

Town Clerk

TOWN OF WALLINGFORD, CONNECTICUT

TOWN COUNCIL MEETING

June 14, 2005

6:30 P.M.

The following is a record of the minutes made of the Wallingford Town Council at its regular meeting held on Tuesday, June 14, 2005 in the Robert Earley Auditorium of the Wallingford Town Hall. Town Council Chairman James M. Vumbaco Called the Meeting to Order at 6:10 P.M. Responding present to the Roll Call given by Town Clerk Kathryn Zandri were Councilors Vincenzo M. Di Natale, Lois Doherty, Gerald E. Farrell, Jr., Stephen W. Knight, Iris F. Papale, Robert F. Parisi, Vincent F. Testa, Jr., and James M. Vumbaco. Mayor William W. Dickinson, Jr., Adam Mantzaris, Corporation Counsel, and James Bowes, Comptroller, were also present. Mr. Spiteri was absent in order to attend an awards ceremony for his daughter. He arrived at the meeting at 7:45 P.M.

There was a Moment of Silence and the Pledge of Allegiance was said

2. Correspondence – No correspondence.
 3. Consent Agenda
 - 3a. Consider and Approve Tax Refunds (#765-#787) totaling \$11,060.01 Account #001-1000-010-1170 – Tax Collector.
 - 3b. Note for the Record Ten (10) Mayoral Transfers from various Departments - Mayor
 - 3c. Note for the Record Fourteen (14) Mayoral Anniversary Increases - Mayor
 - 3d. Consider and Approve a Transfer in the Amount of \$3,000 to Overtime from Regular Salaries – Dog Warden
 - 3e. Consider and Approve a Transfer in the Amount of \$250 to Gas and Oil from Mayor's Expenses - Mayor
 - 3f. Consider and Approve a Transfer in the Amount of \$640 to Regular Salaries and Wages from Promotional Expenses – Economic Development Coordinator
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- 3g. Consider and Approve a Transfer in the Amount of \$8,500 to Gas and Oil from various accounts – Public Works
- 3h. Consider and Approve a Transfer in the Amount of \$800 to Purchase Service – Custodial Services from Leaf Box and from Computer, Monitor, Printer and Accessories – Public Works
- 3i. Consider and Approve a Transfer in the Amount of \$430 to Other Pay from Leaf Box – Public Works
- 3j. Consider and Approve a Transfer in the Amount of \$6,329 to Purchased Services Computerized Indexing from various accounts – Town Clerk
- 3k. Consider and Approve a Transfer in the Amount of \$8,000 to Medicare Tax from Health Insurance – Personnel
- 3l. Consider and Approve Authorizing the Mayor to sign an Amended Intermunicipal Agreement – 1070 North Farms Road LLC Lots 1A and 1B – Water Division
- 3m. Board of Education Bid Waiver Request to Allow for Purchase of Temporary Storage Boxes to be used during the School Renovation Project – Superintendent of Schools
- 3n. Approve minutes of the Town Council Meeting of April 12, 2005.
- 3o. Acceptance of various grants – Board of Education

Ms. Papale: I make a motion to accept **Consent Agenda Items 3a. to 3o.**

Mr. Parisi: Second.

Chairman Vumbaco: We have a motion and a second. All in favor? Opposed? So moved.

- 4. Items Removed from the Consent Agenda – None
- 5. Recognition of 2005 Varsity Scholars from Lyman Hall High School and Mark T. Sheehan High School.

Chairman Vumbaco read a letter sent to the scholars inviting them to attend the Town Council meeting to be recognized. Mayor Dickinson noted that

the scholars have attained an academic "A" average during their four years in high school. Each student called forth by Councilor Knight was honored and congratulated by Council Chairman Vumbaco, by Mayor Dickinson and by the entire Town Council for their excellence in school. Councilor Knight said that the whole town is proud.

(The lists of Varsity Scholars from Lyman Hall High School and Mark T. Sheehan High School are appended to the minutes.)

6. PUBLIC QUESTION AND ANSWER PERIOD - None
7. Conduct a Public Hearing – Neighborhood Assistance Program

Ms. Papale: #7 is to conduct a Public Hearing about the Neighborhood Assistance Program. I'd like to read the letter to the Mayor. "Dear Mayor Dickinson, The summary list of Neighborhood Assistance Programs has been revised to include two additional organizations that submitted applications for the 2005 program. In my letter dated May 17, 2005, it was requested that the Town Council at its may 24, 2005 meeting set a Public Hearing for June 14, 2005 regarding the Neighborhood Assistance Program application. Please forward this revised list so that all applications received to date are included in that Public Hearing. I will be unable to attend the June 14, 2005 Public Hearing. Questions about this program can be directed to the Program Planning Office."

Chairman Vumbaco: Mr. Roe is not available this evening but this is a Public Hearing. Are there any questions from the public concerning the Neighborhood Assistance Program? Hearing none. I declare the Public Hearing closed. The two new organizations are the American Red Cross and the Connecticut Academy for Education in Mathematics, Science, Inc. and Technology. Item #8.

(The full list is appended to the minutes.)

8. **Ms. Papale:** # 8 is to consider and approve Resolution Authorizing the Mayor to submit to the Department of Revenue Services the Town Council approved list of Programs eligible for investment by business forms and to provide such additional information; to Execute such other documents as may be required by the Department to accept

on behalf of the Town any funds available for those municipal programs on the list; to execute any amendments, rescissions and revisions thereto; and to act as the authorized representative to the Town of Wallingford as presented by Program Planning. So moved, Mr. Chairman.

Chairman Vumbaco: We will append the Resolution to the minutes and dispense with the reading.

Ms. Papale: I'd like to add that to the motion.

Mr. Parisi: Second.

Chairman Vumbaco: This is purely to authorize the Mayor to submit the names of each organization to the Department of Revenue Services. We have a motion and a second. All in favor? Opposed? So moved.

Mr. Farrell: Abstain.

(The Resolution is appended to the minutes)

9.

Ms. Papale: # 9 is to Consider and approve Public Bid Waiver List for 2005-2006 made a motion to approve the Public Bid. So moved.

Mr. Parisi: Second.

Mayor Dickinson: The list you have is pretty much the same as every Year. The items are proprietary or single source where we are looking for bid waivers. There are a number of manufacturers of engines, equipment of that type where we like to have them work on the engines, particularly for the Fire Department. There is a list of generic vendors and that would be the hardware stores and we waive the bidding on that in general so that any town department can go to any hardware store depending on convenience rather than direct everything in one place. Plus the hardware stores will not bid their various items. We have tried that in the past and they will not do so. The only other comment in the letter is with regard to Water/Sewer.

Chairman Vumbaco: I don't see that. I see EDC, which included national

and regional advertising in a variety of magazines and newspapers as well as any other publications that may be necessary to allow EDC to continue its promotion of Wallingford.

Mayor Dickinson: Right. I thought there was an item that dealt with Water/SewerI believe this refers to that was the previous meeting dealing with Public Works and the paving for Tilcon, allowing that to continue. I was remembering the previous meeting. I apologize.

Chairman Vumbaco: Any comments from the Council? Public?

Phil Wright, Sr. 160 Cedar St.: Is a copy of this list available to the public here tonight?

Mayor Dickinson: The list in general is with the packet. The Clerk's Office has it; I have it, all the Council people.

Chairman Vumbaco: I have a question about Sears & Fazzino, Home Depot. Do we issue a Purchase Order to them not to exceed and as it's weaned down, we re-issue it or do they just go in there and buy what they need.

Mr. Bowes: It's done on an open purchase order basis.

Chairman Vumbaco: What's the billing (cycle)?

Mr. Bowes: Depends on departments. Sometimes there's no monthly Invoicing. Most are monthly.

Chairman Vumbaco: So they bill you for what is charged?

Mr. Bowes: Correct.

Chairman Vumbaco: And then you compare that to the Purchase Order and if the Purchase Order is close to being exceeded...

Mr. Bowes: No, it's an open purchase order. There is no limit so as to not limit the department.

Mr. Knight: From the Fire Department, how does Hunter's Ambulance come into this? Do we purchase services from them?

Mayor Dickinson: That would relate to where we have them on standby for various events, not knowing when that might occur. They are our backup.

Mr. Knight: I would assume that during the year they would exceed a \$4,000 cap.

Mayor Dickinson: We don't pay them for that. You're asking why they're not on here?

Mr. Knight: Right.

Mayor Dickinson: Because we are not in a position of paying them. When they are here, they are here as backup for the town pursuant to their agreement. We don't pay them for them to be here.

Mr. Knight: Who pays them?

Mayor Dickinson: If there's an injury and they transport, then they are paid by the individual who they transport.

Mr. Knight: So if they transport me, I get a bill.

Mayor Dickinson: As you would get a bill from the Wallingford Fire Department. We also bill just as the private carriers although our bills are somewhat less than theirs.

Chairman Vumbaco: Any other members of the Council? We have a motion and a second. All in favor? Opposed? So moved.

10.

Ms. Papale: Item #10 is to consider and approve a Bid Waiver for a "Kompan" system for the new playscape at Doolittle Park – Public Works. So moved.

Mr. Parisi: Second.

Ms. Papale: Mr. McCulley is requesting a bid waiver in the amount of \$17,119 for the services of an installation consultant volunteer coordinator to construct the new playscape at Doolittle Park. The town will be purchasing the components for a Kompan manufactured system for state bid contract. By

hiring a Kompan System contractor and using volunteers, we will save \$16, 988 on the installation. This will also protect us with warranty issues. The consultant contract we are requesting has experience with the installation of this type of system and working with volunteers. So moved.

Mr. McCully: Over a year ago we embarked on looking to replace the existing playscape, which is the wooden playscape that has a lot of maintenance issues. The recreation department has done extensive research with other municipalities and their experience with their wooden ones. Ours is about 14 years old. Now is the time to replace it. This playscape will accommodate every existing disability. It will be for all people, all children, that want to use it and is more interactive than the existing one.

John Gawlak, Director, Parks and Recreation: With me is Kathy Radzuinas, Certified Therapeutic Recreation Specialist, for the Parks and Recreation Department. She helped in the design of this playscape. I drafted a summary statement of what's been going on the past year to give you a definition. We are looking to replace the Robert Leathers Creative Adventure Playscape with a Kompan design that you see before you. Utilizing their supervised volunteer assisted installation. We will be looking for about 50 volunteers to help us in late September if we are successful with all the appropriate permits that we need to obtain and the bid waiver tonight. That supervised volunteer assisted installation will save the town approximately \$17,000. We invited three playground companies to Doolittle Park to get ideas, designs and cost estimates on a new playground system. That is how we came up with the fee, the cost, that Henry (McCully) put into his 6 year cap and non-recurring budget. All three companies are on the State of Connecticut contract award. Recreation and Public Works departments selected Kompan after reviewing all the information and we would like to purchase this equipment from the state contract which includes a 5% discount. Kathy Radzuinas, Michelle Bjorkman and I made a list of priorities and considerations that we wanted for this playscape that included site improvement. We are looking to move the playscape away from the neighbors and toward the ball fields. This design presents a 360 degree view. There aren't too many places to hide. You can see right through it. It's more family friendly.

By moving it out and Public Works doing the site work, it will be a campus-like setting on both sides. Part of the existing playscape will be incorporated into the new site in the entry way that will have benches and signage commemorating the hard work of the original volunteers, called the Pit Crew, 14 years ago. The design in front was a donated design of Stephen Lazarus to incorporate some of the towers that exist at the playscape now. The archway will be the entrance with benches on the side.

Mr. Gawlak referred to the summary to address accessibility.

Ms. Radzuinas: The biggest problem with the current playscape is that it isn't really accessible. You need to have transfer stations for folks who use wheelchairs. There is one area where you can get through with a wheelchair but once you get there, there's nothing to do. Other children could not get around the wheelchair. A balance beam is near the transfer place. It's very limiting especially to a parent who uses a wheelchair. The new playscape is ground based, meaning that you don't have to worry about the transfer station. Each element can be reached from the ground and we have picked out some unique elements of it that will incorporate social play for all children, if they have a social or physical impairment.

Mr. Gawlak referred to the summary to address equipment, risk management and maintenance.

Mr. Farrell: The question that I have is the volunteer installation. I know there have been other people who have proposed recreational improvements here in the town and a component of those prior proposals has been volunteer assisted installation. How is this differing from those instances where my understanding is the town basically said, "No" because you are not an employee of the town because we might be held liable for your injury or injuries that you cause to others. How is that differing from this?

Mr. Gawlak: Kurt Treiber has looked at what's involved in the volunteer assisted program and what the volunteers are going to be doing, mainly providing labor with wheelbarrows, shovels, etc. but he has indicated that they are covered under the policies of the town.

Mayor Dickinson: This project is under the full control of Parks and Recreation and Public Works. Henry you are in charge basically. Whatever assistance is out there is under the supervision and at the direction of town employees. Only a person who is skilled and able to do a certain activity or use a certain tool would be utilized. Employees can't volunteer for this under their employer according to the Federal Fair labor Act. Where others are willing to assist and in this instance, it's totally controlled by the town. The company sends an overall supervisor. Public Works would be in charge of the work to be performed. We would not have the site with just volunteers performing and no employees in charge.

Mr. Farrell: I think it's important to get that out there because if someone is listening in and hears volunteer assisted installation they might want to know how it differs from prior instances.

Mayor Dickinson: Probably the key work here is volunteer assisted. It's not a volunteer organization basically doing all of the work.

(Mr. Gawlak presented a summary statement to the Council which is appended to the minutes.)

Mr. Parisi: When children are playing there, will there be a supervisor or someone overseeing?

Mr. Gawlak: At the playscape? No, it will be like it is now.

Mr. Parisi: And that doesn't have any impact on our insurance? I'm just curious.

Chairman Vumbaco: Can you explain again just where it's going to go?

Mr. Gawlak: If you are looking at the existing now, we're moving it between 75' and 100' towards the center of Doolittle Park, and it's still far enough away from the ball fields where fly balls won't be an impact. More out in the open with greater visibility from the street and the parking lot.

Chairman Vumbaco: And this won't have an impact on anything else that goes on there?

Mr. McCully: No, actually we are going to be making site improvements

and the vandalism problem that the existing one has, now the police department would be able to do a cursory inspection from the car it will be possible. There will be a big improvement there. We will have the new pavilion that Rotary recently donated so it will bring it all together.

Chairman Vumbaco: You said that you brought in three other companies, were they pose to them what to do or did you tell them what you were looking for and they gave you numbers.

Mr. Gawlak: We gave them what we had already decided and to see if they had anything different that would be appealing to us but Kompan offered something that was totally unique. The other two companies are what you see outside the elementary schools, and that's what we would have gotten.

Chairman Vumbaco: Explain again the uniqueness that Kompan has given.

Mr. Gawlak: It's colorful. They have the integrated play and if you look at a lot of the elements, they don't look like they are traditional playscape. It's untraditional and there is more attraction for the 8 to 12 year olds.

Chairman Vumbaco: And finally, the destruction of the old one, who is taking care of that?

Mr. McCully: Public Works will take care of that.

Chairman Vumbaco: It's in your budget?

Mr. McCully: We'll do it under maintenance. It will be broken up and taken to the trash plant other than those parts that are being saved to create the new entrance.

Chairman Vumbaco: That's pressure treated wood, isn't it?

Mr. McCully: Pressure treated

Chairman Vumbaco: I don't think you can bring it to the trash plant

Mr. McCully: Yes. That's where we take it now. Any pressure treated wood that we pick up has to go to the trash plant. It can't go to recycling.

Mr. Parisi: How long has the current playscape been there?

Mr. Gawlak: 14 years.

Mr. Parisi: Do you remember what it cost?

Mr. Gawlak: About \$69,000.

Chairman Vumbaco: Any other questions from the Council? Public?
We have a motion and a second. All in favor? Opposed? So moved.

11.

Ms. Papale : #11 is to consider and approve a transfer in the amount of \$16,200 to increase and decrease various accounts asked for by the Sewer Division. So moved.

Mr. Parisi: Second.

Roger Dann: As in my letter earlier this year, we did project that there would be funds remaining in the labor accounts in the sewer division and we did make a transfer out of some of those accounts to fund additional expense in worker's compensation area. As it's turned out that projection was about half right. So at this point we're looking to restore some of those funds that were previously transferred out.

Chairman Vumbaco: Council, any questions? Public? We have a motion and a second. All in favor? Opposed? So moved.

12. **Ms. Papale :** #12 is to consider and made a motion to approve a transfer in the amount of \$3,500 to increase Power Purchased for Pumping and to decrease Office Supplies and Expenses as presented by the Sewer Division. So moved.

Mr. Farrell: Second.

Mr. Dann: In this case a combination of two factors, higher than normal flows because of higher than normal precipitation and to a lesser extent impacts from the recent increase in electric rates through the PCA adjustment require us to ask for some additional funds for electricity.

Chairman Vumbaco: Any questions from the Council? I just have a quick one, this considered a budget transfer? Not a transfer of funds?

Mr. Dann: I'm not trying to draw a distinction there.

Chairman Vumbaco: Any members of the Public? We have a motion and a second. All in favor? Opposed? So moved.

13.

Ms. Papale: #13 is to consider and approve a transfer in the amount of \$29,000 to increase Miscellaneous Expenses and to decrease Chemical Expense and to decrease Maintenance Treatment Equipment. Sewer Division. So moved.

Mr. Parisi : Second.

Mr. Dann: This proposed transfer deals with needs for the wastewater treatment plant. In part increased expenses for natural gas increases rates since we prepared our budget and also the increase in electric rates, again the adjustment through the PCA that was recently enacted as well as some additional consumption have contributed to require us to ask for additional funds in this account.

Chairman Vumbaco: Chemical expense, you taking \$9,500 and \$19,500 from Maintenance Treatment Equipment. Is there anything that's not being done?

Mr. Dann: No, we will still accomplish everything that we intended to do. In some cases, maybe, a piece of equipment or a repair that we anticipated didn't have to be done in the chemical area. We were able to accomplish what we needed without utilizing as much chemical as we originally thought.

Chairman Vumbaco: With the increase in your sludge and everything else that's going on, you still have enough chemicals to handle it.

Mr. Dann: Right. The savings in chemicals was largely associated with a product that we use for other control in the pump stations and there we didn't use as much as we originally projected we would.

Chairman Vumbaco: We have a motion and a second. All in favor?
Opposed? So moved.

14.

Ms. Papale: #14 is to consider and approve a transfer in the amount of \$4,000 to increase Maintenance of Pumping Equipment and to decrease Sludge Disposal as presented by the Sewer Division. So moved.

Mr. Parisi: Second.

Mr. Dann: In the last several weeks we experienced the failure of one of the motors, 77hp, which is a little bit of an odd size, associated with the pumps at our low level pump station and the diagnosis is that it can be repaired for a cost not to exceed \$4,000 so we are asking for transfer funds in that amount. You will notice that we are taking it from the sludge disposal area which we had previously indicated was going to be short and had transferred funds into. After we made that transfer the subsequent two months both came in slightly less than what our projections were. We think that there are funds remaining for the final month of the year and that's why we are able to take the money back out of that account.

Chairman Vumbaco: Any Council have questions? Public?

Phil Wright, Sr., 160 Cedar Street: Didn't you recently have to increase the amount in the sludge disposal account.

Mr. Dann: Yes, you are correct. We did and we did that based on what we projected to be the quantities of sludge that would be disposed of in the last three months of this year. After that transfer was made, through the months of April and May, the actual quantities were less than those projections therefore freeing up some of the money that we had previously transferred and making it available to move back out for this particular purpose.

Mr. Wright: Has you not had that amount in the sludge disposal account, where would you have gone?

Mr. Dann: Well, it's a good question, Phil, frankly this budget is probably as tight as any budget that I can recall in recent history, and it's quite possible that if we didn't go here, we

would defer the repair of this pump until the next fiscal year. It's gotten to the point where right now things are very hard to find in terms of any excess funds.

Chairman Vumbaco: Any other members of the public? If not, we have a motion and a second. All in favor? Opposed? So moved.

(Mr. Spiteri arrived at the meeting.)

15.

Ms. Papale: #15. I'd like to make a motion to consider and approve a transfer and budget amendment in the amount of \$89,600 to and from various accounts as presented by the Water Division.

Mr. Parisi: Second.

Mr. Dann: Let me explain this. When we put together our budgets in the Water and Sewer Divisions each year, we calculate for our labor expenses what the total expense should be if all of our positions are filled completely without any vacancies for the course of the entire year. However, historically that's not been the case. In fact historically, the amount of money that would go unexpended because of vacancies, and to some extent worker's compensation type injuries that are paid for differently, exceeds 3% of that total amount, and so for a number of years, I want to say for the past 10 years, our practice has been to fund the budget at 97% of that total amount, and typically that has been a good projection and at the end of the year, we don't have any problem. In this particular year, we faced an unusual circumstance where we did not have a single vacancy in the Water Division during the course of the year. That in conjunction with a couple of other smaller factors, such as increased benefits that resulted from the contractual increases that were provided this year through the arbitration process have contributed to leave us short in the labor account. What we are looking to do here is to move sufficient funds in for the completion of this year, the funds coming from two primary sources, the majority coming from the maintenance of or replacement of water mains capital account where we received favorable bid pricing on projects that are currently underway, and then secondly, from the power purchase for pumping area where in this case because of the higher than normal precipitation, the amount

of water pumping in the reservoirs is lower than would normally occur, and therefore, we have some savings in the power purchased area.

Mr. Knight: Customarily, we budget for projected wage increases in a contingency account. Is that just for general government or is that for all contracts?

Mr. Dann: That's been the case for general government. In the utilities that has not been put into a contingency account. It's generally been moved from the retained earnings area into the budget once the contracts are resolved.

Mr. Knight: One is a very tight budget and I applaud you for the way that you historically calculate what you are going to need for salaries and wages and the fact that you didn't have any vacancies created this situation but in addition to that so did this arbitration settlement so what percent is accountable to what?

Mr. Dann: The majority of it is the 3% that we did not fund, and that's probably two thirds of the requested transfer. I want to be sure that I am clear on this. The portion that is impacted by the contractual increases is not the labor portion, which we had already adjusted once the contract award was received but it's the associated benefit piece which we had not adjusted. That being primarily the pension contribution that is made and that is a percentage of the labor payroll. That's a small portion, and there are a couple of other smaller factors. For example, there was one extra day of work this year versus normal, so we missed by one day. There was one person who was hired through an internal process from another department and because of the way in which the rules and regulations apply, that person's salary was higher than what we had projected it would be for someone coming in from the outside. There are a couple of smaller factors that contributed but the bulk of this is really the 3% that we chose not to fund.

Mr. Knight: In the budget coming up, you've continued to calculate using the 97% number?

Mr. Dann: Yes, we've continued that, and as I indicated in the past, that's been very successful, and it avoids basically putting more into the budget than you anticipate you will actually need.

Certainly if this pattern continues into the next year, we might reconsider that and back away from that somewhat but at least for next year's budget, we continued the practice.

Mr. Knight: I would like to reiterate, I appreciate that you are careful to budget perhaps if there is a slight shortfall instead of the opposite which you described as overbudgeting. Thank you.

Mayor Dickinson: Mr. Chairman, if I can just respond to that. There is a significant difference between the utilities and the general government, and that is there is not a salary account in utilities. The money is spread out over capital as well as other line items, and you can't look at their budget and know what money was budgeted for salaries because it falls over maintenance items, capital items, where ever they think work will be performed, the labor is accounted for in that line item. In general government, as you know, there are salary items and non-salary, so the budgeting process or the principals used are different as a result of that basic accounting reality. It's enterprise accounting versus the governmental accounting

Chairman Vumbaco: Any other questions from the Council? Members of the public?

Mr. Testa: I just want to make sure that I understand. In the Sewer Division, you had to increase power purchase for pumping. You pumped more sewage than you anticipated, higher flows. Now in the Water Division, you're actually able to decrease power purchase for pumping because you've had to pump less water and it's higher precipitation rates and so forth. It's not just a function of higher electric rates, you've had to pump less water but you're pumping more sewage.

Mr. Dann: It sounds a little bit funny that it should go in opposite directions but basically the high precipitation runs off to the reservoir system and is captured directly, so rather than having to pump it, we can capture it directly and avoid pumping that quantity. On the flip side, it enters the sanitary sewer system to some extent and contributes to the volume that has to be pumped and so it increases the volume to be pumped in the Sewer Division even while it's increasing the quantity necessary to be pumped in the Water Division.

Phil Wright, Sr., 160 Cedar Street: I wonder why we have listed four previous items totaling \$53,000 individually and explaining them and here we take in one fell swoop \$89,600 in 'various accounts.' What's the difference here? Why aren't we enumerating in Item 15 as we did in the prior four?

Chairman Vumbaco: It's the subject matter. It's a single issue item even though it's spread out over the different labor accounts, it's still a single issue item that he needs to fund those accounts because they are under budgeted this year. The other issues are all single items so we did not segregate them one-by-one-by-one.

Mr. Wright: I'm not sure that I understand that but I'll ask further questions.

Frank Wasilewski, 57 North Orchard Street: I'd like to know if the Council knows exactly where these monies are coming out of, what account because I don't see any line item numbers, so how could you tell where they are coming and where they are going. Usually you put the line item number on the agenda so anyone with a budget could look at the number could say, it's coming out of this account. Here tonight, it says 'various accounts.'

Chairman Vumbaco: In the past on the agenda, we've spent an inordinate amount of time typing in line item by line item of what they are coming out of. The information that we got from the Water Division has the individual line items on here so the Council is aware of what line items are being funded and what line items the dollars are coming out of.

Mr. Wasilewski: I think it would be good if the public knew exactly where it was coming from and where it was going.

Chairman Vumbaco: What we will do in the future is make copies of the letters available but I'm not going to spend the time retyping to put it on the agenda. We'll have these available for you at the next Council meeting.

Mr. Wasilewski: Regardless of what department, you're not going to put the line item number in.

Chairman Vumbaco: Normally we will not, no. Phil, did you have something else? Another question? Bob.

Robert Sheehan, 11 Cooper Avenue: I would just like to echo Mr. Wasilewski's concern. He did that before. My other concern is this transfer \$89,000 going to take you to the end of this budget years.

Mr. Dann: It's intended to absent something unexpected even if we had a major water main break and incurred much more than the normal amount of overtime then we might exceed it. But absent unusual this should be enough for the completion of the year. This is projected to meet our normal operating needs to the end of this year, yes.

Chairman Vumbaco: Again in reference to the account numbers that was just questioned, it tells you what accounts they are coming from and what accounts they are going to. The only time it says various accounts is when there is a multiple listing that is about in this case about 25 line items long that is not printed on the agenda. We might not have the actual account number here but if you read the agenda item it says from and to so it's telling you the accounts involved.

Mr. Wasilewski: Do you know how many line items, the number you have in the budget and then there are certain departments that have the same number if it's say miscellaneous, I think they all have the same miscellaneous number. Correct? So it's a game trying to match everything up.

Chairman Vumbaco: Any other questions from the Council? From the public? We have a motion and a second. All in favor? Opposed? **So moved.** Roger, can you give us an update with the reservoirs with all this dryness that we've had before you go?

Mr. Dann: We have in the last several weeks begun to fall a little bit below normal. Certainly this extended period where it's now been hot and dry, we're beginning to see the system demands begin to pick up to levels that we haven't seen in several years so that will have a tendency to draw the reservoirs down but at this point we are 3%-4% below normal for this time of the year. It's not typically a short dry spell like this that causes a

lot of concern, it's just that drought extended over many months or several years in duration.

Chairman Vumbaco: Thank you.

16.

Ms. Papale: #16 is I'd like to make a motion to consider and approve a resolution authorizing the Mayor to Execute and File Application for 2005-2006 Grant from the State of Connecticut Department of Education in an amount not to exceed \$60,000 for the purposes of operation the administrative unit and service program of the Wallingford Youth Service Bureau and to provide such additional information, to execute such other documents as may be required by the Department, to execute a Grant Action Request with the State of Connecticut for state financial assistance if such an agreement is offered, to execute any amendments, rescissions and revisions thereto, and to act as the authorized representative of the Town of Wallingford as asked for by Youth and Social Services.

Mr. Parisi: Second.

Craig Turner: This grant is the annual application that we submit to the State Department of Education pursuant to the according the state statute 1019 (M) – 1019 (P) which is the legislation that provides for the funding and the requirement for Youth Service Bureaus that receive funding from the state. The amount of the grant that we are entitled to seek is \$28, 066 this year. The reason that the ceiling is set at \$60,000 is that there are some communities that do not come in for the funding or if they are not approved for funding, that funding goes back into the pool and is distributed out to the communities that are accepted as part of the grant process. Our grant funding for the administrative side of the work that we do pursuant to the general statutes, there are two components of Youth Service Bureau activities – the administrative core unit and the direct service unit. The money that we receive we apply to the salary line for the administrative core unit primarily. The is a small component that goes to the direct service piece through the program coordinator. That is included as part of the entire department's general budget for the year.

Chairman Vumbaco: Is this guaranteed funding from the state every year?

Mr. Turner: As long as we dot our I-s and cross our T-s, we are pretty much guaranteed this funding. It's not a competitive process.

Chairman Vumbaco: Does it fund anyone's salary 100% so that if you lose the funding, you might lose the person?

Mr. Turner: No, I can tell you the exact breakdown this year. It varies based on the hourly rate of the people you are funding. The total amount \$14,333 which is one half of the total pays for 369 hours of the director's time and \$14,333 pays for 427 hours of the program coordinator's time.

Chairman Vumbaco: Any members of the Council have questions? Public? We have a motion and a second. All in favor? Opposed? So moved.

The Resolution is appended to the minutes.

Ms. Papale: I'd like to make a motion that we go into Executive Session pursuant to:

17. Section 1-200 (6) (D) of the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property.
18. Section 1-200 (6)(B) of the Connecticut General Statutes regarding strategy and negotiations with respect to *In Re: August F. Cruz, Sr. & Diane J. Cruz, Debtors*, a matter pending in the U.S. Bankruptcy Court.
19. Section 1-200 (6) (B) regarding strategy and negotiations with respect to a claim of the Town of Wallingford re: water charges incurred by George W. Cooke.

So moved.

Mr. Parisi: Second.

Chairman Vumbaco: We have a motion and a second to go into Executive Session. All in favor? Opposed? So moved. The Council is now in Executive Session.

(The Council entered into Executive Session at 7:59 P.M.)

Ms. Papale: I make a motion to come out of Executive Session.

Mr. Farrell: Second.

Chairman Vumbaco: All in favor? Opposed? So moved.

(The Council exited from Executive Session at 9:30 P.M.)

20.

Ms. Papale: I make a motion to Consider and Approve a Settlement of the pending matter of *In Re: August F. Cruz, Sr. & Diane J. Cruz, Debtors* as discussed in Executive Session.

Mr. Parisi: Second.

Chairman Vumbaco: We have a motion and a second. All in favor? Opposed? So moved.

21.

Ms. Papale: I'd like to make a motion to consider and approve a settlement of the pending claim of the Town of Wallingford re: water charges incurred by George W. Cooke as discussed in Executive Session.

Mr. Parisi: Second.

Chairman Vumbaco: We have a motion and a second.

Mr. Mantzaris: I recommend approval of the settlement as discussed in Executive Session, which mirrors the report rendered by Attorney Robert Ciulla who is present here tonight. He will offer a brief summary of his report. When the matter first arose involving the charges...the water break really on Mr. Cooke's property in December. It was discovered in January 2004. The water ran out sometime in December 2003 as best as anyone can determine. It ran up to about 10,000,000 gallons of water as Mr. Ciulla's report indicates and as our own Water Division determined it was impossible to measure how so much water ran out in such a short period of time. The meter was read in January 2004 the billing for 10,000,000 gallons amounted to something on the order of \$31,000. Mr. Cooke claimed that he had instructed the Water

Division through Roger Dann to turn the water – this water was for irrigation for farmland – off approximately early October. Mr. Dann's recollection was that the request was made sometime in November. As Mr. Ciulla's report points out the water was not turned off by the town, by anybody and it was not discovered until the middle of December when a water slide of ice was discovered on the farm by Mr. Cooke's son in law. The question about the billing we thought because it involved an official of the Public Utilities Commission, it was not a matter for the Commission to undertake or for our office to undertake so we thought it best to refer it to an independent attorney and Mr. Ciulla who has had experience in municipal law and has represented the town as I indicated in my letter in several high profile cases. We thought him extremely competent. He spoke to all the people involved, when out to the site where the break occurred and you all have his report and his recommendation was because he felt more of the blame was on the town side because of a written policy that the town was obliged to shut the water off in irrigation projects. Mr. Cooke's is not the only one in town as I understand it. The theory being how would a court have handled this matter and I'll let Mr. Ciulla explain it. His recommendation was that Mr. Cooke pay 25% of that bill and we recommended that ourselves and that's why we have come before you tonight. Mr. Ciulla is here to summarize why he came up with that recommendation. I would add one more thing that Mr. Cooke hired an attorney and made to offer to settle the claim based on Mr. Ciulla's recommendation.

Mr. Robert Ciulla: I was asked to come in as an outsider because of the potential conflicts that Adam described to get to the bottom factually of the situation and then to recommend a position of the matter to the Public Utilities Commission which I thought would be fair to each party so it was taken into account a consideration of what might happen if litigation were to ensue between the Utilities Commission and Mr. Cooke to collect the bill. It was also an opinion that I was asked to express that basically was one that I felt that based on all the facts would be fair to both of the parties and not to be a negotiating position from which Mr. Cooke ought to start settlement negotiations. I met with everybody involved from the town, with Mr. Cooke and basically you start from the premise that in 1999 there was a one page very brief agreement between the town and Mr. Cooke pursuant to which he can use Town

of Wallingford water at a rate not to exceed 120,000 gallons per day for irrigation and that the irrigation would occur between 10:00 P.M. and 6:00 A.M. The agreement is importantly silent on the question of a mechanism for Mr. Cooke informing the town as to when he's ready to or needs to use the water and also when Mr. Cooke should inform the town that his usage of the water for the season has ended so it's appropriate to turn it off. Mechanically, what happens is that there's a pound vault at which point the town can turn the water on or turn the water off and then there are – well, down stream but it's really down pipe from that vault – two other places where the water can be turned off or on. One is another vault on Mr. Cooke's property and then there's an assembly, which is near the pond and which is the assembly which controls not only whether the water is flowing or not but also whether it flows into the pond or into hoses which can load up water trucks which is another means of the irrigation used by Mr. Cooke. The question here is how is it that so much water flowed through that line over a period of time. We know that the meter was read in June, that the water was turned on June 3, that there was a meter reading on October 3 and the meter seemed to be working fine and Mr. Cooke claims at or about that time he told Mr. Dann to turn the water off. Both parties, and this is a critical point, both Mr. Cooke and Mr. Dann agree that 1) it the Town of Wallingford's preference to control the turning on and off of the water and 2) it is the Town of Wallingford's responsibility to control the turning on and off of that water. The town wants it that way and apparently so does Mr. Cooke. There is nothing in this agreement that, quite frankly, deals with the turning on and off of that water nor is there anything in the agreement that deals with notification in writing or orally of the wishes of Mr. Cooke in terms of the water being turned on or off. The bottom line is that Mr. Cooke has a clear recollection of having told Mr. Dann that he was through for the season in early October and the water should be turned off. Mr. Dann has what he described to me as a vague recollection of being told at some point by George (Cooke) that the water should be turned off. His recollection is that it was sometime in early to mid November because he thinks he remembers it being cold outside and wondering if there was a problem with the pipes freezing and so forth. What happened here ultimately is that at some point it was notices that the pond into which the water flowed was overflowing and also

there was a wonderland of ice on one December day when Mr. Cooke's son-in-law was walking his dogs up to take a look at what was going on. At that point in December the water authority still did not know of this situation. It was Mr. Cook who turned the water off after being notified by his son-in-law at that time and it wasn't until January 15th (2004) that the meter was read by the town, and when it became apparent that the usage had been enormous in terms of flowing through that line between the last time it was read and January 15th. The bottom line is the equipment was tested; the water meter was tested, I believe, it was even sent out to the manufacturer for re-certification; the assembly was tested and that seemed to be working properly. Quite frankly the only explanation is that both the valve on Mr. Cooke's property and the assembly were in an open position for an extended length of time, and frankly, it still doesn't account for the actual gallonage that flowed through but that's going to be a mystery that's never going to be resolved here. The other thing that is obviously true is that the valve in the town's vault, where the town turns the water on and off, that obviously was open and never closed and Mr. Dann also agreed that even though he remembered being told by Mr. Cooke in November that his recollection was that it was November that in point of fact, the town never went out and closed the valve to shut off the water. What do you do in a situation like this? Mr. Cooke's position was quite elegantly and forcefully explained to me that he didn't feel he had to pay anything. While we had a nice conversation he was quite forceful in his views. Mr. Dann and Ray Smith to whom I wrote this letter basically asked me what my recommended position would be that would be fair to both parties and I concluded that essentially if Mr. Cook paid 25% of the bill that that would be a fair resolution because if I were a judge, a fact finder, having to determine what happened based on the evidence, circumstantial and otherwise that there is, it would seem to me to be more logical than not that Mr. Cooke did ask that the water be turned off sometime around October, which is a natural end of the growing season, and again I'm not suggesting that anybody intentionally mis-stated facts or what I just think are recollections clearly differ. The better logic would tell you that there was a request to turn off the water at the town vault sometime in October, and if that had been done, clearly this amount of water would not have run through the system. Moreover, even if it had been early to

mid-November when Mr. Dann (recalls), obviously there would have been far less water that would have flowed through the system. If the town had either in October or in early November, regardless of whose version is accurate, the town had turned the water off, the amount of water that would have flowed would have been a lot less and that basically is the basis for my recommendation that to be fair to both parties a 25% payment of the amount due would be appropriate. That's it in a nut shell.

Chairman Vumbaco: Any comments from the Council? Questions from the Public?

Mr. Spiteri: I have a very strong problem with this settlement and I've made it very clear to my fellow Council-members. I think what we have here is a situation where a property owner has management of water on their property and with that comes responsibility. I want to emphasize the work accountability and in this situation, this individual had access to the P.U. C. employees that an average town resident wouldn't have and without it being in writing and taking the stance that it's not his responsibility, I don't see where we should be settling a case such as this for 25 cents on the dollar. That's never been this Council's stand on any settlement since I've been on it, and there's no consistency with some of the members that have taken a stance on this. This is just the type of thing that I want to see stopped in this town. Favoritism. I think this case we have an individual that claimed he would pay a red cent and now he's jumping on paying 25 cents on the dollar. I brought up the suggestion that we look into selling the debt and not only was that not agreeable to my fellow Councilors, they don't even understand the concept. I just think that this is a gift and should have been talked about a little longer for whatever reason. Some of the Council members feel that this is a fair deal to the town, and I think that we would do better if we went to litigation.

Mr. Knight: I'm going to vote in favor of this agreement and I come to it withmost of the information through the attorney that we hired to advise us on this matter has given us. Additionally in the hour plus discussion that we had in Executive Session allowed for really good questions that shed really a lot of light on it. The third party we have to turn to third parties all the time. We go to arbitration with some of our labor contracts.

Those are adjudicated differently because when the arbitration ruling comes down, you usually either take the town's position, or you take the union's position on a given issue, and you're not given any latitude. This is a rare opportunity to, first, see a real arbitration, a third party, work where somebody with a lot of court experience has advised us that if we were to take this to court for all the reasons that he laid out that we would probably end up at this very place where we are now. I take that seriously. I think contrary to your feelings, Mike, that many, many times when Adam or Janis (Small) come to us and say, these are the facts. This is what our exposure is. On any given issue, I would say about 80% of the time, we are going to take their considered opinion and apply it to our judgment, and I think we should do so in this case. Secondly, this is an unusual agreement. It's a somewhat unique agreement in that the town does indeed have responsibility for turning the water on and turning the water off. And at first, when I was first listening to this, it seemed what's really pivotal is just when. Was it October when Mr. Cooke said he asked the Water Division to turn it off? Or was it early November when Mr. Dann of the Water Division felt that conversation took place? The fact is that whether it's October or November, even taking the worst case scenario and saying that it was November, there was still two full months with water running full blast through that pipe about which nobody knew but the town allowed it to happen because they didn't do what they were asked to do and said they would do and were responsible for doing. It may even be if Mr. Cooke's recollection is more accurate that he may not even owe the 25% that he's willing to pay. We'll never know but I think that it's certainly worth noting that two thirds to three quarters of the water ran through those pipes after the town was requested to shut the valves off. Those to me are telling facts. This is not an easy decision for any of us to make. Mike intimated that there are other factors at work. Not in my case. I would swear that George Cooke wouldn't recognize me on his best day. I don't have any dealings with George Cooke but I do know that given the facts that have been outlined by Attorney Ciulla that I don't think the town is going to do any better than this agreement tonight. And that's why I'm voting for it.

Mr. Farrell: I want to go on record saying that I am no fan of George Cooke. If you had asked me what my opinion of this matter was a week ago, I would have said Mr. Cooke should pay the entire bill, no question. I had the chance to read Attorney Ciulla's report over the weekend and he brought to light facts that just were not known. I took great offense of a lot of Mr. Spiteri's comments in Executive Session that the only reason that this was being settled this way was because Mr. Cooke was a prominent Republican. I think sometimes we have to be adults here.

Chairman Vumbaco: Jerry, I think it's inappropriate what you are saying. Would you please go on and leave the debate in Executive Session alone, please.

Mr. Farrell: I think he made the same statement.

Chairman Vumbaco: He did not make the same statement publicly. Would you please go on Mr. Farrell without revealing what was said in Executive Session? Any other comments, Mr. Farrell?

Mr. Farrell: My point is, I don't care who George Cooke is. I think that we have to be adults sometimes and look what's reasonable. There was plenty of information that said it was physically impossible for 10,000,000 gallons of water to run between October and January, and yet somehow, there are those who want to tag Mr. Cooke with all 10,000,000 gallons. It's not physically logical. It goes against reason and yet there are people who say hey we can't compromise this even keeping in mind the fact that the town was clearly negligent in its own way here. People will portray it the way they want it but Mr. Cooke's political affiliation had absolutely nothing to do in my decision. Thank you.

Chairman Vumbaco: Any other members of the Council wish to speak?

Mr. Parisi: I'm going to state right now that I know Mr. Cooke and I've known him for major portion of my life. I've done business with him. But that is not the reason that I am voting in favor of the issue tonight. It's very simple. I believe that Attorney Ciulla did a fine job in bringing the facts forward. It's obvious that the blame, if you want to look for blame, the blame does not fall on any one individual. It involves two

people but the primary agreement was that the town control the flow of water, which meant that it was obligated to turn it on and to turn it off. Be it by invitation or not or by notification or not. And correct me Counselor, it was the town's obligation to shut the water off at some period of time. Am I correct in that?

Mr. Ciulla: It was both Mr. Dann and Mr. Cooke agree that it was the town's responsibility to turn the water off at the town vault. The agreement itself does not contain such a provision but they both agree.

Mr. Parisi: And it was clearly stated to you that they both agree?

Mr. Ciulla: Yes. They both said that.

Mr. Parisi: So based on that, to me it's pretty clear cut that the town by accident, I'm going to say, did not fulfill its obligation therefore I don't feel the total blame should fall on Mr. Cooke.

Ms. Papale: I just have a few comments to make. I'm going to vote to settle this agreement with Mr. Cooke. I would be voting this way if this gentleman's name was John Jones because I really feel that we'll never know exactly but in my thinking I feel a mistake was made. I'll be very blunt. I really believe the water was not shut off when it was asked to be shut off. This is what I feel. And the name George Cooke, like I said, if it was John Jones, I'd be voting the same way. We have to be fair about these things and what made me really get to this point is that if Mr. Cooke told Mr. Dann in October or he told Mr. Dann in November, what's the difference, the town never shut it off. In December was when they found the problem. I am ready to vote to settle this settlement, Mr. Chairman.

Mr. Spiteri: I'd just like to respond on some of the comments that were made. It was pointed out by Councilman Farrell that the numbers don't mesh with the amount of time that between the last time the meter was checked and the time Mr. Cooke shut the water off and that is one of the holes in this report that screams to me that there is an inconsistency and for it to be thrown aside can called a mystery that's never going to be solved again is too convenient for me. I have met Mr. Cooke. I met him in the elevator in town hall about six months ago and I happened to like the man but I am looking for fairness.

I don't believe if the average resident was in this position they would be getting this quickly, 25% settlement on the total bill. Mr. Cooke manages a large facility, and he's also managed a farm. He should know that things need to be put in writing. These accidents can happen when they are just verbalized. Again I want emphasize the word accountability. I don't expect Mr. Cooke to pay any bill that I wouldn't pay myself, and I like to see consistency when we make these decisions. Just the amount of time that we rush to this smacks of favoritism.

Chairman Vumbaco: Any other Council like to speak? Public?

Vincent Avallone, 1 Ashford Court: I just looked over Mr. Ciulla's report from the reporter, and while you were talking, I had a few questions Attorney Ciulla. First of all I want to get it straight, I see on page 2 there is a statement here that says – although it is not part of the written agreement, the Water Division has the right and indeed desires to be obligated to turn the water service on at the beginning of the farming season and off at the end of the season, all at the first shut-off point. Could you explain 'desires to be obligated'? And what that means because I think Councilman Parisi said that the Water Division is obligated so I'm not sure 'desires to be obligated' and what 'obligated' means.

Mr. Ciulla: Well, I'm happy to answer the question of my old softball teammate. What I meant by that was obviously the vault where the water gets turned off by the town is the town's property so it owns that vault and it has the right to turn the water on and off. In fact the agreement provides certain situations where in emergency the town has the right to shut off the water even during the season for certain reasons. Roger Dann made it clear to me that he had made it clear over and over again to Mr. Cooke that they didn't want Mr. Cooke turning the water on and off. That it was the town's – and that's exactly the way he put it – it was the town's right to turn it on and off, and they wanted to be obligated. That's what I mean by that phrase. The town wanted to be the one to turn it off. They wanted Mr. Cooke to tell them that he was ready to have it turned on or ready to have it turned off rather than him go up there with his tool, gain entrance to the town vault and have him or one of his employees fool with town property.

Mr. Avallone: But would it be an accurate statement to say that the Water Division was not obligated to do that?

Mr. Ciulla: No. Under their oral agreement, which in effect filled out the terms of a written agreement which is only three paragraphs long and doesn't contain all the understandings, under their oral agreement, it was the town who was obligated to turn off and turn on the water and it wanted to be. In other words, it deliberately did not say to Mr. Cooke, not only do you have to determine when you want it turned on and off but you do it.

Mr. Avallone: I still feel in my opinion, and I wasn't paid to do this that the Water Division was not obligated to do so. The second question that I had is this. Was there any indication or were you aware of a rule or a regulation that requires the property owner to give written notice to the Water Division with regards to turning the water off?

Mr. Ciulla: I don't know if you mean every customer or you are referring to Mr. Cooke. This is a unique arrangement obviously because of the volume of water and irrigation but I was not made aware, and incidentally I wrote this report almost a year ago, so this isn't something that is just written and I interviewed these people much closer to the events and when they took place. I was not provided with any rule or regulation much less a written agreement that required a notice in writing.

Mr. Avallone: I might like to ask the Council. I recall that there was something stated in an article in the Record Journal that Mr. Dann said that written notice was required of the customer. That's my recollection. I don't know if the Council discussed that in Executive Session. And the last question I have, Attorney Ciulla, is page 4 of your report and it's stated, "I recognize that the general rule is that the customer is responsible for water flowing through his meter whether intentionally or as a result of leaks or broken pipes." I would guess then that you are putting a lot of weight on the oral agreement between Mr. Dann and Mr. Cooke that might lead to some exception of that general rule.

Mr. Ciulla: Actually, when I refer to this as a general rule, I mean this is true of water companies, and frankly, my firm represented the New Haven Water Company for years. If a customer negligently leaves a faucet on or has a broken pipe, as a general matter, they're responsible for that but the point here is that the reason that I think that my suggested resolution is contrary to this rule is that you had a different situation here where you had an obligation of the town after notification by Mr. Cooke to turn off the water, and that was, I think, the fundamental fact. If you want to point to one fact that said to me a fractional settlement is fair to both parties, it's that the town was responsible for turning off the water, and if the town had turned off the water, at least that quantity would not have passed through the pipe and into the pond.

Mr. Avallone: Thank you very much.

(Begin Tape #2)

Chairman Vumbaco: Any other members of the public wish to speak? If not, I'll bring it back to the Council. Any other Councilors? I just want to correct something that Mr. Mantzaris said in his opening statement. I don't believe this report indicates that Wallingford is more to blame than anyone else in this issue. You stated, Adam, that Wallingford was mostly to blame and I don't think this report states this. This was an independent report to come up with an agreement. I don't think it was looking to place blame. I think we hashed it out pretty much in Executive Session but my feeling is this is that it is both individuals, the community itself, it's the town's and Mr. Cooke's fault that this issue happened, and I personally believe that 25% is too low for a settlement but that's what it's all about. I agree to disagree. I don't believe any Councilor up here had made any statements, public or private, that we wanted Mr. Cooke to pay the full bill. I think it was as has been stated by some members to the left me. I think all it was that some of the Councilors did not feel that the town was getting enough of a settlement, not that they were expecting full payment. Be that as it may. We can have a roll call vote on this, please.

ROLL CALL VOTE:

DiNatale – yes; **Doherty** – yes; **Farrell** – yes;
Knight – yes; **Papale** – yes; **Parisi** – yes;
Spiteri – no; **Testa** – no; **Vumbaco** – no

The motion passes.

Chairman Vumbaco: Thank you, Attorney Ciulla.

22.

Ms. Papale: Item 22 is discussion and action regarding an extension of farmland leases for 200 Northford Road and 135 Cooke Road for the 2005-06 farming season from the Law Department. So moved.

Mr. Parisi: Second.

Mr. Mantzaris: This property was put out to bid in 2003 along with other properties for farming that we purchased from in this particular case Mr. Cooke. It was intended to be a three year bid but for some reason, he indicated a price for one year and at that time the Recreation Department was in charge of all of our farmland operations that we let out to bid that needs to be farmed to be kept up, so they awarded it for one year only. One of these two properties began to be planted because Mr. Cooke thought it was a three year bid. He indicated at one point a one year rental, he indicated at another point that it would expire on 12/31/06 which is when all of our farm leases will expire. Our plan was to finally get these all expiring at one time, and then to start to take control, a better control that we have had in the past. One of these parcels either before it was known frankly when the water situation came up is when we began to look at this lease, when I began to look at it and I found that it was in fact for only one year. But before that was made known to Mr. Cooke, one parcel got planted. Black plastic was put down, and I think pepper plants are in there now growing, and we're asking here that you authorize the Mayor to execute leases for this parcel and another parcel on Northford Road, which was tilled and ready to be planted but when we found out about the one year lease, all activity in those two parcels stopped. As I indicated, the farming program has always been in the charge of the Recreation Department. That's going to change. Some one department whether it's our department or environmental planner will be in charge of all of our farming operations. We'll consult with farmers what particular objects we should have in our leases. I don't know if these leases are what they ought to be. We're asking the Council for authority

to lease these two parcels for the farming season 2005 and farming season 2006 to Mr. Cooke. One is planted and one is ready to be planted. Its just soil out there. It's this farmland that we purchased as farmland. It's open space but it's farmland and it needs to be planted. One is planted and needs to get watered so the product will grow. As far as the price is concerned, I suspect we would take the price that was offered the first time which we thought was for three years. I think it is \$1375 per year. We don't make a lot of money on the farmland leases. Our object is to get this land farmed and in production so it doesn't go to weed and get wasted. We won a lot of land out there, it cost us a lot of money to but it and

we want to take care of it and we also want to try to help our farmers. I hope you'll agree to allow us lease these two parcels for the two years to Mr. George Cooke.

Mr. Testa: I wish we had some information on this prior to this Presentation because I haven't seen these leases. My question is - are these two parcels, parcels that he is subleasing? There has been a lot of discussion about land that has been leased and then has been sublet to others.

Mr. Mantzaris: He operates with George Christoforo, a farmer from North Haven. As he explained it to me, Mr. Cooke prepares the soil and fertilizes, lays down the black plastic and I think Mr. Christoforo plants the plants and harvests them for sale to Stop and Shop and Mr. Cooke then at the end of the season closes up the farm, tills and puts the soil back into condition for the winter. As he explained it, it's a partnership. Subleasing it and that he stands back and does nothing and lets it out to a third party and nothing happens, I don't think that's going on here. I don't know if any money is exchanged but George Cooke himself does operate a part of the farming operation along with Mr. Christoforo. Mr. Christoforo planted the peppers but as I understand it, Mr. Cooke prepared this area for the planting. Whether you call that subleasing or partnership or cooperation.... We are going to try to take care of these issues with the new in 2006. We will take care of them in 2006. Right now the leases do provide for no subleasing. Our intention was, I don't know if it's written correctly, not to have a non-farmer, for example, bid on a piece of land and then let somebody come in and farm it

and take the profit. All of our land is leased by farmers and maybe we'll make that more clear.

Mayor Dickinson: Maybe I can help of this. The issue with subleasing is that we don't want to have parties with a right on the property, and we are unaware of who they are. If you allow subleasing, a party who leases the property can then sublease to someone else, and you may not know who it is, or what they might be doing on the property. We want one party accountable. That's why we don't allow subleasing, and I don't think we have any evidence that there is subleasing. We have one party accountable and that's whoever take out the lease and in this case it would be George Cooke. The issue is the accountability. If farmers are able to make money from farming a piece of property, I think that's great. We want to encourage farming and to encourage the care of the property that we own and keep it open and productive. Our issue with the subleasing is knowing who is accountable and not having a situation where someone does something to the property and then we find out and we have to evict someone else that we didn't even know was on the property because of some sublease or arrangement that gives them a right. No one has a right to be there except for the individual who is accepted through the bidding process on the lease.

Mr. Spiteri: So according to what you are saying then Mr. Cooke should be farming the land solely.

Mayor Dickinson: George Cooke can hire people to be working on the property. He could be in a partnership with someone. Those aren't subleases. All we want to know is that there is one party that we go to who are responsible. Anyone else there is there pursuant to an arrangement that does not give them a right in the land. A lease gives someone a right in the land. If someone is hired to do something, that doesn't give them a right in the land.

Mr. Spiteri: And we're comfortable with this. This is the way it was done in the past.

Mayor Dickinson: That's the way the program was set up and as Adam indicated, the Law Department will be reviewing the various leases and having them conform better with these and other provisions we may find are best suited to protect our interests.

Mr. Spiteri: We basically have a reason to be suspicious that the land was leased in the past. That may be the case, and you're telling us that shouldn't be the case but because we don't have our act together, we're going to look at it in 2006, and let's go ahead and lease this out.

Mr. Mantzaris: No. All our leases for farmland are expiring 12/31/06. There are other leases besides these two. We want them all to expire in 2006, and from then on, they will all run for the same period of time and expire at the same time.

Mr. Spiteri: I'm a little sensitive to this because of the last item that we just handled. We purchased this land from Mr. Cooke and he is continuing to farm the land and that's the lease agreement that we have with him?

Mayor Dickinson: He responded to a public bid in 2004. It was publicly bid on 2004, and he was the party selected for these parcels. Previous to that, after his sale of the property to us, he had five years where he was able to utilize the property but I believe in 2004 he responded to a public bid. Is that right, Adam?

Mr. Mantzaris: That's right. This was on land that he farmed after he sold it automatically. This was as a result of winning a bid on the parcel.

Mr. Spiteri: So the five years has expired from the time of the purchase.

Mr. Mantzaris: That went by.

Mr. Spiteri: This is right in a water shed, right on top of McKenzie Reservoir. It's town owned property. Here's it's being turned over so we are disturbing the soil; we're fertilizing the soil but right up the street we have a baseball field we can't touch because of the Department of Health is in control of that and it just seems like a wicked contradiction to me that we are farming land that we own that we are allowing it to be farmed but we can't fix the fields. We can't touch the fields because of regulations we fall under. My point is that the farming land would be a little bit more volatile to me right on top of a reservoir that a public park. And I have to say that I have had people call me in reference to the Galgo property and were upset that we were trying to lease that property out. I

understand that we don't want the property to get overgrown but there are other things that can be farmed on land where you don't have to rip the land up. You can put alfalfa in. You can put certain grasses in and all you do is cut and bale. The land still is taken care of without being upset and turned over. You are not aggressively fertilizing the land.

Mr. Mantzaris: We've been requiring different crops in different years, Mike. You don't plant corn every year in the same area. I don't know what the planting in these plots were last year but the leases do require a change in the planting.

Mr. Spiteri: You usually have to rotate those crops but the crops that I had mentioned – the grasses you don't have to rotate.

Mr. Mantzaris: As far as the Health Department goes, I'm sure there is an exception for farming that isn't there for Little League.

Mr. Spiteri: It just seems like a wicked contradiction to me. I don't know if I am comfortable with this.

Mr. DiNatale: I would agree when we are talking about this farmland. Our goals are certainly not to lease this out on the open market so it's there for an investor to obtain the rights for leasing to a second or third party. Comments have been made by Councilors and not having a lot of information on this, I don't know which way to go on this. For clarification, you are saying, we are in the 2005 season now so the 2006 season is in question.

Mr. Mantzaris: Everything goes out to bid again in 2006.

Mr. DiNatale: There is two seasons left. This season and then 2006. and then everything goes out to bid.

Mr. Mantzaris: Yes.

Mr. DiNatale: This season seems to be kind of a wash.

Mr. Mantzaris: One of these fields is already planted and the other field is ready to be planted. They began to work on these two fields thinking there was a three year lease in existence. When it was discovered that there wasn't, everything stopped but by that time one field had plastics and pepper plants put in, and

the other field had been tilled to be ready for plants, and it was stopped.

Mr. DiNatale: If this was put out to bid for the 2005 season, I don't think anybody would truly be that interested because it would be difficult to start a new crop. 2006 seems far enough in advance to plan ahead. Somehow to combine that with the other contracts somehow to work that out I think the right thing to do is to go that route again with a request for proposals. That's where I'm stuck. This is the first that we are hearing about this tonight so I hadn't really thought about it.

Mr. Mantzaris: The only reason we were asking for two years is so that this falls off with all the other leases. We can do one year and put this out for 2006. That's not a problem.

Chairman Vumbaco: Any other Councilor? Public?

Phil Wright, Sr., 160 Cedar Street: I think the town ought to be paying George Cooke for maintaining the land and the debacle would not be where it is if we had someone managing all the properties that the town owns. I've said this three meetings in a row. We've got to stop having three or four or half a dozen different agencies. What has Parks and Recreation got to do with managing land? The taxpayers in this town have put up a lot of money to buy property and it's time that we started to manage that property. I'm sick and tired of seeing these kinds of situations occur only because we are not managing. I don't care about another agency or whatever it is.

Frank Wasilewski, 57 North Orchard Street: I agree with Phil that we should be thankful that that farmland is being used and not getting overgrown with a lot of bushes, and it's a lot prettier to drive through there now and see these vegetables growing. We should be thankful that George is maintaining that property. If your drive by the Galko property, that is getting overgrown.

Ms. Doherty: I wanted to address what Mr. Wright said. Hadn't you already explained that that's why we want to end these agreements and that Park and Rec had in the past taken care of these leases but in the future the Environmental Planner...

Mr. Mantzaris: I'm not sure if it will be the Planner but some group, not Park and Rec, will be in charge of our farmland. Mr. Wright addressed all of our land, and I'm just talking about our farmland. It will be administered by some agency not Park and Rec, I don't believe Recreation any longer.

Mayor Dickinson: Then it would be the Law Department.

Mr. Mantzaris: Then the Law Department.

Mayor Dickinson: There's no other place to put it.

Mr. Mantzaris: Then we will administer it. I will administer it.

Chairman Vumbaco: In 2001, was George the only one to bid on the property to farm it or did you have other bids?

Mr. Mantzaris: It was 2003, and he was the only one that bid. I'm sorry it was 2004 was the first year, and he was the only bidder.

Chairman Vumbaco: He was the only bidder? And as far as the subleasing is concerned, there are no dollars exchanging hands between Mr. Cooke and another farmer, his partner, as far as leasing the land because I thought I read somewhere that that was the case, and I just want to make sure that I understand the issue of leasing and the little lesson that we received from the Mayor. I want to make sure that there are no dollars changing hands because if we're leasing it out for \$1375 a year, and he's re-leasing it out for \$X more, I don't think that's the right way to go.

Mayor Dickinson: We have no evidence that there's a sub-lease. Whether there's money exchanged over at some point in the process, we don't know but there's not a sub-lease. Our issue with sub-leasing is who has a right to be on the property.

Chairman Vumbaco: I understand that. It was a simple question. Is there to your knowledge, are there any dollars exchanging hands as a sub-leaser? And you answered no. That's all that I was questioning. I am not against the farm back lease program at all but what I do not like, and I'll say it publicly, is that this is an issue being brought in front this Council with absolutely no backup, no paperwork, and no understanding of what this

lease is all about, and you are expecting this Council to act on it. I was going to call for a tabling of this issue tonight because I think that it's only right that this Council has the information provided to them so that we could read the lease and see what's in it and understand so that we can make an intelligent decision. We received nothing. Nothing at all and you said there is a lease in writing.

Mr. Mantzaris: I'm sorry about that, Jim.

Chairman Vumbaco: Unfortunately, you are going to take the brunt of this but this happens more often than it doesn't happen. You are bringing this in front of the Council. Mr. Cooke is already working on the property, and you are wanting us to...if we say 'no', it's like get off the property George and then our farm program goes down the drain. I will not support this tonight for that reason. I support this issue but I will not support because I think this Council should have the proper paperwork to make that decision.

Mr. Spiteri: So it was a one year lease, the original agreement.

Mr. Mantzaris: It was a one year lease. It was intended to be a three year lease but it turned out to be one.

Mr. Spiteri: But it says on the paper one year lease.

Mr. Mantzaris: The Rec department recommended a one year lease.

Mr. Spiteri: And Mr. Cooke signed a one year lease. I just want to be completely clear.

Mr. Mantzaris: No, Mike, he didn't. I don't even see his signature on this paper.

Mr. Spiteri: So we're leasing property without getting a signature

Mr. Mantzaris: It happened.

Mr. Spiteri: It happened and it just so happened that he didn't put in writing.

Mr. Mantzaris: It's probably the reason why you didn't get information,

Jim, this thing was a mess. I'm trying to straighten it out. That's why it came so late to your body without a lot of information.

Chairman Vumbaco: I commend you for trying to straighten it out, Adam, I'm just saying that there *is* paperwork that this Council should have had to look at whether it's the old lease. You are asking us to extend something. We should have had what we are extending in front of us.

Mr. Mantzaris: I agree.

Mr. Knight: If we vote on this, I'm going to support it and the reason is that I do believe that the town and Mr. Cooke acted in good faith thinking there was a three year lease. I don't think he was under the impression that he was usurping property that he didn't have a right to farm. I agree with you, Jim, on the sub-leasing angles, I would find it extremely irritating if somebody was turning around and making a profit on our good nature, frankly. Having said all that, I'm going to support it because, they did put crops into the ground and I just think it would be a shame over some paperwork to let the crops just die. I think that's just wrong. We've had plenty of other instances where the paperwork hasn't been here. It's not good and it's irritating and I agree there with Jim too but I don't see that we should jeopardize all that hard work and those crops because we didn't have a piece of paper in front of us. I think that's not the way to go.

Ms. Papale: Is there any way that I could amend my motion if everybody would agree to it to give Mr. Cooke this year since it has already started and then go out for a bid from now on?

Mr. Parisi: I will remove my second from your motion. Point of information – the normal cycle will be 2006 for bidding, won't it?

Mr. Mantzaris: If the amendment by Iris passes, we would go out again for one year for next year because we want everything to come up in 2006 and start the same cycle for all our farmland.

Mr. Parisi: That's what I'm asking. In 2006 all of the farmland will be bid again.

Mr. Mantzaris: Including these two pieces.

Mr. Parisi: Right. So if we extend it one year, we'll be on cycle.

Mr. Mantzaris: Yes.

Ms. Papale: So what I'm saying is that I'd like to make a motion to keep it for Mr. Cooke for this year (2005) and then go out to bid for one year (2006) and then start the bidding along with all the other farmland.

Mr. Mantzaris: That would be fine.

Mr. Farrell: Second.

Chairman Vumbaco: Does everybody understand? Any discussion?

Mr. Spiteri: I don't want to harp on this. I don't want to make people. I know it's late, and George has been a punching bag tonight. Are the crops going to fail if we don't decide tonight? In the spirit of what Jim said, we don't have the information in front of us. I don't like these precedents set. We make decisions on a wing and a prayer.

Mr. Mantzaris: No one is going on that land, Mike. They don't have a lease. No one is going out to take care of them. If they stay off, the crops will rot.

Mr. Spiteri: I'm not a farmer. Are they going to be all right? I don't think it sets a precedent for us because we're worried about some crops that we're going to make a decision without the proper information in front of us, especially when it's pointed out in public that we don't have the information.

Ms. Papale: But we're going to have the right information. We will have it for the next time the bid goes out.

Mr. Spiteri: And if I knew that his crops were going to fail if we didn't make this decision, I guess I could go along with that but I don't know if that's the case.

Ms. Papale: You can't go on the property and water and take care of the plants, then they're not going to grow.

Mr. Parisi: Call the question

] **Mr. Farrell:** Second

Chairman Vumbaco: Mr. Parisi has called the question. We have a motion and a second. All in favor? Opposed?

Chairman Vumbaco: The motion passes.

Mr. Parisi: We just voted on calling the question.

Chairman Vumbaco: We have voted to call the question. We have a motion and a second. All in favor? Opposed? So moved.

(Chairman Vumbaco and Mr. Spiteri voted no, all others voted aye.)

Ms. Papale reminded everybody about Flag Day that the Wallingford Lodge of the Elks is having a ceremony for Flag Day on Saturday, June 18. at 10:30 A.M. We walk to from the Elks to Town Hall, and afterwards you are invited with your families to the Rod and Gun Club.

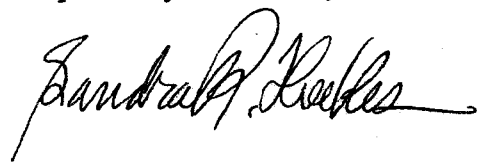
Ms. Papale: I make a motion that we adjourn.

Mr. Parisi: Second.

Chairman Vumbaco: All in favor? Opposed? So moved.

There being no further business to consider, the meeting adjourned at 10:45 P.M.

Respectfully submitted,



Sandra R. Weekes
Town Council Secretary

Meeting recorded and transcribed by Sandra R. Weekes

Approved by:

James M. Vumbaco
Chairman

Date:

Kathryn F. Zandri
Town Clerk

Date:

RECEIVED FOR RECORD

6.24.05

AT 4:05 P.M.

AND RECORDED BY

Kathryn F. Zandri TOWN CLERK