



* N E W D O C *

SPECIAL TOWN COUNCIL MEETING

DECEMBER 27, 1993

5:30 P.M.

AGENDA

1. Roll Call and Pledge of Allegiance
2. Consider and Approve Accepting the Following Roads:
 - Cornelia Drive, off of Whiffle Tree
 - Whiffle Tree - final portion - off of Parker Farms
3. Remove from the Table to Consider and Approve the Release to Medway Associates Limited Partnership a Right of Way to the Town of Wallingford for Electric Utility and Telephone Services and Acceptance of a New Easement from Medway Associates to the Town of Wallingford
4. SET A PUBLIC HEARING for January 11, 1994 at 8:15 P.M. on an Ordinance Amending an Ordinance Appropriating \$180,000 for the Planning and Design of the South Elm Street Parallel/ Relief Sewer and Authorizing the Issue of \$180,000 Bonds or Notes of the Town to Meet Said Appropriation and Pending the Issue Thereof the Making of Temporary Borrowings for Such Purpose
5. Consider and Approve Accepting the Minutes of the December 14, 1993 Town Council Meeting

SPECIAL TOWN COUNCIL MEETING

DECEMBER 27, 1993

SUMMARY

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4. SET A PUBLIC HEARING for January 11, 1994 at 8:15 P.M. on an Ordinance Amending an Ordinance Appropriating \$180,000 for the Planning and Design of the South Elm Street Parallel/Relief Sewer to Increase the Appropriation from \$180,000 to \$3,655,000 and to Provide that the Appropriation may be Expended for Costs of Construction of the Project and that the Project may Include the Rehabilitation of Existing Sewer Lines	7-8
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SPECIAL TOWN COUNCIL MEETING

DECEMBER 27, 1993

5:30 P.M.

A special meeting of the Wallingford Town Council was held on Monday, December 27, 1993 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairperson Iris F. Papale at 5:33 P.M. Answering present to the Roll called by Town Clerk Kathryn J. Wall were Councilors Doherty, Holmes, Killen, McDermott, Papale and Zandri. Mayor William W. Dickinson, Jr. and Public Utilities Commission Chairman Alexander Kovacs were also present.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Consider and Approve Accepting the Following Roads:

- Cornelia Drive, off of Whiffle Tree
- Whiffle Tree - final portion, off of Parker Farms

Motion was made by Mr. Killen to Table This Item Until the Planning & Zoning Commission (meeting concurrently in the Town Hall) Reports to the Council with Their Decision on Accepting Such Roads. seconded by Mr. Doherty.

VOTE: Duryea, Parisi and Solinsky were absent; all others, aye; motion duly carried.

ITEM #3 Remove From the Table to Consider and Approve the Release to Medway Associates Limited Partnership a Right of Way to the Town of Wallingford for Electric Utility and Telephone Services and Acceptance of a New Easement from Medway Associates to the Town of Wallingford

Motion was made by Mr. Doherty to Remove This Item From the Table. seconded by Mr. Holmes.

VOTE: Duryea, Parisi and Solinsky were absent; all others, aye; motion duly carried.

Motion was made by Mr. Doherty to Approve the Release to Medway Associates Limited Partnership a Right of Way to the Town of Wallingford for Electric Utility and Telephone Services and Acceptance of a New Easement from Medway Associates to the Town of Wallingford

Mr. Zandri explained that Medway Associates had approached the Town of Wallingford to release an old easement that cuts one of the parcels of land in half. In turn, the utilities are willing to release this easement providing they obtain another easement that is more beneficial to them. He felt that the utility is looking out for their side of the house. As a Council we have another side of the house to look out for. His recommendation on this particular issue is to deny this request at this point in time and to have our Town Attorney go back and make the offer of this easement as it is proposed here this evening as well as Thorpe Avenue which the Council talked about once before, releasing that particular piece of land, and also getting the

December 27, 1993

\$500,000 that the Town deserves to get. It should be presented to Medway as a package. What we are doing here is, by releasing this we are opening up a nice piece of land for them that they can utilize. Without the Town granting this easement that piece of land remains tied up for Medway. Mr. Zandri stated that he would not do Medway any favors unless it is absolutely necessary for the Town of Wallingford where we would benefit extremely by it. It is wise for the utilities to make sure that they will get something in return for giving something up but he also felt that the Town has to look at the entire picture of what it has been involved with.

Ms. Papale asked Mr. Zandri if he felt this way because he was upset with F.I.P. Medway for the way that they have conducted business with the Town?

Mr. Zandri responded, yes, I feel that the Town should not be doing them any favors. I think that we would be doing them a favor in a situation such as this one. We are opening up a piece of land that they otherwise would not be able to utilize because of the right of way cutting through the middle of it. I am always willing to do business with anyone in Town, providing that it is fair on both sides. I feel that when they pursued that lawsuit against the Town that it was unjust. I think that the court decision was not fair because the court was looking at Thurston Food's property as being landlocked. Thurston's property was not landlocked. He had the right to exit to Route 68 if he wanted to. Unfortunately, the State and the Town preferred him to exit his property another way because we did not want another curb cut on Route 68. For the courts to rule the way that they did, I feel that they were wrong and it cost the Town a lot of money that was not fair.

Raymond F. Smith, Director of Public Utilities thanked the Council for taking the time out of their busy schedules for this special meeting. He agreed with Mr. Zandri with what his (Mr. Smith's) role is in this matter. The easement was abandoned in 1984 when the new substation was built and it was really only in there to serve those properties north of what was Thorpe Avenue and Carpenter. There were no plans to ever use that easement and is useless to the utilities at this point because the utilities' facilities are going to be underground. While conversing with Medway Mr. Smith informed them that the utilities would like to get another easement across the northern part, which is parallel to the Meriden town line. That is what the utility traded for. Mr. Smith's personal opinion is, whatever the Town does beyond that is the Town's business. As far as the utilities are concerned the Town's interested in getting people to develop the property so that you have customers. You must weigh that fact. As far as the easement is concerned, the utility has no use for it, they never see any use for it and they are satisfied with the trade-off.

Mayor Dickinson explained that his concern was that the Town has already lost a primary piece of land to the Post Office that will not generate any taxes. Our investment in Medway Park, in the road and utility placements are investments and we look for a return on those investments in the way of tax paying entities. To the extent that the park is an attractive place for a business to locate, it benefits the

Town. He recognized the frustrations over the past activities and the issue over Thurston but he also felt that the Town has to be very conscious of the need to encourage the location of businesses in the Medway Park and if the lots are not the right size and there is a way of configuring it in a more attractive way then it is in the interest of the Town. That has to be a very major part of any consideration on how we deal with what is needed to make the park an attractive place to locate a business.

Mr. Holmes asked Mr. Zandri to refresh his memory on the Thorpe Avenue issue.

Mr. Zandri explained that Medway wanted the Town to abandon Thorpe Avenue because it ran right in the middle of their entire parcel. It would then open up a larger tract of land for them. The Town could not come to a financial agreement with Medway. The final offer made by Medway was \$250,000. The Town held out for the entire \$500,000 of which Medway would not accept. He felt that the Town should offer the entire package to Medway. It would not hurt to ask. If they refuse it the issue can come back before the Council in its original form. There is no immediate rush on this. If we don't pursue it at all we will never know.

Edward Bradley. 2 Hampton Trail stated that we all agree on the same points being that we want good customers, our land developed for tax purposes, etc. F.I.P. does a good job and he wishes them well but it does not mean that we have to give away our land for people to develop it. He asked what we are getting in return.

Mr. Smith responded that we are getting a new easement that would be more useable for the utility. It connects the line somewhere down the road from Thorpe Avenue over to Research Parkway. It is located right against the Meriden-Wallingford town line running east to west.

Mr. Bradley asked, how does the Town normally acquire an easement if we don't have one?

Mr. Smith responded that the Town can request one of a customer. His reason for doing this is it was going to be acted upon and it made sense to do the transaction once. He, nor the utility, has an immediate need to use that easement. He would like to have it on the books so if this park really develops, and that will be the trigger, if the growth occurs along that northern portion north of the old Thorpe Avenue we need to have a second source in there for electricity. That is when the easement will be utilized.

Mr. Bradley asked, from a development standpoint, if easements have to be obtained for utilities, how does that normally work?

Mr. Smith responded, it is normally made a condition of development. The property that the substation is built on was given to the Town by F.I.P. It was two acres of which the Town insisted on getting as part of their development.

Mr. Bradley pointed out that the situation was one in which a family

owned business that had been in the Town of Wallingford for years and years and had relocated up to the F.I.P. park through condemnation. It was F.I.P. who turned around, big corporation mind you, with their lawyers and sued the Town. We paid. Looking at it from a business standpoint, he did not think that the Town should be in the business of giving up land, swapping it for another easement. Yes, perhaps if it is a fair swap. If any of the Council members were to take a look at this land you will see the easement is right in the middle of the land. It is a prime easement which has a dollar value to it and he felt that the Town would be very remiss if they did not require a purchase or fair market value for that piece of land.

Mr. McDermott reminded Mr. Bradley that the Town only owns the right to use the land and maintain utilities under it. It is not Town property, it is F.I.P.'s property. We are not giving away Town property. He asked when the easement was obtained originally?

Mr. Smith answered, back in the 1960s.

Mr. McDermott asked if the Town paid a price at that time for the easement?

Mr. Smith was not aware of any monies being exchanged for the easement. He consulted with the Department of Law who could not find any record of a financial transaction. There has not been any utilities on the easement since 1984. When the new substation was built in 1984 we ran underground to the intersection of Carpenter and Research. Everything is dead from there out. We don't need to come across country.

Mr. McDermott wanted to see something worked out for all parties involved. He pointed out that he has been a proponent of economic development and progress in building expansion or existing building use and he is disappointed that he will not be able to vote on this issue since it will mostly likely be tabled.

Mr. Zandri stated that there were no guarantees that there will be any development in the area once we release the easement. The property will become more valuable to them and more attractive but it does not guarantee development now or ten years from now.

Mayor Dickinson stated that it becomes an open question as to whether what is at issue here is worth \$500,000. If the issue were tied to Thurston's then yes, anything is worth the Town getting the \$500,000 on the Thurston issue. Without tying it to the Thurston issue, if you are just talking about Thorpe Avenue or the easement, he suspected that the Town would have a hard time justifying a \$500,000 figure on either one of those issues.

Steve Knight, 289 Ivy Street asked the Council to explain the past history on this issue since he was not a resident of the Town at the time.

Mr. Zandri explained that Thurston had a parcel of land that the only access to it was off of Route 68. It was the State and Town's desire

not to have another curb cut on Route 68 for safety reasons. The other alternative was to go through F.I.P. property, in a section of property that would give them (Thurston) access off of a different road and make it an interior road vs. Route 68. In order to do this the Town took the option of condemning the property. There was an assessed market value for that parcel of land which the Town originally paid. F.I.P. was not satisfied with that and took the Town to court. When it went to court the judge ruled that...he looked at the small piece that was given by F.I.P. to the Town and said that piece of land (obtained through condemnation) made the back piece (Thurston's land) more valuable by opening it up. The judge, therefore, contributed a larger dollar value to the piece in the front. In Mr. Zandri's opinion the judge failed to realize that it did not make the rear lot any more valuable because Thurston had the right of access to Route 68. The value of the land was still the same as far as Mr. Zandri was concerned.

Mr. Holmes added that Thurston also did not want to use the developers from F.I.P., he wanted to hire his own contractor. At that point that is when F.I.P. said they would not let anyone have access to the road.

Mr. Knight felt that there were two different issues here. One is to swap one easement for another and the second issue here is over a dispute that was settled in court. He was confused over why, after so many years, that F.I.P. has this albatross around its neck when they are trying to develop a piece of property that will ultimately bring economic development to Wallingford.

Mr. Zandri went on to say that one year had not even passed before F.I.P. came before the Town looking for favors. They are the ones who wanted the Town to give up Thorpe Avenue so that it would make their property more valuable as a whole. Now they are coming before us again when the Town holds the cards and they want us to give up an easement so that it will make their property more valuable. There are two sides to the coin. You cannot do wrong in one aspect and then turn around and look for a favor from us.

Mr. Knight asked, is this a favor that we are doing F.I.P. or are we trying to work jointly to see that this parcel is developed to the benefit of both Wallingford and F.I.P.? If they happen to make some money well, this is America and the last Mr. Knight heard that is not illegal.

Mr. Zandri did not state it was illegal to make money but asked, why should the Town be doing F.I.P. a favor to make them wealthier than they are when they turned around and sued us?

Mr. Bradley checked with Planning & Zoning to find that there are three lots that have been recently subdivided. F.I.P. currently has a site plan filed with Planning & Zoning so they are looking to do something with that land.

Alexander Kovacs, Chairman of the Public Utilities Commission asked, if this item is not approved what effect will it have on the utilities?

Will that slow any development down in that area?

Mr. Smith answered, no, not at the present time. He repeated again, he sees no immediate need for the use of that easement. It would be nice to have on the books to fall back on, but it may be 1994, 1995 or 1996 before it is even utilized. There is no further need for the old easement. The push on this issue comes about because of an interest by a potential client in that parcel and their trying to clear up the legal entanglements caused by the easement.

Mr. Kovacs stated, that being the case he could not disagree too much with Councilor Zandri. Perhaps if we negotiate with F.I.P. no one will get hurt. If it were an emergency that would be different. He did agree with Mr. Zandri's opinion.

Mr. Smith warned the Council that if we negotiate so that F.I.P. pays now for that easement the Town may be forced to pay later if we need to acquire that other easement. It will be a two step process.

Mr. Zandri's proposal was not to have F.I.P. buy this easement out and the Town seek the other easement later. His proposal was to keep this easement packaged exactly the way that it is and go back with a Thorpe Avenue proposal and a dollar figure agreed upon, combining it into one issue.

Mayor Dickinson felt that the proposal puts the Town in a position of saying that the dollar figure is not for the easement, it is limited to Thorpe Avenue and Thorpe Avenue is not worth close to that kind of dollar figure. He understood Mr. Zandri's frustration over it but it is a difficult bargaining stance to take by trying to relate the fact that Thorpe Avenue is worth \$500,000.

Mr. Zandri reminded the Mayor that he (Mayor Dickinson) does not know how much the parcel of land is worth as a whole and it does play a part in this picture because the easement that the Town is seeking is a borderline easement and there are always setbacks on any piece of property. So that piece of land that the new easement is being proposed on will be worth exactly what it is worth today because the easement would not obstruct construction in any way on that piece of property. The easement that they are seeking a release from ruins a good portion of the lots that they have today. They were willing to pay \$250,000 a few years ago for Thorpe Avenue, maybe this piece of property is worth the other \$250,000.

Mayor Dickinson responded, in essence, they will be purchasing the easement from the Town. You cannot say that you are in agreement with the utilities. We are swapping one easement for another, you are putting a dollar figure on that exchange of easement.

Mr. Zandri agreed. Bring it back at our next meeting offered as one package and vote on it then.

Mr. McDermott asked, when will the case against Thurston Foods be coming up?

Mayor Dickinson answered, it is scheduled for trial.

Ms. Papale stated that she has no problem waiting on this issue this evening. If this easement would make a difference in their construction timelines then she would vote for it but there is no rush.

Mr. Zandri recommended that the item be tabled and have the Town Attorney negotiate the proposal since the consensus of the Council this evening is that this issue can be negotiated.

Mr. Holmes asked, is it \$500,000 or nothing? Or is there some flexibility in there?

Mr. Zandri responded, that is the original amount the Council was looking for. I would go in with what we are starting with for this entire package and see what happens.

Mr. Holmes had no objection with negotiating this issue.

Motion was made by Mr. Holmes to Table This Item, seconded by Mr. Zandri.

VOTE: Duryea, Parisi and Solinsky were absent; McDermott, no; all others, aye; motion duly carried.

ITEM #4 To SET A PUBLIC HEARING for January 11, 1994 at 8:15 P.M. on an Ordinance Amending an Ordinance Appropriating \$180,000 for the Planning and Design of the South Elm Street Parallel/Relief Sewer and Authorizing the Issue of \$180,000 Bonds or Notes of the Town to Meet Said Appropriation and Pending the Issue Thereof the Making of Temporary Borrowings for Such Purpose

Motion was made by Mr. Doherty, seconded by Mr. Holmes.

Mr. Killen recommended that when the notice appears in the newspaper for the hearing that it be more specific with regards to the dollar figure for the entire appropriation. It appears as though the Town is only appropriating \$180,000 for this project when, in reality, we are dealing with \$3,655,000.

Ms. Wall stated that she provided Mr. Killen with the Legal Notice which is how the bonding attorney drafted it.

Mr. Killen responded that he is not faulting anyone he would just like the entire amount of the ordinance to appear in the legal notice published so that a member of the public is not misled.

Mayor Dickinson asked Ms. Wall if the second paragraph, which reads as follows, appears in the legal notice?

(The purpose of the ordinance is to increase the appropriation and bond authorization for the South Elm Street Sewer Project from \$180,000 to \$3,655,000, and to provide that the appropriation may be expended for costs of construction of the project and that the project may include the rehabilitation of existing sewer lines).

Ms. Wall responded, yes.

VOTE: Duryea, Parisi and Solinsky were absent; all others, aye; motion duly carried.

ITEM #5 Consider and Accept the Minutes of the December 14, 1993 Town Council Meeting

Motion was made by Mr. Doherty, seconded by Mr. Holmes.

VOTE: Duryea, Parisi and Solinsky were absent; Killen abstained, all others, aye; motion duly carried.

Mr. Doherty made a motion to Remove Agenda Item #2 From the Table, seconded by Mr. Holmes.

VOTE: Duryea, Parisi and Solinsky were absent; all others, aye; motion duly carried.

ITEM #2 Consider and Approve Accepting the Following Roads:

- Cornelia Drive off of Whiffle Tree
- Whiffle Tree - final portion, off of Parker Farms Road

Motion was made by Mr. Doherty, seconded by Mr. Holmes.

Assistant Town Planner, Thomas Talbot informed the Council that the Planning & Zoning Commission has approved the two roads.

VOTE: Duryea, Parisi and Solinsky were absent; all others, aye; motion duly carried.

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

VOTE: Duryea, Parisi and Solinsky were absent; all others, aye; motion duly carried.

There being no further business, the meeting adjourned at 6:20 P.M.

Meeting recorded and transcribed by:

Kathryn F. Milano

Kathryn F. Milano, Town Council Secretary

Approved by:

Iris F. Papale

Iris F. Papale, Chairperson

JAN 11 1994

Date

Kathryn J. Wall

Kathryn J. Wall, Town Clerk

JAN 11 1994

Date