

Corrected minutes  
Rec'd. 10/21/01

TOWN COUNCIL MEETING

MAY 22, 2001

6:30 P.M.

AGENDA

Blessing – Rev. Dean Warburton, First Congregational Church of Wlfd.

1. Pledge of Allegiance and Roll Call
2. Correspondence – Memorial Day Parade, May 28<sup>th</sup> 9:30 A.M.- Dutton Park to Doolittle Park. In the event of rain, ceremony will take place at Lyman Hall High School commencing at 10:00 A.M.
3. Consider and Approve Accepting a Donation of Three (3) Automatic External Defibrillators from Gaylord Hospital to the Town of Wallingford to be Placed On Three (3) Volunteer Fire Units – Chief of Fire & Emergency Services
4. Consent Agenda
  - a. Consider and Approve Tax Refunds (#365 - 385) Totaling \$9,289.39 - Tax Collector
  - b. Approve and Accept the Minutes of the May 8, 2001 Town Council Meeting
  - c. Consider and Approve a Transfer of Funds in the Amount of \$2,000 from Regular Salaries & Wages Acct. #001-5010-101-1000 to Purchased Services Engineering Consultant Acct. #001-5010-901-9040 – Engineering
  - d. Consider and Approve a Budget Amendment in an Amount Totaling \$12,260 to Liability Insurance & Workman's Compensation Acct. #461-8920-925 of Which \$3,525 is Transferred from Pumping Plant Acct. #463-9012-321 and \$8,735. is Transferred from Transportation Equipment Acct. 3463-9012-392 – Sewer Division
  - e. Consider and Approve Acceptance of a Grant Entitled "Summer Remedial Reading Grant – Parker Farms" and a Corresponding Appropriation of Funds in the Amount of \$2,000 to Remedial Reading Grant Revenue and to Program Expenditures Accounts - Board of Education Business Manager

- f. Consider and Approve a Transfer of Funds in the Amount of \$16,693 from Regular Salaries & Wages Acct. #2030-101-1000 to Wages Differential Acct. #2030-101-1450 - Dept. of Fire & Emergency Services
- g. Consider and Approve a Transfer of Funds in the Amount of \$377 from Furniture Acct. #2030-999-9006; \$128 from Mobile Radios Acct. #2030-999-9026; \$275 from Ventilators Acct. #2030-999-9028; \$361 from Relief Valves Acct. #2030-999-9031; \$2,135 from Light Controller Acct. #2030-999-9040; \$180 from Floor Buffer Acct. #2030-999-9050; \$229 from Ridge Vent Acct. #2030-999-9080; \$195 from Smoke Ejector Acct. #2030-999-9101; \$779 from Cutoff Saws Acct. #2030-999-9913 and \$3,341 from Regular Salaries & Wages Acct. #2030-101-1000 for a Total of \$8,000 to Maintenance of Vehicles Acct. #2030-550-5000 – Dept. of Fire & Emergency Services
- h. Consider and Approve a Transfer of Funds in the Amount of \$820 from Office Expenses & Supplies Acct. #001-1320-401-4000 to Fax Machine Acct. #001-1320-999-9911 – Dept. of Law
- i. Consider and Approve an Appropriation of Funds in the Amount of \$120,000 to Non-Operating Revenue Overpayment (Taxes) Acct. #001-1090-090-9040 and to Finance Department Refund of Overpayment (Taxes) Acct. #001-1401-800-8910 – Comptroller

5. Items Removed from the Consent Agenda

6. PUBLIC QUESTION AND ANSWER PERIOD

- 7. Consider and Approve a Transfer of \$142,929.98 from the Grand List to the Suspense Tax Book to Comply with CT. General Statute #12-165 – Tax Collector
- 8. PUBLIC HEARING to Approve a List of Municipal Projects and Corresponding Resolution to be Submitted to the State of CT. Under the Neighborhood Assistance Program – 7:45 P.M. – Grants Administrator
- 9. Conduct a PUBLIC HEARING and Consider and Act Upon A Proposed Ordinance Entitled, “An Ordinance Appropriating \$3,325,000 For the Planning, Acquisition and Construction of Various Municipal Capital Improvements 2001 – 2002 and Authorizing the Issuance of \$3,325,000 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.

10. Conduct a PUBLIC HEARING to Consider and Approve a Proposed Blight Ordinance as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee – 8:30 P.M.
11. Conduct a PUBLIC HEARING to Consider and Approve an Amendment to Section 198-15 of the Code of the Town of Wallingford Pertaining to the “Obstruction of Sidewalks; removal of snow and ice; violations and penalties” as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee - 8:45 P.M.
12. Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Leasing of Real Estate – Mayor
13. Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes Pertaining to the Matter of Paul Atwater v. Town of Wallingford – Town Attorney
14. Consider and Approve Settlement of Pending Litigation Entitled, “Paul Atwater v. Town of Wallingford” as discussed in Executive Session – Town Attorney

TOWN COUNCIL MEETING

MAY 22, 2001

6:30 P.M.

ADDENDUM TO THE AGENDA

15. Discussion and Possible Action Regarding Rejection of all Applicants for the Position of Deputy Fire Marshal as Requested by Chairman Robert F. Parisi
16. Consider and Approve Appointing Ed Smeriglio to Complete an Unexpired Term on the Board of Education Vacated by Andre Loubier

TOWN COUNCIL MEETING

MAY 22, 2001

6:30 P.M.

SUMMARY

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2. No items presented.	
3. <b>Approve</b> a Donation of Three (3) Automatic External Defibrillators from Gaylord Hospital to the Town to be Placed on Three (3) Volunteer Fire Units – Fire Dept.	1
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5. Withdrawn	
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7. <b>Approve</b> a Transfer of \$142,929.98 from the Grand List to the Suspense Tax Book to Comply with CT. Gen. Statute #12-165 – Tax Collector	6-7
8. PUBLIC HEARING to Approve a List of Municipal Projects and Corresponding Resolution to be Submitted to the State of CT. under the Neighborhood Assistance Program – Grants Administrator	10-11
9. PUBLIC HEARING to Consider and Act Upon a Proposed Ordinance Entitled, "An Ordinance Appropriating \$3,325,000 for the Planning, Acquisition and Construction of Various Municipal Capital Improvements 2001-2002 and Authorizing the Issuance of \$3,325,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose <b>Adopt Ordinance:</b>	9-20
10. PUBLIC HEARING to Consider and Approve a Proposed Blight Ordinance as Requested by Councilor Stephen W. Knight, Chrmn., Ordinance Committee <b>Adopt with Amendments:</b>	20-44
11. PUBLIC HEARING to Consider and Approve an Amendment to Section 198-15 Of the Code of the Town of Wlfd. Pertaining to the "Obstruction of Sidewalks; Removal of Snow and Ice; Violations and Penalties" as Requested by Councilor Stephen W. Knight, Chrmn., Ordinance Committee <b>Approve Continuing the Public Hearing to June 12, 2001; 7:45 P.M.</b>	44-47

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| 13. | Executive Session – 1-200(6)(B) – Paul Atwater v. Town of Wallingford                         | 47 |
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| 15. | <b>Approve</b> Rejecting all Applicants for the Position of Deputy Fire Marshal as Requested by Chairman Robert F. Parisi | 8-10 |
| 16. | <b>Approve</b> Appointing Ed Smeriglio to Complete an Unexpired Term on the Board of Education Vacated by Andre Loubier   | 7-8  |

TOWN COUNCIL MEETING

MAY 22, 2001

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, May 22, 2001 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 Asst. Town Clerk Evelyn Fernandes were Councilors Brodinsky, Centner, Farrell, Knight, Parisi, Rys, Vumbaco and Zappala. Mayor William W. Dickinson, Jr., Corporation Counselor Adam Mantzaris and Comptroller Thomas Myers were also present.

A blessing was bestowed upon the Council by Rev. Dean Warburton, First Congregational Church of Wallingford.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Correspondence – Memorial Day Parade, May 28<sup>th</sup> – 9:30 a.m. – Dutton Park to Doolittle Park. In the event of rain, ceremony will take place at Lyman Hall High School commencing at 10:00 a.m.

Mr. Parisi acknowledged a letter from Robert Prentice, Chairman of the Wallingford Housing Authority (WHA), requesting that the Council designate a liaison team from the Council to meet with the WHA to informally discuss Simpson School.

Mr. Parisi submitted the names of Raymond Rys, Sr., Gerald E. Farrell, Jr. and Iris F. Papale as the liaison team. Later during the evening, Chairman Parisi approached the Town Council secretary and ask that Councilor Thomas Zappala's name be added to the list of liaison members.

ITEM #3 Consider and Approve Accepting a Donation of Three (3) Automatic External Defibrillators from Gaylord Hospital to the Town of Wallingford to be Placed on Three (3) Volunteer Fire Units – Chief of Fire & Emergency Services

Fire Chief Peter Struble, Paul Storiato, Chief Financial Officer of Gaylord Hospital and Carissa Neubig, Chief Operating Officer of Gaylord Hospital, were in attendance for the donation.

Chief Struble presented a plaque to Gaylord Officials in appreciation and recognition of their contribution to the Town.

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

ITEM #4 Consent Agenda

ITEM #4a Consider and Approve Tax Refunds (#365 - 385) Totaling \$9,289.39 - Tax Collector

ITEM #4b Approve and Accept the Minutes of the May 8, 2001 Town Council Meeting

ITEM #4c Consider and Approve a Transfer of Funds in the Amount of \$2,000 from Regular Salaries & Wages Acct. #001-5010-101-1000 to Purchased Services Engineering Consultant Acct. #001-5010-901-9040 – Engineering

ITEM #4d Consider and Approve a Budget Amendment in an Amount Totaling \$12,260 to Liability Insurance & Workman's Compensation Acct. #461-8920-925 of Which \$3,525 is Transferred from Pumping Plant Acct. #463-9012-321 and \$8,735. is Transferred from Transportation Equipment Acct. 3463-9012-392 – Sewer Division

ITEM #4e Consider and Approve Acceptance of a Grant Entitled "Summer Remedial Reading Grant – Parker Farms" and a Corresponding Appropriation of Funds in the Amount of \$2,000 to Remedial Reading Grant Revenue and to Program Expenditures Accounts - Board of Education Business Manager

ITEM #4f Consider and Approve a Transfer of Funds in the Amount of \$16,693 from Regular Salaries & Wages Acct. #2030-101-1000 to Wages Differential Acct. #2030-101-1450 Dept. of Fire & Emergency Services

ITEM #4g Consider and Approve a Transfer of Funds in the Amount of \$377 from Furniture Acct. #2030-999-9006; \$128 from Mobile Radios Acct. #2030-999-9026; \$275 from Ventilators Acct. #2030-999-9028; \$361 from Relief Valves Acct. #2030-999-9031; \$2,135 from Light Controller Acct. #2030-999-9040; \$180 from Floor Buffer Acct. #2030-999-9050; \$229 from Ridge Vent Acct. #2030-999-9080; \$195 from Smoke Ejector Acct. #2030-999-101; \$779 from Cutoff Saws Acct. #2030-999-9913 and \$3,341 from Regular Salaries & Wages Acct. #2030-101-1000 for a Total of \$8,000 to Maintenance of Vehicles Acct. #2030-550-5000 – Dept. of Fire & Emergency Services

ITEM #4h Consider and Approve a Transfer of Funds in the Amount of \$820 from Office Expenses & Supplies Acct. #001-1320-401-4000 to Fax Machine Acct. #001-1320-999-9911 – Dept. of Law

ITEM #4i Consider and Approve an Appropriation of Funds in the Amount of \$120,000 to Non-Operating Revenue Overpayment (Taxes) Acct. #001- 1090-090-9040 and to Finance Department Refund of Overpayment (Taxes) Acct. #001-1401-800-8910 – Comptroller



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

ITEM #5 Withdrawn

PUBLIC QUESTION AND ANSWER PERIOD

Jack Agosta, 505 Church Street, Yalesville stated that he read in the newspaper recently that Yalesville School is overcrowded and asked the Council and Mayor if they were aware of the overcrowding problem at the school?

Mr. Rys replied that he was not aware of the problem, except for what he, too, read in the newspaper recently.

Mayor Dickinson responded, my only awareness is as a result of the newspaper article.

Mr. Agosta stated that on September 19, 2000, at the School Building Expansion Committee Meeting, he commented that he thought the School Administration was not planning for the future by not adding on any additional classrooms to some of the schools. He talked, at that time, about all the overcrowding at all of the schools. Dr. Cirasuolo stood up at that meeting and stated that the schools were not overcrowded and that they had enough capacity for the next ten (10) to fifteen (15) years. Mr. Agosta subsequently requested data on the number of students and classrooms. The documentation seemed to verify Dr. Cirasuolo's statement. The newspaper recently reported a story on the overcrowding of Yalesville School. How could this problem have developed in such a short period of time? Why wasn't the Administration told, before renovations came up, that we had this problem? It is poor timing to transfer students out of one school to a school that is going to be subjected to renovations. It is unfair to those families, he stated.

Mr. Rys stated, because of the reduction in the number of children in the classroom, that is why they are having that problem, and that is why they are going to be re-districting, according to Dr. Cirasuolo. I don't think we have critical overcrowding in the school system at this point.

Mr. Agosta was of the opinion that, if there is overcrowding at Yalesville, the problem should have been addressed before the school building renovation project was started and the budgeted amount approved for the project. The most important asset we have is our children.

Mayor Dickinson answered, I am not sure it is a renovation subject. The system, as a whole, can handle the number of students. The question is, how many; what geographic area is assigned to each elementary school, and that is what the issue becomes. There is enough classroom space for all of the students in the system, as a whole. It would be difficult to add on to Yalesville School and make it even larger, as other schools are under enrollment and

Yalesville would continue to grow larger and larger. It is not a subject for the renovation project. It is a subject that the Board of Education is dealing with and they are the people who are assigned the responsibility of making a decision.

Geno Zandri, 37 Hallmark Drive asked Comptroller Thomas Myers if he had looked into the matter Mr. Zandri raised at the April meeting, namely the Tax Collector's Demand notice that was erroneously generated to so many taxpayers? Mr. Zandri felt the manner and tone of the letter was inappropriate, and the fact that it was an error on the Town's part made it even more offensive to those people who received the notice.

Comptroller Thomas Myers explained how state statutes dictate that certain language must be included in a Tax Collector's notice of payment due, i.e., "Tax Collector Demand to Notice". Could we include the language but use a different method of delivery or a different address to the letter?, possibly, yes. We are still looking into it. In many cases, the tax laws in CT. were written years ago and they never have been updated or amended to modern times. For instance, if a taxpayer overpays their account by mistake, the state law does not require notification to that taxpayer. We do, however, in Wallingford. The law does not prohibit it but it does not require it, either. We write a letter which states that we believe the account to be overpaid and ask that the taxpayer make an appointment and bring in certain documentation to help us accurately determine that our records are correct and that the account has been overpaid. We also help them to fill out a refund form which is another requirement; it is a state-regulated form. The refund then has to be approved by the local legislative authority. A considerable amount of time can lapse while going through the regulations as set forth in the statutes to obtain a refund. Personally, he did not find the notice very offensive but it is scary, if you will. It wouldn't be written as a business would write a letter today. No business would write a letter to their customer and say, "Business Owner's Demand".

Mr. Zandri stated, I am glad to see that the Town is going above and beyond the required steps, as far as overpayments are concerned, notifying the taxpayers when they really don't have to do that. I would also like to have you look into the Town approaching this notification for delinquency in a little bit different manner as well. Obviously, there are statutory requirements on that particular notice but I think we can send a letter, one month earlier, to clear the matter up with a more personable letter so that the matter can get straightened out. Especially in cases such as mine, where a mistake is made on the Town's part. We could use a little different approach that is more acceptable as far as the taxpayers are concerned.

Mr. Myers appreciated Mr. Zandri's comments and suggestions. He stated, we are always looking to try and be pro-active and positive in nature. Right now we are preparing the tax bills that will be mailed out for payment in July. Included with that bill are two inserts that we took a lot of time writing to provide additional information to the taxpayers about what to do when they move from Wallingford to another town or out of state; alerting them that they should

receive all of their tax bills; instructing them on what to do if they don't receive all their tax bills, etc. We are making additional efforts in those regards.

Robert Sheehan, 11 Cooper Avenue asked why the Housing Authority was so slow to respond to the inquiries from the Council regarding their interest in the former Simpson School building? We have been waiting for over a year to hear from them and now they want to discuss what the process of how they are going to apply to the state for money?

Mayor Dickinson explained, most likely at the next meeting we will review a proposal to place out to bid the sale of the building for elderly housing. If state money is appropriated this year for the Housing Authority, then we can always reject the proposals we receive. The issue for the next agenda will be that the property be put out to sale for proposals from developers for conversion to elderly housing.

Mr. Sheehan asked, if the WHA wants to do something with that property, they will have to submit a bid to the Town?

Mayor Dickinson stated, the WHA is not a local government department or agency. It is a creature of the State of CT. We would not be receiving a proposal from ourselves, it would come from a quasi-state agency.

Mr. Sheehan stated, if we are going to put out a bid, I guess we have determined that we want to use that site for elderly housing. Why doesn't the Town take the initiative and do it? We have Savage Commons right behind it, we can add on right behind it instead of looking for an outside concern?

Mayor Dickinson answered, Savage Commons is operated by the WHA. The WHA owns and oversees the housing facilities and opportunities there. They would have to provide a proposal and show that they have the financial strength to be able to utilize the property for the purpose that the Town has indicated, that is, for elderly housing.

Philip Wright, Sr., 160 Cedar Street pointed out that there are three (3) Port-o-lets at the side of the field by the road at Pragemann Field and not near the pavilion. He asked are all three located there? Is there someone on the Council that is a representative to the Parks & Recreation Department?

Mayor Dickinson stated that Mr. Wright should direct his questions to the Director of Parks & Recreation, Tom Dooley. If Mr. Wright's questions remain unanswered after speaking with Mr. Dooley, then he (Mayor) would be glad to look into the matter.

Pasquale Melillo, 15 Haller Place, Yalesville stated that, in his opinion, the people's First Amendment rights are being violated by the Council when the public is not allowed to speak on

the consent agenda items. He is a taxpayer and it is his money being spent, therefore he should have a right to comment on the matters. He questioned how much more money was going to be dedicated to the Quinnipiac River Linear Trail and stated that he was opposed to dedicating additional funds at this time because the Town has plenty of trails and open space to use.

Mr. Sheehan stated that he has heard many positive comments from people who are pleased that sidewalks are being installed in the Choate School area. Many people, including himself, were hopeful that the sidewalks will keep the students from crossing in the middle of the Christian and North Elms Streets. He asked the Mayor to try and do something about the situation. It is dangerous to everyone; drivers and walkers, alike.

Mr. Wright complimented Gaylord Hospital on their donation to the Town. He stated that it would have been better if they had retained the softball fields for the Girls Softball League. Money for defibrillators can always be raised; land is land and is difficult to come by.

Mr. Parisi explained how the fields are available on a yearly basis to the League. The League may feel that it is too much of an investment to be made for such an unclear future.

Mr. Agosta asked if Choate paid for the sidewalks that were installed? Home Depot and Kmart were required to put sidewalks in, at the direction of the Town, and had to pay for them; why not Choate?

Mr. Parisi replied, the townspeople will benefit from the sidewalks at Choate; anyone walking in that area will be able to use them.

ITEM #7 Consider and Approve a Transfer of \$142,929.98 from the Grand List to the Suspense Tax Book to Comply with CT. General Statute #12-165 – Tax Collector

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

A brief discussion took place on the matter and the following points were reviewed; efforts being made to collect the back taxes due the Town; the difficulty in locating the owners of motor vehicles who are delinquent on their taxes; and whether or not the Town considered hiring a firm to chase after the delinquent taxpayers.

Comptroller Thomas Myers pointed out that the suspense list did not have on it any real estate accounts. There is no requirement for businesses to register with the Town, therefore businesses can relocate and we do not find out about it until after the fact. With regards to motor vehicles, there are approximately 42,000 residents in the town and approximately 40,000 vehicles. There is a tremendous amount of movement with the vehicles; buys, sells, stolen or wrecked vehicles; etc. There are many reasons why some of the accounts exist. Sooner or later, if the file matches up at the DMV, the Town will be notified when the taxpayer cannot re-

register that vehicle or another vehicle. Many people move out of town or state which can cause a separate problem with their taxes. He stated, if I had my way, I would not have a property tax on vehicles because it is an administrative nightmare to deal with.

Mayor Dickinson added, the Town did propose legislation that would eliminate, or at least study the issue of eliminating the motor vehicle tax. I think Rhode Island has done that. We really believe that might be a good direction for the State of CT. Aside from that, this list does not mean that we would not continue to try and collect this. This does not mean that the Town would no longer seek collection of these taxes. If the opportunity arises hereafter, they still could be collected.

Geno Zandri, 37 Hallmark Drive asked, does the Town ever seek a private firm to collect or pursue the delinquent taxpayers and then share a percentage with the firm?

Mr. Myers stated, we did that at one time. The results were o.k. It wasn't a lot of money; in fact it wasn't really additional money beyond what the Tax Collector's office had been collecting on their own. There are firms interested in this business but, in this case, the dollars are too small. If my memory serves correctly, the last firm we used asked that they be let out of the contract because it was not profitable for them to be in that business.

Mr. Zandri asked, are you saying that there are no firms that do this?

Mr. Myers answered, that is my understanding, yes. Annually, the Tax Office collects approximately \$75,000 on these accounts and probably another \$40,000 to \$50,000 in interest. There is a continuing effort to collect this money and the results we track show that it is approximately \$75,000 a year in taxes and \$40,000 - \$50,000 in interest.

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

ITEM #15 & 16 Motion was made by Mr. Rys to Move Agenda Items #15 & 16 Up to the Next Order of Business, seconded by Mr. Farrell.

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

ITEM #16 Consider and Approve Appointing Ed Smeriglio to Complete an Unexpired Term on the Board of Education Vacated by Andre Loubier

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

Mr. Vumbaco stated, I would first like to thank Andre Loubier for his five years of hard work and dedicated service that he provided to the Board of Education. Andre always did his homework, came to the table with an open mind and voted his conscious; what was best for the

youth of our town. I would like to go on record with the blessing of my fellow Council members, I am sure, to thank Andre for his time and efforts.

Mr. Vumbaco continued, Ed Smeriglio came in front of the Democratic Town Committee with a request to fill Andre's spot. Mr. Smeriglio has children in the educational system at Yalesville School and, I have no doubt after talking with Ed, that he will also continue to do what is best for the children of our entire school system. I am proud to put his name into nomination also.

Mr. Parisi replied, I agree. I think we all echo your sentiments with Andre's leaving, he did a fine job.

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

Assistant Town Clerk Evelyn Fernandes performed the Swearing In Ceremony at this time.

(applause)

ITEM #15 Discussion and Possible Action Regarding Rejection of all Applicants For the Position of Deputy Fire Marshal as Requested by Chairman Robert F. Parisi

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

John Andrews, 1394 Durham Road stated, I am here representing Local 1326, Fire Fighters Union in the Town of Wallingford. I am concerned with the motion before you and the impact that it will have on both our community and the members of our fire fighters union. I am unsure, exactly, what the entire process, what your next step will be with it and I am not sure that you are quite sure at this point. We are concerned that leaving this position open after Deputy Fire Marshal Hanchuruk retires, will leave a void within that office in of itself. That void, as far as the inspections, certifications, permits that are taken care of through that office, it does have an impact on our fire fighters as far as health and safety which directly also impacts the community. They have an extraordinary workload as it is. Reducing the numbers from that office at this time, for an indeterminate length of time at this point, seems extraordinary and potentially could pose risk to our fire fighters and also to our community. We do have a process that you did go through as far as the testing, itself, using job specifications which I believe were developed in 1982 with the first Deputy Fire Marshal. Those (specifications) have not been revised since that time. The union has not been approached with any discussions such as revisions to the job specification for the position of Deputy Fire Marshal. It is an unusual position for us because it is not only open to members of Local 1326, career fire fighters in the department, but also open to volunteer fire fighters as it was listed in the posting for that job; some are union, some are not; ultimately, we do represent that office. We respectfully hope that you would take into consideration public safety, posting requirements and process that you have

gone through to find a candidate which is acceptable and meets the qualifications for that position, prior to taking your vote as the union has some very serious concerns over the process that is going forward now. Thank you very much.

Pasquale Melillo, 15 Haller Place, Yalesville stated, for safety reasons and welfare of the residents of the Town, we should have someone in place to take over for the Fire Marshal in case something happens to him and he can not perform his job. Hire a deputy fire marshal.

Gene Letourneau, 1098 Durham Road stated, I am also a fire fighter in town. Pertaining to the testing procedure, the posting for the test; four people took the test and nowhere in the posting did it specify that there would have been a lot of codes given on the test, where the only way one have that knowledge would be if you were already certified as a state fire marshal. Only one of the candidates was certified and ultimately passed the test. The requirements were that you only had to be a paid or volunteer fire fighter for three years and/or had some construction experience. I had both. I did not take the test but there is no way that I would have passed it with the codes in there. It was a little misleading to the candidates. Having said that, you did get one qualified candidate to pass and if you want to throw out the list, what is your next recourse? Is it to re-test? Is it to just eliminate the position?

Mr. Parisi answered, I cannot answer that right now.

Mr. Letourneau asked, with the position being vacant for any length of time, by your rules and job title, all businesses are supposed to be inspected once a year. I am sure they do their best to achieve that now with the three employees they have. To cut that office down to two positions, I would imagine that it would be impossible to perform the required inspections. Also, you know that when we have a fire, we call someone in to investigate it. That is the function of the Fire Marshal's division. Our fire marshal lives a good distance away, and with only two people on staff, is he going to be on call to respond and are we going to be waiting at a fire scene for him to respond once the fire is out, thus making us unavailable for other incidents that happen in the meantime?

Mr. Parisi answered, I don't think you will be waiting at a fire scene.

Mr. Letourneau stated, our procedure is, we just don't abandon a fire scene and then let them come later.

Mr. Parisi replied, I am not saying that you would, right.

Mr. Letourneau stated, it is a little disheartening, I think, for the membership and the people who took the test and everyone involved, and should also be for the townspeople, the way that this is all playing out. I hope you can alleviate this with some form of game plan as to what your intentions are going to be. Thank you.

Deputy Fire Marshal Thomas Hanchuruk stated, I brought this subject up about two years ago and it is just too bad that we are at this point that I was going to leave. You should have reacted to this a lot sooner. By dragging your feet, you are going to be without staff. You can barely meet the statutes now, in the Town of Wallingford, for inspections because the office is too small. It is a sad state of affairs that we are at this point. Thank you.

VOTE TO REJECT APPLICANTS: Papale was absent; Brodinsky & Vumbaco, no; all others, aye; motion duly carried.

A five minute recess was declared at this time.

ITEM #8 PUBLIC HEARING to Approve a List of Municipal Projects and Corresponding Resolution to be Submitted to the State of CT. Under the Neighborhood Assistance Program -- 7:45 P.M. -- Grants Administrator

Motion was made by Mr. Knight to Accept the List of Neighborhood Assistance Projects and Approve the Corresponding Resolution, seconded by Mr. Centner. (Appendix I)

Philip Wright, Sr., 160 Cedar Street, asked for an explanation of the program and whether or not the Town is contributing any money to the program.

Don Roe, Program Planner explained, other than the administrative time that my office is required to spend on this, there is no commitment of any other municipal resources. This is a tax credit program whereby the state allows companies to divert taxes that they would be paying to the state to programs that have been approved that are on the list.

Mr. Brodinsky added, this program is a way for a local business to give to a local, non-profit organization and then apply for a tax credit. This is a terrific benefit to the community because it helps fund organizations potentially without any cost to the local business.

Mr. Roe added, and that is why this community has made a commitment to allocate our administrative time to doing this.

Mr. Brodinsky thanked Mr. Roe for the service his office provides in this matter.

VOTE: Papale was absent; Brodinsky and Farrell abstained; all others, aye; motion duly carried.

Mr. Brodinsky stated that he is very much in support of the program, however would abstain from voting due to his membership on the Board of Directors of the Boys & Girls Club.



Mr. Farrell abstained due his serving in the position of President of the Wlfd. Historic Preservation Trust.

Mr. Parisi voted after conferring on the matter with Corporation Counselor Adam Mantzaris. Mr. Parisi is involved with Gaylord Hospital's Community Relations department.

**ITEM #9** Conduct a PUBLIC HEARING and Consider and Act Upon A Proposed Ordinance Entitled, "An Ordinance Appropriating \$3,325,000 For the Planning, Acquisition and Construction of Various Municipal Capital Improvements 2001 – 2002 and Authorizing the Issuance of \$3,325,000 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.

Motion was made by Mr. Rys to Read the Title and Section 1 of the Proposed Ordinance in their Entirety and to Waive the Reading of the Remainder of the Ordinance, Incorporating its Full Text into the Minutes of the Meeting, seconded by Mr. Knight.

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

At this time Mr. Rys read the Title and Section 1 of the proposed ordinance into the record.

**AN ORDINANCE APPROPRIATING \$3,325,000 FOR THE PLANNING, ACQUISITION AND CONSTRUCTION OF VARIOUS MUNICIPAL CAPITAL IMPROVEMENTS 2001-2002 AND AUTHORIZING THE ISSUANCE OF \$3,325,000 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 \$3,325,000 is appropriated for the planning, acquisition and construction of municipal capital improvements 2001-2002 consisting of Roadway Reconstruction of: (i) North Farms Road-Route 68 to Town Line; (ii) Hanover Street - Airport Section; (iii) Grieb Road - Leigus Road to Durham Road; (iv) Cheshire Road - Parker Farms Road to Town Line; (v) South Turnpike Road and Mansion Road, and including Quinipiac River Linear Trail Phase II; and for appurtenances and services related thereto, 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 2. To meet said appropriation \$3,325,000 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 the cost of the project determined after considering the estimated amount of the State and Federal grants-in-aid of the project, or the actual amount thereof if this be ascertainable, and the anticipated times of the receipt of the proceeds thereof, provided that the total amount of bonds to be issued shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds. The bonds shall be in the denomination of \$1,000 or a whole multiple thereof, be issued in bearer form or in fully registered form, be executed in the name and on behalf of the Town by the manual or facsimile signatures of the Mayor, the Comptroller, and the Town Treasurer, or any two of them, bear the Town seal or a facsimile thereof, be certified by a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, which bank or trust company may be designated the registrar and transfer agent, be payable at a bank or trust company designated by the Mayor, the Comptroller, and the Town Treasurer, or any two of them, and be approved as to their legality by Murtha Cullina 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 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.

Don Harwood, 4 Chestnut Lane, stated, we have two potential exposures for the community; one being the relocation of the Wallingford Little League and, one, being the Wallingford Girls Softball League that will potentially end up on Town property, requiring some capital funds to be allocated and based on what seems to be moving along and appears that it may present itself during this fiscal year. I have a little reservation when you take a look at the number of people in the community that would be impacted by both of those groups and taking \$1 million, or thereabouts, for the Quinnipiac River Linear Trail (QRLT), although I have gone on it and it is very nice, the bang for the buck is probably not the same. It does not impact as many people; there certainly is not that volume that you would see with both of these leagues that are fairly entrenched in the community. As you review your capital expenditures here, and that exposure may be here, I don't know where you factored it in and I guess I would like to know how you are going to factor that in and what your opinion is associated with my comments.

Mayor Dickinson answered, the QRLT, the \$1,450,000 is here, in part, because the federal and state government has committed \$750,000 from the ISTEA 21 funds. These are matching funds that would be for Phase II and that has been in the process and, in fact, under design for up to one year. It has been in the works. The playing fields for the little league has been a very recent issue. For the girls softball, I am not aware that there is a problem with the number of fields for them. They have been using one or two fields at Gaylord but, I am told by the Recreation Department there are easily enough fields to absorb the loss of that one or two at Gaylord. The Little League; that is a fairly new issue and we are in the process of looking into that, determining what will be done and where. That will have to be incorporated in other ways into our financing. The QRLT goes back at least a year, in terms of design, and the money from the state and federal source...is something that we needed to address. We are either going to use it or not.

Mr. Harwood stated, I can appreciate that and can understand that the QRLT has been an ongoing project. Obviously, there is going to be a capital expenditure that is going to present itself this year, unless it is pulled out of contingency or something along that line. If you have a \$750,000 ISTEA grant, is that a one-third/two-third grant? Is that why you end up with \$1.4 million?

Mayor Dickinson answered, it is just \$750,000 and the total project is \$1.4 million. I think the total money was something like \$1.5 million and Meriden received half of it and Wallingford received half and we have been planning this part of Phase II for a year, I believe. The designs have either been completed or are nearly completed. That is the reason the \$750,000 could not be used for something else. Those funds are used for transportation enhancement purposes so it has to be something that deals with the ability of people to move from one place to another. In

this instance, the purpose is to allow people to use another means other than cars to get from one place to another and ultimate, the goal is, Meriden was \$750,000., Wallingford was \$750,000 and the goal was to connect Meriden to Wallingford through a pedestrian pathway. That fell under the terms and conditions of the federal grant.

Mr. Harwood asked, if the Town does not expend \$1.4 million this year on this project, what is the risk with regards to the federal funds?

Mayor Dickinson answered, we would still receive \$750,000. It is not that we have to spend "X" amount over the \$750,000. We do the design and they provide the \$750,000 but the cost of the project is in excess of the \$750,000.

Mr. Harwood replied, maybe I am not absorbing your explanation. All I am bringing to the table is that, since we have the financial exposure; Wallingford Little League and the rumblings about the Girls Softball League, maybe that is fine; maybe there are enough fields and that is great; now we are dealing with one entity (Wlfd. Little League). There is going to have to be "X" amount of money; \$1 million or \$2 million; spent by the community if the Town wants to do that. All I am bringing to light is, that if you did not need to spend the \$1.4 million on the Linear Trail or the \$1 million this year in the budget, would that be an appropriate project to hold back on? Despite that you are in the planning process, it doesn't mean that the money has to be spent. Priorities change, demands change but, obviously, there has to be an expenditure forthcoming and where do you plan on pulling the money from?

Mayor Dickinson answered, we are not anticipating an expenditure of \$1 million for the fields. There is not a cost figure on it. It is in the stage of review, as to location and what is possible. There is no cost; there is no location determined; it is really impossible to put a dollar figure on it. At the point that is resolved, depending upon the amount, it would probably be a bonding project. It would not be in the Capital and Non-Recurring budget.

Mr. Harwood asked, it will come out of capital dollars of the community?

Mayor Dickinson answered, right, but this is a separate fund that has been used for; it is primarily highway projects; there are some....

Mr. Harwood stated, it is still an expenditure of the community. I can understand how you line them up; how you budget, it's fine. It can be a separate item. It is still a \$1.4 million commitment by the community, that is all I am trying to say. So you spend \$1.4 million on the Linear Trail and you have to spend dollars on the ball fields. If that figure is \$750,000 and we can afford it, fine. I guess I look at it as two recreational vehicles. One is transportation by foot, one is another recreation vehicle. It depends on how you set your priorities. I just wanted to bring that to the Council. You have an expenditure facing you; how are you going to budget for it?

Mayor Dickinson answered, you have one project totally ready to go which is the Linear Trail, the other one is in stages of review. The question would be holding back on the one project, pending what would happen on the other. This has to be approved tonight because we need to have this money in place for construction as of July 1<sup>st</sup>, otherwise we lose the summer. There is some urgency to having to do this tonight and the figures are not available on the fields.

Mr. Harwood stated, it is only immediate if that is the priority that you want to set. My position is, either/or deserves merit and I am looking at it strictly from a volume usage that the ball fields would probably get more usage in the community at this point than I have seen on the Linear Trail, in using it myself.

Mayor Dickinson answered, I am not saying whether more people use one or the other, I am saying that this ordinance must be approved tonight because, if it is held up, we cannot go ahead with construction projects on here which are of great interest; the highway projects; that must be in place for July 1<sup>st</sup>. There is not a lot of latitude to be able to wait and determine figures and come back...

Mr. Harwood asked, can you pick and choose off of this list or is it one fail swoop? Basically, you are saying that it is a yea or nay for the entire list?

Mayor Dickinson answered, at this point these are the programs being suggested by Parks & Recreation, Engineering and Public Works; Engineering and Public Works, primarily. Engineering is involved with the linear trail.

Mr. Harwood stated, to answer my question, it is very simple. It is; can you pick and choose on this list, yes or no?

Mayor Dickinson answered, not at this point.

Mr. Harwood asked, when is the purpose then of having a public hearing? It is either a yes or a no. You are not answering my question.

Mayor Dickinson answered, we can decide not to do these.

Mr. Harwood asked, can you take one off if you so chose?

Mayor Dickinson answered, we can approve this and not be able to go ahead with one of the items on here.

Mr. Harwood asked, is there a problem with answering the question? I am saying, if you all of a sudden wanted to pull off...

Mr. Parisi stated, let's calm down a little bit. Let's take our time.

Mr. Harwood stated, I have no problem, with Mr. Chairman. I just simply wanted to know if one item could be removed if the Council took that action. That is not being uncalm. I just asked the question. Is it a yes or a no? It is a simple question. Maybe nobody knows.

Mayor Dickinson answered, an item can be removed.

Mr. Harwood answered, thank you. Go back and listen to the tape and you will hear that I asked that question the same way three times. Thank you.

Philip Wright, Sr., asked, are you saying that the Girls Softball League is satisfied with having two fields gone that they can handle their program?

Mayor Dickinson answered, I am told by Tom Dooley of the Recreation Department; and there are two Girls Softball Leagues now, but there are sufficient fields for the two leagues to handle their needs this season.

Mr. Wright stated, a couple/three years ago Gaylord said, "here's some land, build a couple of fields" and a lot of time, effort and money was put into building those fields. Now you are telling me that they were not needed?

Mayor Dickinson answered, the Town of Wallingford put in an additional, I believe it was four fields at Pragemann (Park) one or two years ago, whenever the major issue surfaced. Two brand new fields were put in and another two were put at the corners of existing fields. Actually, there is a six field complex there, now. But there were four new fields developed. My understanding is, there are sufficient fields between those and others that were built that same year or the previous year two other fields were reconditioned and built elsewhere. There are sufficient fields for girls softball.

Mr. Wright asked, are you saying that the two fields built up at Gaylord were superfluous, unneeded?

Mayor Dickinson answered, I can't make a judgment as to where a league....

Mr. Parisi stated, Gaylord offered the land to the Girls Softball League when there was no land available. The softball league went up with the idea of establishing a complex, eight or nine fields, a refreshment stand, the whole works. It did not work out that way. We were not able to raise money and we had some problems with the fields; drainage. The so-called agreement did not and could not become a reality. That should be understood.

Mr. Wright stated, without having done research on this myself, I do not think that any fields were made available for girls softball after those were built up there.

Mr. Parisi stated, there were field made available; there were.

Pasquale Melillo, 15 Haller Place, Yalesville stated, I would like for you to be more specific in describing various municipal capital improvements. I know you mentioned road repairs and the linear trail. Is there anything else involved?

Mayor Dickinson added, intersection improvements/safety improvements at South Turnpike and Mansion Roads.

Mr. Melillo asked if the improvements were essential?

Mayor Dickinson replied, these projects are being recommended by Engineering and Public Works as needed for the safety of the public.

Mr. Melillo asked, how much of the Town's money is planned for the linear trail?

Mayor Dickinson answered, the approximate Town's share on the linear trail would be somewhere around \$700,000. unless there are other grants to offset that and I am not aware of any right now.

Mr. Melillo answered, the trail is not necessary. It is a hobby for some people. If people want to hike and walk in the country, we have plenty of open space we have purchased over the past year or two on which to do that. The money could be diverted for new fire trucks that the Fire Department needs so badly. You could also use the money for the proper toilet facilities at all of the ball fields. The majority of the fields don't have proper toilet facilities. I would like to make a motion that the \$750,000 for the linear trail be eliminated from the budget. I would like an explanation as to what "the making of temporary borrowings" means in the ordinance.



Comptroller Thomas Myers explained, it permits the Town to borrow money in the form of short term notes in lieu of issuing bonds or before we issue the bonds. Should we need the cash for cash flow purposes, before we issue bonds, we could borrow the money on notes.

Mr. Wright, stated, I hope the Town has deep pockets when Community Lake restoration gets started.

Jack Agosta, 505 Church Street, Yalesville stated, there was \$750,000 in last year's budget for the North Farms Road – Route 68 to Town Line project. Now it is in this year's budget again. What happened to that \$750,000 that was not spent?

Mayor Dickinson explained, initially the project was put in at \$750,000. It did not go ahead, I believe we were doing a study on the industrial zone property off of North Farms Road. Subsequently Public Works has come in again with the project and they have a lesser estimate.

Mr. Agosta asked, but the money was allocated in the budget last year. What happened to it?

Mayor Dickinson answered, we never borrowed it and never spent it.

Mr. Agosta asked, it wasn't part of the Capital and Non-Recurring funds that you get from the Electric Division? I thought that the money that comes from the Electric Division goes toward paying for capital and non-recurring projects?

Mayor Dickinson answered, the money from the Electric Division is used for financing of it, but you have ongoing projects that have been completed and debt is paid on those projects as well as new started. You have a constant adjustment of money being paid on bonds; money being paid in cash; it is not a simple situation of everything being done one way or another. That money was not spent because the project did not go ahead and now it is here for a lesser amount.

Mr. Agosta asked, is that money now part of the surplus in the Town's budget for the last fiscal year?

Mayor Dickinson answered, no, I don't believe it would be part of the surplus; no.

Chairman Parisi called the public hearing closed at this time.

Motion was made by Mr. Farrell that the Ordinance Entitled, "An Ordinance Appropriating \$3,325,000 For the Planning, Acquisition and Construction of Various Municipal Capital Improvements 2001 – 2002 and Authorizing the Issuance of \$3,325,000 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. Centner.

Mr. Centner stated, with regards to the questions and comments pertaining to the Quinnipiac River Linear Trail, I just wanted to make everyone aware that the QRLT Committee which was formed and is a committee of the Council, we are in our fourth year of constructing this trail. There is a commitment from the Council current to accept this multi-year plan. I can't argue whether baseball fields or a linear trail has higher usage but what I do know is, our trail operates year 'round twelve months a year. It would be very hard to take a snapshot in any one spot, to be down there on any one day to know the total usage and the families that it affects. We have completed Phase I and are now involved in Phase II. The committee has brought to the Town of Wallingford, approximately \$1.7 million worth of grant funds. We are applying \$750,000 of it in one lump sum in this current budget. We have applied numerous dollars for Phase I and there are still other grants targeted to be received and utilized. Some of these are matching grants and the Town does have to provide a matching dollar of some sort. It is disturbing to me to find out that people would want to take a multi-year, \$6 million project and consider raiding it in Phase II, the fourth year down the road of a project that has received unanimous commitment, to date. I am a little disappointed by the suggestion. To me, it seems that if we make a commitment such as we just did with the \$63 million school project, it would be the same thing if we were sitting here in year three of that, wanting to raid those funds or not being able to maintain our commitment to that project in the future and look at the people that it would affect. I think it lacks fiscal prudence if we don't continue on a project which was understood to be a multi-year, multi-million dollar project. This is being handled in our Capital and Non-Recurring Engineering account which is sort of a picture as to what we feel our expenditures in this category would be the next six years. I am happy to see that the Town is targeting some funding for the next six years. It is incumbent upon our committee to continue bringing in grant dollars to restore funds that were appropriated by the Town. We have a higher than 60% ratio rate of returning dollars to the Town of expended money. I don't know if a project has hit this town yet, that has had that kind of replenishment of funding through grants. I would hope that my colleagues, here, would approve this motion and continue on our support and commitment to the project. I feel that it is a very valuable project to the community at large.

Mr. Vumbaco stated, I do understand Mr. Harwood's and the little league's concern with being booted out starting next year and, hopefully, the Town is in the process of developing; can you give us some kind of timetable, Mayor, on when Mr. Dooley will have his report done and what potential lands you might be using and the cost involved? At least this will give the little league some sort of fuzzy feeling that something will be done for them so that next year they are not faced with a shortage of fields?

Mayor Dickinson answered, I believe the little league is well-aware; a meeting, maybe even more than one meeting already and there is another one scheduled, all discussing various options and it is hard for me to put a time on when there will be an accepted plan. I would

expect in the foreseeable future; a month; a month and one-half. I would hope that, by then, there would be an ability to know what we are going to do but, there is a necessity to meet, exchange ideas, look over what possibilities there are, then we will move forward. It is very much in a review and analysis stage.

Mr. Vumbaco asked, is the little league involved in the decision-making process?

Mayor Dickinson answered, yes, definitely.

Mr. Vumbaco stated, I would hope that we can get it done by the fall because it is prime planting season. If we can get the fields established so that by next spring or summer they will have good fields to play on.

Mayor Dickinson answered, I don't know that we would be under construction this summer. That would be somewhat of a stretch to have everything designed, financed and construction start this summer. Any borrowing of funds takes approximately 1 ½ months to 2 months just to have access to the funds. I think the actual construction would be extremely difficult this summer. If we develop a plan, I do believe that the schedules will be able to accommodate everyone.

Mr. Vumbaco asked that the Council be kept informed as the plan begins to take shape and moves forward; an update. He did not want to wait until it was completed and before the Council for approval of funding.

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

ITEM #10 Conduct a PUBLIC HEARING to Consider and Approve a Proposed Blight Ordinance as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee – 8:30 P.M. (Appendix II)

Jack Agosta, 505 Church Street, Yalesville stated that he was very pleased tonight, he is very much in favor of the ordinance. He asked if the Council will have any input as to who the hearing officer will be?

Stephen Knight, Chairman of the Ordinance Committee replied, that will be decided by the Mayor, I believe.

Mr. Agosta asked, will the Mayor receive input from the Council on that appointment?

Mr. Knight answered, no.

Mr. Agosta asked, how will the Building Inspector do his job with regards to the blight? Will he sit in his office and receive phone calls on it or will he physically go out and look the town over in search of blight, periodically?

Mayor Dickinson explained, the primary functions of the office will continue to take place. During the course of performing those duties, observation of conditions that are not proper, action should be taken on those things. Complaints that would be received should be acted upon, but the primary responsibility of that office is code enforcement to ensure the safety of facilities being constructed in the community and assure whoever is going to own them that they are being built in accordance with the State Building Code. As part of that, and with the ordinance being set up in this way, we are hopeful that what ever department; Health Department, Building Department and hopefully the Police Department, will be primary places where, with knowledge of this, they can be taking note of where there may be cause for concern and being able to act upon it. All of these offices have other duties, which are primary duties. Unless you get into some of the areas in this ordinance that talk about public health and safety, then, clearly, there is a role for them to play in a very primary sense. My guess is that the Zoning Enforcement Officer is also someone who would be involved in some of the issues represented in this ordinance.

Mr. Agosta stated, what concerns me is that it was pointed out that we already have approximately eight ordinances on the books that dealt with addressing blight in various forms. Atty. Mantzaris admitted that it was hard to enforce those ordinances that already exist so we have combined them all into one. If we have a Building Inspector, I feel that we should probably have him perform a periodic inspection of the town.

Mayor Dickinson stated, for the most part, this is enforceable through observation which would be conducted from a public area. Another office, of course is the Fire Marshal's office. If the Fire Marshal's office is inspecting a premises and sees next door that there is a condition that warrants attention, that falls under the blight ordinance, then they should be alerting either through their office or another office to take action upon it and give notice regarding the need to clear up the condition. To assign anyone a full time duty to this, Wallingford doesn't have the kind of situation that would, in any way, come close to a full time job for someone to be enforcing this ordinance, in my belief.

Mr. Agosta reiterated, a periodic inspection of the town should be conducted and can be done so pretty quick.

Mayor Dickinson disagreed. He stated, we have 230 miles of local roads. Consider that if you drove 230 miles at 60 miles per hour, you could go from Wallingford down into the middle of New Jersey or up into New Hampshire and it would take about four hours to do it. I don't think it is true that someone could easily go through the town and visit all the streets and observe all of the properties, given the size of the community.

Mr. Agosta stated, I am not saying to do it all in one day. I am saying that periodically the Building Inspector should drive around and keep his eyes open. All of us, at one time or another, have observed areas that are unsightly while driving around town. To wait for a complaint to be called in or for the Fire Marshal or Health Director to stumble across a situation, isn't being proactive. He asked, what about some of the farms that are located on the outskirts of the town? Some of the barns are in disastrous shape. Are we going to go out and enforce making them take it down?

Mr. Vumbaco replied, the ordinance pertains to dwelling units, not the barns.

Mr. Parisi stated, maybe if someone complains enough about the barn, it might be inspected.

Mayor Dickinson stated, my guess is that it would fall under the ordinance, not only under accessory structure but building, for the definition of a building is, "a structure having a roof, supported by columns or intended for the shelter, housing or enclosure of persons, animals or materials." It would appear that a barn would fall under that provision. There is always an interpretive factor. For one person seeing a picturesque barn, they think it looks lovely; for another, it is an eyesore. Some of the determination here is whether it is structurally safe or not. If it represents a hazard to individuals or animals inside or outside the building, then that clearly triggers action. A building that, if it were in the middle of town, would look in disrepair, but in the middle of a countryside someone would think it is wonderful, you get into a very subjective arena.

Mr. Brodinsky stated, accessory building is a defined term in the ordinance so you would have to go to the definition of accessory building and I wouldn't agree that a barn would be, but accessory building is a defined term; go to the definition and apply it.

Mr. Agosta referred to page 2, Line 7 of the proposed ordinance pertaining to unregistered vehicles. He stated that we have as policy that we tow the cars away; I think that is out now, right?

Mr. Parisi stated, I think that if the car is unregistered the police give the owner thirty (30) days to do something with it.

Mayor Dickinson added, cars can be towed. There are circumstances under which it is difficult to accomplish that but, where those difficulties don't arise, cars can be and are towed where they are unregistered.

Mr. Agosta stated, page 2 also refers to litter. It includes the language "grass clippings" which can be taken wrong. Everyone has grass clippings. The amount of grass clippings that would constitute an offense should be clearly identified.

Mr. Parisi stated, it is up to the hearing officer to use discretion.

Mr. Agosta asked, if a property owner has a problem with the hearing officer's decision, can the property owner ask the Mayor to intervene in the matter?

Mr. Knight replied, there is an appeal process. There is nothing in the language of the ordinance that makes the Mayor's Office the supreme court; the court of last resort. We were very careful to write in a procedure where people could appeal these citations and that is what you have here.

Mayor Dickinson pointed out that the hearing officer of the town has the last say. Number 8 on Page 5 indicates that an appeal from the hearing officer would go to the Superior Court.

Mr. Agosta stated that he liked the ordinance and commended the Ordinance Committee and Atty. Mantzaris for a job well done.

Dave Gessert, 43 Grandview Avenue stated, I was in a situation and had to deal with a blighted property right next door, not in Wallingford, about thirty years ago. I did everything I did to try and get that community to try to take some action and get it corrected. I even volunteered to go over and clean up the mess; which insulted the property owner. He gathered friends of his own to clean the property up and when trash pickup day came, he had trash lined from the beginning of his property to the end of it; about 100 feet; and it was about 4' high and lined with trash; everything from chicken wire to tires, to you name it. It is very, very frustrating if you live next door to something like this. It may not have been there when you moved in and all of a sudden it appears and you have a limited ability to try and get it corrected. I feel very strongly that an ordinance like this is very beneficial. If someone wants to live in adverse conditions and they want to do it up in the woods and not impact anyone else, that is one thing. But we are all living closer together these days and, I think how you live impacts everyone else around you and you have an obligation to them to keep your property up, not only for its value but for the value of everyone else in the neighborhood. I am very strongly in favor of this type of an ordinance and hope you pass it and wish you luck.

John Wostbrock, 15 Bonnie Court stated, I agree with the prior gentleman; an ordinance that addresses blighted properties is something that we should have in the town. It is a good philosophy. I believe such an ordinance is borne out of a responsibility that our neighbors have to us to keep their properties in appropriate order. It is also borne out of philosophy that we need some minimum standards of community safety for all of us to live by. I understand that when neighbors sometimes run into financial troubles, they may find it difficult to keep their properties in appropriate order and sometimes people go bankrupt and perhaps there is some accommodation for those types of situations in the ordinance. There are also circumstances that I am aware of where property owners are financially capable of doing something reasonable

with their property and they choose not to do so; they neglect it and it becomes blighted, just because it is a matter of convenience not to put any more money into that property. I have a series of pictures of a particular property; the first shows a decaying roof, the next is a picture of holes in the exterior walls of the property, the next is of a broken glass window with shards of glass plainly available to anyone, the next is one of a picture of graffiti and paint peeling; boarded windows; the next picture is glass laying on the ground of the exterior of the building; the next picture is a glass window broken and clearly exposed glass on which someone can harm themselves. The next picture is of bricks crumbling out of the building, falling down so that the supporting members of this building are coming apart. The next picture is of jagged glass and clearly, anyone can enter the building and we all know what happens when abandoned buildings are left unattended and access can be gained, it is a place where people can play or run into all kinds of trouble by entering the building. Here, we have a picture of paint peeling; probably also a hazard if we check the paint for lead and we have more glass all over the place.

This particular building is Simpson School. I am here to ask the Council to provide some leadership. I am asking the Council to show us, by example, what it is they want us, as taxpayers, to live by. The spirit of what you are asking us to live by, should be the same spirit that the town lives by. Allegedly, people go in that building, live in that building; children have told me in my neighborhood that they find weapons strewn along different areas on the grass way. I understand that there are rats living back in that area. This is a horrible situation. I ask the Council to show us leadership and show us how to be a responsible neighbor, rather than pass an ordinance that amounts to a double standard. We have to live by a standard, why can't the town live by the same standard? This building has been vacant for more than three years and it has been in declining use for more than ten years, no surprise to anyone yet, we can't seem to do anything about it. I will leave with the request that the Council be mindful of the fact that, if the same officer you are going to appoint was to inspect your building, you would be in violation, by any reasonable standard. Please show us leadership and do something about that building. Thank you.

Mr. Parisi responded, I think the leadership we are showing, quite frankly, is if you look at our homes, they are all up to snuff and that is the first start of our leadership. We are asking you to live the way we do or whoever has a blighted residence, take care of the property like we do and the greater of the majority of the residents of the Town of Wallingford do. It is very simple to point out one or two public buildings and say that this is the norm. It isn't the norm and the Town has wrestled with this project for several years. No one is going to deny that; no one is going to try and hide from it. This, in now way, is the measure of this ordinance; it never will be, either.

Mr. Wostbrock replied, I understand it is not the written measure of this ordinance. I am talking about the philosophy. The philosophy is, we are asking everyone to live to a certain standard. I have to live near that building and the standard with which that building is kept and maintained has been in a declining pattern for many years and I would ask the Council, perhaps in a separate ordinance, to do something definitive in a positive manner about that building.

Mr. Parisi replied, and we are trying to do that.

Mayor Dickinson added, at the next meeting we should have a document that would allow that building to go out for sale and once we receive proposals, we would be able to move forward with hopefully, turning it into elderly housing.

Dennis Charest, 16 Bonnie Court stated, my backyard faces Simpson School and everyday that I get up, I see broken windows, rusted doors; it is just falling apart. When I bought my property it was the Recreation Center. It was active and well-kept and now there is nothing in there; it is an abandoned building. I feel it is unsafe. I am trying to keep up my property, just like you are saying that you are keeping up yours. It is unfortunate when my parents come over or anyone comes over for Thanksgiving or Christmas and we look outside and see something like that, and seems like nothing is being done about it.

Mayor Dickinson replied, we agree with you. There has been frustration over moving in a direction on it. Earlier, there was some discussion about the Simpson School issue. At a previous meeting there was discussion and we will have a proposal to put out for bid requesting private entities to look to transform the building into elderly housing, have the town sell the property and move forward. I feel that it may be the Housing Authority, which is Savage Commons, and there has been some holding up of the project in order to try and accommodate their ability to obtain funding. That hasn't occurred as yet so we are going to move forward and put it out for public proposal and hopefully there will be a result.

Mr. Charest asked, how long do you think something like this takes?

Mayor Dickinson answered, I would think that a two to three month period for response and then we have make a decision.

It was Mr. Charest's opinion that the building would have to be razed. I don't see any way in which the could use that building.

Mayor Dickinson stated, there have been indications that there is interest in renovating. I am not sure but it could be a renovation of what is there.

Mr. Charest asked, would the Town consider, until this transpires, that some type of a fence or something be put up there so I don't have to look at it. That fence is bent and dangerous.

Mayor Dickinson stated, we can certainly look and see what safety hazards are there and try to rectify that.



Mr. Parisi stated, earlier this evening, we did appoint a Council committee to work with the Housing Authority to try and get this going. I am totally in agreement, this has been discussed for probably eight or ten years. Unfortunately, sometimes it just doesn't go as fast as we would like it to.

Mr. Charest asked, will the ordinance officer also be responsible for enforcing the ordinance on the blight property that the Town has? Would that be one of his responsibilities as well?

Mr. Parisi said, good question. I would think that if he gets a complaint, he would have to act on it.

Mayor Dickinson explained, Town properties are part of the issue, too. There is not a blight officer. There is a hearing officer who would hear appeals from a citation. There is not one person in charge of enforcing the ordinance. It would be a variety of offices ranging from the Building Department to the Fire Marshal to the Health Department and perhaps the Police Department.

Wes Lube, 15 Montowese Trail stated, I am an advocate of this blight ordinance so I don't want to appear to be antagonistic. I think it is great and I think the committee has done a good job. I do think it may not yet be ready for approval. Is this intended to supplement our other ordinances for the various departments; Health Department; Building Department, etc., or is it intended to replace them?

Mr. Knight answered, it is intended to supplement them. One of the primary moving forces behind creating this blight ordinance; we did pull a lot of language from several other ordinances and the reason we put it under a blight ordinance is, there is state legislation that allows us to lien the fines if they are not paid. It gives us more enforcement power than any of the other ordinances that already exist. It is a supplement, not to replace the others.

Mr. Lube stated, I don't find anywhere in this ordinance, an indication of the superiority.

Atty. Mantzaris answered, there isn't. They all stand by themselves as ordinances of the town; one is not more superior than another. It is not intended to be.

Mr. Lube asked, do I owe a \$5 fee under the other ordinance or a \$100 fee under this ordinance? Which ordinance is superior?

Atty. Mantzaris stated, I don't know that we have an ordinance that calls for a \$5 fine that would involve property or blight conditions. Litter can get up to thousands of dollars in fines; refuse can do the same.

Mr. Lube stated, I am talking about the automobile ordinance.

Atty. Mantzaris stated, it is an infraction ticket as I understand it, that would amount to about a \$66 payment to the court.

Mr. Lube asked, which do I owe?

Atty. Mantzaris answered, if you have property full of junk vehicles, it would probably be the ordinance that prohibits people from having unregistered vehicles on their property. Some of these matters are going to be judgment calls because one vehicle, I don't think, would constitute a blighted condition of a property.

Mr. Lube stated, in fairness to the citizenry, we ought to indicate what the liability is. I have been to the police to report an unregistered vehicle and they told me that I was wasting my time. The Desk Sergeant said that it was just a \$5 fine.

Atty. Mantzaris stated, it is not a \$5 fine. It is an infraction. If it were one vehicle on your property, it would not constitute blight and it would be the \$66 fee if you did not remove it.

Mr. Lube asked, what is the number of vehicles which determines that it is blight?

Atty. Mantzaris answered, that is a call; it depends on the appearance. It is hard to establish an objective standard.

Mr. Lube asked, o.k., so it is up to the hearing officer and not the enforcement officer?

Atty. Mantzaris answered, right. Initially, the person is allowed time to clean up the property.

Mr. Lube asked, the enforcement officer; be it a policeman or fire marshal or health department; they, in their opinion, one department may say that two vehicles; another department may say three vehicles; who on the firing line, not the hearing officer but the people who are issuing the warnings, what does the manual say?

Atty. Mantzaris answered, there is no manual that sets out how many vehicles would constitute blight.

Mr. Lube stated, from the citizenry's viewpoint, I think we are entitled to know. Is there any provision for a citizen's complaint?

Mr. Knight replied, there always has been. Most of the enforcement of the other ordinances was done by individual complaint. As with any ordinance, if someone feels aggrieved that they have a right to come to the public officials and make their complaint.

Mr. Lubee answered, true, but in the past it has been somewhat in vain. There is no provision here; it says that they will have to go to one of the enforcing officials and file a complaint, be it the police or fire marshal or whatever, correct? They would issue a warning, telling the people they have thirty (30) days in which to correct the situation. At the end of thirty (30) days, they would issue a notice of violation. The person who is the violator has the right to appeal. The person who files the complaint is totally ignorant of everything that is going on; they are not in the circle.

Mr. Knight answered, I don't know of many citizens that want to sit in the middle of something like that. Most of them would like to have their public officials make the enforcement decisions.

Mr. Lubee asked, if the violator has filed an appeal; all of the earlier procedures have taken place; should the citizen not be cognizant of the fact that it is being appealed?

Mr. Knight answered, I can only speak for myself...I know that when we were fashioning this, we made every effort to avoid having this ordinance become a club for every neighbor with a grievance against his neighbor to use it in order to harass his neighbor. It sounds to me that what you are suggesting is just that.

Mr. Lubee answered, contrary. That would have to be determined by the enforcement officer, would it not? If I filed a complaint; the enforcement officer goes out and looks at it and sees that I am trying to use the complaint as a club and he (enforcement officer) decides not to do anything about it. He has used his judgment to say that there was not a true violation. But if he agreed and issued a warrant and thirty days went by and he issues a notice of violation and the person, within ten days, requests an appeal, this is not a club. The enforcement officer though that there was a legitimate violation and therefore he issued the initial warning and the subsequent notice of violation. If that violator requested an appeal, the complainant should have the option of attending that appeal hearing.

Mr. Knight stated that there is nothing in the ordinance suggesting that. This becomes a matter of enforcement of a public ordinance and the enforcement is done by public officials.

Mr. Lubee answered, so are our other ordinances. That has always been the system here, has it not? So it hasn't worked.

Mr. Knight answered, I see what you are driving at. I don't necessarily agree with it.

Mr. Lubee went on to say, all we have to do is drive down North and South Colony and we know it hasn't worked. That is why your committee has worked so hard to develop this blight ordinance. I am in agreement with you; I think we do need it. When the Housing Code Enforcement Officer issues a warning to the owner of rental property, based on a complaint

from a tenant, if the owner does nothing within the thirty day time frame, a violation is noted and the owner appeals. I think the tenant is entitled to know that his landlord is appealing the violation. Under our present code, the reason why it doesn't work is because the HCEO issues a violation to the landlord and issues a certificate of approval to the landlord. The tenant has the right of appeal but the appeal period starts from the date of the issuance of the certificate of approval. He doesn't ever receive a copy of the certificate of approval so his appeal period never starts; he never has the opportunity to appeal. It is a weakness in our Housing Code ordinance and I don't see that subject addressed here.

Mr. Knight replied, what you have is what we have come up with.

Atty. Mantzaris stated, the HCEO who inspects the property after someone complains, it could happen that he didn't agree with the complainant. The matter was insignificant or does not amount to blight and that would be the end of it. If he agreed with the complainant then it would be his evidence that would convict at a hearing. Whether he would want the citizen to also be present at the hearing so he can offer his evidence, that would be up to the enforcement officer when an appeal was taken.

Mr. Lubee stated, once the enforcement officer determines that a property owner is in violation of the ordinance due to the number of abandoned/unregistered vehicles are in their yard, who is going to be responsible for the damages that occur to private property when we go in to tow the vehicles out or injuries received?

Mayor Dickinson answered, the ordinance requires that the owner correct the condition. With every day that passes, the fine goes up. That fine is a lien against the property. The responsibility is with the owner's. The question is, would the Town go in and tow the vehicles anyway if there is concern about damaging a septic system or unknown features below the surface of the yard? We probably wouldn't go in and tow it but it would still be the responsibility of the owner and at the rate of \$100/day, it will be in their financial interest to clean up the condition.

Mr. Lubee stated, if we are not going to tow and it is going to go on for some period of time, the hearing officer receives an appeal at the end of forty days and, upon receipt of the hearing he sets a hearing date, probably a week later, how many days are involved in this \$100 fine? How long does this \$100/day fine continue? How much will the lien be for?

Atty. Mantzaris answered, each day after the appeal period or extension passes and the property is not cleared up, that is when the fine starts and each day is \$100. It could go on, I don't know how long. It can go on indefinitely. There is no cap on the amount or how high the fine can go.

Mr. Lubee referred to page 5, paragraph 7, "if the assessment of the fine is not paid at its entry or at the hearing officer's discretion, within a reasonable time thereafter, the hearing officer

shall cause to be filed a lien." Once that lien is filed, does that mean that the \$100 per day fine stops?

Atty. Mantzaris answered, no, you can file lien after lien.

Mr. Lubee stated, Mr. Centner had reservations at the time the blight ordinance was discussed in August of last year. He stated, at least at the point in time, that he did not see the necessity for this. Has Councilor Centner's opinion changed since then?

Mr. Centner answered, yes it has. I have paid closer attention to it and actually studied more closely; I quoted at the time 100 properties that I felt existed in town; it is probably more than that. Other items that are outlined in here, in terms of what they are trying to accomplish, motor vehicles, etc., I, myself, feel it would be a benefit to the community to move this measure forward.

Mr. Lubee pointed out, there is no exemption in the ordinance for the Town or anyone else. If someone filed a complaint about some of our mismanaged properties, it could be quite expensive. I could not believe how bad a shape the former Simpson School is in. Someone has abused that property. All that has been said is true, I have driven by the property myself. At one time the Council was discussing the possibility of using a summer intern to try to catalog some of the more blighted properties in the Town which, as Mr. Centner said, may well exceed 100 properties. Has there been any further discussion along those lines?

Mr. Parisi replied, no, I don't think it has been considered any further.

Mr. Lubee asked, has the finished product that has come out of the Law Department been shown to the Fire Marshal's office, Police department and Health department? Have they been asked if they think they will be enthusiastic about enforcing this new blight ordinance? Because they were not enthusiastic about what we had before.

Atty. Mantzaris replied, a copy was sent to Health and Building. The Police Department, I don't believe, was sent a copy but I did talk to Chief Dortenzio. I don't expect the police to be a major enforcer under this ordinance. They are named in conjunction with the Building Inspector. As I recall, the committee's discussion about this ordinance, they wanted to try to have one person solely responsible for the receipt of complaints about blighted properties and for the initiation of enforcement. That is why the committee determined that entity to be the Building Department which will probably be the HCEO, if he assigns it to someone. The Police department did not get a copy of the ordinance. They are not expected to be a main enforcement arm of the ordinance. They could be used but won't be primary.

Mr. Lubee stated, the Public Works department is involved with the towing, they are empowered in one of the ordinances to tow. The Health Director has to utilize the services of

the Public Works department for certain corrections that they were supposed to be carrying out. Did any of the departments that you did send it to, give you comments on it?

Atty. Mantzaris replied, yes, they gave me confidence that they could enforce the ordinance.

John Wostbrock, 15 Bonnie Court stated, in reading through the ordinance, I see the defined term "dilapidated" on page 2, section E. As I look through the rest of the ordinance, I do not see that same word otherwise used. I suggest that you change the word to "dilapidation" so that it puts some teeth in paragraph section 2A.(3), "it is a hazard to the safety of persons on, near or passing within the proximity of the premises as a result of inadequate maintenance, dilapidation, neglect, etc. I am unable to find another use for the defined term "dilapidated".

Atty. Mantzaris stated, dilapidated would fit dilapidation.

Mr. Wostbrock stated, when you go to court, everyone will debate what that means. If you change the term, "dilapidated" to "dilapidation", then there will be no question that that defined term is referring to section 2A(3) and specifically used in that sentence.

Atty. Mantzaris stated, I would guess that if you looked up the definition of "dilapidation" it would probably say, "a dilapidated building" or something along that line. If it develops that way, I would recommend that change, but I can't do it tonight.

Mr. Wostbrock answered, an ounce of prevention is worth a pound of cure.

Mr. Parisi suggested that Atty. Mantzaris review the matter and if it fits, leave it alone; if it doesn't we can modify it. It is not a big deal.

Vincent Avallone, 1 Ashford Court stated, with regards to Section 5A, it mentions, "Any person who violates this ordinance shall be fined \$100 for each day that the premises is in violation and each days continuation thereof shall constitute a separate and distinct offense." Please explain why you need this language?

Atty. Mantzaris replied, it seems to repeat itself, doesn't it? For now I will say that it is clear that it will continue every day. Maybe you are right that one means the same as the other.

Pasquale Melillo, 15 Haller Place, Yalesville asked if the Town can fine itself \$100 a day for eight years since Simpson School has been deteriorating that long?

Mayor Dickinson answered, the ordinance is not effective yet and it has not been deteriorating for that long. Once the ordinance is effective, the Town would come within the province of the enforcement.

Mr. Melillo asked, the person who is filing the complaint would like to remain anonymous; will they be able to?

Mr. Parisi asked, will the complainant's identity remain anonymous or will the person against whom the complaint is lodged be informed as to who is doing the complaining?

Mayor Dickinson answered, we generally look into a complaint, even though it is anonymous though we are under no obligation to keep a complaint anonymous. Too often, anonymous complaints turn out to be irresponsible complaints, frankly. If someone is serious about a complaint, they should be willing to indicate who they are and what the circumstance is so that we can properly follow up. It is very easy for people to issue complaints who want to remain anonymous. When we go to check on it, there is inadequate information; there is no one to get back to and it just creates a lot of frustration. Where a party is concerned about a condition, there should be willingness to identify who they are so that we can get back to them if there are questions regarding what was observed or the exact location, or any number of follow-up questions that do occur.

Mr. Parisi stated, I am not saying to keep it anonymous but I, personally, don't believe it should be held confidential. It doesn't have to be anonymous. I should be able to call up and give you my name, address and phone number but I don't believe my names should be given out to anyone else. The reason I say that is because if you have a cesspool in your yard and your neighbor or a couple of houses down, no one is going to want to go on the line and be singled out as whatever.

Mayor Dickinson answered, that is always a difficult issue but, government records are subject to Freedom of Information requests. There is an exemption to maintain a file of names because they were complaints. If we have a record, ultimately it is discoverable with F.O.I. That is also in fairness because you can get complaints that are not responsible complaints that are issued out of meanness or vindication or whatever else and we are spending a lot of time with town offices doing things that are meant as harassment for someone, rather than it being a way to correct a condition. I do not encourage anonymous complaints.

Mr. Parisi answered, by the same token, we are going to get the calls. We are going to have to ride by and we are going to see that, in fact, it is a blighted situation.

Mayor Dickinson reiterated, a lot of anonymous complaints become very difficult to follow up on because the address could be wrong, there is no knowledge as to who to get back to; there are a number of questions that arise and there is no way to follow up. We do not encourage anonymous complaints.

Mr. Parisi replied, I don't want to encourage them but usually the ones I get are usually legitimate.

Mr. Melillo was of the opinion that the daily fine was too high. He wanted to see the Town conduct "rounds" on its own property to remove safety hazards.

Jack Agosta, 505 Church Street, Yalesville stated, in speaking to the police chief in the past, he did acknowledge that the department does address anonymous phone calls and will follow up on the complaint. When will this ordinance go into effect?

Mayor Dickinson answered, approximately five weeks; thirty days after publication.

Motion was made by Mr. Farrell to Adopt the Ordinance as presented, seconded by Mr. Centner.

Mr. Brodinsky stated that he was glad that the thinking on the blight ordinance had evolved in a very constructive way since the August 15, 2000 meeting. He stated, not all problems are going to be solved by this ordinance. Inevitably, there will be someone who will see a building and feel that some action should be taken and that person may have heard that we passed a blight ordinance and will just assume that the ordinance is going to cover it but that is not going to be the case in every situation. There will be situations where this ordinance just does not apply. That is not to say that down the road we cannot amend it one way or another. We should not expect too much from this ordinance which is a very good one but is still limited in its scope. On the issue of the anonymity, that is sort of critical, although it has to do not with the wording with the ordinance unless there is something in the ordinance that says that the enforcement officer will take anonymous complaints. I have received, myself, complaints about blighted buildings and the people don't want to start a neighborhood feud or invite retribution or retaliation because they gave their name which became known to the person who was maintaining the blighted ordinance. For the success of the blighted ordinance program, anonymity is extremely important and it doesn't in any way prejudice the efforts of the public officials. To insist on giving your identity as a pre-condition for enforcement, I think it is a mistake and is misguided, in my view. I agree with the Chairman that the Council would end up driving by some of these properties and I don't think we should be the ones to do that.

Mr. Brodinsky referred to Page 1, SECTION 2. DEFINITIONS A. "BLIGHTED PREMISES", specifically the very last line of subsection (1) which reads, "...which pose a safety hazard to the public or to occupants of the premises." He asked, does the safety hazard only refer to subsection (e) of A.(1) which is "chimneys with loose bricks" or is that intended to refer to subsections (a) – (e) because it is a little uncertain as I read that?

Atty. Mantzaris replied, it applies to what is in A.(1)(e) only.



Mr. Brodinsky next referred to Page 3, SECTION 5. VIOLATION AND PENALTIES and then compare that to SECTION 6. NOTICE OF VIOLATION on the next page, there seems to be an option that the investigating officer has and I am not sure how this would work. Section 5 B. reads, "The officials charged with enforcement of this ordinance shall, in lieu of issuing a citation, issue a written warning...". In Section 6 A. it reads, "Whenever the officials charged with enforcement of the ordinance have determined that the premises is in violation, they shall cause a written citation to be mailed or served...". He asked, when someone goes out to investigate a blighted building, do they follow Section 5 or Section 6?

Atty. Mantzaris replied, that is a very good observation. What happened here was, initially, we went through several drafts of the ordinance. One of the earlier drafts did not provide for a period of warning, for example a thirty day period...

Mr. Brodinsky interjected, of which I am in favor of.

Atty. Mantzaris continued, part of what you just read was left in from one of the earlier drafts and should, by amendment, be removed. I am going to suggest that, either upon the initial inspection, without any warning, or be removed. It was not intended to be in the ordinance. Section 6 is fine; the confusion with Section 6 is, Section 5 requires a thirty day period for the person to clean up or an extension if the enforcement officer believes that he ought to have one. What I just read in Section 6A., "...either upon the initial inspection..." means that he could issue a ticket on an initial inspection, without a thirty day period. What should come out would be, "either upon the initial inspection without any warning or..." and what is left in is, "...upon the expiration of any warning period with no abatement...". Someone should make a motion to amend...

Mr. Knight stated, there may be situation which are such a safety nature that are a threat to health and safety of the community that a thirty day period is unwarranted. I would like to have the enforcement officer have the discretion to either issue a violation immediately and get this thing rolling, because there will be instances when something really dangerous exists and should be cleaned up immediately.

Mr. Brodinsky stated, that is a valid point but I think we have to tinker with the language. As drafted, I think we need a technical change. On page 2, subsection (7) reads, "It has a number of abandoned, inoperable or unregistered motor vehicles...". I think we need a fixed standard because "a number of" could be one or it could be two. To say "a number" is definite enough to meet due process standards I question very much because a fine could be \$10,000 and someone does not know if it is two cars, three cars, one car or five cars and it is not that hard to put in an objective standard. To say "a number of abandoned vehicles" leaves too much vagueness in this, either in the application for the hearing office, the application of the investigating officer, and for the person who has been accused of having a number of abandoned vehicles. I don't think it gives sufficient notice.

Mr. Knight read further into the subsection the words, "or parts thereof". One of the very most grievous violations that people have brought to my attention is when someone is operating a junk yard in their yard and there are car parts all over the yard. If we start setting a number, whether it be vehicles, we are going to get people who say, "I only have three fenders out here and there should be four". Once we start establishing very fixed, immovable guidelines, then I think the lawyer in all of us is going to attempt to deviate around some of this. We are trying to address junkyards and this particular part of it and the "parts thereof" is the reason for such wording.

Mr. Brodinsky replied, as drafted, it reads that if someone has a number of abandoned or inoperable or unregistered motor vehicles or parts thereof, so the phrase, "a number of" applies to either abandoned vehicles or parts thereof. My concern is, "a number of abandoned vehicles" too vague to be enforceable and I think it is unfair, as drafted. It is very simple to fix. I think the key to good drafting is clarity, not vagueness. In the interest of clarity, it could be tightened up.

Mr. Parisi stated, I have had a complaint with two cars in a yard and I have had one where there was a house with four or five cars in the yard, all unregistered. I don't know that you can solve the problem specifically with a number; that is my point.

Mr. Brodinsky answered, that is why we, as a Town Council, are here; to do that so people know if and when they are "over the line" with the number of cars in their yard, and not depend upon a standard applied by the hearing officer which nobody knows, in advance, what that standard is. I think it is basic drafting and I would suspect that this would not stand constitutional scrutiny, given the penalty phase.

Mayor Dickinson answered, I think the other ordinance solves the issue. We have an ordinance that indicates that you cannot have an unregistered vehicle in your yard. If it is in your garage or covered, or whatever, it is o.k. You can't have unregistered vehicle(s). If someone went by and saw one vehicle, it might not apply as a blighted situation, but it would apply as an unregistered vehicle under the other ordinance. If there are two; it is a judgment call. Is that under the blight ordinance or under the ordinance pertaining to unregistered vehicles. It may be that the lower numbers fit under the other ordinance, but it will be a judgment call which ordinance it is. It is enforceable because there is an ordinance that covers both.

Mr. Parisi stated, what will start the complaint is an old rusty car filled up with obvious junk in it; a blighted situation.

Mr. Brodinsky answered, if someone lives next door to someone and there is an inoperable or unregistered motor vehicle there and, for some reason, the neighbor doesn't like that or has a vendetta, they turn to Section 7 which says that any one of these criteria qualifies as a blighted

ordinance, the hearing officer has to apply it as written and so does the investigating officer. As written, any number of merely abandoned or inoperable car, and we don't have a number. It could be one, two, three or four or more. It is so easy to make it clear.

Mr. Parisi answered, we have an ordinance already that if you have an unregistered car in your yard, it can be subject to towing. If you had three unregistered cars, under that ordinance, forget this one, you can still get them eventually towed out of someone's yard.

Mr. Brodinsky stated, the problem still stands that the ordinance, as drafted, can be enforced with an unknown number of vehicles.

Atty. Mantzaris stated, it occurs to me that one vehicle might be blight...one unregistered vehicle in the yard filled with parts or junk, that one single vehicle might be enough to be blighted. Maybe if you want to change this to be more constitutional have it be one or more in Section 7.

Mr. Brodinsky stated, at least it tightens it up.

Atty. Mantzaris replied, I would accept that as an amendment; "one or more", that is clear, then. It could be just one vehicle as the Chairman points out.

Mr. Parisi stated, as it is, it still covers one vehicle. Fine, though, if it makes the counselor happy, let's do it.

Atty. Mantzaris asked if a motion was forthcoming on the issue?

Mr. Parisi asked, does he have to make it? Can't we make a recommendation?

Atty. Mantzaris answered, you want it to be amended; amend the ordinance.

Mr. Brodinsky replied, or else maybe the thing to do is table it and re-draft it and bring it back...

Mr. Knight interrupted to say, wait a minute, we spent three years doing this and you come up with something as, like, "a number" or "one or more" and this is going to cause this to be tabled? When we are fully within our power to amend this ordinance and change the language, if the nine of us agree, or a majority of the nine of us agrees to do so. Make a motion but, good grief, we have been at this so long, to stop in our tracks because we have two words out of place?

Mr. Brodinsky replied, I think legislation is often amended and sent back to committee and re-examined on both the state and federal level and it is a process of evolution and perfection

rather than blocking. We want a good ordinance; the best we can possibly do and if it takes time in a law office to have the language added, that is the way to do it.

Mr. Parisi stated, alright.

Mr. Brodinsky answered, no, I was just attacked. I was just attacked and I want to defend myself.

Mr. Parisi asked, do you want to make an amendment? If not, I will.

Mr. Brodinsky answered, at this point I am not going to make any motions. We'll see what other people...

Mr. Parisi encouraged Mr. Brodinsky to make the motion. Mr. Brodinsky offered to pass and wait to see what other people have to say.

Motion was made by Mr. Parisi to Amend SECTION 2. DEFINITIONS A.(7) by Deleting the Language, "...a number of" in the first sentence and insert the words, "one or more" in their place to read, "It has one or more abandoned, inoperable...", seconded by Mr. Centner.

Mayor Dickinson stated, just to clarify, SECTION 2A.(7) it has "one or more of abandoned, inoperable.." etc., and "a number", those words are deleted.

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

Mr. Centner stated, as it was stated earlier, I have changed my position to now favor this proposal. I don't change my mind that often but, the purpose for the change was, after going over this ordinance, I can fully appreciate all of the effort that has been put forward by the Ordinance Committee to structure this particular measure, not to be too intrusive on our citizens and not allow it to be a club of abuse. I have been on the receiving end of these clubs of abuse with certain ordinances in town and it is not pleasant, so I do appreciate the effort that went into this. I also, as numerous people have mentioned, feel strongly about the measure of anonymity because I think it might be important in this particular ordinance to try and maintain something along those lines because, in doing my Council duties, I have addressed some situations that required attendance from Town Hall and, on behalf of other neighbors, and I have had to receive the unpleasantries back my way. It makes it very tough to even be a Councilor and address some of these issues and then that individual finds out that you were the one that asked to have a situation reviewed. It does make it unpleasant. As we go forward, I think there should be some measure put in place for anonymity in certain ordinances such as this. Most of my concerns right now are with unregistered and blighted vehicles. I had heard during budget hearings that we were looking to hire an additional part time or another Assessor; is that correct?

Mayor Dickinson answered, it is a Property Appraiser, full-time.

Mr. Centner asked, will part of that person's duties be reviewing vehicles for registration?

Mayor Dickinson answered, in driving around they could see what properties are like; that could be part of it, but it is not the most vital part of the job they will do.

Mr. Centner stated, just so that the general public knows that the Town is taking measures to actually add manpower to review situations such as unregistered vehicles. In addition to closely looking at some of the blighted properties, and it was stated earlier that we have 42,000 citizens and almost 40,000 cars and I am willing to bet that a lot of those cars are not registered, it seems that it is a growing concern. I agree that an unregistered vehicle or a vehicle could be blighted; I have seen buses around town full of junk. I just hope that when we post this to the public, they take note because we could have a rash of people collecting unregistered vehicles and when they get that first fine of \$100, I think we, on the Council, are going to hear about it. It could be some of our neighbors. In the end, I do support this measure and I appreciate all of the effort put forward by the Ordinance Committee.

Mr. Brodinsky referred to page 5, SECTION 7.C.5.) which reads, "The hearing officer shall announce his decision at the end of the hearing..." that is a requirement. I know that many hearing officers, in fact, almost every hearing officer I have ever been in front of does not like to announce his decision at the end of the hearing for three reasons; one, sometimes they like to digest the evidence in front of them, go back and study documents; study photographs; two, some hearing officers don't want to act in the heat of the moment, especially if they sense that their emotions have been aroused and they want a cooling off period; and, three, some hearing officers have actually told me that they don't like to announce their decisions in the hearing because someone could get angry and actually threaten violence. That has been said to me and I have actually seen that, especially in domestic relations court. I don't know why we are tying the hands of the hearing officer to require him to announce his decision right at the end of the hearing. A time limit is a good idea; five days; seven days; three days; allow a time frame that is reasonable. I don't think it is reasonable to expect him to make up his mind on the spot and seeing how the mood seems to be to make amendments, I will make an amendment.

Motion was made by Mr. Brodinsky to Amend SECTION 7. HEARING PROCEDURE: BLIGHTED PREMISES HEARING OFFICER, C. Hearing Procedure: 5.) by Deleting the Language, "...at the end..." and inserting the words, "within seven (7) days" in their place to read, "The hearing officer shall announce his decision within seven (7) days of the hearing unless he...", seconded by Mr. Vumbaco.

Mr. Parisi stated, he (hearing officer) doesn't have to, though.

Mr. Brodinsky explained, we need to put a cap on it so it doesn't drag on and on and on.

Mr. Parisi commented, he has up to seven days but he can still announce his decision, if he wanted to, immediately. He might be a brazen devil.

Mr. Brodinsky agreed.

Mr. Knight stated, I think it was put in there for the protection of the person that has this \$100 per day fine that we shouldn't be dragging it out. We shouldn't be dancing the guy around; he is already paying \$100 per day for this infraction and I think he has a right to a swift determination to his appeal.

Mr. Parisi stated, I think there should be some leeway. What if it is a violent situation? You might want to think about sending a letter, versus announcing at that moment, what the decision is.

Mr. Farrell added, I think that if that is a concern of the hearing officer, that the hearing officer could certainly get away with what many a judge does by saying, "I am going to take it on the papers; you will get a decision in the mail, tomorrow." I know what Mr. Brodinsky is saying but, I also appreciate, as a member of the Ordinance Committee, that we try to fashion something that has enough enforcement power to it but I am also cognizant of some poor person who has this hanging over their head that wants to know, "do I have to remedy this or do I not?". You have to come down somewhere in the middle.

Mr. Parisi replied, that authority lies with the hearing officer. He does have the option of announcing it at the meeting. I think he should have the option to wait a while if he needs to digest it or go out and inspect, or whatever. I think it almost says that, though. The section reads, "The hearing officer shall announce his decision at the end of the hearing, unless he determines to personally inspect the premises in which case the decision shall be made immediately after such inspection. If it took him two days to inspect it, then it would be the third day of notification. If he decided to do it immediately, it would be done immediately. I don't know if I see anything wrong with #5 as it stands, after re-reading it. I don't know if you have a different opinion.

Mr. Brodinsky reiterated his point that, to expect the hearing office to decide on the spot, I think, does injustice to the whole system. If the problem is that a fine is pending, then you just make the fine begin after the decision becomes final. Before the appeal is completed and a decision rendered, you don't even know if there is a blighted situation and it shouldn't be retroactive to the date that the citation was issued. The fine should begin after the appeal is final, if

an appeal is taken, or else suspend the fine during the period of appeal. To put pressure on the parties and hearing officer to do it on the spot, I think is an injustice to the system.

Mr. Parisi stated, the more I read this, we are just saying the same thing, a different way. The hearing officer still has the option to announce immediately or personally inspect the premises. There is latitude in here already. The more I read it, the more sense it makes as it is written.

Mr. Brodinsky explained, if the hearing officer decides not to inspect the premises, he has enough evidence but nevertheless would like to take seven days, or up to seven days, or within seven days make a decision, he should have that option. Whether it is five days or three days or eight days, we can compromise those out, but there should be some period of time that gives them flexibility.

Mr. Parisi replied, I understand your point. When does the fine start? Is it when it is finally declared a blighted situation?

Mayor Dickinson answered, the fine starts after the thirty days of the warning period. If the appeal is within that thirty days, the fine wouldn't start until after the thirty days. The thirty days starts when the citation has been given. If the appeal from that citation occurs within that thirty days, it is conceivable that the fine would not begin until after the hearing. It could be that the hearing was not within the thirty days and the fine was already running...anytime you are dealing with police power and forcing fines, there are complications and there always will be because you are using police power to force action.

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

Mr. Brodinsky explained how an amendment would void the situation of having a fine be levied during the period of appeal so that the person who wants to appeal is not in the dilemma of his appeal costing him \$100 per day; it is an untenable position to take an appeal, knowing that every day that the hearing officer delays, it is going to cost another \$100. That is not fair.

Mr. Parisi stated, I thought I asked the question, "when would the fine start?" and the answer was that it would start after the appeal.

Mayor Dickinson explained, the fine begins the 30<sup>th</sup> day after the property has been cited; the property owner has received notification that there is a blighted condition. If it is appealed, the fine would be running if it is found that the property is a blighted property. The appeal would not change the fine and from that 30<sup>th</sup> day, it would continue. If it is found that it is not a blighted property, the fine would be dismissed and nothing would be owed. There is an exposure that if the appeal is not heard until 35 or 40 days, there would be money owed from the 30<sup>th</sup> day.

Mr. Parisi asked, will there be an assistant hearing officer in the case where the hearing officer would not be available?

Mr. Brodinsky explained, the hearing officer has discretion over the date of the hearing. IF someone takes the 29 days, which they have a right to do, to file an appeal, and the hearing officer looks at his calendar and says that it is going to be two weeks, the delay in the scheduling the hearing could result in \$1,400 in fines even before the hearing begins. That penalizes the right to take an appeal. That is not fair. The fine should not begin, during that period when an appeal is pending.

Mr. Parisi answered, conversely, you could hope for a four week calendar so that you are riding free.

Mr. Brodinsky asked, who wants to be the hearing officer who takes the phone call from the person who says, "your delay or vacation or wedding is going to cost me \$300 because you are delaying it by three days in case I lose?" It is just not fair to anyone.

Mr. Parisi argued, who wants to take the call from the neighbor who is suffering under the blighted situation and has to hear that there is a thirty day delay?

Mr. Brodinsky replied, thirty days is written into the statute, as drafted. We are only talking about when the fine begins. At least there is light at the end of the tunnel when the process begins but, you have to be fair to both sides.

Mr. Parisi stated, I don't want to be unfair to anyone. At the same time, I don't want anyone riding on extra time if they don't; if someone is making an effort to rectify a situation, that's great and I would be all willing to cooperate with them in any way possible. If someone is going to try and beat the system, then I am not going to have too much patience.

Mr. Zappala stated, they have thirty days before appearing before the hearing officer. Can he get right away if he wanted? Why should he wait twenty-nine days to file an appeal if he knows something is wrong with his property and it is going to cost him \$100 per day after he files an appeal?

Mayor Dickinson pointed out, under SECTION 7. HEARING PROCEDURE; ... subsection C., Hearing Procedure: 1.), it indicates that notice should be given at least fifteen days but not more than thirty days, prior to the scheduled hearing. You could receive notice that your hearing date is thirty-five or forty days out and at the thirtieth day, the fine starts to run. In order to avoid that, if you want to avoid that, where a person is having to pay a fine prior to the hearing officer dealing with the matter, you could add the language, "during the pendency of appeal to the hearing officer, any fines under this ordinance shall not be entered or assessed."



Motion was made by Mr. Brodinsky to Amend SECTION 7. HEARINGPROCEDURE: BLIGHTED PREMISES HEARING OFFICER, C. Hearing Procedure: 1.) by Adding the Language, "During the pendency of appeal to the Hearing Officer, any fines under this ordinance should not be entered or assessed." to the end of the section, seconded by Mr. Vumbaco.

Mayor Dickinson stated, these are complicated matters and no one should feel...once you work through these things, there is always a different ramification. I am sure potentially, things were missing tonight because it is an enforcement mechanism and once we get into this arena, it does have affects that we can't always guess at.

Mr. Parisi stated, we can always re-visit it and modify it, too. We can change the thing all over again and go another two years. The point is, to implement it, it is going to behoove the hearing officer...to give us feedback, which he has done in the past, on ordinances. Atty. Mantzaris has been very good and we have revised ordinances when it was necessary.

Mayor Dickinson asked, if you don't want to have someone liable for a fine, prior to a hearing held by the hearing officer, then this language would be necessary to avoid that. This language states that it is the appeal to the hearing officer that would not suspend the fine if the person then appealed the hearing officer's decision to court, which is a whole other step. At that point the hearing officer's decision would have the fine in place and it would start running. I just want it to be clear that there are two types of appeals.

Mr. Zappala stated, you have weakened the ordinance, itself. You have given more time to the person.

Mayor Dickinson replied, you are giving them the time prior to the hearing. They are claiming that they do not fall under the ordinance. You are giving them that time to have the issue resolved when a fine is running. You can go in the other direction; you can have the fine begin at the thirtieth day, whether or not they would have their hearing. This is not something that is good and bad; it is something that is a judgment call as to what the effect is that you want.

There is some who would feel it is unfair to have a fine begin to run when you have an appeal pending. Others may feel that the fine should be exacted at the thirtieth day and if you had the appeal later on, so be it. I think the effort is to avoid a circumstance where it appears to be arbitrary, the hearing officer delays it, you then have a larger fine that you might not have had otherwise.

Mr. Zappala stated, the intent of the committee was not to let anyone pay any money. We don't want anyone to be fined. The incentive was to give them enough time to take care of the problems that exist on the property, which is thirty days. You are giving the property owner more of an opportunity to stretch it out longer and that was not the intent of the committee.

Thirty days is sufficient time to appeal anything. Property owners should act right away to clean up the mess that you have instead of waiting ten, twenty, thirty days. My feeling is that the ordinance is good as it is.

VOTE: Papale was absent; Brodinsky & Vumbaco, aye; all others, no; motion failed.

Mr. Parisi stated, I am going to commend the Ordinance Committee. I would remind all of us that we do get these things in advance and if we have any opportunity to submit recommendations to the Ordinance Committee, I think it would behoove us to try to do that if we can. I think the committee labored long and hard on this; it wasn't easy. I commend you, Counselor, too. You worked right along with them. I think you did a fine job. We will find out when we implement it. I am sure it will require some fine tuning.

Mr. Vumbaco stated, approximately 45 minutes ago Atty. Mantzaris suggested a revision to Section 6 pertaining to the initial inspection.

Atty. Mantzaris stated, a comment was made that it could happen that, upon an initial inspection, the condition was found to be so grievous that a citation ought to be issued forthwith. I don't know if that conflicts with Section 5B, which says that, in lieu of issuing a citation, he shall issue a warning to the violator. I think "either upon the initial inspection without any warning or" ought to be amended out.

Motion was made by Mr. Vumbaco to Amend SECTION 6. NOTICE OF VIOLATION, Subsection A. by Deleting the Language, "...either upon the initial Inspection without any warning or...", seconded by Mr. Brodinsky.

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

Mr. Farrell stated, I appreciate the Chairman's comments; but I think out of fairness to the Ordinance Committee, in the future, the input come before the public hearing on the ordinance. While the suggestions that have been made tonight are good ones, I have some hesitation to try and do them here, on the floor of the Council, because we have been working on this and thinking about it for three years and I don't like to have to make very quick decisions about things that really could significantly change the statutory construction that we have worked very hard on. I know it is not the most glamorous place but, we certainly would invite other council members to come to the Ordinance Committee meetings and give their input in the future.

Mr. Knight stated, as Chairman of the (Ordinance) committee I just want to point out a couple of things; we did not begin this blight ordinance in August of 2000. We began deliberation and study of all of the ramifications of this two or three years ago. At the instigation of Jerry Farrell, Jr. and I want it publicly understood that the genesis of this ordinance started with him, as a member of the Ordinance Committee. IT is not something that has been worked on just the

last eight or ten months. I think, as chairman of the Ordinance Committee, I see that we could conceivably tear through the language of every one of these ordinances over and over and over and over again and they would never ever emerge from a committee. I think that what we've got here is a document; it is not the Magna Carta. It is a blight ordinance. I think it is a good working document; a good start. If people are reasonable and that means public officials and residents, alike, we will find this a very valuable piece of legislation to correct the most blatant abuses of the ordinance without it becoming a tool for one neighbor to clobber another one or an attempt to turn Wallingford into nirvana, which it is not. We are 43,000 people with different ideas. This ordinance was very carefully crafted to try to make sure that every body is protected against harassment and to make sure that the standards that are set, aren't so picayune that the ordinance becomes unworkable for the volume of complaints that would come in. We are trying to address the most blatant abuse and I think this will do it. I want to thank Tom (Zappala) and Jerry (Farrell, Jr.) and Adam (Atty. Mantzaris); especially Adam for the ton of search that went into this and that was mostly his doing. I think what has emerged is something that everybody in town can live with and use.

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

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

ITEM #11 Conduct a PUBLIC HEARING to Consider and Approve an Amendment to Section 198-15 of the Code of the Town of Wallingford Pertaining to the "Obstruction of Sidewalks; removal of snow and ice; violations and penalties" as Requested by Councilor Stephen W. Knight, Chairman of the Ordinance Committee - 8:45 P.M.

Mr. Knight stated, we had quite a long discussion some time ago with the police chief, right after one of the major storms, and there are certain people who felt they don't have the responsibility to remove the snow from their sidewalks; it became a safety hazard. We have an ordinance on the books and we have discussed it at length with the police chief here, in the public session. Subsequent to that Chief Dortenzio wrote us a three page letter outlining the difficulties he and his department had encountered in enforcing the law. What you have in front of you is an attempt to address those primarily enforcement problems and definitions. That is the reason for this. This afternoon Atty. Mantzaris and I had a discussion with the police chief with regards to some of the language having to do with the type of fine that would be levied. There were suggestions on Atty. Mantzaris' part that we may want to consider tabling the ordinance tonight and consider the chief's recommendations.

Atty. Mantzaris explained, the ordinance, as it is before you, provides for a citation and hearing procedure before a local hearing officer. The citation procedure is set forth in Section 7-152 of the CT. Gen. Statutes and requires...at least ten days' notice before you set a hearing. In a snow and ice situation, you cannot allow that much time between the time the citation or notice

is issued to a property owner, and then ten or twelve days before anything is done about the condition of the sidewalk. Chief Dortenzio raised the point, why use a citation procedure, why not simply have an infraction in which case the police would issue an infraction ticket, payable through the court system. Locally we will not be involved with the hearing and it makes it much easier on the department and also much easier for the non-existence of a hearing officer to hear these kinds of cases. I suggested to Mr. Knight that the public hearing be continued to a future Town Council Meeting session. The document will be revised to remove the requirement for a hearing procedure and making the violation an infraction.

Mr. Knight stated, I think there is a great deal of difference between my objection to continuing and tabling the Blight Ordinance and this one; this one has to do with snow removal and, fortunately, it is between 60 and 80 degrees right now and I don't think invoking this ordinance is imminent. It would give us an opportunity to review this particular information from the police chief.

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

Mr. Vumbaco asked if there were any time frames governing how long this item could remain tabled for.

Atty. Mantzaris stated, I don't think it could stay open beyond the term of the council that tabled it. I expect to send the revision in tomorrow or the next day.

Mr. Parisi asked, can we table this without allowing the public a chance to speak on the matter since it is a public hearing?

Atty. Mantzaris stated, you would have to open the hearing to public comment and then continue the public hearing. I don't think you could not allow the public to comment.

Motion and second were withdrawn.

Jack Agosta, 505 Church Street, Yalesville stated that there was something in the New Haven Register about the meeting but nothing in the Record Journal. There is a lot of information on sidewalks in this ordinance and no one knows about it. The whole ordinance could change.

Mr. Knight stated, this will give the public more of an opportunity to digest the changes that are being contemplated.

Pasquale Melillo, 15 Haller Place, Yalesville asked if the infraction would be standard in type?

Atty. Mantzaris answered yes. If it is a \$25 fine and it will stay that way; the fine ends up to be \$66 by way of the infraction.

Mr. Melillo asked, and there will be no appeals process, right?

Atty. Mantzaris answered, unless they took an appeal from the court action, there wouldn't be anything to be done locally.

Wes Lube, 15 Montowese Trail commented, the people here tonight were appreciative and I am sure the townspeople are very appreciative of the work that has gone into the blight ordinance. Anything that is produced by the Ordinance Committee, along these lines, has to contribute to the improvement in the appearance of our town. I think the committee deserves the compliments thrown your way. I am sorry that you had to comment and reveal a sensitivity about the changes that were made. The only real test of an idea is the arena of public discussion. No matter how much you may "chew" on a sidewalk ordinance, until it comes out here and is challenged, if you will, by the public and fellow councilors, you should not feel as though you have lost. That blight ordinance and what ever other ordinances you produce, for the most part, all they've done is fine tuning. You still won the game. Don't be affronted by it. Thank you.

Mr. Parisi answered, I don't think anyone feels that they have lost. I appreciate your comments.

Atty. Mantzaris offered to read the minor amendments out loud and the Council could vote to make them. This will avoid re-publishing of the public hearing and re-scheduling of it as well.

Mr. Knight stated, it is not going to snow, therefore I will revise my motion.

Mayor Dickinson stated, I am not certain whether or not it has to be re-published to continue it. I am not sure.

Mr. Knight asked, Mayor, will that materially affect this decision to table or not? We can find that out. If, in doubt, we can publish it.

Mayor Dickinson stated, we will find out if it has to be re-published or not.

Mr. Brodinsky asked, if the ordinance is changed to make it an infraction, do we still have lien rights if we get rid of the hearing and hearing officer?

Atty. Mantzaris answered, it has to do with the expense of clearing the sidewalk, not the fine. The lien would continue, even though we are an infraction.

Motion was made by Mr. Knight to Continue the Public Hearing to June 12, 2001 at 7:45 P.M. seconded by Mr. Farrell.

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

ITEM #12 Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Leasing of Real Estate – Mayor

ITEM #13 Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes Pertaining to the Matter of Paul Atwater v. Town of Wallingford – Town Attorney

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

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

The Council entered executive session at 10:54 P.M.

Present in executive session were all Councilors, with the exception of Ms. Papale, Mayor Dickinson and Atty. Mantzaris.

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

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

The Council exited the executive session at 11:22 P.M.

ITEM #14 Consider and Approve Settlement of Pending Litigation Entitled, “Paul Atwater v. Town of Wallingford” as discussed in Executive Session – Town Attorney

Motion was made by Mr. Rys to Settle the Matter of Paul Atwater v. Town of Wallingford as Discussed in Executive Session, seconded by Mr. Farrell.

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

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

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

There being no further business the meeting adjourned at 11:23 P.M.

Meeting recorded and transcribed by:

*Kathryn F. Zandri*  
Kathryn F. Zandri  
Town Council Secretary

Approved:

\_\_\_\_\_  
Robert F. Parisi, Chairman

*Approved 6-26-01*  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Rosemary A. Rascati, Town Clerk

\_\_\_\_\_  
Date

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