

Special Town Council Meeting

July 28, 1987

594

5:30 p.m.

A special meeting of the Wallingford Town Council was held in Council Chambers, called to order at 5:33 p.m. by Chairman David A. Gessert. Answering present to the roll called by Rosemary A. Rascati, Town Clerk, were Council Members Adams, Gouveia, Killen, Papale, Polanski, Rys and Gessert. Vice Chairwoman Bergamini and Councilman Steven Holmes arrived immediately after the roll was called. Also present was Mayor William W. Dickinson, Jr., along with Second Assistant Town Attorney Gerald E. Farrell.

The meeting was held to consider the following five items, all of which were approved:

	<u>Page</u>
1. Appropriation of Funds and Selection of Consulting Firm for Police Department Study.	1-4
2. Authorization for Appeal of F.O.I. Decision.	4-12
3. Consider and approve Waiver of Bid Procedure for 12-13 Emergency Repairs of Circuit Breakers-Electric Div.	
4. Consider and approve a Transfer of \$33,000 to cover the repairs of the Circuit Breakers.	14

ADDENDUM
SPECIAL TOWN COUNCIL MEETING
JULY 28, 1987 5:30 p.m.

Consider and approve transfer of \$1,951.00 to repair air conditioning compressor (roof mounted) at Police Headquarters requested by Chief Bevan.

14-16

ITEM 1. Appropriation of Funds and Selection of Consulting Firm for Police Department Study.

Mayor Dickinson informed the Council that this item is pursuant to the discussion held with the Town Council about having a review of the Police Department and it was discovered that there is a grant available in the amount of \$4,000. The Office of Policy and Management, State of Connecticut, puts out the specifications to which two consulting firms responded--PMG ASSOCIATES and Systems Design Group. Don Roe, Don Dunleavy, Police Chief Bevan and Mayor Dickinson reviewed the proposals and there was no disagreement and the consensus was that we should go with PMG ASSOCIATES who submitted a proposal for \$11,634 and Systems Design Group submitted a proposal for \$13,640 but it was not on that basis alone.

Chairman Gessert asked what type of experience this firm has with police departments to which the Mayor responded that they have done a number of studies which are contained in the booklet the Mayor offered the Council to review. Some of the studies have been performed in Cheshire Police Department, Somerville, Massachusetts Police Department, Columbia, Tennessee, Johnson City, Tennessee, Milford, Connecticut, Easton, Connecticut, New Haven Department of Police Services, Brookfield, Connecticut Police Department, Clinton, Connecticut Police Department, Simsbury, Connecticut, East Lyme, Willimantic, Southington, Groton, West Hartford, Stratford, South Windsor. Reference is attached to the booklet from Mr. Keith Miles, President of PMG ASSOCIATES, along with references from Chief of Police, Rocky Hill, Chief of Norwalk Department of Police Services, Chief of West Haven Police Department, Chief of Houston Police Department and some others out of state from Robert Wasserman, the other principal of the firm. 595

Mr. Rys asked what the scope of the operation would be and what the report consisted of such as evaluation of administration, evaluation of patrol, etc. Mayor Dickinson explained that an organizational analysis will be done and they will examine numbers and ranks of senior personnel, adequacy of chain of command and management control, adequacy of span of control and accountability systems, delegations of authority, responsibility and responsibilities of departmental subdivisions. Second, they will review job descriptions and eligibility requirements; third, records analysis, records and information management system the department uses. They will review work load and staffing plan, including potential for use of civilians, use of supernumeraries. They will review the needs of specialized functions and units such as DWI, Crisis Management, Accident Investigation, Youth Bureau, Crime Prevention and Traffic Maintenance, along with the department's equipment and vehicle needs, analysis of disciplinary practices and code of conduct and analysis of the union contract.

Mayor Dickinson continued that it would include a review of basic police practices which would include all of the functional areas such as arrest, booking the prisoner, handling evidence, collection, storage and handling, investigations and case management, the allocation of duties of supervisory personnel to determine the adequacy of current levels of supervision as well as whether assignment of supervisory personnel and delegation of responsibility among them reflect the most effective use of scarce resources and a written report including recommendations and cost implications for the recommendations. The approach to the study would entail interviews with key officials, analysis of departmental structure, review of operations, examination of departmental data and the timing--weeks one and two, study of organization and preparation, week three, an on-site first visit, weeks four through seven, analysis of work load data, interview findings, review of data, policies and procedures, week eight--on-site second visit and weeks nine through twelve, report development.

Mr. Rys asked once the study was completed, is it up to the administration to make recommendations to the Council on changes within the Police Department because Mr. Rys remembers that a report was done in 1974 or 1975 and basically, nothing was followed under that report and he wouldn't like to spend the money and not follow the recommendations. Mayor Dickinson hoped to implement anything that is reasonable and there are cost implications and if a given recommendation costs \$5,000,000, it's a question whether that will be implemented but for the most part, it is expected to implement what is reasonable and feasible. Mayor Dickinson mentioned that he is not familiar with the 1974 or 1975 report.

Mr. Gouveia felt that a report of this nature is needed, an understatement. He would like more information to analyze, ask questions, call the people involved and then make a decision because he would not like to spend \$12,000 of the taxpayers money on insufficient information and he would support tabling this until the next meeting until receiving a copy of the report the Mayor has.

Mr. Adams asked what the time limit was on the \$4,000 grant and Mayor Dickinson offered the two reports for copying and he explained that he did not have copies made if nobody was interested in reading them. Mayor Dickinson felt that the state was looking to go ahead and they probably will initiate their portion it but he felt the state would like to know as

soon as possible if we are or aren't going to participate. Mr. Rys suggested voting to appropriate the funds and then receiving a copy of the report and voting on firm selection at the next meeting to get this moving.

596

Mr. Gouveia asked if the reports indicate the scope of work to be done and Mayor Dickinson said both reports indicate what the schedule would be and what they intend to look at, their response to the specs that went out and each of them propose to do the same thing but you must determine which one can best meet our needs and there were concerns that Systems Design Group might be too closely aligned with actual law enforcement rather than as an outside consultant since there might be some territorial jealousies which should be avoided.

Mr. Polanski said this was originally brought up to start a management survey of all departments in town and it was decided to start with the Police Department and most of these proposals do the same basic scope of work and he felt a decision on a particular firm should be left up to the Mayor who will be working with them.

Mr. Polanski moved a transfer of \$8,000 from Contingency Reserve for Emergency to Management Study-Police Department and approve PMG ASSOCIATES to perform study, seconded by Mr. Holmes.

Mayor Dickinson said the \$8,000 is not the exact figure--the study is \$11,634 and the State of Connecticut is putting up \$4,000, leaving a balance of \$7,634 and if it isn't exact, the balance stays in the General Fund.

Mr. Edward Musso, 56 Dibble Edge Road feels he can give better answers than the consulting firms who are just pork barrels for all these different police chiefs since the Police Department can't run anything properly with inch thick glass where you have to squat down and with records people running all over the place. Mr. Musso said he had a problem with the Police Department and they can't do anything by themselves but they have to have a helper. Mr. Musso said they took his license away because they didn't know any better since he had a statement at home from Motor Vehicles and his wife has to drive him to work and pick him up, all kinds of problems with providing identification to obtain a duplicate license and he had to get a birth certificate from Mrs. Rascati and use his voter registration card. He also feels there are too many administrators in the Police Department and it is time to turn it over--who is running the whole show?

Mrs. Papale mentioned that the next Council meeting is August 11 and she asked if the money from the State of Connecticut would be jeopardized and Mayor Dickinson felt it wouldn't.

(The Council secretary copied the June 23, 1987 report from PMG ASSOCIATES and the June, 1987 report from Systems Design Group and presented each Council Member with a copy.)

VOTE: Council Members Bergamini, Holmes, Polanski, Rys and Gessert voted aye; Council Members Adams, Gouveia, Killen and Papale voted no; motion duly carried.

ITEM 2. Authorization for Appeal of F.O.I. Decision.

Mrs. Bergamini moved approval of authorization for Appeal of F.O.I. Decision, seconded by Mr. Rys.

Mrs. Papale asked Attorney Farrell if he could give them an idea of how much an appeal would cost the town. Attorney Farrell did not think the attorney had set a firm figure and in a conversation today, he seemed to ballpark it to \$5,000 and in a subsequent conversation with the Mayor, he told him \$3,000 or \$4,000.

Mr. Holmes asked the Mayor to explain just why the Council should authorize appeal of this decision. Mayor Dickinson stated earlier that this really does not relate specifically to the case at hand and the Mayor is concerned about the precedent which would be very limiting on when an executive session can or cannot be held. The Mayor felt that from the state's standpoint, they can look at it and say, "so what" and you just force people to file lawsuit papers before you can hold an executive session and the Mayor does not think that is in the interest of dealing with problems in town

597

and it limits what can be shared with the Council because, given that decision, if you have something that potentially is going to result in a lawsuit, this information cannot be shared with the Council until such time as the lawsuit is actually filed and given the structure of government, the Mayor does not think that is in the interest of the town either. The case in question, added Mayor Dickinson, the specific case involving the people of West View Hills and the other areas in the deed question happens to be the catalyst for this but the Mayor's concern is the precedent and he thinks it is a dangerous precedent and he does not know if there has been any court decision on the meaning of those words but it is not in the interest of the Town of Wallingford to have those kinds of constraints regarding potential litigation where we cannot involve the responsible town officials, the Council as well as administrative level officials, in discussing a problem that could have serious financial consequences to the entire town and the Mayor finds it an unbelievable interference with the ability to function at the local level and he strongly urges that we appeal the decision and should we lose, then there will be a court decision on the matter and maybe that will encourage the General Assembly to remedy what the Mayor feels is a very bad way to do business. If the town wins it, that will clear it up for other people but it's about time that this issue gets the focus of attention, added the Mayor. The other problem is that every town has a different type of local government and for the State to use fairly ambiguous language and have that apply to every town equally where some may have Public Utility Commissions and some may not; some treat utilities as departments and you don't even have a commission probably. Mayor Dickinson felt that this is uncalled for and it is not in the interest of the general public.

Mr. Holmes felt that the issue is not West View Hills group vs. PUC but the nature of the decision. Mayor Dickinson felt that if the issue did not go beyond that case, frankly he would not recommend appeal but he sees this as meaning from now on, unless someone has filed legal papers, we cannot discuss in executive session any claim as the Mayor would define claim, against the Town of Wallingford, be it for \$1,000,000 or for \$1 and he thinks that is unwarranted interference and the Council is the fiscal body of the town and yet potential exposure cannot be explained to the Council with all of its ramifications in executive session until the potential litigant files legal papers and that is unbelievable.

Mr. Killen asked about the attorney and Attorney Farrell said he is Attorney John Thomas, the attorney who represented the town before F.O.I. Mr. Killen asked why he is representing us and Attorney Farrell said because he is an expert on F.O.I. matters and nobody in the Town Attorney's Office claims to have that type of expertise. Mr. Killen agrees with that but feels it would be nice to have someone from the Town Attorney's Office explain to the Council that they can't do this and would like the Council's permission to do so and Attorney Farrell said that is basically what is being done at this point and Mr. Killen doesn't agree and feels that if he hadn't raised the question, none of this would have been discussed and it would have just been assumed that the Council had okayed this procedure and Mr. Killen added that this is getting to be a regular habit and he is well aware that there are different parts of the Charter that people can read differently but one section is very clear on the duties of the Town Attorney and he had read that into the record two or three times and if anybody can find where you can go outside the Town Attorney's Office and hire someone at your whims, then his eyes are much worse than he thinks they are because there isn't even a hint that this is possible.

Mayor Dickinson responded that this issue came up during budget deliberations and if there were not a line item for hiring outside legal counsel, they would not be able to do so without a transfer but there is a budget line item which allows hiring of outside legal counsel and that is the mechanism by which the Town Attorney's Office accomplishes the hiring and the line item is there for that purpose and it doesn't require an approval and it's like any other line item in the budget. The Mayor compared this to Steve Deak buying a light bulb and it doesn't require asking permission for maintenance of buildings and it's only when the money is exhausted that he comes back and says he needs more money for a line item and it's the same situation with outside counsel--the line item is there for the

purpose of hiring outside counsel recognizing the volume of business as well as the expertise which may be beyond the ability of those who serve in the Town Attorney's Office and it is budgeted for. Mr. Killen felt that if just putting a line item in the budget could supersede the charter, we're in bad shape. Mr. Killen would take the Mayor's analogy and look at dollars set aside for snow removal--that's for Steve Deak and his highway crew and nowhere does it permit him to buy outside trucks and under the Charter, he must come before the Council and say he cannot handle it and this is the same situation but simply putting a line item in giving the authority to do so, it's very specific, especially in this particular case because Mr. Killen recalls off the top of his head that it says the Town Attorney shall have the power to appeal with the concurrence of the Town Council, from all decisions, and he is supposed to be doing it with the Council's approval and he is not doing it with the Council's approval because he is not even appearing in this. 598

Sharon Daly, 38 Cooper Avenue brought the complaint and will not argue for the basis of the complaint and said that F.O.I. in the past in similar decisions has sided with the body that was brought in question against them and they have decided that papers do not necessarily have to be filed and one decision that comes to mind is a decision in which a lawyer says he could sue the PUC--the papers were not filed but the F.O.I. found in favor of the PUC because a legal authority did say they would sue and their opinion is, in this case, a citizen saying they may have no other recourse but to sue is not sufficient to call that pending litigation and Ms. Daly took exception to the way the Mayor presented that.

Henry Renfrew felt that what they are trying to say is that if a citizen indicates to a governmental body that they intend to sue, that that is not sufficient cause for a governmental body to go into executive session and in the Boone v. Town of Vernon case #78-249 which was cited, the difference was that an attorney indicated that statement and that changes the perspective and allows you to go into executive session and it does not say that papers have to be filed and Mr. Renfrew felt that this was an important distinction. Mr. Renfrew said that in our case, the statement was made at which point executive action was taken by the town--they did not have an attorney and did not file any action and it is important for this decision be reviewed to understand the distinction. Mr. Renfrew felt that this would not preclude the Town Council from any indication from an attorney in the future where there is an indication of a lawsuit from going into executive session, not just that papers have to be filed, an important distinction.

Ms. Daly added that there is more than one issue on this case so the town would have to win both of them to overturn this decision, not just the one issue the Mayor is speaking of.

Mr. Richard Scott, 34 Terrace Gardens feels that the taxpayer is going to lose in either case--if we lose the appeal it will be money down the drain but if the appeal is won, we will be spending public money to keep the public out of public business and this decision will enable almost any board or commission to shut down from the public on the slightest pretense. Mr. Scott takes an exception to what the Mayor said that this would somehow prevent him from bringing the issues in this case before you and when he first found out two years ago, he had a responsibility to bring this before the Council and entire town and Mr. Scott would like to remind the Republican majority who campaigned and came to power in 1983 on a promise of open government that this would certainly would be a breaking of that promise.

Attorney Farrell pointed out that if certain things were not done in executive session, you could have exactly the situation you have here--that this Town Council is deciding whether to take an appeal on Ms. Daly's claim--yet you have a situation of the claimant here actually voicing an opinion on whether you should vote that or not. If you had a claim and that had to be discussed in public, you could not only have the claimant finding out what people's thoughts are but you could the claimant and friends of the claimant voicing their opinion and trying to influence you on which way to go, added Attorney Farrell.

Attorney Farrell felt that this may be good in certain times but they will know exactly your thoughts and have maybe input that would be dangerous for the town to have and give the town the wrong slant on whether it should settle a case.

599

Mr. Killen borrowed a phrase from the Mayor, "in a perfect world" and the scenario the Mayor was showing Gerry would be fine if that sort of situation, by doing what we are doing, would preclude it but it just happens that there are people on the Council now and people who are running for it who are on PAGB and against some of the Council who supported the trash burning plant--what will you do when we decide to discuss pending litigation on that case and they are members of the Council--will those particular members who are on the other side be excluded? There is no way to get perfection and you are now deciding that Council people, even though they are adversaries, can sit in on something but the common people out there who are adversaries are not allowed in on it.

Mrs. Bergamini said that sounds great but when you sit in a Council chair, you are sitting here because you are elected by a representative of the taxpayer, not a representative of the PAGB and you are supposed to make your decisions for the benefit of the Town of Wallingford and you have absolutely every right to vote against a resource recovery plant. If an appeal comes or if a lawsuit comes, continued Mrs. Bergamini, she did not think it would behoove your integrity, morality, ethics, etc. to go and testify for PAGB when you were privy to the information that you received as a member of the Town Council--it would seem that you would have to split that right down the middle. Mr. Killen said this has never been a problem to him--we are talking about how to discuss strategy and if the purpose of a meeting is to discuss strategy and you want nobody there, the quarterback on this side doesn't holler across the other side that we are coming around the right end because he would get plastered. Mrs. Bergamini said they are not supposed to do that if they are discussing strategy as a member of the Town Council and she felt that they are bound to be silent about something that the majority might vote to do. Mr. Killen said he is a very vocal minority and if he disagrees with a vote, he will go anyway he can to knock it down.

Mr. Gessert felt that Mrs. Bergamini meant if you were sitting here as a member of the Town Council and the town decided to take legal action in a particular direction, say north vs. south, and as a member of the Town Council you had information that the Council has decided to head in a northerly direction and as a member you tell the attorney for the other side, are you morally bound. . .Mr. Killen said the attorney for the other side happens to be the attorney for his side and Mrs. Bergamini interjected that he is the attorney on your side as a taxpayer but not your side when you have privileged information in an executive session. Mr. Killen said he had privileged information because he was put here by the people who represent them and because you have more votes than him does not make him wrong--it just means that you have more votes than him and it doesn't have to mean that he has to go down the drain that way.

Mr. Gouveia felt that the only question that the F.O.I. Commission considered was the difference between pending litigation and threatened litigation and if the F.O.I. Commission proceeded, he thinks we'll find PUC in violation of other sections and there were at least three Council Members at that meeting who were not there to present testimony or give opinions--simply there to observe discussion to learn what was going on and at least two Council Members did not know for sure that that was an executive session and they found out it was an executive session at the end of the meeting when the attorney was told to prepare a statement for the press. Mr. Gouveia finds it amazing that nobody else was there to listen to what was going on. Mr. Gouveia knows for sure that there was nothing discussed at that meeting that involved negotiation whatsoever. Mr. Gouveia said he concurs with a gentleman from the audience and there is no way he will vote public funds to keep the public from the right to know.

Mayor Dickinson thinks it is entirely incorrect to color this as a matter of keeping information from the public's right to know. When you have a case where you have a potential of losing \$15,000,000,

the Town of Wallingford had better be advised to sit up and take notice--that does not mean that you are going to please everyone-- there is not a decision that we will ever make that is going to please everyone but there was a finding of the F.O.I. that indicated that the respondents before the PUC were asking for administrative relief--they don't say that that administrative relief would cost the Town of Wallingford \$15,000,000--that is the issue and that's what raises it to a level of public concern. (000)

Mayor Dickinson is not that concerned about the specific meeting in question but the precedent is a dangerous precedent because it will severely curtail the ability of the administration to inform the Council, hold executive sessions and will only result in forcing the filing of papers in order to be able to discuss what policy or direction the town should take on a given issue. Mayor Dickinson added that this is not an issue of for or against the people--this is an issue in which the people in town are split on--talk to people in town and you will find there is a very severe split on this issue and you will never please everyone but the issue is not for or against the people but the issue is how you protect all of the people as best you can on both sides of the issue. Mayor Dickinson felt that in this instance, public discussion of the merits of the case involving this amount of money is not in the general public interest until such time as all efforts at settlement have been exhausted. The Mayor felt that he can't state it any differently than that.

Mr. Paul Gough, 1 Kingsland Avenue believes that our justice system is supposed to be blind to the fact that whether it's \$15 or \$15,000,000 that is at stake and the way it's being painted here is that the F.O.I. act precludes meetings on this question so that the town could gather its strategy and that's not true--it precludes meetings of an entire commission and the commission with invited guests doesn't fit the description of what goes on. Mr. Nunn could meet with three members of the Town Council in the Town Attorney's Office and that would be perfectly alright under the F.O.I. Act and it would not be alright for the entire Commission to meet--there are alternate routes to these types of things, added Mr. Gough.

Mr. Gough felt you have to listen very carefully because as he heard Mr. Gouveia, he did not present any testimony or opinions and there is no way you could win the case because he was not there for the purpose under which the law states and this is a futile appeal and a waste of money. Mr. Gough asked Mr. Farrell if Attorney Thomas was very new to the state and Mr. Farrell had no knowledge of this. Mr. Gough asked how Mr. Farrell knew Attorney Thomas was an expert on F.O.I. matters and Mr. Farrell replied that his firm presented him as an expert.

Mr. Henry Renfrew's final comment was that his view of this and from the editorial from the New Haven or Meriden paper says simply that a threat from a citizen who indicates that he will take legal action against a town is not sufficient cause for a body to go into executive session and he thinks this is very fundamental to the government of the Town of Wallingford and he supports the position that a mere citizen's threat is not sufficient; if it was, we would have a closed form of government and that isn't the indication and intent of that legislation and there is no way this appeal can be won and it would have to go to the Supreme Court of the United States as far as he is concerned.

Mr. Holmes feels that we have to get away from thinking that this is West View Hills vs. the Town of Wallingford--this is not the issue. Mr. Holmes asked if Ms. Daly was speaking for the West View Hills group and Ms. Daly said she was speaking for herself.

Attorney Farrell commented that whenever a judge or any other public body writes a decision, they cite things that they feel support their decision. Attorney Farrell's memory of the testimony presented at the F.O.I. hearing is that there was a public meeting prior to that where the PUC was told that funds had already been collected and that authority had been given to the steering committee to go ahead with the lawsuit and that they had had a private meeting with that attorney and that they were ready to go if some satisfaction wasn't given and, although he may be wrong, he thinks those facts are in the record, too, and when a court of law reviews the F.O.I. Decision, they will go into the record and maybe find some facts that the F.O.I. didn't support.

Mr. Gouveia added that the Rights-In-Deed group wasn't even formed when that threat was made.

601

Mr. Killen said we are being told of what the dangers are if we can't go ahead with the type of meeting that was held and he foresees certain situations where he would like to meet in private in executive sessions with the Town Attorney to settle claims and so forth but he also foresees that this thing was born in secrecy and that's what caused the problem that got us where we are now because if it ever hit the light of day, we wouldn't be sitting here today. Mr. Killen sent letters to the PUC asking them for their items at the meetings at which it was discussed and the reply he got back was that there were no agenda items--no statement to the effect that they hadn't discussed it because they had discussed it and the Council will never know if they took action because it's not a matter of record anywhere, just as great a danger as the fact that we might not be able to hold meetings.

Mr. Killen suggested that one has to weigh one against the other--what we are asking for now is if we go to court in this particular case, it's not going to be the where with all of everything--every case is supposedly decided on its own merits. What do we gain if we spend the dollars because this is not being done in-house to win this particular case--it can be decided either way when the next case comes along.

Mrs. Bergamini asked what would happen if we don't appeal and on the next agenda we must discuss making a settlement if the PUC has come to a decision which they will present to the Council and it must be discussed--will that have to be discussed in public because of this decision? Attorney Farrell said we have a letter from a lawyer who basically has said if you don't reach a decision by a certain point, he will bring a lawsuit but even that type of letter, since it's a conditional type of threat, he's not sure that you could actually have executive session. Mrs. Bergamini wants to know the ramifications of this F.O.I. Decision--will not appealing this decision preclude our being allowed to go into executive session to discuss settlement? Attorney Farrell felt that it's at least arguable that you could not go into executive unless you appeal that. Mayor Dickinson said that in this case, we wouldn't anyway because the appeal won't be heard by then and he felt an item pertaining to this on the August agenda would have to be held in open session because that's the way it stands. Ms. Daley said the Council could go into executive session now. Mr. Gessert asked when "pending litigation" is pending--when it's proposed, threatened, filed? According to Black's Law Dictionary, pending must be in process, not threatened, according to Mr. Killen. Mrs. Bergamini said the gentleman told her he is not filing as yet and Mr. Killen said the gentleman said it was in the works and it depends on his interpretation.

Mr. Killen referred to Item 15 in the Boone case which reads, "The Commission notes that the decision in the Boone case was explicitly limited to the facts therein and that a threatened lawsuit was, in fact, filed shortly after the questioned executive session was held." Mr. Killen said that "threatened" is a vague word, too.

David Doherty, 6 Reynolds Drive said that in January there were individuals who were quite excited in that audience that made individual threats that they would take the issue to court and the PUC Chairman said that he thought that it should be settled in court. The Rights-In-Deed group brought their lawyer with them when they came before the Council last month and they presented copies of the lawsuit and there's no question that there's pending litigation, no ifs, ands or buts about it and the Council can go into executive session now without any question and it will be in court August 1 or 2 and that was not the case back in January or February.

Mayor Dickinson said we are debating specifics in this case and this case is not really the focal point for the appeal because he can make a very good argument that even with the facts in this case, given F.O.I. Decisions, you can still argue that there couldn't be an executive session--the language is ambiguous and as Bert points out, it's case by case. Mayor Dickinson thinks that it is time that a court rule on this issue and if the court rules against us, then at least we have a judicial department

ruling on this agency effort which he feels is in the wrong direction but until a court rules on it, it's always going to be a debate about how F.O.I. is going to review and there could be a debate after a court rules on it but at least a court will have ruled on it and then maybe if it isn't in the interest of the public, the General Assembly will look to remedy something which, in the Mayor's mind, is going way beyond what is in the interest of the public and remember, the public has to be defined not only just as an individual or group, it must be defined as the total public interest. 602

Edward Musso, 56 Dibble Edge Road thinks the Mayor has a point and we should appeal this and get some sort of a decision on it and these 300 do-gooders are going to saddle the rest of the 37,000 people of Wallingford with a severe bill of \$15,000,000-- just like PAGB--they want to raise the tipping fee from \$25 to \$100 and all they do is want to sue--give them 50¢ or move out of town which would be a better thing.

VOTE: Council Members Bergamini, Holmes, Polanski, Rys and Gessert voted aye; Council Members Adams, Gouveia, Killen and Papale voted no; motion duly carried.

ITEM 3. Mr. Rys moved to waive the bidding requirement for emergency repairs of circuit breakers, Electric Division, and award bid to Northeast Testing, seconded by Mrs. Bergamini.

Mr. Walters explained that the final conclusion they have come to after recognizing the problem with the circuit breakers and looking into what possible means of action available to rectify the situation is to have them repaired, overhauling the existing breakers by Northeast Testing at a cost of \$3,300 each. Quite extensive contacts were made with firms in Connecticut, New York and New Jersey who do this sort of work and their quotations are outlined in Mr. Walters' memorandum to the PUC Commissioners. Mr. Walters explained that the most appropriate, effective way of accomplishing this and the need to get going on it because of its implications is a recommendation to waive the bid to get started. Mr. Gessert asked if costs were compared with competitors and Mr. Walters replied that they did and a number of people proposed buying rebuilt units which does not mean that they would be immediately available--this particular type of equipment is no longer available as new equipment--it went out of manufacture some ten or more years ago but there are thousands of similar items throughout the country, in utilities and large industrial firms.

Mr. Walters said that one approach was to buy rebuilt units and for that, prices were obtained of \$13,000, \$10,750, \$8,500 and \$7,600 and another approach was to replace only the arc-chutes, the part giving the most trouble, and to buy the replacement parts and do the work ourselves of overhauling and replacing them would cost \$3,800 per circuit breaker. Mr. Walters said the third option was to take our circuit breakers and, in sequence, have people overhaul them, bringing them back into operable condition and this would cost \$7,600, \$5,500 and \$3,300. The overhaul option price of \$3,300 was put forth by Northeast Testing which is a reputable firm in Wallingford doing this type of work. Mr. Walters would like to think they have accomplished much of what would be accomplished in formal bidding.

Mr. Rys asked about the circuit breakers and Mr. Walters explained that they protect each of the several circuits and they also tie in with the generators in the power plant--there are 12 of them in the Pierce Station and there are other similar units in their other substations. This protects against an overload, short circuit or it can be used to simply turn the power off and back on. Because of the high voltage and high current, it has to interrupt a much greater amount of energy than the 20 ampere circuit breaker that is most common. The difficulty is that what's happening is the insulating medium is beginning to conduct electricity and it's begun to deteriorate the material and there is a concern that if it goes on for long, it will actually fail in service and cause a short circuit and be unable to clear the problem and destruct in trying to operate. Today, only a watt or two is being lost but some day it will take off and deteriorate at an increasingly great rate, to the point of self destruction.

603
Mrs. Bergamini said sometimes cheaper is not better and she asked if the Electric Division has had work done by Northeast Testing Company and Mr. Walters said they had testing done but not repair. Her point is that there is a big difference between the \$3,300 quote and the high of \$7,600, a wide spread in bids. Mrs. Bergamini asked if the overhaul was the best way to go and Mr. Walters said the same situation is evident in purchase of rebuilt which would be pretty much the same standards, at a high of \$13,000 and a low of \$7,600 and Mr. Walters said some firms are in New York, New Jersey, lower Connecticut and part of it would obviously be transportation, etc. Mrs. Bergamini asked how long this overhaul would last and Mr. Walters said these items are 35 years old and have been maintained, cleaned and lubricated periodically and they have never been overhauled to this degree and he feels that we are talking essentially the same thing at \$7,600, \$5,500 or \$3,300.

Mr. Adams feels that it's refreshing to see that we have a local business willing to give us the best price and he feels very comfortable with that.

VOTE: Unanimous ayes; motion duly carried.

ITEM 4. Mr. Rys moved a transfer of \$33,000 from various accounts: \$10,000 from Account 511, \$3,000 from Account 512-0, \$5,000 from Account 512-2 and \$15,000 from Account 512-3, a total of \$33,000 to Account 513-1, Access Electrical Equipment, Electric Division, seconded by Mrs. Bergamini.

Mr. Killen has not had a chance to review the accounts from which this transfer is being made and he wanted to change the certification wording because the transfer isn't "as detailed above" because the information is appended on the attached memo and he would prefer to have the motion read "as appended."

Mr. Killen moved that the words on the bottom of the transfer form "authorized above" be stricken and the words "as appended" inserted in their place, seconded by Mrs. Papale.

VOTE: Unanimous ayes; motion duly carried.

VOTE: (Original motion) Unanimous ayes; motion duly carried.

ADDENDUM. Mrs. Papale moved a transfer of \$1,951 from General Police Wages to Outside Contracts, Police Department, seconded by Mr. Rys. (Amended on page 16.)

Mr. Polanski asked why this has to come out of wages because wages are for people, not for things. Mr. Gessert explained that this request is for repair of an air conditioning compressor. Mrs. Bergamini asked if the town ever didn't get shafted and if there were no guarantees. Mr. Gessert mentioned that he asked the Town Attorney to institute a lawsuit for the first compressor which failed. Mayor Dickinson said the matter was going to be looked into to see if there was any cause of action because the defect should have been discovered before the warranty period ended.

Chief Bevan said the building committee elected not to take the five year warranty because the equipment was new but this has been proven wrong. EMC from Rocky Hill installed these Trane units. Mrs. Bergamini suggested that we should have some recourse. Chief Bevan reminded Marie that at one point, Mr. Kaestle presented the committee a figure of \$1.9 million to rehab the building and the construction manager had to whittle that down to \$1.3 and one of the first areas attacked was the mechanical/electrical system and \$75,000 was taken out of the original system that was put in by the mechanical engineers, Osborne & Wallace, hired by the architects. EMC was faced with a problem--here are the specs, you've got so much money--make it work, added the Chief, so they went job pricing. For controls, the Police Department has Peerless, Thompson, Trane, Minneapolis-Honeywell to put this system together within the budget.

Chief Bevan said Mr. Betts was present who has knowledge of the problem and could explain it.

604

Mr. Arthur Betts, 7 Kish Place said his company was called in to give a price on a compressor replacement 1½ months ago and they were awarded the bid. The first compressor it was felt had a mechanical breakdown and it cannot be determined if it was the shaft or the valves in the unit but the compressor was not compressing the gas into a liquid and under those circumstances, you cannot take an airconditioning compressor apart because it is hermetically sealed and the whole unit must be replaced. Mr. Betts was then called back for a problem with the control system after the first compressor went down since the pneumatic controls were not calling the compressors on and there was an imbalance in the system and an estimate was requested on how much it would cost to repair the system.

Mr. Betts said now the second compressor is the same unit giving the problem and it also has a mechanical breakdown, in the valves itself and it seems that the reason for the problem is that the air conditioners are being run at a low temperature at night because this unit supplies the dispatch office which is always calling for air conditioning.

Mr. Betts felt the problem can be rectified in two ways--a separate unit can be installed just to handle the dispatch office because of the high heat intensity of the equipment and remove that thermostat or you can replace the compressor just to handle the other portions of the building and third, a low temperature shutoff should be put on the unit outside on the equipment; if the temperature drops below 55 degrees, the unit would be shut off and this does not occur now.

Running the air conditioner at such a cold temperature actually pulls liquid back to the compressor and the compressor cannot compress liquid. Mrs. Bergamini asked about this happening again with the new compressor and Mr. Betts explained that there are two compressors in this one unit and it looks like one compressor was replaced already. Mr. Betts replaced one and now he is giving a price on replacing that compressor which has already been replaced and the problem persists because nobody put an outdoor thermostat in it to shut the equipment down.

Mrs. Bergamini felt that an outdoor thermostat should be installed and Mr. Betts said that was included in his price. Mr. Rys asked if this were a design flaw in the engineering for this unit and Mr. Betts does not feel it was a design flaw in the equipment at all--he does not believe that a thermostat that controls several areas should be placed in the equipment room where there is a great deal of heat and this room should have its own separate unit. Mr. Rys felt that basically, the installer did not anticipate that much heat coming from that room. Mr. Betts said the dispatch room is still warm when the air conditioning is working.

Mr. Betts said there are two separate systems and one system cools the area where the people work from 8 to 5 and the second unit, the problem unit, is the unit cooling the building all day and all night in the areas used all day and night. Chief Bevan added that this area is below ground level and main desk area.

Mr. Killen asked if this could have been foreseen. He added that the designers were not shortchanged and received top dollar and he wondered if they should have foreseen this problem. Mr. Betts felt that an outdoor thermostat should have been put on the unit but that still does not solve the problem of the dispatch room because if you shut the unit off outside at 55 degrees, the dispatch room will still be warm. Mr. Killen wondered if it was realized what equipment would be in the dispatch room and the type of heat generated and Mr. Betts could not answer that question. Mr. Killen wonders what we pay the experts for.

Mr. Gessert said one of the first problems when the building was occupied was that the heat wasn't being distributed properly and EMC was called to take care of that and the question of heating and cooling was specifically related to the engineering company and the architect--a tour of other police stations revealed that the biggest complaint was the heating and cooling system and they were told to be aware of that particular problem.

605

Mr. Adams asked about the warranty on the new compressor and Mr. Betts said there is a one year warranty. Mr. Adams asked if a maintenance policy was available and Mr. Betts explained that there is a maintenance contract and there are some companies that will provide service contracts on large equipment and this is probably based on 1/5 of the life of the compressor and at the end of the five years, you have actually paid for a new piece of equipment, if nothing goes wrong. The price would be based on each system.

Mr. Gessert asked if any recommendations would be made regarding a cost for a small unit for the dispatch room and Mr. Betts would be happy to provide this. Chief Bevan said you are talking about the communications room, per se. Mr. Betts said the ideal thing would be to supply a separate unit for that room so the air conditioning would shut down and you have a separate air conditioner designed to run at low temperature for the dispatch room.

Mr. Polanski felt that this problem should be brought to the attention of the people who designed this and determine if anything can be done.

Mr. Polanski moved an amendment to the motion on page 14 authorizing the Town Attorney's Office to contact the designers of the Police Station Building and let them know we are not pleased with the problem with the air conditioners, seconded by Mr. Killen.

VOTE: Unanimous ayes; motion duly carried.

Mr. Gessert explained that this was a friendly amendment and it became a part of the original motion.

A motion to adjourn was duly made, seconded and carried and the meeting adjourned at 7:05 p.m.

Meeting recorded and transcribed by:
Delores B. Fetta

Approved David A. Gessert
David A. Gessert, Chairman

8-11-87
Date

Rosemary A. Rascati
Rosemary A. Rascati, Town Clerk

8-11-87
Date