

TOWN COUNCIL MEETING

DECEMBER 8, 1992

7:00 P.M.

AGENDA

1. Roll Call and Pledge of Allegiance
2. Consent Agenda
 - a. Consider and Approve a Transfer of Funds in the Amount of \$1,000 from Contingency Reserve for Emergency Acct. #8050-800-3190 to School Additions Committee Secretary Part Time Acct. #1118-100-1350, \$800.00 and to Secretarial Services Acct. #1118-600-6040, \$200 - Mayor's Office
 - b. Consider and Approve a Transfer of Funds in the Amount of \$1,080 from Contingency Reserve for Emergency Acct. #001-8050-800-3190 to Elections Acct. #001-6030-400-4060 - Town Clerk
 - c. Note for the Record Anniversary Increases Approved to Date
 - d. Note for the Record Mayoral Transfers Approved to Date
3. Items Removed From the Consent Agenda
4. Approve and Accept the Minutes of the November 10, 1992 Town Council Meeting
5. Consider and Approve the Appointment of Robert Prentice to the Wallingford Housing Authority to Fill a Vacancy
- 6a. Consider and Approve the Appointment of Steven Hacku to the Position of Commissioner on the Zoning Board of Appeals
- b. Consider and Approve Waiving the Two Week Waiting Period to Confirm the Appointment to the Zoning Board of Appeals
7. PUBLIC QUESTION AND ANSWER PERIOD - 7:30 P.M.
8. Discussion and Approval of Resolutions for State Grants for the Wallingford Community Day Care Center's Budget and the Wallingford Community Day Care Center's Before and After School Program
9. Consider and Approve a Transfer of Funds in the Amount of \$424.00 from Maintenance of Equipment Acct. #001-4000-500-5200 to Seminars and Dues Acct. #001-4000-700-7990 - Parks and Recreation
10. Consider and Approve a Request by the Golf Course Study Committee that the Water Department Conduct a Study Regarding the Feasibility of Constructing a Reservoir on the Land Purchased from the New Haven Water Company as Requested by Steven B. Holmes, Chairman of the Golf Course Committee

(OVER)

SECRET
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11. Discussion Pertaining to the Town Attorney's Opinion on the Subject of Public Hearings with Regards to the Budget as Requested by Councilor Albert E. Killen
12. Consider and Approve Naming the Committee to Oversee the Initiation and Completion of School Additions as Requested by Councilor Geno J. Zandri, Jr.
13. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Regards to Pending Litigation

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TOWN COUNCIL MEETING

DECEMBER 8, 1992

7:00 P.M.

SUMMARY

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TOWN COUNCIL MEETING

DECEMBER 8, 1992

7:00 P.M.

A meeting of the Wallingford Town Council was held on Tuesday, December 8, 1992 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairperson Iris F. Papale at 7:07 P.M. Answering present to the Roll called by Town Clerk Kathryn J. Wall were Councilors Doherty, Duryea, Killen, McDermott, Papale, Solinsky and Zandri. Councilor Holmes arrived at 7:48 P.M. due to a holiday presentation involving his children and Councilor Parisi was absent due to a business function. Mayor William W. Dickinson, Jr. arrived at 8:26 P.M., Town Attorney Janis M. Small and Comptroller Thomas A. Myers were also present.

The Pledge of Allegiance was given to the Flag.

Mr. Doherty made a motion to Place the Following Items on the Consent Agenda to be Voted Upon by One Unanimous Vote of the Council, seconded by Mr. Solinsky:

ITEM #2c Note for the Record Anniversary Increases Approved to Date

ITEM #2d Note for the Record Mayoral Transfers Approved to Date

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

ITEM #3 Items Removed From the Consent Agenda

ITEM #2a Consider and Approve a Transfer of Funds in the Amount of \$1,000 from Contingency Reserve for Emergency Acct. #8050-800-3190 to School Additions Committee Secretary Part Time Acct. #1118-100-1350, \$800.00 and to Secretarial Services Acct. #1118-600-6040, \$200 - Mayor's Office

Motion was made by Mr. Doherty, seconded by Mrs. Duryea.

VOTE: Holmes and Parisi were absent; Killen, no; all others, aye; motion duly carried.

ITEM #2b Consider and Approve a Transfer of Funds in the Amount of \$1,080 from Contingency Reserve for Emergency Acct. #001-8050-800-3190 to Elections Acct. #001-6030-400-4060 - Town Clerk

Motion was made by Mr. Doherty, seconded by Mrs. Duryea.

VOTE: Holmes and Parisi were absent; Killen, no; all others, aye; motion duly carried.

ITEM #4 Approve and Accept Minutes of the November 10, 1992 Town Council Meeting

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

VOTE: Holmes and Parisi were absent; Killen passed; all others, aye; motion duly carried.

ITEM #5 Consider and Approve the Appointment of Robert Prentice to the Wallingford Housing Authority to Fill a Vacancy

Motion was made by Mr. Doherty to Re-Appoint Mr. Prentice, seconded by Mr. Solinsky.

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

Town Clerk Kathryn J. Wall performed the swearing-in ceremony for Mr. Prentice.

It was not necessary to wait the two week waiting period since Mr. Prentice is being re-appointed to a position he currently holds.

ITEM 6a Consider and Approve the Appointment of Steven Hacku to the Position of Commissioner on the Zoning Board of Appeals

Motion was made by Mr. Doherty, seconded by Mrs. Duryea.

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

ITEM #6b Consider and Approve Waiving the Two Week Waiting Period to Confirm the Appointment to the Zoning Board of Appeals

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

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

Town Clerk Kathryn J. Wall performed the swearing-in ceremony.

ITEM #8 Discussion and Approval of Resolutions for State Grants for the Wallingford Community Day Care Center's Budget and the Wallingford Community Day Care Center's Before and After School Program

Motion was made by Mr. Doherty to Dispense with the Reading of the Four Resolutions and Two Agreements and to Append a Copy to the Town Council Minutes, seconded by Mr. McDermott.

VOTE ON DISPENSING WITH THE READING: Holmes and Parisi were absent; all others, aye; motion duly carried.

Kathleen Queen, Director of the Wallingford Community Day Care Center gave a brief overview of each of the Resolutions and Agreements, explaining that they are standard formats that the Town has been using for twenty three years. The State informs the center what kind of funding they can request and the center then writes a budget to reflect that funding. All of the Resolutions and Agreements are required by the State as formalities for the execution of the grant. She explained how the State is asking the center to operate for the fourth year on level funding and try to keep their employees employed. They are trying to make due with nothing, or less than nothing on a regular basis while maintaining operation for nine months. That kind of an attitude by the State has been a pervasive problem for many years. The center is trying to work that out and has made some project. There is not a January 1 implementation of the unit

rate reimbursement system as was proposed by the State. The Association of Day Care Directors throughout the State has been meeting almost daily since August 28th when the State made its unit rate implementation plan known to them. The center argued many points because of the eligibility requirements under the new plan. Those requirements would severely restrict their ability to make decisions regarding serving families with children with special needs, for example. They have successfully argued that point so far and are currently discussing this with the State, trying to come up with an equitable solution. There are tremendous inequities in the system. There is a need to straighten them out and Ms. Queen does not believe that it can be done on January 1, 1993 from an August 28, 1992 proposal.

Motion was made by Mr. Doherty to Approve Resolution #1 (Appendix I), seconded by Mr. McDermott.

VOTE: Parisi was absent; Holmes passed; Killen, no; all others, aye; motion duly carried.

Motion was made by Mr. Doherty to Approve Resolution #2 (Appendix II), seconded by Mrs. Duryea.

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

Motion was made by Mr. Doherty to Approve Agreement #1&2 (Appendix III), seconded by Mrs. Duryea.

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

Motion was made by Mr. Doherty to Approve Resolution #3 (Appendix IV), seconded by Mr. Solinsky.

VOTE: Parisi was absent; Killen, no; all others, aye; motion duly carried.

Motion was made by Mr. Doherty to Approve Resolution #4 (Appendix V), seconded by Mr. Solinsky.

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

Motion was made by Mr. Doherty to Approve Agreement #3 (Appendix VI), seconded by Mr. Holmes.

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

ITEM #9 Consider and Approve a Transfer of Funds in the Amount of \$424.00 from Maintenance of Equipment Acct. #001-4000-500-5200 to Seminars and Dues Acct. #001-4000-700-7990 - Parks and Recreation

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

This transfer is a result of the Meritous National Young Professional of the Year 1992 Award that was bestowed upon Mr. Thomas Dooley this past fall of which Mr. Dooley traveled to Ohio to receive. This occurred on October 15th through October 19, 1992. There was a miscalculation of the traveling expenses incurred, therefore the necessity of the transfer of funds.

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VOTE: Parisi was absent; Holmes and Killen, no; all others, aye; motion duly carried.

PUBLIC QUESTION AND ANSWER PERIOD

Frank Wasilewski, 57 N. Orchard Street stated that funds have been budgeted in the Board of Education budget for the past five years for boiler replacement. That figure amounted to approximately \$250,000. Recently the Superintendent of Buildings and Grounds was before the Council for funds to replace boilers. Was the entire \$250,000 expended? Are there no funds left?

Dr. Joseph Cirasuolo, Superintendent of Schools explained that over the past two years the funds allocated to boiler repair/replacement for those two years were spent on repairs as they were needed. Last year \$50,000 was placed in the budget to begin replacing boilers. The issue was discussed with the Council and a consensus was reached that this should be done as a building project. A portion of that \$50,000 was used to pay for the engineering study that told us what needed to be done and provided us with a cost estimate.

Mr. Wasilewski referred to the issue of school expansion and reminded everyone that back in the early 1960's the superintendent of schools pushed the issue of overcrowding which the town addressed by building several schools throughout the town. Within a few years Simpson, Colony, Washington and Whittlesey schools were closed. Now we find ourselves in the same predicament. We purchased portable classrooms two years ago that were supposed to solve our overcrowding problem for at least five years.

Ms. Papale pointed out to Mr. Wasilewski that on December 15, 1992 a Special Town Council Meeting will be held to address this very issue and urged Mr. Wasilewski to attend that meeting and present his questions on this subject at that time.

Mr. Wasilewski then asked if there was a conflict of interest on the part of Vice Chairman David J. Doherty when he recently voted on the contract for the school administrators?

Mr. Doherty responded that he believes there was no conflict of interest because of the State Statute that was passed a few years ago which gives him the power to vote on these particular items. He chose not to vote on the teacher's contract which directly effected him, but he could have voted on it according to State Statutes. There was no financial gain to Mr. Doherty with the administrator's contract.

Lois Carroll, 18 Oxford Trail distributed copies of her statement to the Council which reads as follows:

"I am speaking this evening as a representative of Spring Lake Association, however the issue that I am presenting for your consideration potentially effects all of the residents of our town. Spring Lake is approximately ten acres in size and currently supports a variety of waterfowl, fish and amphibious mammals. In addition, Spring Lake is a contributor to McKenzie Reservoir and as part of the town's aquafer system it is designated as a

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class AA water area. Until recently the water quality of the lake was excellent, providing a clean, safe habitat for diversified wildlife. Since the onset of the CT. Dept. of Transportation's reconstruction of Route 68 the condition of Spring Lake had deteriorated dramatically. Diversion of the Muddy River and inadequate installation of sedimentation control systems during construction has caused huge amounts of silty clay to be deposited in the lake. On June 6, 1992 during a heavy rainstorm the increase of the silty water burst an old dam on the construction site. The ensuing flood created a domino effect, breaching the dam in Spring Lake. This is a small structure approximately five feet high by fifteen feet long by two feet wide made of concrete. The water level has receded to such that the fish's breeding area was left exposed killing all the eggs. These eggs represented the next year's food source for otter, blue herrings, king fishers, snowy white egrets, and other animals. The structural integrity of the remaining dam has been severely weakened. As there is no clear title to the ownership of the property the dam is built on anyone has access to this area. Although the lake residents have warned their children to stay away from the dam it remains an extreme hazard to the general public. The Spring Lake Association's conversations with the Mayor have resulted in water sample testing and a search for legal heirs to determine the dam property by the town. However, the inevitable collapse of the dam will empty the entire contents of the lake into the aquifer system. Although the water quality has been rated good, it is unknown what may be contained in the substantial quantities of silt which will be deposited into the public water supply. The Association has informed the Department of Environmental Protection of the aforementioned concerns. The D.E.P. is willing to pay for a portion of construction costs if the ownership is established. We greatly appreciate steps already taken by the Mayor's Office towards resolution of this serious matter, however, it is our fervent hope that the town will commit funding and work with the D.E.P. to effect repair of this dam. This action will ensure the preservation of a wetland...system, maintain the good quality of the public's drinking water and save potential cleanup costs resulting from silt infiltration. We ask you to please consider the seriousness of this issue. Involvement of the Water and Sewer Division and a feasibility study might just be what is needed to come to a resolution on this issue. We would like to be put on the agenda so we can discuss this issue further. Thank you."

Ms. Papale thanked Ms. Carroll and will discuss this issue again with the Mayor. The next step is to go to the appropriate departments, Water Department, to look into this matter a little further to see what they have to say.

Phil Wright, Sr., 160 Cedar Street brought to Ms. Papale's attention that some of the lights out in front of the town hall are not operating.

Ms. Papale has spoken to Henry McCully and he is aware of it and is awaiting parts to repair them.

He pointed out that one month ago the parking issue was being discussed regarding 88 S. Main Street and at that time Ms. Papale stated that the item will be put on the next Council agenda for action. Mr. Zandri drafted a parking proposal to come forward. Mr. Wright had heard that that proposal was presented to the Mayor and asked what the status was on this issue?

Mr. Zandri responded that a meeting was held with the Mayor, Ms. Papale and himself at which time Mr. Zandri's proposal was discussed. An agreement was reached on what plan would be implemented to address the parking problem. He recommended to the Mayor that the Mayor submit a letter to the Council detailing the discussion and agreement and present that letter this evening to the public. At this point we are still awaiting the arrival of the letter to the Council. That was two weeks ago.

Ms. Papale will follow up on this issue.

Mr. Wright informed the Superintendent of Schools of his disappointment with the lack of a public address system at the north side of the football field at Lyman Hall High School during the LHHS/Sheehan game.

Edward Musso, 56 Dibble Edge Road commented about Police Chief Dortenzio. He feels that the Chief wants the auxiliary police to become extinct. He refuses to sign the training forms for the auxiliaries so that they cannot obtain the necessary training mandated by the State. These volunteers help to keep the town safe while maintaining a lower tax rate. He is making the Police Department into a showpiece. The repainting of the cars along with larger patches on the uniforms is a good example of his show-off attitude.

He went on to say that he was happy that Mr. Prentice was re-appointed to the Wallingford Housing Authority and that the forty-five unit complex in town should not house one out-of-towner in it. It should be strictly for Wallingford residents.

ITEM #10 Consider and Approve a Request by the Golf Course Study Committee that the Water Department Conduct a Study Regarding the Feasibility of Constructing a Reservoir on the Land Purchased from the New Haven Water Company as Requested by Councilor Steven B. Holmes, Chairman of the Golf Course Committee

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

Mr. Holmes stated that the town purchased land commonly known as the Satori property where the Vietnam Veteran's Memorial Park is. In back of that property the town also purchased substantial acreage from the New Haven Water Company and at that time it was purchased for open space and recreation. South of the location identified as a potential site for a golf course the Water Department also identified a site for a potential reservoir. They included this in their water supply plan for the town. It was learned at a later date that because of the Water Department's inclusion into its plan the State of CT., specifically the Department of Health, Water Quality Division, has jurisdiction over any use of that land. Mr. Holmes is not asking that any funds be expended this evening, he is asking that the Water Department be allowed to develop specifications which would allow a bid to be put out for a study. The questions that needed to be answered are as follows:

Q: What is the chance that a reservoir will be granted a permit?

A: There is a ten to fifteen year permit process in which there would be a substantial amount of money spent for environmental

studies and there is no guarantee that a reservoir will be permitted. (source: James O'Cromley, State of CT. Department of Health)

Q: Are we going to be put in a position where we hold on to this land indefinitely and find out that we can't use it for what it was intended?

Roger Dann, General Manager, Water Division responded that at the time the property was purchased from the New Haven Water Company, it was anticipated that it would have future utilization for water supply purposes. It has been studied for that purpose subsequently and, from a technical perspective, there is no question that a reservoir could be constructed, contained within the town-owned property. There has been some preliminary work to identify the available safe yield that would be available from that additional source of supply. There is also no doubt that in the future the Town of Wallingford will need an additional source of water supply. Therefore, if the reservoir can be constructed there is a need to preserve that property for that intended use. The issue raised is a difficult one to answer without further research. That issue is, on the basis of regulatory actions, permitting issues, is it reasonable to expect that in thirty or forty or fifty years when Wallingford has need for that additional supply that, in fact, we will be able to overcome the various environmental hurdles that are necessary to proceed with the actual construction? If we look to study those issues today, of course, we can look at it in the context of today's regulations, permitting requirements, etc. That would tell us if today it were possible to proceed with construction and under what circumstances, at what anticipated costs and over what timeframe the reservoir could be constructed. It would not answer the question of the ability to construct in the thirty or forty year period where we anticipate having to use that provisional supply. At this point Mr. Dann was not really certain whether or not the study would answer the question definitively as to whether or not the reservoir could be constructed.

Mr. David Gessert, P.U.C. Commissioner added that the siting and approval process is a ten to fifteen year process today. We are seeing a fast escalation of requirements and regulations from D.E.P. every year and if we received the o.k. today five or ten years down the road it may change.

Mr. Holmes stated that the Dept. of Health has developed a policy which calls for zero impact on any watershed. There is a concern on the Dept. of Health's part with the pesticide and herbicide runoff into the watershed. Even if the golf course were to be free of those chemicals the Dept. of Health views any runoff from a parking lot as impacting the watershed. Basically the State Health Dept. was in opposition of any development of the area.

Much discussion ensued on this issue and the point was raised that perhaps it should first be determined if a golf course would be a cost effective, self-sufficient operation in this town. It seems to be the position of the State Department of Health that the property not be developed at all. The viewpoint by the State that any slight change to the land causes a negative impact to the watershed almost makes it impossible to put the land to any use whatsoever.

Mr. McDermott pointed out that if this site had not been placed on the Water Department's Fifty Year Plan and a golf course was built there fifty years from now we could still build a reservoir. The Board of Ed is being criticized for projecting enrollment figures ten years out into the future and its ironic that the reservoir is being planned fifty years out to the future.

Mayor Dickinson responded that if the town is relying on a site for a future water supply and that site is not really viable, it is better to know it now than to let it sit on a list and be unable to use it when we need it. There could be valuable information gained from the process.

Mr. Smith asked the Council if they would entertain the idea of waiving bids and soliciting presentations from a few firms on what kind of study it would take, in lieu of drawing up bid specifications? That would expedite things.

Mr. Holmes answered that if the Council favored a proposal process he was not sure that there is enough support to spend the money right now. He was thinking along the lines of bid specifications due to the fact that it will take a couple of months and the funding could be plugged in during budget time. If the Water Division is unable to develop specifications due to time constraints the suggestion by Mr. Smith could be considered.

Mr. Gessert explained that Mr. Dann will be tied up with the new water filter plant coming out on line in the spring besides a few other major projects. It may be the month of May before he can begin to look at writing bid specifications.

Mayor Dickinson informed everyone that he is about to review an R.F.P. process that has been drafted by the Law Department and Purchasing that supposedly fits within the Charter so it may not be necessary to waive anything.

Mr. Holmes suggested putting this issue on hold until the process is reviewed and in the meantime if there is a desire to fund this before the next budget session he will sit with the Comptroller and Mr. Dann to develop a source of funding that will not effect the tax rate.

Mr. Zandri felt that it has to first be determined whether or not it is feasible to build a golf course.

Mr. McDermott was of the opinion that we should first find out if a reservoir is going to be built there because there are many other things, not just a golf course, that could possibly be done with that land. It could be a recreation department....any number of things. He agreed that it should first be determined if it is feasible to place a reservoir there.

Mr. Solinsky asked Mr. Dann if any new reservoirs were being constructed in the State currently?

Mr. Dann answered, no.

Mr. Solinsky then asked, when the Whitman and Howard study was performed wasn't there a statement in that report which reads that the State frowns on surface water?

Mr. Dann answered, not to my recollection.

Mr. Solinsky asked, will our existing plant handle the water from the new reservoir?

Mr. Dann responded, yes. The capacity of the new plant is such that if an additional supply were plugged into the system and transmitted up to Pistapaug Reservoir you would be able to treat it at the new facility.

Mr. Solinsky agreed with the Mayor that the question as to whether or not the site is a viable one for a future reservoir must first be determined.

Mr. Killen disagreed stating that it must first be determined whether or not to go ahead with the golf course.

Mr. Holmes again agreed to place this on hold until the Mayor reviews the R.F.P. process. In the meantime he will try to meet with the State Dept. of Health to see what can be done on that aspect.

No action was taken.

ITEM #12 Motion was made by Mr. Doherty to Move Agenda Item #12 Up to the Next Order of Business, seconded by Mr. McDermott.

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

ITEM #12 Consider and Approve Naming the Committee to Oversee the Initiation and Completion of School Additions as Requested by Councilor Geno J. Zandri, Jr.

Motion was made by Mr. Doherty to Amend the Number of Committee Members from Eleven to Thirteen, Adding Two Representatives from the Board of Education to the Committee, seconded by Mrs. Duryea.

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

Motion was made by Mr. Doherty to Submit the Names of the Following Individuals Into the Record for Membership on the Committee:

Donald Harwood
Dick Nunn
Jon Walworth
Phil Wright, Sr.
Garrett Towle
Jim Seichter

Roger Rivers
Ed Mik
Ray Rys
David Routhier
John Gilchrist
Phyliss DiChello

Tom Murphy

Motion was seconded by Mrs. Duryea.

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

Motion was made by Mr. Doherty to Appoint Roger Rivers as the Temporary Chairman Until the Committee Meets to Appoint a Permanent Chairman, seconded by Mr. Zandri.

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

Motion was made by Mr. Doherty to Formally Charge the Committee as follows:

To Develop Specifications for Hiring an Architect to Design and Supervise the School Expansion Project Assisted with Town Ordinances and the Town Charter and that the Committee Make Recommendations to Hire an Architect to Provide Specifications and Designs for the Board of Education School Expansion Project for Each Segment of the School Expansion Project and to Report Back to the Council Within One Month From the Organizational Meeting.

Motion was seconded by Mr. Zandri.

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

ITEM #11 Discussion Pertaining to the Town Attorney's Opinion on the Subject of Public Hearings with Regards to the Budget as Requested by Councilor Albert E. Killen.

Prior to addressing his issue he requested that the Council take a moment to acknowledge the hard work and dedication of a particular town employee. In correspondence to the Council from Adam Mantzaris, Corporation Counselor dated November 20, 1992 regarding the Braithwaite & Renfrew v. Town of Wallingford, Attorney Mantzaris states the following:

"I should like to point out that this office handled all of the above-mentioned hearings after the one on July 23, 1992. At this time it is also well worth mentioning the dollar savings to the Town by having had Dianne Acevedo act as Administrator for the court in accepting and processing all of the claims in the captioned litigation. At the very first hearing last fall after the judgment, the attorney for the plaintiff class motioned the court to appoint one of his firm's paralegals to act as Administrator, and the the fees and costs of such Administrator be paid by the Town, estimated at \$50,000.00. We countered that the Town's Legal Department, through its secretary, could perform the required tasks and at the same time save the Town the added expense. Dianne Acevedo was appointed Administrator. My knowledge of the amount of time and work she expended in processing the approximately 360 claims for full damage awards and Renfrew case claims for refunds for overpayments, answering questions of the property owners, and attending court hearings, supports my conclusion that the cost for an outside paralegal would have exceeded Attorney Wu's estimated expense."

Mr. Killen asked that the Council recognize Dianne Acevedo for her dedication and hard work in going above and beyond the call of duty in her job which resulted in a savings of \$50,000 to the town. He asked that Chairperson Iris F. Papale send a letter on behalf of the Council acknowledging her dedication.

All Councilors agreed and Ms. Papale will follow through on this request.

Motion was made by Mr. Doherty to Hear Discussion, seconded by Mrs. Duryea.

Mr. Killen distributed a copy of his statement to all Councilors, Town Attorney, Mayor and Comptroller (appendix VII).

Town Attorney Janice Small was annoyed with the fact that Mr. Killen distributed the information at the last moment and would have to review it and contact him within the next few days.

Ms. Papale suggested that Mr. Killen and Attorney Small sit down in the Department of Law and discuss this issue. She went on to state that from this point on all backup material for an agenda item must be in the office of the Town Council by no later than noon on the Wednesday prior to the next Town Council Meeting. If the backup material fails to accompany the item of request for the agenda then that item will not go on.

Mr. Killen agreed to the suggestion to meet with the Town Attorney, as did Attorney Small.

No action taken.

ITEM #13 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes with Regards to Pending Litigation as Requested by Councilor Albert E. Killen

Motion was made by Mr. Doherty to Move Into Executive Session, seconded by Mr. Holmes.

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

Motion was made by Mr. Doherty to Move Out of Executive Session, seconded by Mrs. Duryea.

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

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

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

There being no further business, the meeting adjourned at 10:55 P.M.

Meeting recorded and transcribed by:

Kathryn F. Milano
Kathryn F. Milano, Town Council Secretary

- 12 - December 8, 1992

Approved by:

Iris F. Papale
Iris F. Papale, Chairperson

January 12, 1993
Date

Kathryn J. Wall
Kathryn J. Wall, Town Clerk

January 12, 1993
Date

RESOLUTION

WHEREAS, The Wallingford Community Day Care Center, Inc. is a designated agency of the Town of Wallingford funded by the State of Connecticut through the Town of Wallingford for service to pre-school children and their parents; and

WHEREAS, The Wallingford Community Day Care Center, Inc. has been commended for both the level of service and the fiscal responsibility with which it has performed during its years of operation; and

WHEREAS, The Wallingford Community Day Care Center, Inc. is supported by State funds, voluntary contributions of time, money and material, including in-kind contributions by the Town of Wallingford; and

WHEREAS, The Town of Wallingford has not found it necessary to provide direct financial support as is done in most other towns providing day care services; and

WHEREAS, The Wallingford Community Day Care Center, Inc. is continually in operating difficulty because of the delay in actually receiving funds approved by the State.

NOW THEREFORE, BE IT RESOLVED:

1. That The Wallingford Community Day Care Center, Inc. be permitted to borrow from the Town of Wallingford amounts necessary to meet the essential operating expenses of the Center between the time that the Center's program is approved by the State of Connecticut through its Department of Human Resources and the actual funding is received, but in no case to draw more than the amount approved and budgeted by the State for the period of operation as set forth in the 1993 budget.
2. The Wallingford Community Day Care Center, Inc. will repay the amount so borrowed immediately upon receipt of the State grant for the period for which the funds were borrowed.

CERTIFICATION

Certified a true copy of a resolution duly adopted by the Town of Wallingford at the meeting of the Wallingford Town Council on December 8, 1992, and which said resolution has not been rescinded or modified in any way whatsoever.

Dated at Wallingford, Connecticut this _____ day of December, 1992.

KATHRYN J. WALL
Town Clerk
Town of Wallingford

RESOLUTION

WHEREAS, pursuant to Chapters 133 and 300a of the Connecticut General Statutes, the Commissioner of Human Resources is authorized to extend financial assistance to municipalities and human resource development agencies; and

WHEREAS, it is desirable and in the public interest that the TOWN OF WALLINGFORD make application to the State in order to undertake a Child Day Care Program and to execute a Grant Action Request therefor. It is understood that the Local Agency will provide a local grant-in-aid where applicable, in accordance with the requirements of Chapters 133 and 300a of the Connecticut General Statutes, as appropriate.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WALLINGFORD:

1. That it is cognizant of the conditions and prerequisites for State assistance imposed by Chapters 133 and 300a of the Connecticut General Statutes.
2. That it recognizes the responsibility for the provision of a local grant-in-aid to the extent that it is necessary and required for said program.
3. That the filing of an application by the Local Agency for such funds as may be available is hereby approved, and that William W. Dickinson, Jr., Mayor of said Town of Wallingford, is hereby authorized and directed to execute and file such application with the Commissioner of Human Resources, to provide such additional information, to execute a Grant Action Request with the State of Connecticut for State financial assistance, rescissions and revisions thereto, and to act as the authorized representative of the Local Agency.

CERTIFICATION

Certified a true copy of a resolution duly adopted by the Town of Wallingford at the meeting of the Wallingford Town Council on December 8, 1992, and which said resolution has not been rescinded or modified in any way whatsoever.

Dated at Wallingford, Connecticut this _____ day of December, 1992.

KATHRYN J. WALL
Town Clerk
Town of Wallingford

AGREEMENT

AGREEMENT entered into between the TOWN OF WALLINGFORD, hereinafter referred to as the Local Agency, and THE WALLINGFORD COMMUNITY DAY CARE CENTER, INC., hereinafter referred to as the Delegate Agency.

W I T N E S S E T H :

1. The Local Agency has executed a Grant Action/Program Design & Financing Plan with the State of Connecticut, acting by its Commissioner of Human Resources, for funding programs to be carried out by the Delegate Agency, acting in behalf of the Local Agency. The Grant Action/Program Design & Financing Plan has been executed under the provision of the Master Contract executed between the Local Agency and the State of Connecticut on September 30, 1982.

2. The Delegate Agency and the Local Agency agree that such Master Contract and Grant Action/Program Design & Financing Plan as the Local Agency has executed with the State of Connecticut for the purpose of funding the program to be carried out by the Delegate Agency shall be and hereby is incorporated into this Agreement by reference and made a part hereof. The Delegate Agency expressly agrees to be bound by the terms of said Master Contract and Grant Action/Program Design & Financing Plan and to carry out the program subject to its provisions during the period January 1, 1993 to

September 30, 1993.

3. This Agreement shall be incorporated into and shall govern the other agreements that expressly exist between the Local Agency and the Delegate Agency.

IN WITNESS WHEREOF, the Delegate Agency has caused this Agreement to be duly executed in its behalf and its seal hereunto affixed this _____ day of December, 1992, and thereafter the Local Agency has caused these presents to be signed and sealed by its Mayor, William W. Dickinson, Jr., duly authorized, this _____ day of December, 1992.

Signed, Sealed and Delivered
in the Presence of:

THE WALLINGFORD COMMUNITY
DAY CARE CENTER, INC.

BY: _____
Robert J. Wilson
Its President
Duly Authorized

TOWN OF WALLINGFORD

BY: _____
William W. Dickinson, Jr.
Its Mayor
Duly Authorized

RESOLUTION

WHEREAS, The Wallingford Community Day Care Center, Inc. is a designated agency of the Town of Wallingford funded by the State of Connecticut through the Town of Wallingford for service to pre-school children and their parents; and

WHEREAS, The Wallingford Community Day Care Center, Inc. has been commended for both the level of service and the fiscal responsibility with which it has performed during its years of operation; and

WHEREAS, The Wallingford Community Day Care Center, Inc. is supported by State funds, voluntary contributions of time, money and material, including in-kind contributions by the Town of Wallingford; and

WHEREAS, The Wallingford Community Day Care Center, Inc. is continually in operating difficulty because of the delay in actually receiving funds approved by the State.

NOW THEREFORE, BE IT RESOLVED:

1. That The Wallingford Community Day Care Center, Inc. be permitted to borrow from the Town of Wallingford amounts necessary to meet the essential operating expenses of the Center between the time that the Center's program is approved by the State of Connecticut through its Department of Human Resources and the actual funding is received, but in no case to draw more than the amount approved and budgeted by the State for the period of operation as set forth in the 1992-1993 budget.

2. The Wallingford Community Day Care Center, Inc. will repay the amount so borrowed immediately upon receipt of the State grant for the period for which the funds were borrowed.

CERTIFICATION

Certified a true copy of a resolution duly adopted by the Town of Wallingford at the meeting of the Wallingford Town Council on December 8, 1992, and which said resolution has not been rescinded or modified in any way whatsoever.

Dated at Wallingford, Connecticut this _____ day of December, 1992.

KATHRYN J. WALL
Town Clerk
Town of Wallingford

RESOLUTION

WHEREAS, pursuant to Chapters 133 and 300a of the Connecticut General Statutes, the Commissioner of Human Resources is authorized to extend financial assistance to municipalities and human resource development agencies; and

WHEREAS, it is desirable and in the public interest that the TOWN OF WALLINGFORD make application to the State in order to undertake a Child Day Care Program and to execute a Grant Action Request therefor. It is understood that the Local Agency will provide a local grant-in-aid where applicable, in accordance with the requirements of Chapters 133 and 300a of the Connecticut General Statutes, as appropriate.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WALLINGFORD:

1. That it is cognizant of the conditions and prerequisites for State assistance imposed by Chapters 133 and 300a of the Connecticut General Statutes.
2. That it recognizes the responsibility for the provision of a local grant-in-aid to the extent that it is necessary and required for said program.
3. That the filing of an application by the Local Agency for such funds as may be available is hereby approved, and that William W. Dickinson, Jr., Mayor of said Town of Wallingford, is hereby authorized and directed to execute and file such application with the Commissioner of Human Resources, to provide such additional information, to execute a Grant Action Request with the State of Connecticut for State financial assistance, rescissions and revisions thereto, and to act as the authorized representative of the Local Agency.

CERTIFICATION

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KATHRYN J. WALL
Town Clerk
Town of Wallingford

AGREEMENT

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1. The Local Agency has executed a Grant Action/Program Design & Financing Plan with the State of Connecticut, acting by its Commissioner of Human Resources, for funding programs to be carried out by the Delegate Agency, acting in behalf of the Local Agency. The Grant Action/Program Design & Financing Plan has been executed under the provision of the Master Contract executed between the Local Agency and the State of Connecticut on September 30, 1982.

2. The Delegate Agency and the Local Agency agree that such Master Contract and Grant Action/Program Design & Financing Plan as the Local Agency has executed with the State of Connecticut for the purpose of funding the Before/After Program to be carried out by the Delegate Agency shall be and hereby is incorporated into this Agreement by reference and made a part hereof. The Delegate Agency expressly agrees to be bound by the terms of said Master Contract and Grant Action/Program Design & Financing Plan and to carry out the program subject to its provisions during the period July 1,

1992 to June 30, 1993.

3. This Agreement shall be incorporated into and shall govern the other agreements that expressly exist between the Local Agency and the Delegate Agency.

IN WITNESS WHEREOF, the Delegate Agency has caused this Agreement to be duly executed in its behalf and its seal hereunto affixed this _____ day of December, 1992, and thereafter the Local Agency has caused these presents to be signed and sealed by its Mayor, William W. Dickinson, Jr., duly authorized, this _____ day of December, 1992.

Signed, Sealed and Delivered
in the Presence of:

THE WALLINGFORD COMMUNITY
DAY CARE CENTER, INC.

BY:

Robert J. Wilson
Its President
Duly Authorized

TOWN OF WALLINGFORD

BY:

William W. Dickinson, Jr.
Its Mayor
Duly Authorized

Albert E. Killen
December 8, 1992

1. **Budget:** "A balance sheet or statement of estimated receipts and expenditures. A plan for the coordination of resources and expenditures. The amount of money that is available for, required for, or assigned to a particular purpose."
Black's Law Dictionary
2. **Ordinance:** "A rule established by authority; a permanent rule of action: a law or statute. In its most common meaning, the term is used to designate the enactments of the legislative body of a municipal corporation. An ordinance is the equivalent of a municipal statute, passed by the city council, or equivalent body, and governing matters not already covered by federal or state law. Ordinances commonly given zoning, building, safety, etc., matters of municipality."
Black's Law Dictionary
3. **Municipal Ordinance:** "A law, rule or ordinance enacted or adopted by a municipal corporation for the proper conduct of its affairs or the government of its inhabitants, e.g., zoning or traffic ordinances, building codes. Particularly a regulation under a delegation of power from the state."
Black's Law Dictionary
 - a. **Permanent:** "Continuing or enduring in the same state, status, place, or the like, without fundamental or marked change, not subject to fluctuation or alteration, fixed or intended to be fixed; lasting; abiding; stable, not temporary or transient."
Heath v. Dept. of Labor and Industries, 48 Wash. 2d, 843, 297P2d244, 246. Generally opposed in law to "temporary" but not always meaning "perpetual". Black's Law Dictionary
4. **Charter of the Town of Wallingford Connecticut, Chapter XV, Section 3, "Finance and Taxation":** Line 17 through 35
The wording "ensuing fiscal year" shows the intent of this section is to limit the time frame during which any act is valid. It flies in the face of the term "permanent rule of action." Add to this the absence of "money matters" as a matter normally contained in an ordinance. The logical conclusion is that a budget and an ordinance are separate entities which are neither synonymous or coterminous.
5. The term "budget" appears in the Charter index eight separate times covering a wide field and the term "ordinance" appears eleven separate times in the same index. The term "budget ordinance" is strangely missing from this same index. Chapter III, Section 6, which deals with public hearings on ordinances does not contain the term "budget ordinance" in the body of the section not in the title of said section.

Albert E. Killen

December 8, 1992

Page Two

Chapter III, Section 7 as carried in the Charter's table of contents, and as title of said section reads, "Approval of Ordinances and Appropriations by the Mayor, and Publication of Ordinances" Once more the hybrid term "budget ordinance" is totally lacking. One would be hard-pressed to make the argument that the duties of those involved in deciding which departments will receive how many dollars and how many tax dollars are necessary to accomplish this purpose should not be indexed or at least carried in bold print. The term "budget ordinance" appears five times in the Charter and only in Chapter III titled, "The Town Council". It is not by accident that it does not appear at all in Chapter XV, "Finance and Taxation". Chapter XV, Section 1 titled, "General Form of Budget Presentation" lacks the dual words "budget ordinance". Section 3 of said Chapter titled, "Duties of the Mayor on the Budget" is also silent in the title concerning "budget ordinance". Although the word "budget" appears five times in this section it is always singular. Section 4 titled, "Duties of the Council on the Budget" contains the word "budget" six times, again in the abridged form. Section 7 titled, "Expenditures and Accounting" mentions "budget" twice without including the term "ordinance."

In light of all this is it any wonder that I question the validity of the Town Attorney's reasoning in her letter to Chairwoman Iris Papale dated November 24, 1992. It is made clear in her letter that she believes that an ordinance can be amended without a public hearing. She cites McQuillan, Municipal Corporations as the source of such authority without quoting verbatim or citing case law or jurisdiction.

Her entire argument is based on her statement that "there is an exception to the general rule which provides that the Charter can provide a different method for amending the ordinance (emphasis mine) as long as it is clearly set forth in the Charter." Clearly is the key word here. "Chapter XV, Section 7, sets forth several different circumstances which result in an amendment to the budget" (emphasis mine). I fail to see how a chapter in the Charter dealing with the budget, specifically one section concerned with "Expenditures and Accounting" can be construed as clearly amending an ordinance (emphasis added).

This exception to the general rule is meant to show intent and if more attention had been paid to the reason for inserting the troublesome term "budget ordinance" in the Charter revision adopted on November 4, 1969 we wouldn't be at this cross-road.

The final sentence of the Town Attorney's opinion states, "Therefore amending the budget ordinance as outlined in Chapter XV, Section 7 does not require a public hearing." Absent the term "budget ordinance" from Chapter XV in its entirety and it becomes clear that this line of reasoning is defective and will not bear the burden of proof placed upon it.