

TOWN OF WALLINGFORD

TOWN COUNCIL MEETING

March 11, 2008

6:30 P.M.

MINUTES

The following is a record of the minutes from the Wallingford Town Council meeting held on Tuesday, March 11, 2008 at 6:30 P.M. in the Robert Earley Auditorium of the Wallingford Town Hall. Responding present to the Roll Call given by Town Clerk Barbara Kapi were Councilors Vincenzo DiNatale, Gerald E. Farrell, Jr., John LeTourneau, Bob Parisi, Rosemary Rascati, Mike Spiteri, Vincent Testa and Chairman Mike Brodinsky. Mayor William W. Dickinson and Comptroller Jim Bowes were also in attendance..

1. The Chairman opened the meeting with the Pledge of Allegiance and the Roll Call.
2. Report Out by Mr. Warren Howe and Representatives of CRRA concerning negotiations with respect to the Wallingford Trash facility. Mr. Tom Kirk, President of CRRA, introduced Peter Egan, Jim Bolduc, Jeff Duvall, Virginia Raymond, Paul Nonnenmacher, and Peter Eagan.
3. Mr. Kirk reviewed the history of the CRRA and its mission. It has responsibility for trash disposal and recycling throughout the state. After the Enron incident, there were legislative changes; a new board and CRRA was a different organization.

Mr. Kirk gave a brief history of the Wallingford facility. In the 1980's, CRRA was commissioned to investigate a project because the Wallingford & Meriden landfills were nearing capacity. A trash burning plant was eventually commissioned which produced steam to generate power. The power was sold directly to the "grid" at a very profitable rate. The plant has been successful. It is a mass burn facility in that it burns everything without sorting. Its design was for a useful life of 40 years. The trash plant needs about 160,00 tons of trash per year. The success of the facility is due to the economics of the power contract. It gets .24 cents per KWh, which is about 3 times the market rate. It's very lucrative. The plant is efficiently run and is sound environmentally.

CRRA has an appointed board of directors comprised of city officials, finance directors, mayors, and first selectman. It has a policy board. In the future, it anticipates some changes.

With respect to the Wallingford negotiations, for the purposes of this discussion, there are 3 parties involved: The (5) towns; CRA; and Covanta (operator). CRRA is the "bridge"

between the towns and Covanta. CRRA has an agreement with Covanta to operate the facility. CRRA has an agreement with the towns to provide a place for trash services. The contract with Covanta will end in 2010. The lucrative energy purchase contract will end a little sooner.

Then, the price of electricity the plant will receive will go down to the market rate for electricity: about 7 cents from 24 cents. That will change because of the expiring contract with CL & P

The market forces for trash disposal have changed. Costs are now higher, and may go still higher. The market price includes the cost to load trucks and ship trash to land fills whether across the street or state, because of high cost of fuel. Tipping fees for disposal are near the mid \$70 per ton. Towns have to decide in a year what to do.

Public ownership (CRRA) is the best option, but it has risks. CRRA has, in the existing contract, the exclusive option to purchase the plant at market value, based upon appraisals. This gives the public the right to purchase the plant and operate it as a public facility. Another option is for Covanta to buy and operate the plant. If CRRA doesn't opt to buy the facility, Covanta could buy it for \$1.00. Or, the plant could shut down in 2010. This is not a likely an option.

The next step is for CRRA to notify Covanta if CRRA wants to purchase the plant. This must be done on or before Dec. 31, 2008.

The United States Supreme Court issues an opinion, The Carbone Decision, which is relevant. It deals with something called flow control. Under that decision, municipalities have the power to direct where their trash may be taken as long as it is to a publicly owned trash plant, such as another CRRA facility. Therefore, the five towns could require their trash to go to a destination other than to the Wallingford facility and Covanta may not survive under that arrangement. But, that plan may not be economical to the towns, either.

The revenue to Wallingford, as the host town, will decrease substantially. If CRRA bought the plant, the PILOT would be based on the purchase price and it might drop to approximately several hundred thousand dollars or less. If Covanta bought the plant, the result would be about the same. The current PILOT has been made possible by the very generous electric contract we have. The payment to Wallingford this year will be about \$1.375 million dollars.

M. Brodinsky asked Mr. Kirk to review the questions in the letter he sent.

There are three bills in the Legislature. One deals with recycling. The others major bills deal with the regulation of solid waste. They could impact Wallingford. One bill would have the DPUC set rates based upon cost to operate plus a profit. Because Wallingford has the highest cost of service, tipping fees may not change much initially because of the bill, if passed. Rates would be determined by either the DEP or DUPC, depending upon

the bill. CRRA is not taking a position on the bills because that might cause problems in the Bridgeport negotiations. The small facility in Wallingford has costs of service very close to where market cost is right now. The bill does not impose utility control on all projects. If bill were to pass, Wallingford might want to operate the plant as a municipally-owned or CRRA-owned facility, and enjoy the cost base pricing without a 10% or 12% markup that goes to shareholders.

Mr. Brodinsky asked if anyone is lobbying in favor of this legislation. M. Kirk said that. There is very active lobbying by city and towns primarily in Bridgeport area. Their project does not have the option to buy the Bridgeport trash plant.

Could Covanta go it alone? Mr. Kirk thought that would not be economically viable.

Contract has provisions for establishing a fair market value and an arbitration clause.

If the facility did not operating as a trash to energy plant it could be turned into transfer station. At that point, it would be loaded into trailers and hauled out by truck or rail to an out of state landfill.

The property tax impact: If CRRA could not reach an agreement extending the contract or if it elected not to purchase the facility, then Covanta would own it. It would be operated at a market facility and is available for taxing. If CRRA bought it, than it is exempt from tax. They would pay the PILOT. That could mean about \$200,000 in taxes instead of \$1.375 million.

Does Covanta need to be upgraded? Mr. Kirk didn't think expansion would be feasible for Covanta. If it tried to expand, it would need local approvals from P & Z.

Mr. Testa asked about the difference between renewing the contract and current ownership?

Mr. Kirk said that public ownership might not include Covanta. With public ownership, CRRA would bundle up our end-of-year cost and divide by the tons of trash processed. We would then establish a tip fee. We would also negotiate with Covanta. They could give us a formula for a tip fee for a 5 or a 10-year period. They would operate the plant and be allowed their own customers. However, cities and towns and private haulers could negotiate with Covanta for a price. CRRA is in the driver's seat to negotiate, by insisting on a 5 or 10-year formula for a price for use by the towns. The cheapest way to get disposal is public ownership because no shareholders have to be paid.

Mr. Kirk said that if Covanta's assumed ownership of the facility for \$1.00, would they commit to some pricing formula that is favorable for us.

Mr. Kirk repeated the options: 1). Renewal with Covanta under a new tipping fee agreement 2). Public Ownership. The goal is to never have to pay more than market rate.

Mr. Parisi asked about the Barbarino project. Was that a potential transfer site that could handle the waste for the 5 towns. Mr. Kirk said not at this time. The plant is likely to continue to operate.

Mr. LeTourneau asked about the maximum capacity of the plant . Could it be expanded? Could a power plant or different facility be built across the street?

Mr. Kirk said the plant is operating at maximum capacity. It could not expand on existing technology and the existing footprint, in his opinion. However, we could probably reconstruct, but that may not be profitable. We could possibly get a customer for excess steam but they are hard to find.

Public Comment:

Mr. Zandri: He is in favor of public ownership of the plant so that the town would have control over the trash flow.

Mr. Gross asked: Why wouldn't the town benefit if CRRA bought it? Mr. Kirk said that this is a high net cost facility. Net cost could exceed the market. We could be buying a plant that would cost us more than, say, shipping the trash out.

Mr. Gross asked, if Covanta went bankrupt, who would be responsible? Mr. Kirk said Covanta would be responsible. One solution would be for the DEP to establish an owner closure cost estimate, and reserve it in a fund, in the event that happens. Then there would be money close the facility.

Mr. Gross directed question to Mayor Dickinson. Is the Policy Board interested? Is anyone negotiating alone with Policy Board or CRRA? The Mayor responded that CRA continues to negotiate. The Policy Board may enter into negotiations and contact with Covanta, but he can't say more than that at this point.

The Mayor said that CRRA continues to gather information so we can't form an opinion yet. Money is held for the project .

Mr. Lube, Montowese Trail, asked whether Covanta would try to recover its equity position? Yes, it had about \$9.1 million invested in the facility.

3. The following comments were made by Chairman Mike Brodinsky:

Budget Workshop's will be held on the same nights as the Town Council Meeting (4/08/08 & 4/22/08). There will be a schedule coming out as to which departments will appear on which nights.

The Public Hearing will be April 24th.

American Legion Building – Will be on the next agenda. Discussion on the Merits.

Mr. Economopolis not in attendance tonight. His son is playing in the Lyman Hall High School Class L Basketball semifinals tonight. It was later noted by Mr. Testa that the Lyman Hall High School Basketball team WON by (1) point so they will be in the finals at Gampell Pavilion.

If they're any town resident's adversely impacted by the closing of F & S Oil Co. of Waterbury, please contact the Department of Consumer Protection at 860-713-6050 to file a complaint. You may access their website as well.

4. Consent Agenda – Mr. Testa made a motion to approve the Consent Agenda Items 4A – 4K

Mr. Farrell seconded that motion.

All councilors in favor. That motion was carried unanimously.

6. Public comment and questions.

Mr. Peter Wasilewski, 164 High Hill Road, said he heard the Town of Wallingford owes the DOT \$430,000.00. He had heard funding was in place. Mr. Wasilewski is questioning where the funding has gone?

Mayor Mr. Bowes, said the funding lapsed, and the funds were closed back in 2002 and had been sent to the General Fund.

The Town of Wallingford was billed years later. After an extensive review with DOT and others such as the State and Mr. Thompson and Mr. Dann they are concurrent with the demand deposit.

Reason for Charter Revision –

Mr. Shean, 11 Cooper Avenue, In regards to the American Legion building, the decision on a court case with the Atty general in January, it was postponed. Who's decision to put the property on hold? If we don't sell the property does the Atty. General win?

M. Brodinsky said, if the Town Council does sell the American Legion he would assume after that closing the atty. general would withdraw the lawsuit. If the town is actively marketing the property the lawsuit will be put on hold. It was the Atty. General's decision to put this on hold.

Ms. Susan Huizenga, 36 Story Drive, Wallingford Public Access Representative, she is notifying the council and will be asking the Cable Advisory Council to defeat the bill HB5814 Energy and Technology committee.

Mr. Lubi, Montowese Trail, he asked the Mayor about the health insurance consultant? How will you use the consultant?

Mayor, Mr. Bowes, said the duties of a consultant are to evaluating premiums and costs relating to health care coverage. The size of our group and network provided by Anthem would make it difficult item for bidding. There are reasons to believe a switch from one network to another is a difficult step.

7. Mr. Testa, Discussion and possible action concerning the appointment of a Charter Revision Commission requested by Chairman Mike Brodinsky.

Chairman Mike Brodinsky, (2nd time being on the Agenda)

Public Comment:

Mr. Sheehan, 11 Cooper Avenue, stated he is still against the Charter Revision.

Mr. Gross, Long Hill Road, asked how many ways can the Charter be open?

Ms. Hodghis, 38 Clifton Street, she feels that Charter Revision is long overdue. The last time Charter Revision went in was 1989.

Ms. Cole, North Street, stated she would support Charter Revision, however it is not the only option. She continued to discuss what it shouldn't be used for. She stated that the seven (7) vote requirement from the Council to override a veto is a tough level to reach and it should be if a veto is to have any real meaning. Congress and the Gen. Assembly have to reach 2/3 & 2/3, which she found was hard to reach.

Town Attorney stated it is 10% of the register voters at the last municipal election would have to sign a petition.

Mr. Hogan, he would vote for a commission established to look at the Charter. Why don't we just look at it?

Ms. W. Who makes the determination that we don't have to adhere to certain things in the Charter?

Mr. Zandri, Lincoln Drive, he supports opening the Charter for discussion of revision. When would this be done?

M. Brodinsky said it would be done around the time of Election Day in November 2008

Sandra, Cherry Street, she is against Charter Revision.

Andrew Rule, 186 Chimney Hill Road, How would the Charter Revision committee be chosen?

Mr. Zandri, Lincoln Drive, he questioned the Section in Chapter 99, Sec7-188B (Municipal Charters and Special Acts)
M. Brodinsky requested they seek legal council on that issue. He did comment shortly after that it is 6 not 9 votes of the council.

Councilor Comments:

M. Spiteri would be in favor of opening the Charter.

J. LeTourneau, no comment made.

V. DiNatale would be in favor of establishing a Charter Revision Committee.

V. Testa would like to get clarification on the provisions.

R. Rascati hears from residents that they are more concerned with their utility bills, etc.

B. Parisi has heard the same remarks from others and there doesn't seem to be any real concern for the Charter Revision. Residents seemed more concerned with their bill as well. He commented on the Record Journal's poll on Charter Revision, as he recalls; not too many were in favor. He also stated, he is not in favor.

J. Farrell Jr., he does not favor the Council mandating Charter Review.

M. Brodinsky is in favor of Charter Revision. He feels it would be worth the time and effort of the Charter Review Commission. He feels we should be getting ahead of the issues (preventive maintenance) and went into great detail on this issue.

Mr. Testa moved to motion. Mr. Spiteri seconded.

Roll call vote: DiNatale (Yes), G. Farrell (No), LeTourneau (No), B. Parisi (No), R. Rascati (No), M. Spiteri (Yes), V. Testa (Yes), M. Brodinsky (Yes).

Vote was 4 to 4. Motion fails.

Discussion and possible action concerning fees assessed by the Water Division on fire hydrants located on private property as requested by Councilor, Mr. Spiteri.

Mr. Zandri said that he believes that there are (25) condominiums in Wallingford. He said, that in addition to the usual water bill issued to every residential customer, each condominium pays extra for every hydrant on condominium property. He feels this is unfair and wants to make it equitable for everyone. He commented that the town mandates these fees.

Mr. LeTourneau read from the town charter and stated that Chapter 14, Section 1 of the charter says that the PUC has the authority to establish the policy of the Electric, Water and Sewer. The charter does not give the town council power to modify utility Rates. He asked what was the Council being asked to do?

Mr. Brodinsky said this anticipated motion is a non-binding recommendation. The Council has legal authority to change rates that have been set more than a year ago.

Mr. Spiteri said that condo owners in Wallingford pay the same water rates. The same contractors install all utilities. The water division inspects. Everything is done as if it were a private (non-condominium) neighborhood. He suggested that condominium customers could deny access to hydrants. He claimed that if condominiums were not charged the extra fee, it would mean an additional .50cents per resident.

Mr. Tryczinski, Turnberry Road, asked whether Mr. Zandri was alleging that the general water rates paid for all the hydrants on private property, but the water division was charging twice for the hydrants? Mr. Brodinsky replied that the water division in 2006 when the mater was debated did not concede this allegation.

Mr. Lube, said that the PUC's approach could be amended. Fire hydrants should all be treated the same. We should not treat them differently. He said the current fee structure was not equitable. It was a double billing.

Motion made by M. Spiteri, I make a motion that the Wallingford Town Council requests PUC and the Wallingford Public Water Division, re-look into the inequities, adjust the policies written in 1920 which cause the double billing fire hydrant maintenance fees to all non-profit private owned condominium associations, and Town own property. Providing that each entity avi-david allowing full access to these hydrants to both the Wallingford Fire Department & Water Department.

Mr. Testa seconded the motion.

Roll call vote; V. DiNatale (No), J.LeTourneau (Yes), B. Parisi (Yes), R. Rascoti (No), M. Spiteri (Yes), V. Testa (Yes), M. Brodinsky (No).

Mr. Farrell was not present for the vote.

Motion fails.

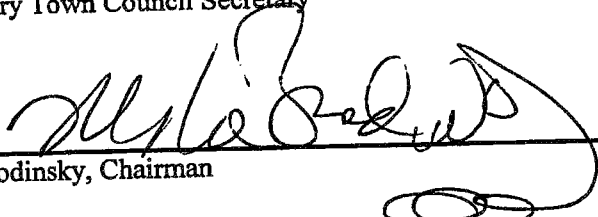
9. Executive Session pursuant to Section 1-200(6)(B) of the Connecticut General Statutes regarding strategy and negotiations with respect to pending litigation in the following matters A) Town of Wallingford vs. Alpine, The Care of Trees; B) Town of Wallingford vs. Charles Voss et al; and C) Town of Wallingford vs. Capp USA.

Mr. Brodinsky seconded.

All councilors present in favor.


Respectfully submitted,

Deborah A. Settani
Temporary Town Council Secretary



Mike Brodinsky, Chairman

3/25/08
Date



Barbara Kapi, Town Clerk

3/25/08
Date