431-8620-623 and also by \$79,000 Increasing Miscellaneous Non-Operating Income Acct. #431-8960-421 – Water Division

ITEM #3g Consider and Approve an Appropriation of Funds in the Amount of \$2,450 to Misc. Revenue Acct. #1075-070-7040; \$2,250 to Purchased Services – Entertainment Acct. #001-4001-901-9017 ; and \$200 to Park Beautification Acct. #001-4001-901-9018 to Receive Combined Donations from Stop & Shop, Northeast Utilities and the CT. Grey Rugby Club – Dept. of Parks & Recreation

Motion was made by Mr. Knight to Approve Consent Agenda Items #3a-e & 3g, seconded by Mr. Farrell.

NOTE: All ayes; motion duly carried.

ITEM #4 Items Removed from the Consent Agenda

ITEM #3f Consider and Approve a Budget Amendment in the Amount of \$11,000 Increasing Power Purchased for Pumping Acct. #431-8620-623 and also by \$79,000 Increasing Miscellaneous Non-Operating Income Acct. #431-8960-421 – Water Division

Motion was made by Mr. Knight, seconded by Ms. Doherty.

Mr. Brodinsky stated, when this appeared on the agenda, I did not completely understand it so I thought there may be a possibility that there may be someone else who didn't understand it. I had a conversation with Mr. Dann and he made it clear to me but I thought it would be a good idea to have Mr. Dann make it clear to everybody else and he said he was going to be here anyway on another matter.

Chairman Parisi asked if anyone needed an explanation of the matter.

Mr. Brodinsky asked that Mr. Dann explain it once again.

Roger Dann, General Manager of the Water & Sewer Division explained, in the spring there was some concern about the availability of electric supply to the southwestern portions of the state. It was based upon the ability to transmit power down to that portion of the state. In response to concerns over how that would affect the peak summertime loads, there was an effort by ISO New England to evaluate options for reducing or supplementing load during peak conditions. That led to inquiries to users who fell within certain geographical areas within the state as to their willingness to either generate power or to shed load during high demand conditions. That was brought to the attention of the Electric Division and subsequently the Electric Division met with a number of its largest users, the Water Division included, regarding

the possibility of participating in a special program that would be effective over the summer months this year. The basis for participation was a willingness to shed your load within a short time period; within one-half hour of being notified of the necessity to do so. Users were invited to bid against others out there for the purposes of determining which customers would be able to participate in the program. The Electric Division functioned as an advocate for its customers and the Water Division was able, through their assistance, to enter a bid for load shedding at the McKenzie raw water pump station. As a result of being accepted into the program, we were entitled to certain payments for willingness to be interrupted as well as additional payments which would be applied in the event that our loads were actually interrupted and this would apply to only one facility which was the McKenzie raw water pump station. We were accepted into the program, participated during the summer months and the budget amendment before you this evening, recognizes two facets of our participation; one being the revenues that we will receive as a result of participating and that is estimated at \$79,000 and then secondly, recognizes some additional costs which were incurred as a component of our participating in the program. What you are being asked to do is to recognize both the unanticipated revenue side of this and the unanticipated expense side of it.

Raymond F. Smith, Director of Public Utilities added, in cooperation with CMEEC back in April or May we did present this and discussed this at a couple of PUC meetings and the PUC endorsed it, obviously. One other customer in the system who was able to participate, Ulbrich Steel, chose to participate. We are not affecting their budget and do not need to make any budget adjustments for that. We did have an extraordinary expense that was not planned for at the beginning of the year, \$11,000., but it was more than offset by the revenue we are asking to adjust. We did not know it at the time of the budget development. Next year, it is my opinion that the program will still be in place because nothing has really changed. I am up in the air as to how to anticipate the budget for that, whether to put it in or amend it next year. It is not guaranteed.

VOTE: All ayes; motion duly carried.

#### PUBLIC QUESTION AND ANSWER PERIOD

Edwin J. Curran, 116 Knollwood Drive asked, are the Council meetings the second and fourth Tuesdays of the month? Are the citizens allowed to receive an agenda prior to the meeting?

Chairman Parisi replied, yes, the meetings are the second and fourth Tuesdays of the month and the agendas are on the table the evening of the meeting or you can give your name and address to the Council secretary and an agenda will be mailed to you.

Pasquale Melillo, 15 Haller Place, Yalesville passed an article along to the Council secretary on municipal bonds and asked that copies be made and distributed to all Councilors and the

comptroller. He asked what the status was of the dispute between the Town and its unions over the sale of the Anthem Blue Cross stock?

Attorney Farrell, Sr., replied, there is litigation going on.

Robert Sheehan, 11 Cooper Avenue stated that it is football season. All the work performed at Choate hall to keep the students from crossing the street in the middle of the block in oncoming traffic has proven successful. However, when the play is to kick a field goal point at the north end of the field, they place three students on the bank to catch the ball. The ball is not always caught and sometimes goes into the road, bringing young gentlemen into the road after it without looking. They should put up a net behind the goal post to catch the ball.

Chairman Parisi stated that Mr. Farrell will contact the school and speak with them.

Philip Wright, Sr., 160 Cedar Street stated, election day is fast approaching and I don't know where I am going to vote. When am I going to find out?

Chairman Parisi asked the Town Clerk if she had any idea when the information would be going out.

Town Clerk, Rosemary Rascati replied, I am not sure where it stands; the whole project. I do believe it was supposed to go out last Friday but, evidently it didn't.

Chairman Parisi suggested that Mr. Wright call the Registrars' Office. He stated, I am told by my colleague that the Registrars are not legally obligated to notify everyone where they have to vote, but it is something they try to do.

Mr. Wright asked, isn't the effort supposed to be to get people out to vote?

Chairman Parisi answered, there have been problems in the office and they are a little overloaded right now. There is someone new who has been working in there.

Tony DeBaise, 278 North Main Street stated that he read in a newspaper article recently that there was an agreement between the Board of Education and the Town that gave the teachers an average increase over the next three years of 5.3% per year. Since the federal government came out with a report that the inflation rate for the past year is approximately 1.4%, the Board of Ed has agreed upon a raise which is approximately four times the average inflation rate. It doesn't sound like a whole lot and didn't sound like a whole lot but we have a major problem two or three years down the road. Seniors who do not have pensions at least funded by municipal, state or federal entity, in the third year we are looking at an almost 17% increase over this year's budget. I am wondering if anyone has considered that and the fact that in thirteen years at 5.3%, you are looking at a 100% increase? I don't know of anyone in the senior category

who can afford that unless they get an extra job. With the economy the way it is, there are very few jobs for seniors out there who can work. Seniors are being out-priced from owning property in this town and even renters are being out-priced.

Edwin J. Curran, 116 Knollwood Drive asked, with regards to the appointment of an auditor for the Town, I understand that June 30<sup>th</sup> is the end of the fiscal year. As a taxpayer, am I allowed to know who the members are that comprise the Auditor Search Committee who will make the decision as to who the auditor will be?

Chairman Parisi replied, the Council will make the decision. There is a Council committee who will make a recommendation. Councilor Knight, Brodinsky, Vumbaco, Parisi and Councilor Toman, who is Chairman, comprise the committee.

Mr. Curran asked, when do you think the decision will be forthcoming on the auditor?

Chairman Parisi replied, as a matter of fact, a meeting has been scheduled for the committee so the committee will start its work.

Robert Sheehan, 11 Cooper Avenue asked, with regards to the voter notification letters, did the bids come in? Were they accepted or thrown out?

Chairman Parisi stated, I was told that the bid was thrown out.

Mr. Sheehan asked, why?

Mr. Knight replied, my understand is that not all the participants got the bid specifications the same or there were certain elements of it that the Purchasing Department did not feel were correct. The Purchasing Department scrapped the bid because they didn't like certain elements of it.

Mr. Sheehan asked, I thought one of the Registrars said they could get a letter out for somewhere in the neighborhood of \$.02 a copy or something like that and that included an envelope.

Chairman Parisi stated, it is not our function to oversee that process or function. We are the wrong people to be asking. They are on their own. We really have no legal oversight of that department at all. They work for the State of CT., they do not work for the Town. It is awful hard to understand but it happens to be true. We have no jurisdiction over them. If anyone has a question, they should call the Office of the Registrar of Voters and they have a list and will be able to tell you where to vote. That telephone number is 294-2125.

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



ITEM #8 Motion was made by Mr. Knight to Move Agenda Item #8 Up to the Next Order of Business, seconded by Ms. Doherty.

VOTE: All ayes; motion duly carried.

ITEM #8 Executive Session pursuant to Section 1-200(6)(B) of the CT. General Statutes Regarding Strategy & Negotiations with Respect to Settlement of a Pending Claim in the Matter of Cianci Construction Company – Town Attorney

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

VOTE: All ayes; motion duly carried.

The council entered into executive session at 7:07 P.M.

Present in executive session were all councilors, Mayor Dickinson, Roger Dann, Gen. Mgr., Water & Sewer Divisions; Raymond Smith, Director of Public Utilities and Atty. Farrell, Sr.

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

VOTE: All ayes; motion duly carried.

The Council exited executive session at 7:22 P.M.

ITEMS #9-14 Motion was made by Mr. Knight to Move Agenda Items #9-14 Up to the Next Order of Business, seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

ITEM #9 Consider and Approve Settlement of a Pending Claim in the Matter of Cianci Construction Company as Discussed in Executive Session – Town Attorney

Motion was made by Mr. Knight to Approve Settlement of a Pending Claim in the Matter of Cianci Construction Company as Discussed in Executive Session, seconded by Ms. Papale.

VOTE: All ayes; motion duly carried.

ITEM #10 Consider and Approve One (1) Appointment/Re-Appointment to the Position of Commissioner on the Housing Authority for a Term of Five (5) Years to Expire 10/31/2007

Motion was made by Mr. Knight to Appoint Robert Prentice, seconded by Mr. Rys.

VOTE: All ayes; motion duly carried.

ITEM #11 Consider and Approve One (1) Appointment/Re-Appointment to the Position of Commissioner on the Planning & Zoning Commission to Fill a Vacancy in a Term Which Expires 1/8/2007

Motion was made by Mr. Knight to Appoint Patrick Birney, seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

ITEM #12 Consider and Approve One (1) Appointment/Re-Appointment to the Position of Alternate on the Planning & Zoning Commission to Fill a Vacancy in a Term Which Expires 1/8/2003

Motion was made by Mr. Knight to Appoint Armend Menard, seconded by Mr. Rys.

VOTE: All ayes; motion duly carried.

ITEM #13 Consider and Approve One (1) Appointment/Re-Appointment to the Position of Commissioner on the Zoning Board of Appeals to Fill a Vacancy in a Term Which Expires 1/8/2005

Motion was made by Mr. Knight to Appoint Wm. Birney, Jr., seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

ITEM #14 Consider and Approve One (1) Appointment/Re-Appointment to the Position of Alternate on the Zoning Board of Appeals to Fill a Vacancy in a Term Which Expires 1/8/2003

Motion was made by Mr. Knight to Appoint David Parent, seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

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

(applause)

WAIVER OF RULE V Motion was made by Mr. Knight to Waive Rule V of the Town Council Meeting Procedures for the Purpose of Going Into Executive Session, seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Enter Into Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes with Respect to the Purchase, Sale and/or Leasing of Property, seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

The Council entered executive session at 7:30 P.M.

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

VOTE: All ayes; motion duly carried.

Present in executive session were all Councilors, Mayor Dickinson and Atty. Mantzaris.

The Council exited executive session at 7:47 P.M.

ITEM #6 CONTINUANCE OF A PUBLIC HEARING on a Proposed Ordinance Entitled, "News Rack Ordinance" – 7:45 P.M. (Appendix I)

Caryl Ryan, 200 Cheshire Road stated that she still supports the ordinance and still sees the plastic racks, not for the newspapers but for the free advertising booklets that are around town chained to posts. The self-policing that is supposed to be going on is not going on at all. She stated that she did read the editorial in the Record Journal and feels that some of the pressure that is being brought to bear is because the free booklets are being published by the same companies that publish the newspapers and they are a source of revenue. That may be why they are reluctant to give up this extra source of revenue. I don't think that anyone has any argument about the newspapers, it is just the clutter on the sidewalks. It is not just in front of the post office but all the way down Center Street and at other intersections, of the plastic news racks that contain the booklets. She urged the Council to clean up the clutter.

Mark Agosta, 505 Church Street, Yalesville stated that he took a ride around town and noted, in page 3, Section 6A of the proposed ordinance it reads, "boxes cannot extend more than 5 feet." It means that no more than 2 boxes can be placed together, that's it. Is that what was intended?

Atty. Mantzaris answered, along the curb. Against a wall, the five feet does not apply. Along a curb it does apply.

Mr. Agosta stated, in going by the post office I noticed there are four mailboxes on the curb and it is right up against the bus stop. We are talking about safety.

Chairman Parisi stated, that is federal, we have no jurisdiction. The bus stop is closed on three sides. No one is going to roam around the mail boxes. You have made your comment.

Mr. Agosta continued, on Page 3 with regards to Insurance; the proposed ordinance calls for the same amount of insurance whether a company has one box or fifty boxes located in town.

Mr. Knight replied, there will be a motion made later to adjust those amounts.

Mr. Agosta next referred to Page 4, Section E which reads, "No more than 6 news racks shall be located on any public right of way within a space of 200 feet in any direction within the same block, provided, however, that no more than 12 news racks shall be allowed on any one block." He asked, does Henry McCully have that much time that he will be able to go around checking out how many news racks will be located in and around the town?

Chairman Parisi replied, he is going to make time.

Mr. Agosta next referred to page 7, Section 9.B, which states that residents within 200 feet of a news rack can appeal. He asked, under what standards? What gives the residents the right to say they don't want the news rack within 200 feet of their house?

Atty. Mantzaris answered, the appeal will be that the news rack was placed in violation of some regulation in the ordinance. If it was placed properly, a person can appeal but I don't think it would be sustained. I can't think of any other reason. They just can't say that they don't like it there. It would have to be for a reason that is in the ordinance.

Mr. Agosta next referred to Page 8, Section 11, Abandonment. He asked, how is Public Works going to handle abandonment of the boxes? Are we going to have someone out there checking to see if they are abandoned? Is he going to go looking at them? Is this going to waste the department's help and time? I don't think that is going to help at all. Who is going to know if it has been abandoned for thirty days? Are we going to have someone out there all the time walking the street?

Atty. Mantzaris answered, if someone from the Department of Public Works happens to notice one empty and makes a note of it, otherwise, you are right, it won't get picked up unless someone pays attention. I don't think anyone will be walking around but they will begin paying attention to this when it goes into effect which will be thirty days after inactive and then sixty days from existing to come into compliance. We will have about three months before anything will happen but I think they will start paying attention.

Mr. Agosta next referred to language at the top of Page 7, which reads in part, "...presents a clear and present danger of imminent personal injury or property damage to users of the public

rights of way." He stated that, in driving around, he noticed a mailbox inches away from a fire hydrant.

Chairman Parisi stated, that is the jurisdiction of the federal government and we cannot control them. They do pretty much as they please. They pay no taxes and when they wanted to put up the post office building out on Research Parkway, they put it up. We could not stop them, there is nothing we could do. Congresswoman DeLauro might help you out with that one.

Mr. Agosta asked, are we going to allow these people to put them on both sides of our park benches downtown? If you take them away from the post offices, they are going to try and find other places to put them. Are we going to allow that on both sides of the park benches?

Chairman Parisi answered, we can always amend the ordinance, too.

Mr. Agosta stated, at North Main and Christian Streets, the news rack boxes are all scattered around there. That is 200 feet away from Moses Y. Beach School. They should be eliminated completely from that corner. We should not have them there because they are so close to the school.

Tim Ryan, Senior Vice President of the Record Journal stated, it was insinuated by Caryl Ryan (no relation) that some of the free publications that are being distributed may be owned by the Record Journal. That is not the case; the Record Journal does not own any of them. The Record Journal's intention was and still is to assist the Town in drafting an ordinance that is simple and easy to carry out. I was somewhat offended by the insinuation that there was some sort of a hidden agenda; there is none.

Chairman Parisi replied, don't be offended because sometimes people are given misinformation. I think we were offended by the editorial, too, but we just live with some things, that's all.

Robert Sheehan, 11 Cooper Avenue asked, do the boxes just appear out of anywhere or do you have to have a permit to put the box out?

Chairman Parisi replied, you don't have to have a permit now, but you will have to have one.

Mr. Sheehan asked, who will control the permit?

Mr. Knight answered, the Dept. of Public Works.

Mr. Sheehan asked, what will the fee be?

Mr. Knight answered, \$12 per news rack for a three year permit.

Frank Wasilewski, 57 N. Orchard Street asked, is it Town or Federal property that the boxes are located on in front of the post office? When the handicap ramp was built in Simpson Court, they could do that because they considered that their property. They did not have to get a permit to do that. They did that because that was considered their property and I brought that up before the Council when it was happening. This could be federal property and we have nothing to say about it.

Atty. Mantzaris stated, if it is public property, this ordinance will control it. If a private property owner wants to offer something, that is something this ordinance would not control. The sidewalk in front of the post office is probably the Town's right of way no matter who owns it. We have a right to control what goes on.

r. Agosta stated, he read an ad in the newspaper where the post office is looking for someone to shovel their sidewalk. If that was our property, we would have to clean it, wouldn't we?

Chairman Parisi replied, no, because all of the houses in Wallingford have to shovel their sidewalks even though we own them, technically. We let them use them but we are responsible for the maintenance.

Mr. Wasilewski asked, how many feet from the curb in does the Town own?

Mayor Dickinson answered, it varies depending on location in town. There is no one dimension for any one road in Town. I am 99.9% sure.

Mr. Wasilewski stated, if you measure the handicap ramp in Simpson Court, you will find that they are 8 inches or so on Town property.

Chairman Parisi stated, I think that was measured and they are in compliance. I think that when that came before the Council, when that was done a while ago, there was a major discussion on the property lines and I thought that was approved.

Mayor Dickinson stated, my recollection was that the Town engineer indicated that it was on private property. You can make other arguments about it being dedicated to public use, but the dimension of the private property, when the owners brought the property, included that area. There is no one dimension for roads in town. New subdivisions are often 50' but older roads are usually a much smaller dimension. So you can't even go by what is paved. The paved portion of a road doesn't necessarily describe what the right of way is. You have to look at deeds and other indicators as to what is the width of the public right of way.

Mr. Wasilewski stated, I just want to make sure it is done right so we won't have a problem if years from now if someone trips over it and says it's the Town's fault. The coffee shop came

before the Council to ask for permission to put the tables out there which they didn't have to do because they could have put them right where they put them. They were within their rights to put them there without asking your permission.

Mr. Agosta asked the Mayor, if the Council approves the ordinance, are you going to sign it?

Mayor Dickinson replied, I believe so. The Town Attorney tells me that all the amendments are incorporated into it. My belief is that I will probably sign it.

Mr. Agosta asked, are you convinced that this is not a violation of First Amendment rights?

Mayor Dickinson replied, I don't believe so, no.

The public hearing portion of the meeting was closed at this time.

Motion was made by Mr. Knight to Amend Section 3C to include the language, "permit fee required for each location", seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Amend Section 3D to include language which reads, "Such permits shall be valid for three (3) years...", seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Amend Section 4B to include language which reads, "Minimum coverage of such policy shall be \$1,000,000 aggregate for personal injury claims and for property damage claims and \$500,000 per each occurrence", seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Amend Section 6A to include language which reads, "...unless expressly permitted by the Director of Public Works" at the end of the last sentence, seconded by Ms. Papale.

VOTE: Farrell, no; all others, aye; motion duly carried.

Motion was made by Mr. Knight to Amend Section 6C to eliminate the language, "and motorized sidewalk cleaning equipment", seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Amend Section 6D to Delete Items #5, 6, 7, 8, 9, 10 & 12, seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Amend Section 6D, #13 to read, "within 200 feet of the instructional building of any public or private school...", seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Amend Section 6E to read, "within a space of 250 feet...", seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Knight to Amend Section 7A to read, "no news rack shall exceed 4 feet, 2 inches in height, 2 feet, 2 inches in width, and 2 feet, 2 inches in thickness." Seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Farrell to Adopt the Ordinance as Amended, seconded by Mr. Toman.

Ms. Doherty asked what the reasoning was behind restricting the placement of a news rack within 5 feet of any marked crosswalk but within 15 feet of the curb return of any unmarked crosswalk?

Atty. Mantzaris explained, an unmarked crosswalk I would take to mean a place where people commonly cross a road, mostly at corners which aren't all marked at town. That would be an unmarked crosswalk and you would have to stay further away from that than a marked crosswalk. They are corners that don't have the white lines going across the road as many do in the downtown area. The reason for that would be a safety factor. If it is a crosswalk that is marked, cars approaching it should be more cautious and at least they will see something. There is a law, as a matter of fact, that if people are in a crosswalk, the cars have to stop and give people a right of way. In an unmarked, if there is no stop sign, they can keep right on going. I imagine, having a box or a couple of boxes on a corner in an area, especially if there is a small child, might prove to be a safety issue. That is how I figure there is a difference between marked and unmarked, unmarked being a longer distance.

Ms. Doherty stated, there is going to be more traffic with a marked crosswalk.



Atty. Mantzaris replied, there is the regulation for marked crosswalks for motor vehicles that they are to slow down as they approach and even to stop if there is a pedestrian anywhere in the crosswalk. That would be my rationale for the five foot distance which is a copy of similar ordinances in West Hartford and New Britain.

Ms. Doherty stated, I would think it would be just the opposite; you would have fifteen feet on a marked crosswalk because of visibility but maybe I am not clearly understanding this.

Mr. Knight stated, I cannot resist making one small comment in reference to the editorial in the Record Journal on Monday. It referred, in large measure, to a meeting held by the Ordinance Committee last Wednesday. I want the public to know what the process was and what they were referring to. We spent approximately 90 minutes reviewing this ordinance that we are just about to vote on. At least one hour of that time was spent reviewing the work that Tim Ryan from the Record Journal put into suggestions concerning alterations his company felt would be a good idea to make this a more useful ordinance. I do believe we took every one of these suggestions very seriously; that they were considered very carefully and the fact that we chose not to adopt most of the suggestions was taken that we didn't listen to what the Record Journal said could be farther from the truth. We spent 90 minutes listening to everything; reviewing and we had a very open discussion about every line of that ordinance and every line that was suggested by the Record Journal. The fact is we chose not to adopt much of the verbiage that was suggested nor did we delete much of the verbiage as was suggested by the Record Journal. I would also like to add that many of the changes that were adopted tonight I believe were suggested by Tim Ryan and the fact that we continued this ordinance tonight from the previous meeting from over a month ago is also an indication of the seriousness with which we took the Record Journal's concerns. I just wanted to reply to that editorial in public as I am very proud of the Ordinance Committee and the work that we have done and I think this is an example of the give and take that we hope has produced a workable ordinance that isn't an undue hardship on any of the parties involved.

Atty. Mantzaris added, of the amendments that were agreed to tonight, the 1-3 years for permitting; the allowing of chaining by permission; eliminating motorized cleaning equipment; elimination of 6D, 5, 6, 7, 8, 9, 10 & 12; 250 feet; adding 2 inches; all of those amendments were the result of meeting with Mr. Ryan, the Mayor and myself. They were all good suggestions and you can see that we adopted almost all of them.

VOTE: All ayes; motion duly carried.

**ITEM #7 PUBLIC HEARING** to Consider and Act Upon an Ordinance Entitled, "An Ordinance Amending an Ordinance Appropriating \$3,770,000 for the Planning, Acquisition and Construction of Town-Wide School System Renovations and Authorizing the Issue of \$3,770,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose - 8:00 P.M.

(The purpose of the amendment is to increase the appropriation and bond authorization therein by \$705,000 from \$3,770,000 to \$4,475,000, and to ratify, confirm and adopt all prior authorizations and ordinances in connection therewith.)

Motion was made by Mr. Farrell to Read the Title and Section 1 of the Ordinance In Their Entirety and to Dispense with the Reading of the Remainder of the Ordinance, Incorporating Its Full Text Into the Minutes of the Meeting, seconded by Mr. Toman.

VOTE: All ayes; motion duly carried.

AN ORDINANCE AMENDING AN ORDINANCE APPROPRIATING \$3,770,000 FOR THE PLANNING, ACQUISITION AND CONSTRUCTION OF TOWN-WIDE SCHOOL SYSTEM RENOVATIONS AND AUTHORIZING THE ISSUE OF \$3,770,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE

An ordinance entitled "An Ordinance Appropriating \$3,770,000 For The Planning, Acquisition and Construction Of Town-Wide School System Renovations And Authorizing The Issue Of \$3,770,000 Bonds Of The Town To Meet Said Appropriation And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose" adopted by the Town Council on December 14, 1999 and as amended at Town Council meetings held August 21, 2001, January 8, 2002 and June 11, 2002, which ordinance is hereby ratified, confirmed and adopted, is amended to increase the appropriation and bond authorization therein by \$705,000, from \$3,770,000 to \$4,475,000, as follows:

Section 1. The title of the ordinance is amended to read as follows:

"AN ORDINANCE APPROPRIATING \$4,475,000 FOR THE PLANNING, ACQUISITION AND CONSTRUCTION OF TOWN-WIDE SCHOOL SYSTEM RENOVATIONS AND AUTHORIZING THE ISSUE OF \$4,475,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE"

Section 2. The first sentence of Section 1 of the Ordinance is amended by substituting the amount of \$4,475,000 for \$3,770,000, thereby making the first sentence of Section 1 read as follows:

Section 1. The sum of \$4,475,000 is appropriated for the planning, acquisition and construction of Town-Wide school system renovations, including facility additions, expansions and space reallocations, approximately in accordance with the project summary approved by the Board of Education at a special meeting held May 24, 1999, to various school buildings including Lyman Hall and Sheehan High Schools, DAG Hammarskjold and Moran Middle Schools, Moses Y. Beach, Cook Hill, Highland, Parker Farms, Pond Hill, Rock Hill and Stevens Elementary Schools, and for appurtenances, furniture, equipment, and design, engineering, and other consultant services or so much thereof as may be accomplished within such appropriation, including administrative, advertising, printing, legal and financing costs related thereto, said appropriation to be inclusive of any and all State and Federal grants-in-aid.

Section 3. The first sentence of Section 2 of the Ordinance is amended by substituting the amount of \$4,475,000 for \$3,770,000, thereby making the first sentence of Section 2 read as follows:

"To meet said appropriation \$4,475,000 bonds of the Town or so much thereof as shall be necessary for such purpose, shall be issued, maturing not later than the twentieth year after their date."

Motion was made by Mr. Knight to Adopt the Ordinance, seconded by Mr. Farrell.

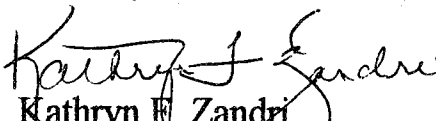
VOTE: All ayes; motion duly carried.

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

VOTE: All ayes; motion duly carried.

There being no further business the meeting adjourned at 8:35 P.M.

Meeting recorded and transcribed by:

  
Kathryn E. Zandri  
Town Council Secretary

Approved by:

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

12-10-02  
Date

Rosemary A. Rascati  
Rosemary A. Rascati, Town Clerk

12-10-02  
Date

RECEIVED FOR RECORD 11-21-02  
AT 4:53 P M AND RECORDED BY  
Rosemary A. Rascati TOWN CLERK

## **NEWS RACKS ORDINANCE**

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

### **SECTION 1. POLICY DECLARATION**

The Town Council finds that the uncontrolled placement and maintenance of news racks in public rights of way presents an inconvenience and/or danger to persons using such rights of way; that garish, brightly colored or otherwise unsightly news racks located within public rights of way constitute distractions to the driving public; that news racks are constantly exposed to the elements, are subject to intensive use and vandalism and to protect against such must be designed and constructed of durable materials; and that the use of public rights of way has been historically associated with the sale and distribution of newspapers. The Town Council further finds that in order to accommodate the governmental and distribution interests it is necessary to implement a program to regulate the installation, operation and maintenance of news racks located in public rights of way in the Town of Wallingford.

### **SECTION 2. DEFINITIONS**

- A. "BLOCK" means one side of a street between two consecutive intersecting streets.
- B. "DIRECTOR OF PUBLIC WORKS" means the head of the Wallingford Department of Public Works or his duly designated representative.
- C. "DISTRIBUTOR" means any person responsible for the installation, operation or maintenance of a news rack in a public right-of-way.
- D. "HEARING OFFICER" means the person appointed by the Mayor to hear appeals under this ordinance.
- E. "NEWS RACK" means any self-service or coin-operated box, container, storage unit or other dispenser installed, operated, or maintained for the display and distribution or sale of newspapers, periodicals or other printed matter.
- F. "PERSON" means an individual person, firm, corporation or other entity.
- G. "PUBLIC RIGHT OF WAY" means any area owned and/or maintained by the Town of Wallingford or any other governmental entity, open for use of the public for vehicular or pedestrian travel, including but not limited to roadways, sidewalks, streets, alleys and public grounds.

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H. "ROADWAY" means that portion of any street improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

I. "SIDEWALK" means any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians, excluding parkways.

J. "STREET" means the entire area encompassed by a roadway and a sidewalk.

K. "TOWN" means Town of Wallingford.

**SECTION 3. PERMIT REQUIRED; APPLICATION; PERMIT FEE; DURATION**

A. It shall be unlawful for any person, firm or corporation to erect, place, maintain or operate on any public right of way, in the Town of Wallingford any news rack without first having obtained a permit from the Director of Public Works.

B. Application for such permit shall be made, in writing, to the Director of Public Works, upon such form as shall be provided to the applicant, and shall contain the name and business address of the applicant, a telephone number or numbers at which the applicant may be reached during normal business hours, and the proposed location of said news rack and shall be signed by the applicant.

C. A permit fee of \$12.00 shall be required for each location. Permits shall be issued or denied within 72 hours, excluding Saturdays, Sundays and legal holidays, after the application has been filed.

D. Such permits shall be valid for three (3) years and shall be renewable pursuant to the procedure for original applications and upon payment of the permit fee. A permit issued pursuant to this section shall expire automatically in the event that the insurance coverage required pursuant to Section 4 lapses.

**SECTION 4. HOLD HARMLESS; INSURANCE**

A. Every applicant for a permit to place a news rack on a public right of way in the Town shall file a written statement with the Director of Public Works in a form satisfactory to the Law Department, whereby such owner agrees to indemnify and hold harmless the Town, its officers, and employees from any loss, liability or damage, including expenses and costs, for bodily injury, and for property damage sustained by any person as a result of the installation, use and/or maintenance of any such news rack.

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B. Every owner of a news rack who places or maintains a news rack on a public right of way shall provide the Town with a certificate of liability insurance coverage issued by an insurance company licensed to do business in the State of Connecticut insuring the applicant and the Town of Wallingford, with the Town named as an additional insured, against all claims for damages for bodily injury and for property damage which could arise in connection with the installation, operation or maintenance of a news rack in the Town. The certificate of insurance shall state that the coverage afforded thereunder shall be primary coverage for any claims within its scope. Minimum coverage of such policy shall be \$1,000,000.00 aggregate for personal injury claims and for property damage claims and \$500,000.00 per each occurrence. The policy, by its terms, shall not be cancelable prior to the expiration date of the permit without 30 days written notice to the Town.

**SECTION 5. NEWS RACK IDENTIFICATION REQUIRED.**

Every person who places or maintains a news rack on a public right of way within the Town shall have his permit number, name, address and telephone number affixed to the news rack in a place where such information may be easily seen.

**SECTION 6. LOCATION, PLACEMENT OF AND NUMBER OF NEWS RACKS**

Any news rack which rests or projects, in whole or in part, upon or over any public right of way shall be located or installed in accordance with the following:

A. No news rack shall be chained, bolted, or otherwise attached to any pole or fixture located in the public right of way, except to other news racks, without the express permission of the Director of Public Works.

B. News racks may be placed next to each other, provided that no group of news racks shall extend for a distance of more than 5 feet along a curb.

C. No news rack shall be located so as to unreasonably interfere with or impede the flow of pedestrian or vehicular traffic, including motorized or manual wheelchairs.

D. No news rack shall be placed, installed, used or maintained:

1. Within 5 feet of any marked crosswalk;
2. Within 15 feet of the curb return of any unmarked crosswalk;
3. Within 5 feet of any fire hydrant, fire call box, police call box or other emergency facility;
4. Within 5 feet of any driveway;

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5. Within any single-family residential zone except on a street designated as a Thoroughfare, Feeder, Industrial or Collector Street in the Town's Zoning Regulations;
6. Within 200 feet of any part of a public or private school building devoted to instruction.

E. No more than 6 news racks shall be located on any public right of way within a space of 250 feet in any direction within the same block, provided, however, that no more than 12 news racks shall be allowed on any one block. In determining which news racks shall be permitted to be located or to remain if already in place, the Director of Public Works shall be guided solely by the following criteria:

1. First priority shall be publications which are published five or more days per week;
2. Second priority shall be publications published two to four days per week;
3. Third priority shall be publications published one day per week.
4. Fourth priority shall be publications published intermittently or less frequently than once per week.

#### **SECTION 7. STANDARDS FOR MAINTENANCE AND INSTALLATION**

Any news rack which rests or projects, in whole or in part, upon or over any public right of way shall comply with the following standards:

A. No news rack shall exceed 4 feet, 2 inches in height, 2 feet, 2 inches in width, and 2 feet, 2 inches in thickness.

B. The lettering of the name of the publication being displayed therein in accord with the following standards:

1. On the front of the news rack, the lettering size shall not exceed 1¾ inches in height; and
2. On the sides and back of the news rack, the lettering size shall not exceed 5½ inches in height for the first letter and shall not exceed 3½ inches in height for the remaining letters in the name of the publication.

C. No news rack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the newspaper or news periodical sold therein.



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D. Each news rack shall be made of metal and shall be painted in a color scheme consisting of a dark background with white lettering or a white background with black or red lettering. Shades of red, except for lettering on a white background, yellow, orange, or green, similar to those used in traffic control signs or devices, shall not be used on any news rack.

E. Each news rack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event the person is unable to receive the paid-for publication. The coin-return mechanism shall be maintained in good working order. This subsection shall not apply to news racks for publications offered free of charge.

F. Each news rack shall be so weighed and balanced as to prevent it from being tipped by the opening of its door, or by the impact of snow cast by a passing snowplow.

G. Each news rack shall be maintained in a neat and clean condition and in good repair at all times.

H. No news rack shall contain or utilize any electrically powered illumination or sound.

**SECTION 8. VIOLATIONS AND PENALTIES; WARNING NOTICE**

A. The Director of Public Works, upon a determination that a news rack has been installed, used or maintained in violation of the provisions of this ordinance, shall issue a notice of violation to the distributor of the offending news rack. Such notice shall be mailed by certified mail, return receipt requested, or by service of the notice by a proper officer. The notice shall:

1. Specify the offending condition;
2. Suggest actions necessary to correct the condition;
3. Inform the distributor that the condition must be corrected within 15 days of the date of the notice and if the condition is not corrected within the time limited, the news rack will be removed and stored for 30 days at the Public Works Department, 29 Town Farm Road, Wallingford, Connecticut, after which time it will be deemed abandoned.
4. Inform the distributor that he may appeal the notice of violation to a hearing officer by delivering or mailing a letter to said officer at Room 308, Town Hall, 45 South Main Street, Wallingford, CT 06492 within 10 days of the notice of violation.

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B. Failure to correct the offending condition within 15 days after the mailing date of the order or to appeal the order within 10 days after its receipt shall result in the offending news rack being summarily removed and stored for 30 days after which, unless retrieved from storage by the distributor, shall be deemed abandoned and disposed of accordingly.

C. If the offending news rack is not properly identified as to owner under provisions of Section 5 hereof, it shall be removed forthwith and stored and disposed of as provided herein.

D. An impound fee of \$50.00, shall be charged to the distributor for each news rack summarily removed. An additional fee of \$25.00 shall be charged to a distributor for each news rack inspected after correction of any offending condition or inspected after being reinstalled after removal.

E. Nothing contained in this ordinance shall be interpreted to limit or impair the exercise by the Town of its police powers to remove any news rack which presents a clear and present danger of imminent personal injury or property damage to users of the public rights of way.

**SECTION 9. APPEAL; HEARING PROCEDURE; CITATION; HEARING OFFICER**

A. Any person cited for a violation of this ordinance may appeal the citation within 10 days of the date of the citation by delivering or mailing a letter to the Citation Hearing Officer at Room 308, Town Hall, 45 South Main Street, Wallingford, CT 06492.

1. The Mayor shall appoint a Citation Hearing Officer, other than an employee of the Police Department or an employee of the Public Works Department.
2. The hearing procedure shall be as set forth in §7-152c of the General Statutes except as modified herein.
3. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing.
4. The Hearing Officer shall render his decision at the conclusion of the hearing or after he inspects the location of the complaint about the news rack.
5. The decision of the Hearing Officer may be appealed to the Superior Court for the Judicial District of New Haven at Meriden, within 30 days of the decision of the Hearing Officer.

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B. Any resident of the Town whose property is within 200 feet of the location of a news rack may appeal the decision of the Director of Public Works to grant a permit for a news rack at such location within 10 days after the placement of the news rack.

**SECTION 10. EXISTING NEWS RACKS**

This ordinance shall apply to existing news racks within the Town except that the distributors shall have 60 days within which to comply with its provisions or such additional time as may be allowed in the discretion of the Director of Public Works.

**SECTION 11. ABANDONMENT**

In the event that a news rack remains empty for a period of 30 continuous days, it shall be deemed abandoned, and may be treated in the manner as provided in Section 12 for news racks in violation of the provisions of this ordinance.

**SECTION 12. ENFORCEMENT**

This ordinance shall be enforced by the Director of Public Works or his designee and by the Police Department, separately or jointly.

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: \_\_\_\_\_