

SPECIAL TOWN COUNCIL MEETING

WEDNESDAY, MARCH 22, 2000

5:30 P.M.

AGENDA

1. Pledge of Allegiance and Roll Call
2. Discussion and Action on Approval of a Contract for the Purchase of 47.06 Acres of Real Properties Known as 40 George Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation
3. Conduct a PUBLIC HEARING, Consider and Act Upon on an Ordinance Appropriating \$1,206,000 for the Acquisition Of Approximately 47.06 Acres of Real Properties Known as 40 George Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation, and Authorizing the Issuance of \$1,206,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose - 5:30 P.M.

Addendum

4. Consider and Approve One (1) Appointment to the School Building Committee To Fill a Vacancy Resulting from a Resignation

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Brenna J. Pickett TOWN CLERK

SPECIAL TOWN COUNCIL MEETING

MARCH 22, 2000

5:30 P.M.

Agenda Item

Pg. No.

2. **Approve** a Contract for the Purchase of 47.06 Acres of Real Properties Known as 40 George Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation 21
3. **Approve and Adopt** an Ordinance Appropriating \$1,206,000 for the Acquisition of Approximately 47.06 Acres of Real Properties Known as 40 George Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation, and Authorizing the Issuance of \$1,206,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose 1-21

Addendum

4. **Approve** the Appointment of William Fritz to the School Building Committee to Fill a Vacancy 21

SPECIAL TOWN COUNCIL MEETING

MARCH 22, 2000

5:30 P.M.

A special meeting of the Wallingford Town Council was held on Wednesday, March 22, 2000 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. Parisi at 5:37 P.M. Councilors Brodinsky, Centner, Farrell, Knight, Papale, Parisi, Rys, Vumbaco and Zappala answered present to the Roll called by Town Clerk Rosemary A. Rascati. Mayor William W. Dickinson, Jr. and Town Attorney Janis M. Small were present. Comptroller Thomas A. Myers was absent from the meeting.

The Pledge of Allegiance was given to the Flag.

ITEM #3 Conduct a PUBLIC HEARING, Consider and Act Upon on an Ordinance Appropriating \$1,206,000 for the Acquisition Of Approximately 47.06 Acres of Real Properties Known as 40 George Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation, and Authorizing the Issuance of \$1,206,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose

Motion was made by Mr. Rys to Read the Title and Section 1 of the Proposed Ordinance into the Record in their Entirety and Waive the Reading of the Remainder of the Ordinance and Incorporate Its Full Text into the Minutes of this Meeting, seconded by Mr. Farrell.

VOTE: All ayes; motion duly carried.

Mr. Rys read the title of the ordinance as well as Section 1, in their entirety, into the record at this time. A copy of the ordinance is hereto incorporated into the text as follows:

AN ORDINANCE APPROPRIATING \$1,206,000 FOR THE ACQUISITION OF APPROXIMATELY 47.06 ACRES OF REAL PROPERTIES KNOWN AS 40 GEORGE WASHINGTON TRAIL AND 1364 SCARD ROAD FOR OPEN SPACE/WATERSHED PRESERVATION, AND AUTHORIZING THE ISSUANCE OF \$1,206,000 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 \$1,206,000 is appropriated for the acquisition of approximately 47.06 acres of real properties located in the Town of Wallingford, known as 40 George Washington Trail and 1364 Scard Road, both as more particularly described in Volume 258 Page 397 of the Wallingford land records, for open space, and for demolition and tenant relocation expenses, professional fees including, appraisal, testing, environmental remediation, surveying, title insurance and such other expenses necessary or appropriate for such acquisition, and including administrative, advertising, printing, legal and financing costs related thereto. The Mayor is authorized to negotiate the terms and purchase price for the purchase of the parcels and to sign purchase contracts and documents necessary to transfer title to the Town of Wallingford. Said appropriation to be inclusive of any and all State and Federal grants-in-aid.

Section 2. To meet said appropriation \$1,206,000 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. Said bonds may be issued in one or more series as determined by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, and the amount of bonds of each series to be issued shall be fixed by the Mayor, the Comptroller and the Town Treasurer, or any two of them. Said bonds shall be issued in the amount necessary to meet the Town's share of cost of the project determined after considering the estimated amount of the State and Federal grants-in-aid of the project the actual amount thereof if this be ascertainable, and anticipated times of the receipt of the proceeds the provided that the total amount of bonds to be issued shall be less than an amount which will provide funds sufficient for other funds available for such purpose to pay the principal and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds. The bonds shall

be in the denomination of \$1,000 or a whole multiple thereof, be issued in bearer form or in fully registered form, be executed in the name and on behalf of the Town by the manual or facsimile signatures of the Mayor, the Comptroller, and the Town Treasurer, or any two of them, bear the Town seal or a facsimile thereof, be certified by a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, which bank or trust company may be designated the registrar and transfer agent, be payable at a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, and be approved as to their legality by Murtha, Cullina, Richter and Pinney LLP, Attorneys-At-Law, of Hartford. They shall bear such rate or rates of interest as shall be determined

by the Mayor, the Comptroller, and the Town Treasurer, or any two of them. The bonds shall be general obligations of the Town and each of the bonds shall recite that every requirement of law relating to its issue has been duly complied with, that such bond is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The aggregate principal amount of the bonds to be issued, the annual installments of principal, redemption provisions, if any, the date, time of issue and sale and other terms, details and particulars of such bonds, shall be determined by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, in accordance with the General Statutes of the State of Connecticut, as amended.

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

Section 4. The Mayor, the Comptroller, and the Town Treasurer, or any two of them, are authorized to make temporary borrowings in anticipation of the receipt of the proceeds of said bonds. Notes evidencing such borrowings shall be signed by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, have the seal of the Town affixed, be payable at a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, be approved as to their legality by Murtha, Cullina, Richter and Pinney LLP, Attorneys-At-Law, of Hartford, and be certified by a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, pursuant to Section 7-373 of the General Statutes of Connecticut, as amended. They shall be issued with maturity dates which comply with the provisions of the General Statutes governing the issuance of such notes, as the same may be amended from time to time. The notes shall be general obligations of the Town and each of the notes shall recite that every requirement of law relating to its issue has been duly complied with, that such note is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The net interest cost on such notes,

including renewals thereof, and the expense of preparing, issuing and marketing them, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the project. Upon the sale of said bonds, the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such notes then outstanding or shall be deposited with a bank or trust company in trust for such purpose.

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

Section 6. The Mayor, the Comptroller, and the Town Treasurer, or any two of them, are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to nationally recognized municipal securities information repositories or state based information repositories (the "Repositories") and to provide notices to the Repositories of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this ordinance. Any agreements or representations to provide information to Repositories made prior hereto are hereby confirmed, ratified and approved.

Mr. Parisi declared the public hearing open at this time and called for public comment.

Mayor Dickinson took a moment to refer to map on display in the auditorium for the purpose of explaining precisely which parcel of land is the subject of the public hearing tonight.

The property is located between Whirlwind Hill Road and Scard Road and is adjacent to land recently purchased by the Town from George Cooke. Streams run through the property down to McKenzie Reservoir, making it a Class I watershed area, draining into the public water supply.

Mayor Dickinson stated that the appraised value is \$961,000, and the asking price is \$1,150,000.00; the difference in the ordinance is made up of \$23,000 for finance costs; \$20,000 for demolition costs because there are two buildings on the property; \$5,250 for tenant relocation costs and \$7,500 in closing fees and other closing costs. The total of all costs associated with the purchase equal \$1,206,000.00. The Town has received from the State a grant of \$427,000 as part of the state's open space preservation program. That means that the property could not be used for any permanent improvements. It would have to be maintained principally for passive recreational or other types of uses. They do not want to see funds for the open space used to purchase property and then end up with buildings constructed on it or making other permanent improvements on the properties. Positive comments have come forth from the Regional Planning Organization along with a letter saluting the effort of protecting the Class I watershed area.

A developer's map exhibiting the proposed ten building lots for anyone needing to see how the lots would be placed on the parcel was also displayed. Planning & Zoning is presently considering the proposed subdivision.

Jeff Borne, Chairman of the Conservation Commission stated that the commission reviewed the subject property at the end of the summer of 1999. It is not evident by looking at the map but this property adds to the wildlife habitat richness of our town. It is a combination of fields, wetlands, uplands and primarily immature forest. The topographic relief on the property is amazing. The highest point, which is on the north side of George Washington Trail, is at an elevation of 370'. The lowest end, where the stream leaves the property, the elevation is approximately 150'; there is approximately 220' of relief on this property that cannot be seen from the road, one must traverse the parcel. It does fit nicely in the Town's open space plan. It is in the Tyler Mill/Muddy River priority area. He encouraged the Council to support the purchase.

Mr. Parisi called for public comment at this time.

Robert Sheehan, 11 Cooper Avenue stated that the parcel was a very good piece of land to buy but, as usual, the Town is late. The Conservation Commission said they walked the land almost a year ago and no one made an effort to see if it was up for sale at that time?

Mayor Dickinson replied, the Conservation Commission acted on a request from my office. We were notified by a representative of the developer that the property could be available. The Conservation Commission reviewed it, provided a report, we obtained an appraisal and here we are today.

Mr. Sheehan commented, this is a watershed area which drains into our water supply. A lot has been said by the Mayor that open space is the Town's number one priority. If it is, why are we buying from a middle man? The Town should have made a gesture to the original owner, even if it was for the right of first refusal. That way if it wasn't for sale at the time we inquired and then it became available, the town would have the first shot at it. For some reason, that doesn't seem to work here. You say you have a list of properties that are important but no one sees the list; it is not public knowledge. We only hear about how important a piece of property is after the fact. This is somewhat like the Terrell Reserve all over again. I am starting to feel as though we have a big target on our back; if you have land in Wallingford, name a price and we will pay it. Are you going to use the grant to purchase this piece of property?

Mayor Dickinson answered, that is what the money is for, the purchase of this property.

Mr. Sheehan asked, will the entire amount be used towards the purchase of the property?

Mayor Dickinson answered, those are the terms of the grant.

Mr. Sheehan asked, we have to come up with \$800,000 on our own?

Mayor Dickinson answered, the balance is the responsibility of the Town.

Mr. Sheehan stated, there is a lack of communication between the Council and different land use boards of the Town. I don't blame the developer for going out and trying to develop that land, he is going to expend some money to do that. I don't blame him for making a reasonable profit. We have spent anywhere from \$16,500 an acre to \$50,000 an acre and this purchase works out to just shy of \$25,000 an acre. Somewhere along the line we have an almost abutting property which we paid \$16,500 an acre for and this land is worth \$6,000 more an acre? It could be; it couldn't be. We failed in our responsibility. Maybe because it has been sitting there vacant since George (Washington) passed by and we never made an effort in all this time (to purchase it). I am very disappointed that it is going to cost us this amount of money when we could have saved a few dollars. It is a good idea to purchase it and I support it, reluctantly, for the price we are paying.



Tyler Makepeace, 50 George Washington Trail stated, I hope that the Town will buy this land so that all the wildlife, including the deer, the turkeys and chipmunks will still live on it. Thank you for your time.

(applause)

Jack Agosta, 505 Church Street, Yalesville stated that he was not against buying the property, but we should have purchased it last year. He agreed with Mr. Sheehan's comments. He asked, when was the property appraised for the \$961,000?

Town Attorney Janis Small stated, February 22, 2000. That is the date the appraiser inspected the property.

Mr. Agosta stated, in checking the Assessor's records today, the assessed value of the property is \$167,300. The value of the land increased because the builder decided to build on it. He supported the purchase but stated that it should have occurred last year. If the houses were developed as proposed, the Town would have collected over \$1 million at the end of ten years. If they built \$450,000 homes on the property, it would have immediately increased the value of the surrounding homes. The Town missed the boat on purchasing the property last year. We should go back and take a very good look at the open space property list. If we are going to spend money on land, we should do it now while the economy is good and we have money in the bank. The value of the property increased eight fold once the developer wanted it.

Ed Makepeace, 50 George Washington Trail urged the Council to buy the property. Every time a piece of property comes up that is valuable, especially property located in watershed area, it is something that you should be pursuing. I don't want to hear a lot of negative feedback in the press about the Council having paid too much. What farmland is assessed at has nothing to do with its real market value. I think that is clear. I know for a fact that the property was not available a year ago. Your ability to pursue that piece of property just wasn't there. Several residents have approached the former owner and she was simply unwilling to sell. She died and now the property is available. A developer beat you to it; it doesn't surprise me. The property is worth \$1.2 million and I urge you to buy it. The only way to protect open space is to buy it. Anyone who owns property has a right to use it. Pay the fair market value, \$1.2 million does not seem out of order.

Geno Zandri, 37 Hallmark Drive asked, is the contractor the present owner of this parcel?

Atty. Small answered, no, he has a contract to purchase it.

Mr. Zandri stated, I was told by someone who lives in the area up there that the contractor is paying less than \$500,000 for this parcel of land. You can see what happens when a developer gets a contract on land and goes through the process of getting it subdivided; the price becomes inflated. This has been an argument of mine right along about an open space plan for the Town of Wallingford. The Town needs to have an open space plan with parcels identified such as this piece and to approach the owners and try to get the owners to give Wallingford the right of first refusal if and when they ever decide they are going to sell the land. In this case it would have saved us a substantial amount of money. This land is in the watershed area and a piece that should be protected. Because of a lack of open space plan in town, again, we are paying an inflated price because of a contractor getting a hold of it before the Town. We bought several major pieces of land on the East side of town over the past couple of years. Presently, there are some parcels that are going up for development on the west side of town that are going through a process right now. The Mayor has been notified over a year ago about these pieces and it is my understanding nothing has been done. Again, we could be faced with the same scenario we are faced with here, this evening, paying a lot more than the town should have for a valuable piece of land.

Patrice McCarthy Kirschbaum, 133 George Washington Trail stated that she strongly urges the Council to take advantage of the opportunity to add to the Town's open space holdings. Earlier this week she and her daughter saw seven deer on the property. She asked the Council to seize the moment.

Wes Lube, 15 Montowese Trail stated, the call of the meeting was for 47.06 acres and Mr. Rys read "47.6 acres" when he read the ordinance. The Mayor referred to the same, "47.6 acres". Is it 47.06 or 47.6 acres.

Mr. Parisi replied, 47.06 acres.

Mr. Lube stated, Mr. Rys referred to appropriating "\$1.206 million" and asked if it is supposed to be \$1,206,000.?

Mr. Parisi answered, \$1,206,000.00.

Mr. Lube asked, when did the Town enter the picture? Was it before or after the developer and the Neal family had arrived at a signed contract?

Mayor Dickinson answered, I was notified by a representative of the developer regarding the piece. I believe it was already under contract. This may have been one of the pieces that at an earlier time we sent out letters to major property owners requesting... speaking to the Town's interest in purchase; offering anything from right of first refusal to negotiating terms, whatever. In most cases we heard nothing back. This may have been one of those but at the point last summer I believe it was that I learned about this property was from the developer.

Mr. Lube asked, if the deceased owner was on that list and her passing away was in the newspaper, would it not behoove us, be it the Conservation Commission or some other designated individual, to contact the estate in regards to the same way as the developer did? How did we possibly miss the boat? Will we miss the boat in the future? Does someone have this responsibility?

Mayor Dickinson answered, we don't have a full-time effort at watching the newspapers and determining what is happening on every piece of property and frankly, I don't think that is feasible. We certainly encourage property owners to let the Town be part of the process of sale and if they want to sell property, we encourage them to let us know. Our price may be better than the developer's unless we are part of the process, the owner won't know that. In this case we weren't notified by the developer. I give the developer a lot of credit. An attorney called us and we were able to be part of this process. It may move more slowly than many people may like but sometimes if we move too fast, we get criticisms about moving too fast. The fact of the matter is, we are here, we are able to purchase the property and I think it is very positive that much has been accomplished at this point.

Mr. Lube stated, someone is watching the paper because Tom Myers' office informed me that there are ten (10) subscriptions to the Town Hall of daily papers. If they are watching it for some other reason, I wish they would watch the obituary as well. When the developer first contacted you, I wouldn't give him an awful lot of credit. I think the price ended up returning as much profit to him as if he had built the ten houses out. He was calling the Town Hall as a potential source of profit. At that time when the Town Hall was first approached, or at some time later on, what was the initial price range that was discussed?

Mayor Dickinson answered, there was no discussion of price. It was a question of whether or not the Town was interested and that was the question we pursued.

Mr. Lube asked, who made the decision to apply for a state grant?

Mayor Dickinson answered, administrative offices.

Mr. Lube asked, without your approval?

Mayor Dickinson answered, I was involved in the decision-making.

Mr. Lube asked, when the state sets up an open space grant program, they have various percentages, whether you are going to use it for one purpose versus another. What was the maximum we could apply for?

Mayor Dickinson answered, on Class I watershed it is 65%.

Mr. Lube asked, did we get approved for what we applied for?

Mayor Dickinson answered, we applied for the maximum that we could receive. We did not receive 65%.

Mr. Lube asked, why is it that the state has said that everyone got what they asked for in the whole state?

Mayor Dickinson replied, I don't know that the state said that everyone got what they asked for. If they did, it may be that they referred to some money being available to every community that applied for the purchase of open space.

Mr. Lube asked, can we narrow it down? What did we apply for?

Mayor Dickinson answered, we applied for two grants; one on this property and one on another one. We gave the state the appraised amount and we are eligible for up to 65%. We don't set the amount. We tell them what the appraisal is and we ask for the maximum under the grant. Those chose to give us a lesser amount but I am not going to criticize the state if they give us \$427,000. The amount the Town receives is at the discretion of the State D.E.P.

Mr. Lube pointed out that Don Roe, Program Planner, stated from the audience that the Town applied for 65% of the appraised value of the property. Sixty-five percent of the appraised value is about \$600,000.

Mayor Dickinson repeated, as I stated, we did not apply for a specified amount of money. We applied for a grant under the terms of the grant which could be a maximum of 65% of the appraised value. We did not specify to my knowledge, what the amount of money would be. Is that correct Don (Roe)?

Mr. Roe answered, if we need another Grants Administrator, I have a nominee. He (Mayor) is representing very precisely what the program provides and how you make application.

Mr. Lubee stated, in view of the fact that we are negotiating for a \$1,150,000. on property that is appraised at \$950,000., did we ever have the nerve to ask the landowner what he was receiving from the developer?

Atty. Small answered, not willing to provide that information.

Mr. Lubee asked, we asked?

Atty. Small answered, yes.

Mr. Lubee asked, and he refused to tell us?

Atty. Small answered, that is his private contractual right.

Mr. Lubee asked, who did the appraisal for \$961,000?

Atty Small answered, Mr. Nitz. Under the state's program a second appraisal is required. That is in the process at this time.

Mr. Lubee asked, we are going to approve this (ordinance and contract) without knowing the second appraiser's opinion of value?

Atty. Small answered, we will have it shortly, I expect. It is not done yet.

Mr. Lubee asked, and if it comes in less than what Mr. Nitz appraised it for?

Atty. Small answered, I would not expect it to be less than that. If you are talking about a couple of thousand dollars, I don't expect it to be different, substantially. If it were I would report it to the Council and it would be prior to such time as the deal has been consummated.

Mr. Lubee stated, one of the problems we are having with appraisals, no matter who is performing them, is that the properties that you have purchased during the last twelve to twenty-four months, which Mr. Zandri alluded to, are going to be used as comparables. You have set a new value level on this land and all appraisals are now going to be referring to these transactions as comparables. How do we reconcile paying approximately \$200,000 more than the appraised value for this parcel? That is roughly 22-25% more than the appraisal which is a big margin.

Mr. Parisi stated, when it is approved for building lots, I don't think you will be able to touch it for this price. Do you think we will be able to once the builder gets all of his approvals and there are ten buildable lots? Do you think we will be able to buy it for this price?

Mr. Lubee answered, the value placed on it now is the value that he thinks it will have after approval. If he thought it was going to be worth more, he would not let you have it for this price. Why are we paying 22% more than the appraised value?

Mr. Parisi answered, I think the land is worth it and that is the general feeling I think. I think we want the land and we want to tie it in with the land we already own up there.

Mr. Lubee asked, do you have any compunctions about paying 22% of someone else's money for property that...

Mr. Parisi answered, if we bought it twenty years ago we probably would have bought it for half the price. If we wait fifty years to buy it, we are going to buy it for half the price more. That is my rationale. If you don't agree with it, that is your prerogative.

Mr. Lubee asked again, when you are spending other people's money, do you have a compunction about paying 22% more than the value of the item?

Mr. Parisi answered, I certainly do. I have some concern but I also realize that this is something that will be good for the town far beyond my lifetime. I have been spending money for over 24 years and people seem to be approving of what I have done so I am going on the same theory I have used all along.

Mr. Lubee replied, I won't quarrel with the fact that you are doing what you have been doing along because I agree with that 100%...I just am sorry that you are doing it.

Mr. Parisi stated, we need this land for what has been displayed tonight. Do I like the price? I am not going to tell you that I think it is the greatest price in the world. I feel that it is still a good purchase for the town, that is my rationale.

Mr. Lubee stated, every transaction that we are involved in is screaming the fact that we are not very good real estate negotiators.

Mr. Parisi answered, thank God we are not in the business, I'll tell you that; you're right.

Theresa Peavey, 145 George Washington Trail urged the Council to purchase the property. She stated that she and her husband bought his parents' house because of the wooded acreage which surrounds the area. The property in question is beautiful, very wooded and full of streams. There are owls, grouse, pheasants on the property and she doesn't want to threaten those species. In April, 1996 she stated that 7" of rain fell which resulted in a 35' river in her backyard, in which there is a ravine. The bottom of her road where Mr. Newell and Mr. Malchiodi live had one foot of water. Her husband could not drive up the road. If you build houses there, the wall of water that comes down from those storms that happen once every ten years is going to wash all of that stuff down, she said. There is already enough problems with the McKenzie Reservoir without adding to it.

Pasquale Melillo, 15 Haller Place, Yalesville stated that it is his understanding that the property is still being negotiated between the Town and developer.

Mr. Parisi replied, it has been negotiated; the figures presented have been negotiated. If the Council completes its work tonight, the negotiating will be finalized.

Atty. Small stated, the negotiations are complete, the contract is before the Council, this is it; this is the deal.

Mr. Melillo stated that the meeting started at 5:30 p.m. and the Record-Journal listed the meeting as starting at 6:30 p.m. A lot of people may be coming late to the meeting.

Mr. Parisi surmised that the paper was operating out of habit and most likely did not do their homework and check.

Mr. Melillo asked if the property taxes are current on this parcel?

Atty. Small answered, the taxes are adjusted at closing. The taxes that are owed up until the time the developer has the property, he pays.

Mr. Melillo asked for an explanation of the term "passive recreation".

Mayor Dickinson answered, it is hiking, horseback riding, anything that does not permanently disrupt the environment. The terms of the agreement limit the use of the property for open space purposes only.

Mr. Melillo asked, how much of the property is comprised of wetlands?

Mr. Parisi answered, there are a lot of wetlands.

Mayor Dickinson stated, I don't believe an exact number was put on the wetland area on the appraisal. It is outlined on the map in orange. The appraiser describes it as a substantial amount of inland wetlands throughout the parcels.

Mr. Melillo stated that he was surprised at the Mayor for not having that specific information.

Mayor Dickinson replied, regardless of what wetlands are there, ten building lots can be approved on the site.

Mr. Melillo stated that, in his opinion, the Town is paying too much for the land. There is too much anxiety over buying this property, which seems to be the case lately with land purchases.

Mayor Dickinson, after researching the data, discovered that on the 37.7 acres, there are 10.7 acres of wetlands. On the 9.3 acres site, there is 1.7 acres of wetlands.

Mr. Melillo reiterated that the Town is paying too much for 20% wetlands. He stated that the \$427,000 grant amount should be subtracted from the \$961,000 appraised value and that is all the Town should pay for the land. He did not like the idea that a second appraisal has not yet been received, only the first one from the developer.

Mayor Dickinson pointed out that the grant is paid as a reimbursement. The Town must first purchase the property and then receive the grant as reimbursement toward the purchase. The Town hired its own appraiser, not the developer.

Virginia Malchiodi, 30 Washington Trail stated that she was in favor of the purchase. She also stated that she rented the property from Mrs. Mildred Neal for ten years and it was



always wet. Regarding taxes, it was farmland all this time so the Town would not be losing that much money. It was taxed for farmland. She stated that those in attendance should appreciate the fact that the Town is trying to protect the watershed and their reservoir and the whole Town of Wallingford's drinking supply.

Pat Keogh, 1282 Scard Road thanked the Town Council and Mayor for considering the purchase.

Tom \_\_\_\_\_, 127 George Washington Trail also recommended the Town purchase the property. The subject property is located behind theirs and they often see deer and other wildlife inhabiting the property. A lot of water does come down the trail into the area, he stated, therefore the property should be purchased and left as open space.

Philip Wright, Sr., 160 Cedar stated, this is a good piece of property and the Town should own it. I wish the Council would look carefully at the way we went about this purchase and the way we have gone about several other purchases and see, if indeed, this is the only and best way we can acquire land. We have more land around that should be bought. I know this property was on the Conservation Commission's list. I find it hard to believe that someone in this town cannot spend some time looking at and following what is happening with pieces of property that we have decided already that are high on our priority list. If it is not looking at obituaries, there a lot of things one can do if one is assigned to do it. In reading the newspaper, it sounds like our application for the grant was botched up as well. Someone didn't know about it; someone else didn't know if the application was in or wasn't in (to the state). It doesn't seem as though anyone is minding the store. We ought to be buying land like this; we ought to buy this land but we ought to do it in a managed way. Someone in this town should be given the assignment of handling it and coming to the Council. The Council is responsible for what they are saddling the people of this town with for taxes. It will not be much and I am not complaining one bit about if my taxes will go up for buying this or other pieces of property. I know very well that cows don't go to school and how much more it costs to build schools. This purchase looks like it was mis-managed. I cannot believe that we cannot do a better job so that we, the Town, go out and make the concerted effort to buy up these pieces of property before some developer comes in and sets the Planning & Zoning and everyone in the immediate area on their heads because they think it is going to be developed. This does not have to happen, in my opinion. If the Council is happy with this, then I guess the public has to be satisfied and we have no recourse. I cannot believe that the Council is truly happy.

Penny Christopoulos, 64 S. Branford Road stated that there has been so much development out in the S. Branford Road area. She has lived in the area for twenty-two years and feels the development has gotten out of hand. She urged the Council to buy the land.

Mr. Parisi left the meeting for a few minutes.

Jack Agosta, 505 Church Street, Yalesville stated that he wants the Council to purchase the land but does not like the way the transaction is playing out. He felt that the Town is not buying the land from one person but two, causing the price to escalate. It should be voted in but if people don't speak out about the way the deal transpired, it will continue to happen over and over.

Robert Sheehan, 11 Cooper Avenue wondered if there was some sort of state rule which prohibits building on watershed land. He asked if that has been looked into, especially after our last open space purchase and subsequent lawsuit with the state due to their ruling pertaining to watershed area.

Mayor Dickinson answered, we cannot put a golf course on this piece of property because that would be a permanent improvement.

Mr. Sheehan asked, the state prohibits golf courses from being constructed within watershed area but will allow the construction of homes on watershed property?

Mayor Dickinson answered, if the developer used the State's money for an open space purpose then the developer could not put houses there either. Once you use the state grant you are limited on how the property can be used. There is no state regulation that prohibits the development of homes on this property.

Mr. Melillo stated that the item should be tabled to allow those members of the public who read in the newspaper that the meeting started at 6:30 P.M. a chance to arrive and comment on the item. He pointed out that approximately 40% of the property is wetland, according to the figures quoted to him by the Mayor earlier.

There were no further public comments at this time therefore Mr. Parisi called the public hearing closed.

Motion was made by Mr. Rys that an Ordinance Appropriating \$1,206,000 for the Acquisition Of Approximately 47.06 Acres of Real Properties Known as 40 George

Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation, and Authorizing the Issuance of \$1,196,000 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.

(see withdrawal of motion and second below followed by the re-stating of the motion with correct figures.)

Mr. Centner stated, quite some time ago he was approached by Ed & Colleen Makepeace at a soccer game. They mentioned the subject property to him and he, in turn, brought it forth to the Mayor's office during executive session for land purchase. He asked the Mayor's Office to investigate it and, as stated by the Mayor, it came back that the property owner was not willing to negotiate with Wallingford at the time. He is pleased to see the state grant funds applied towards this parcel. The \$427,000 has a big impact towards the purchase price. Before the grant monies are applied, the parcel would have cost approximately \$26,300 per acre. With the \$427,000 grant applied, that will now reduce the Town's cost to \$16,555 an acre. Up to this point, the Town's total purchases for land average around \$15,000 per acre. It puts this purchase around the average price the Town has been paying for property to date. The parcel is a beautiful piece of land and it is important to protect the Town's reservoir. He supports the purchase whole-heartedly.

Mr. Brodinsky asked the Mayor, for future reference, approximately how long does it take to turn the grant applications around from the time applied for until the time the Town is notified that they have the money?

Mayor Dickinson stated that it varies; depends upon the program. Under the current program, it is probably...it depends upon where you fall in the process. If they have more than one awarding in a year, then that is one factor. I am not sure how to answer that; I don't know.

Mr. Brodinsky asked, there may be no general is what you are saying?

Mayor Dickinson answered, that would be my guess right now.

Mr. Brodinsky asked, when did we apply for this grant and when did the Town get notification that we were getting the \$427,000?

Mayor Dickinson answered, I let the Council know, we received notice...there was notice in the paper at the time; maybe a month ago? I am not sure of the exact date. We received

the notice at the same time there was a press conference D.E.P. held and announced the awarding of the grants. The application was filed in November or December of 1999.

Mr. Brodinsky asked, did that application have to have an appraisal to go along with it?

Mayor Dickinson replied, an estimated one; we did not have to have an actual appraisal.

Mr. Rys stated that he read the ordinance incorrectly, listing \$1,196,000. as the figure.

The motion and second were withdrawn.

Motion was made by Mr. Rys that an Ordinance Appropriating \$1,206,000 for the Acquisition Of Approximately 47.06 Acres of Real Properties Known as 40 George Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation, and Authorizing the Issuance of \$1,206,000 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.

Mr. Vumbaco stated that there is no question in his mind that this is a piece of property the Town needs to have. He is 100+% in favor of it but questioned how the application to build could make it through Inland Wetlands as well as the Town's Water/Sewer Department? He attended the meetings on this property where it was said that the reservoirs and wetlands are not in danger if there is building done and we are now claiming that there is. There seems to be an issue of mis-communication between different areas of our government. He is concerned about the process, in general, because he sat through the extensive review by Inland Wetlands and if there is anyone in this town who does their homework and their review, it is Inland Wetlands. They said it was o.k. to build and the Water/Sewer Division also reported to the Planning & Zoning Commission as well as Inland Wetlands that it is o.k. If we wanted to buy this for the mere fact that we want to preserve open space, why don't we just say it?, he asked. He asked if there was any reason for the conflict?

Mayor Dickinson responded that he did not believe a conflict existed. The responsibilities of Inland Wetlands and the Water/Sewer Department are constrained to their legal boundaries. Under the law, my belief is that there is no legal basis for determining that this property can't be developed. For the same reason, Water/Sewer, if they had their druthers they would rather not see any properties developed in a watershed area but they are well-aware that their fear of what the property owner might do on the property; mowing grass, putting down pesticides, changing oil, etc., their fears that that might

happen, don't reach a level that allows them to say that the property shouldn't be developed because, legally, there is a right to develop the property. If there is any right to stop the development, the clearest area would be with Inland Wetlands. I believe they apply the law and our regulations as they can and there is a very strong property right issue written into our constitutions and laws. Government cannot tell someone they cannot develop their property without a very good reason. There is no real conflict if there were arbitrary authority with Inland Wetlands or the Water/Sewer Department. I think they would use that arbitrary authority to say that the property could not be developed but they do not have arbitrary authority. They are constrained by law and regulations and they apply them as best they can to protect the public interest. Our interest here is, should there be hazards, this eliminates those hazards and provides protections to watershed and also provides open space and preserves the rural character of the community.

Mr. Vumbaco commented, I came prepared to support the purchase 100% but I do echo Mr. Wright's comments on the fact that I do have some reservations and am somewhat uncomfortable with the process that the Town goes through in purchasing open space.

Mr. Zappala stated, of course we should buy the land, there is no question about whether or not it should be bought. I think this proves that, once again, a contractor and a skillful lawyer has put something over on the Town and we have no choice in the matter; we have to buy it. From what I see and know about the property, three houses should not be constructed on that land, never mind ten. We are paying a lot of money for the land but it is in our best interest to purchase it and preserve what we have there and protect what could happen to our reservoir.

Mr. Farrell stated, about a week ago we had a public hearing on the Senior Citizen Center. I commented that evening that I was glad to hear that the center would be around when I am old and gray. I think that, in some ways, this is an even bigger bonus; that this parcel of land will be around for the benefit of not only me when I am old and gray but for many, many more generations of Wallingford citizens when they are old and gray. I have been very pleased to have the public here this evening to hear their comments about this.

Mr. Knight stated, I support this for the same reason that I have supported every other public open space purchase that this body has made in the last several years. Because it is a public process and there should be questioning of all the processes and procedures that the Town goes through to acquire property. It has been my observation that it is not as orderly as we would like it to be because we have two other parties involved in it most of the time; one is the land owner who, everyone agrees, has a perfect right to ask whatever they want for the land. We also, many times, face a competitor. Almost invariably when

we go to purchase open space, we face a competitor. Most of the time it is someone who is in the business of acquiring land and developing it. That drives the price up. It is almost impossible to avoid that. I wish the Neal family had wanted the Town to have the property and gave it to us, but they had obligations to their heirs. I wish the developer had said that he did not want to make a dime on the transaction and gave it to the Town for the exact same price that he paid for it. We compete on the open market for property. I am very pleased to be able to put in the bank 47.06 acres of very beautiful property that we will be able to enjoy forever.

Ms. Papale stated that she, too, will support the project. It is nice to know that this vote will be unanimous, she said. She echoed Mr. Vumbaco's concerns with regards to the Inland Wetlands Commission. While she is not questioning the commission, she questioned whether their regulations are strong enough. Maybe it is time to review the regulations. It is a good feeling to know that years from now she was part of this open space purchase. This is why she continues to serve on the Council.

Mr. Rys stated, there was a comment made by an individual which mentioned the deer, turkeys, etc. seen on the property. The Terrell Reserve, up near his home on the west side of town, has been developed within the past year. The deer, turkeys and other wildlife have gone south. They are no longer eating his garden or bothering him, but they have disappeared. This is one of the reasons he is in favor of purchasing the property. There was some mention made about communication between the land use boards and Water/Sewer Division. He does not always agree with those departments and if you were to put 10 homes on the property, there is no water and sewer service to the property. We would have septic tanks and not a very good policing of those septic systems. If a septic system goes bad, where is it going to go? Into the wetlands and percolate maybe down to the reservoir. Yes, we are protecting our watershed. He stated, if he was the property owner; not to sound greedy; and owned it for 50+ years, he could not blame them for wanting to get the most money for it. It was said that the property owner did not want to discuss it with the Town. They discussed it with a developer afterwards. He was in favor of the purchase and hoped that in the future the Town can purchase property at a price like this. We are getting a state grant which puts the price to the Town at \$16,000 an acre, not \$25,000 an acre.

Mr. Parisi stated that he, too, called Inland Wetlands when this first became reasonably public knowledge. He heard their explanation and their rules and how they felt they had applied them properly and fairly. He agrees. His concern at that time, and still is, is the water supply. Reflecting on the problems that the Town has had already with seepage and wells, made an impact on his mind that the Town cannot be too cautious for the future.

The wildlife and naturalness of the land, its beauty and ability to go out and enjoy it are added benefits that come along with the purchase. As far as the process and procedure, he stated that he is not thrilled about the process and never has been. Until we can find a better way, this is the process that we are stuck with. We have to go out there and compete. Instead of being negative, if people would be positive and would work together so that we all try to serve our town and when you know of a piece of land that becomes available, call the Mayor's Office. That is more productive than being negative at a public hearing. He admitted that maybe the Town is late and probably does not move as fast as they should but they are not organized to compete with real estate professionals. If the public can get a positive approach to this and everyone chip in and help, it will be better. As far as landowner goes, he will not villainize any landowner. It is the American way; you sell your property for the highest value that you can receive. We all do that. We sell our products and try to get a fair price. It is called competition. We either play the game or sit out on the sidelines and watch. He recognized that the purchase is expensive but it is something that, if believed in, must be done.

VOTE: All ayes; motion duly carried.

Mr. Parisi declared the ordinance adopted by nine positive votes.

ITEM #2 Discussion and Action on Approval of a Contract for the Purchase of 47.06 Acres of Real Properties Known as 40 George Washington Trail and 1364 Scard Road for Open Space/Watershed Preservation

Motion was made by Mr. Rys to Approve the Contract, seconded by Ms. Papale.

VOTE: All ayes; motion duly carried.

Addendum #4 Consider and Approve One (1) Appointment to the School Building Committee To Fill a Vacancy Resulting from a Resignation

Motion was made by Mr. Vumbaco to Appoint William Fritz to the Vacancy, seconded by Mr. Zappala.

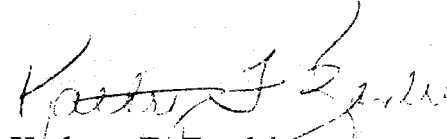
VOTE: All ayes; motion duly carried.

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

VOTE: All ayes; motion duly carried.

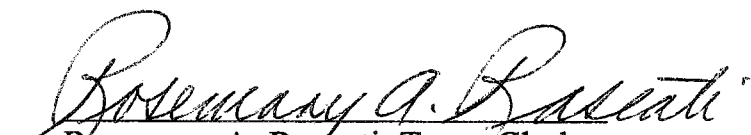
There being no further business the meeting adjourned at 7:07 P.M.

Meeting recorded and transcribed by:

  
Kathryn F. Zandri  
Town Council Secretary

Approved:   
Robert F. Parisi, Chairman

4-25-2000  
Date

  
Rosemary A. Rascati, Town Clerk

4-25-2000  
Date



## AGREEMENT

THIS AGREEMENT made this                    day of March, 2000, by and between  
ROBERT G. WIEDENMANN, JR., hereinafter called "Seller" and the TOWN OF  
WALLINGFORD, a municipal corporation organized and existing under the laws of the  
State of Connecticut, hereinafter called "Buyer".

### WITNESSETH:

WHEREAS, Seller has a binding contract to purchase all those certain pieces or  
parcels of real property, with all buildings and other improvements thereon and all  
appurtenances thereto, known as 40 George Washington Trail and 1364 Scard Road in  
the Town of Wallingford, County of New Haven and State of Connecticut, more  
particularly described in Schedule A attached hereto and made a part hereof (i.e., the  
more particular description set forth in Schedule A shall be subject to verification by a  
survey conducted by Buyer's Town Engineer provided, if Seller has an A-2 survey of  
said properties, Buyer may accept those surveys for purposes of this purchase); and

WHEREAS, Seller, upon acquisition of the Property, desires to sell to Buyer and  
Buyer desires to purchase from the Seller the Property; and

WHEREAS, it is the desire of the parties to reduce their agreement to one  
document encompassing in detail their agreement as to the sale and purchase of the  
Property;

NOW THEREFORE, the parties agree as follows:

1. **SALE OF PROPERTY**. Seller hereby agrees to sell, assign, transfer and convey to the Buyer, and Buyer does hereby agree to purchase from Seller, all the right, title and interest in and to the Property, together with all buildings and other improvements thereon and all appurtenances thereto. Seller agrees to convey said real property to Buyer by a good and sufficient Warranty Deed subject only to any and all provisions of any ordinance, municipal regulation, public or private law, restrictions and easements, if any, as set forth on Schedule A, current taxes, water and sewer use charges. Seller agrees to provide to Buyer at the time of closing any survey or map in possession of the Seller.

A. **Condition of Title**. It is understood and agreed that the title herein required to be conveyed by the Seller with respect to all of the Property shall be marketable and the marketability thereof shall be determined in accordance with the Standards of Title of the Connecticut Bar Association now in force. If, at the time of closing, the Seller shall be unable to convey marketable title to said premises to the Buyer, then the Buyer may elect to accept such title as Seller can convey, upon payment of the purchase price, or may reject the deed conveying such unmarketable title. Upon such rejection, this Agreement shall terminate and become null and void and the parties hereto shall be released and discharged of all further claims and obligations to each other.

2. **PURCHASE PRICE.** The purchase price for the Property shall be One Million One Hundred Fifty Thousand and 00/100 Dollars (\$1,150,000.00), payable in full at the Closing.

3. **CLOSING OF TITLE.** The Closing of the transaction hereby contemplated shall take place at the office of the Department of Law, Town Hall, 45 South Main Street, Wallingford, Connecticut, at 2:00 p.m. on or before April 30, 2000, or at such other time and place as may be mutually agreed upon by the parties, subject to satisfactory environmental testing as specified herein.

4. **ADJUSTMENTS.** Taxes, fuel oil, water and sewer charges, rent, and like matters with respect to all of the Property, and rent security deposits, if any, shall be adjusted as of the date of the Closing. Seller shall use his best efforts to provide Buyer with copies of any written leases presently in effect for any portion of the Property. Seller shall also use his best efforts to provide Buyer with a written list of the names of any and all residential tenants on the Property. The seller shall provide leases and tenant names, if any, prior to the closing. The taxes will be prorated according to the custom of the Town of Wallingford.

5. **BROKER.** The Buyer represents to the Seller that no firm, person or corporation has shown these premises to the Buyer and the Buyer agrees to save the Seller harmless for all costs, damages and expenses based upon any claims made

against the Seller by any real estate broker claiming to have dealt with Buyer with respect to the Property. Further, Seller represents to Buyer that there is no listing agreement for the Property currently in effect with any broker, and Seller agrees to save, defend, indemnify and hold Buyer harmless from and against any and all claims, demands, damages, actions and causes of action made against the Buyer by any real estate broker claiming to have dealt with Seller in connection with the Property.

6. **CONDITIONS OF SALE.** In addition to the conditions set forth in Paragraph 1 above, it is also understood and agreed that Buyer's obligations hereunder are expressly contingent upon the following:

A. Approval of this Agreement to purchase by the Town Council of the government of the Town of Wallingford. In the event this Agreement is not approved by the Town Council, this Agreement will be null and void.

B. Approval of a Bond Ordinance and expiration of time limit for referendum petition. The Bond Ordinance shall be on the Town Council agenda of March 22, 2000. In the event of a petition, either party may cancel this Agreement within ten (10) days of the certification of the petition. Said time limit is thirty days from publication of the Ordinance which shall be published within five days of Council approval. If not cancelled, and the vote on referendum fails to overturn the ordinance, the closing will proceed within ten (10) days of the vote; and

C. Environmental Provisions. Notwithstanding anything contained herein to the contrary, it is agreed that the purchase of the Property is contingent upon a satisfactory environmental assessment of the property. The Buyer shall arrange for an investigation and examination of the property to be performed by an environmental consulting firm ("Engineer") selected by the Buyer. The purpose of the assessment will be to determine the presence of any hazardous waste as defined by §22a-115(1) of the Connecticut General Statutes or the presence of pollution or other environmental problems which would render the property prejudicial to human health and safety. Such investigation or assessment shall mirror the Phase I and Phase II investigations pursuant to the Transfer Act Site Assessment process. The Buyer may require a Phase II investigation whether or not the Phase I information suggests that a "Release" or other pollution may have occurred and to this end may instruct the Engineer to execute a Phase II investigation at or about the same time the Phase I investigation is performed. In the event the assessment reports the presence of an on-site discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or any other polluting agent or environmental problem on the property requiring further investigation and/or remediation, either party may terminate this Agreement within ten (10) days of the report. The expense of the environmental assessment of the property, as above

described, shall be the responsibility of the Buyer. The assessment shall be completed no later than March 31, 2000.

If the Seller offers to remediate the determined environmental problems and the Buyer agrees not to terminate this Agreement, any such remediation shall be at the sole expense of the Seller and the closing of title to the Property shall occur within ten (10) days of the final certification by the Engineer that the remediation has been satisfactorily completed.

A Phase II site assessment shall not be performed until the following conditions have been satisfied:

- (a) Notice to Seller and property owner first;
- (b) Representation that Buyer will restore the Property to its prior condition if not purchased (i.e. fill all test holes, etc.); and
- (c) Buyer to provide a Hold Harmless agreement and evidence of insurance before start of work.

At the time the Seller executes this Agreement, he shall advise the Buyer, in writing, of the existence and location of any known underground tanks.

7. **CONDITION OF PROPERTY.** Seller agrees that, to the extent that he controls the Property, he shall maintain the Property in the same condition as exists on the date hereof, reasonable wear and tear expected.

8. **DOCUMENTS AT CLOSING.** At the closing, Seller agrees to deliver to the Buyer the following:

A. A Connecticut form of Warranty Deed to the Property conveying marketable title without exceptions, free and clear of all encumbrances, covenants, easements, restrictions, defects and reservations except as noted in Schedule A; and

B. All drawings, surveys, and plans relating to the Property, if any, which are in possession of the Seller and not previously delivered to the Buyer; and

C. All documentation as may reasonably be required by the attorney for the Buyer to carry out the terms, covenants, conditions and intent of this contract including, but not limited to, negative declarations as provided for in Connecticut General Statutes §22a-134 through 22a-134d, provided, however, that compliance with such statutes shall be required only if the Property is deemed an "establishment" under such statutes and

D. An affidavit certifying that there are no rights of mechanic's liens with respect to the Property.

10. **RISK OF LOSS.** Throughout the period between the date of this contract and the closing, all risk of loss shall be on the Seller. Should any building be destroyed or damaged by fire or other such casualty and not be restored to its present condition during such period, the Buyer shall have the right to rescind this contract. If this

contract is so rescinded, all rights and liabilities of the parties hereunder shall be at an end.

11. **SELLER'S REPRESENTATIONS.** Seller represents the following with regard to the Property:

A. The Seller has not received, and has no knowledge of, any notice or request from any insurance company or Board of Fire Underwriters, or mortgagee, requesting the performance of any work or alterations with respect to the Property which have not been complied with, and the Seller does not know of and has not received any notice of any violations of any local, state or federal laws arising out of the present use and occupancy of the Property;

B. No leasing commissions or payments for work or improvements heretofore made are or will be due and owing, or become due or owing, in connection with any tenant lease;

C. No person, firm or entity, except as set forth herein has any rights in or right to acquire the Property or any part thereof;

D. There are no service contracts, management agreements, commercial rental agreements, or other agreements of any kind or nature affecting the Property or a portion thereof which shall survive the closing;



E. There are no actions, suits, or proceedings pending or threatened against, by or affecting Seller with respect to the Property, at law or equity before or by any federal, state or other governmental department, Commission, board, bureau, agency, or instrumentality, domestic or foreign. Seller, until the closing of this sale, shall retain the right to appeal any zoning action with respect to this property. Seller is not in default with respect to any order, writ, injunction, or decree of any court of federal, state or any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, insofar as such order, writ, injunction, or decree affects the Property; and

F. Seller shall keep the Property in its present state of repair, except for normal wear and tear, up to the date of closing, and shall not commit waste upon the Property while in possession thereof.

12. **NO ASSIGNMENT, BINDING EFFECT.** This Agreement may not be assigned by either party without the written consent of the other, but it shall be binding upon the heirs, executors, administrators, and successors of the parties hereto. The Seller may, without Buyer's consent, assign his interest to a legal entity in which he is a principal.

13. **SURVIVAL.** All agreements, representations, warranties and covenants contained in this Agreement shall survive the closing and transfer of title.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals

this            day of March, 2000.

*Signed, Sealed and Delivered  
In Presence Of:*

\_\_\_\_\_

\_\_\_\_\_  
ROBERT G. WIEDENMANN, JR.

\_\_\_\_\_

TOWN OF WALLINGFORD

\_\_\_\_\_

BY: \_\_\_\_\_  
WILLIAM W. DICKINSON, JR.  
Its Mayor, Duly Authorized

\_\_\_\_\_