

TOWN COUNCIL MEETING

MARCH 24, 1992

7:00 P.M.

SUMMARY

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#2g - Approve a Transfer of \$2,299 from Janitorial Service Acct. to Utilities - Dept. of Public Works	2
4. Approve and Accept Minutes of the 2/25/92; 3/10/92 and 3/16/92 Town Council Meetings	2
5. Approve Appointment of Robert Swick to the Inland Wetlands Commission to a Term that will Expire on March 1, 1997 and Approve Appointment of Nick Kerns to Fill the Vacancy on the Inland Wetlands Commission to Expire on March 1, 1994	2
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13. Discussion on the Town Attorney's Response to Mr. Killen's Letter Regarding the Mayor's Authority to Veto the Budget

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TOWN COUNCIL MEETING

MARCH 24, 1992

7:00 P.M.

A meeting of the Wallingford Town Council was held on Tuesday, March 24, 1992 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order at 7:06 P.M. by Chairperson Iris F. Papale. Answering present to the Roll called by Town Council Secretary Kathryn F. Milano were Council Members Doherty, Duryea, Killen, Papale, Parisi, Solinsky and Zandri. Councilors Holmes & McDermott were out of Town on business. Mayor William W. Dickinson, Jr. was present, Town Attorney Janis M. Small arrived at 7:25 P.M. and Comptroller Thomas A. Myers arrived after the start of the meeting. Town Clerk Kathryn J. Wall arrived at approximately 10:00 P.M. due to the Presidential Primary.

The Pledge of Allegiance was given to the Flag.

Consent Agenda 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. Parisi.

ITEM #2a Consider and Approve Merit Increases for Thomas Talbot, Cynthia Griffin, Vincent Mascia, Darrell York, Eva Lamothe, Ronald Chrzanowski and Walter Herrington, approved by the Mayor.

ITEM #2b Consider and Approve Tax Refunds (#164-196) Totalling \$7,542.03 - Tax Collector

ITEM #2e Consider and Approve a Transfer of Funds in the Amount of \$2,873 to 2 Giant Vac Leaf Loaders Acct. #001-5030-999-9952, from Stump Cutter, Acct. #001-5030-999-9050, \$773.; from Backhoe Loader, Acct. #001-5030-999-9947, \$600; from 4 Wheel Drive Pickup, Acct. #001-5030-999-9948, \$780; from Pain Ext. Steel Repair Truck, Acct. #001-5050-999-9914, \$300; from Inst. Electrical Mig Welder Acct. #001-5050-999-9916, \$120; and from 4 Ton Service Jack Acct. #001-5030-999-9918, \$300 - Dept. of Public Works

ITEM #2f Consider and Approve a Transfer of Funds in the Amount of \$1,000 from Utilities - Yalesville School Acct. #001-5230-200-2010 to Utilities - Civil Defense Acct. #001-5190-200-2010 - Dept. of Public Works

VOTE: All ayes; motion duly carried.

ITEM #3.2c Consider and Approve a Transfer of Funds in the Amount of \$3,000 from Police Cruisers Acct. #001-2015-999-9903 to Advertising Acct. #001-2015-400-4100 - Dept. of Police Services

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

Mr. Zandri questioned Asst. Chief Darrell York as to the nature of the request of transfer.

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Mr. York responded that State Statute mandates the publishing of a notice on an abandoned vehicle prior to the disposal and/or removal of it.

Mr. Zandri did not look favorably upon the fact that the State is mandating the Town to spend money, especially on this issue.

VOTE: All ayes; motion duly carried.

ITEM #3.2d Consider and Approve an Appropriation of Funds in the Amount of \$15,000 to Revenue: Tuition Severely Handicapped Acct. #1065-060-6140 and to Expenditures: Education Certified Salaries Acct. #8600-860-1110-Board of Education

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

VOTE: All ayes; motion duly carried.

ITEM #3.2g Consider and Approve a Transfer of Funds in the Amount of \$2,299 from Janitorial Service Acct. #001-5230-600-6290 to Utilities Acct. #001-5150-200-2010 - Dept. of Public Works

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

Mr. Killen asked this item be removed from the Consent Agenda so as to point out that the original request of funds to be transferred was \$3,000 which was changed to read \$2,299., however, the amount on the bottom of the transfer form was not changed.

VOTE: All ayes; motion duly carried.

ITEM #4 Approve and Accept the Minutes of the 2/25/92; 3/10/92 and 3/16/92 Town Council Meetings

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

VOTE: Killen and Zandri passed, all others, aye; motion duly carried.

ITEM #5 Consider and Approve Appointments (2) to the Inland Wetlands Commission to Fill One Vacancy and One Expired Term

Motion was made by Mr. Doherty to Appoint Mr. Robert Swick to a Term that will Expire on March 1, 1997, seconded by Mr. Solinsky.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Doherty to Appoint Nick Kerns to Fill the Vacancy on the Inland Wetlands Commission to Expire on March 1, 1994, seconded by Mr. Parisi.

VOTE: All ayes; motion duly carried.

ITEM #6 Consider and Approve the Appointment of Robert Hammersly to Fill a Vacancy in the Position of Alternate on the Zoning Board of Appeals to Expire on January 8, 1995

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

VOTE: All ayes; motion duly carried.

Mr. Papale stated that all appointees must wait two weeks prior to being sworn in by Town Clerk, Kathryn J. Wall.

ITEM #11 Motion was made by Mr. Doherty to Move Agenda Item #11 Up to the Next Order of Business, seconded by Mr. Parisi.

VOTE: All ayes; motion duly carried.

ITEM #11 Report Out From the Board of Tax Review as Requested by Timothy Reardon, Chairman of the Board of Tax Review

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

Mr. Reardon explained that he will have a list presented to the Town Council secretary by next week which will list the addresses, original assessment, new assessment and amount of reduction or increase of every appeal presented to the Board. He thanked all the individuals involved in the development of the revaluation process. A special note of thanks was extended to Tom Myers and the Financial Department of the Town as well as Frank Barta and his entire staff in the Assessor's Office. Without total cooperation of these departments, the hearings would not have proceeded as uneventful as they did. A total of 823 properties consisting of 92 commercial and industrial and 761 residential, and just about every dairy farm and orchard grower in the Town made appointments to have their appeal heard. Residential appointments lasted approximately 15 minutes while the commercial and industrial appointments lasted anywhere from 1/2 hour to 3 hours. The majority of the appeals were made on a basis of comparisons, cost replacement values and land values. Approximately sixty-five percent of the residential and fifteen percent of the commercial and industrial appeals received assessment relief. Total amount of relief was \$12,743,000 this being awarded equally between the two categories of the previously mentioned applicants. This amount is approximately equal to one-half of one percent of the grand list. The Board took various steps to arrive at the reductions made; one procedure involving taking a three year, 1988, 1989 and 1990 overall real estate values in the Town of Wallingford. From these the Board was able to determine that over a three year period, Wallingford real estate showed a decline of 0.87% per month, tapering off at the beginning of calendar year 1991. They used a value of approximately \$35 per square foot to determine fair market value of residences. To determine land values a similar approach was taken, adding a certain percentage for location. It can be disputed that this percent added is arbitrary because of recent sales of various locations in the community. The final factor considered is whether the properties were serviced with the Town utilities. The Board referred approximately 60 people to the Assessor's Office to apply for assistance under the elderly circuit breaker program. Of the total number of residential appeals, an additional 59 people are already receiving some sort of assistance

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from this program. It is from this that the Board concludes that there is a need for further study and additional programs to help our elderly residents. One major problem that does exist is, how to assess mobile homes. These properties were looked upon as motor vehicles. The State legislature passed them into the personal property category and now they are assessed at real property. Because of the age, size and the fact that these people rent the land, makes it very difficult to come up with a fair and just assessment. In comparison to some of the problems that we read about in surrounding communities, Wallingford is once again a shiny star in a somewhat cloudy sky. The Cole Layer Trumbull Company must be congratulated for a job well done. The number of appeals is proof that most of the residents were, if not happy, at least satisfied with the job done by Cole Layer Trumbull. He extended thanks to Al Bulmer and Sean McNamee, fellow Board Members, for an outstanding job and for all the long, hard hours they spent during this revaluation process.

Mr. Doherty asked what the normal procedure of the Board of Tax Review is when they hold their hearings in 1989 or 1990?

Mr. Reardon responded that it was very similar, they would look at properties very similar to the way they did this time. There is not an appointment process during non-revaluation years. The Board averages about 50-55 people that come in annually as well as a percentage of industry. The primary reason for residential appeals are due to major construction such as additions to the residences. The Building Department issues a permit and a value is placed on the structure which does not always meet the owner's expectations, therefore, the appeal. Normally they meet three nights in February and one Saturday in September. The September date is strictly for automobiles.

Mr. Doherty asked, did you go out and look at these properties?

Mr. Reardon responded, yes we did. We did that based on the Old Saybrook case. The revaluation process in Old Saybrook was thrown out.....

Mr. Doherty asked, did you go out and look at 823 properties?

Mr. Reardon answered, we looked at the properties that were reduced. Between the three Board members we made sure we saw the properties.

Mr. Doherty asked, in the past did you apply this survey of yours with this particular property value, 0.87% or \$35. per square foot?

Mr. Reardon answered, the \$35 per square foot, yes. Approximately 1% per month reduction in the market value of the real estate, I don't think that played into previous years as much as it did this time.

Mr. Doherty stated, it seems to me that we have had two revaluations in Wallingford; one conducted by Cole Layer Trumbull and the second conducted by the Board of Tax Review. If all the residents in Town knew that there was a special formula at 0.87% and \$35 per square

foot being applied by the Board of Tax Review, I think that you would have had triple the number of people that came before you to take a shot at this second revaluation that was being performed by your Board.

Mr. Reardon did not agree. Upon viewing the list you will see the original assessment, the decrease and how we arrived at the new assessment. You will understand why these properties were out of line.

Mr. Doherty asked Mr. Myers if Cole Layer and Trumbull took the same considerations in account, i.e., leaky basement, neighboring dilapidated properties, etc., when their assessment was performed on the properties?

Mr. Myers responded, it is my belief, yes.

Mr. Doherty: So if these things were taken into consideration by the reval team, why should the Board of Tax Review's assessment be any different than theirs? It was done very recently?

Mr. Reardon: Because we disagreed with the dollar amount per square foot that they came up with on some of the commercial areas, we disagreed with some of the assessments that they came up with in the residential area. The Board of Tax Review operates completely independent from the Assessor's Office as far as coming up with the numbers and completely independent from the Cole Layer Trumbull Company, and this is by State Statute. If we were to sit back and say that Cole Layer Trumbull did a perfect job, we would be remiss in our statutory obligation to hear everyone's complaint and appeal. There are 15,000 residences in this town and to allow only three (3) percent a reduction is not "giving away the store". For the most part the Board of Tax Review agreed with Cole Layer and Trumbull's assessments. Every single reduction and non-reduction decided upon by the Board can be justified once the numbers are made available to the Council.

Mr. Doherty questioned the fairness of the process. He felt that if the townspeople knew that the Board, in this year, were using their own little formula of 0.87% and survey, a great deal more would have appeared before the Board to appeal. They had nothing more to lose.

Mr. Reardon explained that every resident in town had the same opportunity to come before the Board. There was no discrimination what so ever. The Board held hearings over a span of many hours and days to accommodate everyone. This information appeared in the newspaper advertisements, and every effort was made to accommodate the resident's schedules when they called for an appointment. He admitted that there most likely are mistakes in assessments out there but if the residents don't question them, there is nothing that can be done. It is not the fault of the Board or Cole Layer and Trumbull. When human beings are involved in such a detailed process errors are bound to occur.

Mr. Doherty felt that there was a double revaluation performed in Wallingford; one by Cole Layer and Trumbull for everyone in town and a second revaluation done for people that managed to appear before the Board of Tax Review using a formula that was different than Cole Layer and Trumbull's.

Mr. Reardon defended the Board's position by explaining that some assessments were off by as much as 150 sq. ft. on a residence. When you begin to multiply that by \$35 per sq. ft. there is a margin for correction.

Mr. Doherty asked, what margin of correction was there with American Cyanamid and Dow Chemical? You reduced their assessment by \$1 million?

Mr. Reardon responded, that is correct. There is forty-two acres of land in American Cyanamid in the back that was assessed that runs up against the river. It is wetlands that can never be built upon. It was assessed at the same value as the acreage that the plant, itself, sits on. That land, although it does have some value to Cyanamid, it does not have the same value as a piece that can be developed on. The 100% reduction was made on that forty some odd acres of land that abuts the river. The reduction was not made on the building, nor on the personal property. Another example is a lumber yard located on Route 5. The acreage that the store is located on was assessed at the same value as the land that the Georgia-Pacific storage building is on. You cannot use the same value for land fronting Route 5 as you would for land that is located two buildings behind Route 5. A lot of the reductions made by the Board were, in his opinion, corrections and not merely formula reductions. He apologized, once again, for not having information available for the Council to view which would help them to better understand the reasons for reductions.

Mr. Zandri pointed out that if people feel that they missed their chance to appeal they will have a chance next year. If a reduction is warranted they will gain one for the next nine years. It is not as though they have no recourse for the next ten years.

Mr. Parisi felt that this revaluation went rather smoothly than the previous one ten years earlier. He explained that the newspaper printed an article that made residents feel that they should have appealed or contested their revaluation of their properties. He did not feel that it was anything that the Board did personally, but it was the way the information was presented to the public through the media that made them feel that they missed out on something.

Mr. Killen asked if the individuals who appealed to the Board of Tax Review first appealed to Cole Laver and Trumbull?

Mr. Reardon responded that the Board was the second step in the appeal process in ninety-seven (97) percent of the cases.

Mr. Killen asked if those individuals received any relief from Cole Laver and Trumbull?

Mr. Reardon answered, most of them did not.

The discussion and debate over the Board's methods for reductions vs. Cole Layer Trumbull's methods continued at great length.

Mr. Killen felt that Cole Layer and Trumbull perhaps did not do as good a job as they should have. For the money that they command, there should have been fewer errors. He asked Mr. Reardon if the Board looked back into the records to see how American Cyanamid was assessed previously?

Mr. Reardon stated that they had not. American Cyanamid felt that their land was worth \$15 million, we felt that it was worth \$30 million. The area of compromise was the wetlands. That was where the reduction was made.

Mr. Killen's final question was, did the Assessor view all the properties?

Mr. Reardon responded, to the best of his knowledge, if Mr. Barta did not personally view them then his assistants did.

Mr. Killen asked the Town Attorney if that method sufficed?

Atty. Small responded that she would have to speak with the Assessor and his staff to find out exactly what they did. She feels that if the staff did and he did, than that is sufficient.

Mr. Killen was adamant in pointing out that the State Statute specifically says that the property must be viewed by the Assessor.

Mr. Solinsky asked if any assessments were increased? Is this allowed?

Mr. Reardon answered, one assessment was increased. It is allowable by State Statute.

Mr. Solinsky then asked if everything is taken into consideration when reassessing a piece of property other than the original item that was the cause for reassessment?

Mr. Reardon responded, yes. For instance, properties located in the Pond Hill area have high tension wires crossing them, therefore that justifies a decrease. The street card never referenced high tension wires. The opposite holds true as well. If something of value has been added after the viewing of the property, that adjustment is made in the form of an increase.

Ms. Papale asked how long Cole Layer and Trumbull have been conducting the revaluation in Wallingford?

Mr. Reardon answered, 1 1/2 - 2 years. Mr. LaBarbara still visits once a week.

Ms. Papale asked if the Board reviewed any of the appeals with Cole Layer and Trumbull?

Mr. Reardon answered, yes, only on the large commercial appeals

Mr. Reardon pointed out that approximately forty (40) percent of the Board of Tax Review's budget will be returned to the Town. The Board did not draw its full salary and managed to keep the secretarial expenses to a minimum. This was an area of concern on the part of the Council at last year's budget hearings.

Mr. Reardon will forward the information to the Town Council Secretary once Mr. Barta returns from vacation. At that time copies will be made and forwarded to all Councilors and, if deemed necessary by them, the Council will question Mr. Reardon further on this matter at a future date.

Richard Parmalee, 738 North Farms Road echoed Mr. Doherty's opinion on the fact that most people were not aware of the 0.87% factor utilized by the Board of Tax Review and probably would have appealed their assessments had they known.

PUBLIC QUESTION AND ANSWER PERIOD

There was no participation on the part of the public.

ITEM #9 Remove From the Table to Discuss and Possible Act Upon a Request for Tax Abatement on Dairy Farm Property Pursuant to Public Act #90-270 - Mayor's Office

Motion was made by Mr. Killen to Remove the Item From the Table, seconded by Mr. Solinsky.

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

Motion was made by Mr. Doherty to Discuss a Request for Tax Abatement on Dairy Farm Property Pursuant to Public Act #90-270, seconded by Mrs. Duryea.

Mr. George Cooke explained that due to factors in the Dairy Industry which is regulated completely by the Federal Government, over the past years the prices have been declining dramatically to the farmer but not necessarily to the consumer. In his last two years of production, it has cost Mr. Cooke \$56,000 to work harder. In 1990 5 million pounds of milk were produced for which they were paid \$.14 per pound. In 1991 5,300,000 pounds of milk were produced for which they were paid \$.124 per pound. That coupled with the tax increases due have hit the farmers especially hard. The State of Connecticut has given the towns the opportunity to grant tax abatements to the dairy farmer.

Mr. Zandri asked if the costs are reflective of the hard economic times?

Mr. Cooke responded that the cost has not gone down to the consumer.

Mr. Zandri feels that all businesses are in hard times. It is diffi-

ult to single out one group to give them a tax break when every business in the town would like one.

Mr. Cooke appreciated Mr. Zandri's opinion.

Mr. Zandri was also concerned with the fact that farmland has been given tax breaks for many years simply because it is farmland. At some point in time, in the history of a family, the farmland gets passed on to family members and, in turn, those family members do not want to be in the farm business any more and turn around and get top dollar for the land for residential use. During these times perhaps the farmer should get a break but it should be a tax deferral and not an abatement and, at some point in time, if the land is used for anything other than farming, that the dollar amount get paid back to the community. When someone is being given a break, someone else is picking up the slack.

Mr. Cooke stated that the public act does state that the municipality may establish a recapture in the event of a sale providing such recapture should not exceed the original amount of the taxes abated.

Mr. Zandri asked if there was a time frame on that?

Mr. Cooke answered that it is retroactive ten years from the date the land sells.

Mr. Zandri asked if this will be approved by the town on a year to year basis?

Mayor Dickinson stated that we would have to draft the appropriate mechanism. It may require an ordinance or an annual vote for abatement, it is not clear at this point what that mechanism is right now. The Town Attorney will have to review it. There is very little information with the State Statute to advise us.

Mr. Doherty felt that the proposal was a good one, that an ordinance needs to be drafted with language included that allows for a recapture of taxes and that it should be voted upon annually. He pointed out that the town of Coventry has enacted a similar ordinance. It is important to maintain and save as many farms in the Town of Wallingford as possible. If by giving tax abatements we grant some sort of support and encouragement to the farmers to "hang in there" then it is worth it. The farms are a valuable asset to the town.

Mr. Killen supported the action.

Mr. Solinsky voiced his support of the action as well and asked the Mayor, when the rebate was figured, the dollar figure that we have, does that include a homestead on the farm?

Mayor Dickinson responded, no, the calculations were based only upon the farmland itself. The residence is not considered part of the dairy farm.

Mr. Solinsky thought it was fair and equitable.

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Edward Musso, 56 Dibble Edge Road felt that all farmers should be granted the same break.

Edmund Godek, 247 Benham Road, Yalesville asked the Council to consider the plight of the cattle farmers as well.

Ms. Papale acknowledged the correspondence from other farmers in town and suggested that they write their local legislators for tax abatement on their businesses since the town obtains its power from the State.

Mayor Dickinson did not feel an ordinance is necessary. The Town Attorney should review the matter to decide the appropriate mechanism for this matter.

Mr. Doherty made a motion for the Town Attorney to Look Into a Tax Abatement of up to Fifty (50) Percent on a Yearly Basis. This Tax Abatement will only Apply to Dairy Farmers Under Public Act #90-270 and Will Include a Recapture Provision of Up to Ten Years, seconded by Mr. Parisi.

VOTE: Holmes & McDermott were absent; Zandri, no; all others, aye; motion duly carried.

ITEM #12 Consider and Approve a Transfer of Funds in the Amount of \$45,000 to Parking Lot Doolittle Acct. #001-5031-999-9927 from Salt Account #001-5040-400-4550, \$15,000; from the Sand Acct. #001-5040-400-4580, \$15,000; and from the Snow Removal Overtime Acct. #001-5040-100-1400, \$15,000 - Dept. of Public Works

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

VOTE: Duryea, Holmes & McDermott were absent; all others, aye; motion duly carried.

Motion was made by Mr. Doherty to Approve the Transfer, seconded by Mr. Zandri.

Mr. Zandri asked specifically where the pavement is being placed?

Mr. Deak explained that it will be placed between the road and the ball field fence, the grassy area. The existing top soil will be removed, crushed stone will be deposited and paving will follow.

Mr. Zandri asked if drainage will be installed?

Mr. Deak answered that it has already been done.

Mr. Killen asked Mr. Deak where the request to do this work originated from?

Mr. Deak responded that complaints have been filed about the parking in the area.

Mr. Killen stated that this issue has never been brought before the Council until this evening when they are being asked to approve the

expenditure of funds.

Mr. Deak was under the impression that the Recreation Department had plans to install this parking lot several years ago.

Mr. Solinsky agreed with Mr. Killen in his feelings that the Council has been bypassed in the process. He asked why this expenditure was not submitted during budget time?

Mayor Dickinson explained that part of the reason was that we are heading into Spring and that means that there will be mud everywhere. We are trying to avoid that circumstance from time to time. It was approved for a stone base and blacktop.

Mr. Solinsky asked if Mr. Costello, Town Engineer, is aware of this work and has he approved it?

Mr. Deak answered, yes, it was approved, the plan was prepared by the Engineering Department.

Mr. Solinsky asked if this was approved by the Inland Wetlands Commission?

Mr. Deak responded, yes, by Inland Wetlands and Planning & Zoning.

Mr. Solinsky read from the Inland Wetlands minutes of December 18, 1991 to show that it was approved for a stone parking lot.

Mr. Deak disagreed and stated that it was approved for a bituminous paved parking lot.

Mr. Solinsky read, in detail, from the minutes once again. Those minutes refer to a memo by John Costello in which he states that it will be a stone parking lot.

Mr. Deak recalled that Planning & Zoning approved it at a later date.

Motion was made by Mr. Doherty to Declare a five minute recess so that the Town Council secretary could research the minutes of the Planning & Zoning Commission.

VOTE: All ayes; motion duly carried.

The January 13, 1992 Planning & Zoning minutes do not specify whether the parking lot is to be paved or crushed stone. There are no minutes on file in the office from the Inland Wetlands Commission since October of 1991.

Motion was made by Mr. Doherty to Table This Item Until the Inland Wetlands Commission and Planning & Zoning Commissions have approved the Doolittle Parking Lot with a Bituminous Paved Surface, seconded by Mr. Solinsky.

VOTE: Holmes & McDermott were absent; Zandri and Papale, no; Parisi passed; all others, aye; motion failed.

Motion was made by Mr. Zandri to Approve the Transfer with the Stipulation that it has Inland Wetlands Approval. There was no second to the motion.

Realty Acct., were for the purchase of the property and are the same in these accounts from bonding?

Mr. Myers explained that the money for the purchase is an authorized

expenditure of funds.

Mr. Deak was under the impression that the Recreation Department had plans to install this parking lot several years ago.

Mr. Solinsky agreed with Mr. Killen in his feelings that the Council has been bypassed in the process. He asked why this expenditure was not submitted during budget time?

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VOTE: All ayes; motion duly carried.

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VOTE: Holmes & McDermott were absent; Zandri and Papale, no; Parisi passed; all others, aye; motion failed.

Motion was made by Mr. Zandri to Approve the Transfer with the Stipulation that it has Inland Wetlands Approval. There was no second to the motion.

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Motion was made by Mr. Killen that the Appropriation be Approved Subject to the Fact that Inland Wetlands and Planning & Zoning have Already Approved the Plan for a Bituminous Paved Lot, seconded by Mr. Doherty.

The motion and second were withdrawn.

Motion was made by Mr. Solinsky to Table This Item Until the Next Meeting, seconded by Mr. Doherty.

VOTE: Zandri & Papale, no; all others, aye; motion duly carried.

ITEM #10 Remove From the Table to Consider and Approve a Transfer of Funds in the Amount of \$9,035 for Site Assessment Work at the Wooding and Caplan Properties - Town Attorney's Office

Motion was made by Mr. Doherty to Remove the Item From the Table, seconded by Mr. Parisi.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Doherty to Approve the Transfer, seconded by Mr. Parisi.

Mr. Doherty explained that the transfer will be from Debt Administration Acct. #063-6300-800-8100 to Wooding Property Acct. #063-6300-600-6001, \$6,024 and to Wallace Realty, Inc. Acct. #063-6300-600-6002, \$3,011 for a total of \$9.035.

Mr. Solinsky asked when the town will receive the balances due from other parties to pay this bill?

Corporation Counselor, Adam Mantzaris responded that it will be in the form of a credit at the closing on the property. If there is no closing he is not sure when we will receive it. The town contracted with the McGuire Group to have the study done and to pay for it. We have a contribution of \$5,000 from Wooding and \$2,500 from Wallace Realty for the study. He explained that \$5,000 will be taken from the \$1,050,000 we have contracted to pay Wooding and \$2,500 from the \$425,000 we have contracted to pay Wallace Realty to pay the full \$16,000 bill to McGuire Group.

Mr. Solinsky asked why can't we get the money up front?

Atty. Mantzaris explained that the problem with that is that the sellers have been unhappy with how long it has taken to perform the study. He did not think it was a realistic prospect for them to hand the money over up front. The usual way to handle this is at the closing in the way of a credit.

Mr. Zandri asked if both accounts, Wooding Property Acct. and Wallace

bond issue.

Mr. Zandri then asked, is this allowable?

Mr. Myers: Yes. The cost of any studies or any other incidental costs attributable to acquiring the property would be considered a cost of acquisition and are allowable expenses under the bond authorization.

Mr. Solinsky asked if the bonds have been sold yet?

Mr. Myers answered, no, but the authorization on the bonds constitutes an appropriation of money.

VOTE: All ayes; motion duly carried.

ITEM #13 Discussion on the Town Attorney's Response to Mr. Killen's Letter Regarding the Mayor's Authority to Veto the Budget as Requested by Councilor Killen

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

Mr. Killen referred to his letter written on February 28, 1992 to Town Attorney Janis Small and her responses dated March 3 and March 23, 1992, respectively (see Addendum #1). He explained that he has been very unhappy that the budget has been vetoed in the past three years and has been trying to find ways to get around it and, in so doing, has studied the Charter over and over again to try to read into it exactly what the intent of it is. When he got to the section that addresses the issue of the Council failing to adopt a budget, it occurred to him that the Council does adopt a budget which led to his correspondence to the Town Attorney. He pointed out the time constraints placed upon the Council should it have to finally adopt the Mayor's budget, it would have to be done on the second Tuesday of May. For the Council to be able to adopt it and the Mayor exercises his power to veto it, for the Council to override his veto takes up between twenty and thirty days. It cannot all be done in the same time period, Mr. Killen stated. He is of the opinion that the passage which states, the Mayor will adopt a budget should the Council fail to do so, is a failsafe. He agreed to withdraw this item if the Town Attorney requires additional time to research the time constraints.

Atty. Small stated that, obviously there is a difference of opinion on this subject and she has not changed her mind from what she has written. She stated that she is in need of a few more days to research the aspect of time constraints. She promised to try and have a response by Friday, if not then definitely by Monday.

No action was taken.

ITEM #14 Discussion and Possible Action on the Designation of One Specific Area for Smoking in All Town Buildings Which Does Not Infringe Upon the Rights of the Non-Smoking Population as Requested by Councilor Susan S. Duryea.

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

Kathryn J. Wall, Town Clerk, announced the results of the Presidential Primary Election as follows:

<u>Democrats</u>		<u>Republicans</u>	
Harkin	- 17	Bush	- 667
Kerrey	- 25	Buchanan	- 204
Brown	- 898	Duke	- 13
Clinton	- 665	Uncommitted	- 34
Agran	- 24		
Tsongas	- 309	Total	918
LaRoche	- 1		
McCarthy	- 10		
Uncommitted	- 44		
Total	1,993		

Mrs. Duryea explained that in February of 1991 surveys were mailed to all town hall departments for input from the employees that would help identify problems that may need to be addressed. Besides the problems with the heating and air conditioning, smoking was another concern of the employees. It is because of the concerns raised by the employees Mrs. Duryea is bringing this issue before the Council tonight. She hoped that between the Mayor and Council these concerns could be addressed.

She has found that there are two smoking areas in the town hall and feels that one is more than adequate. She conducted a telephone poll of town departments to find that the Police Department has a designated area for smoking in its lower level, smoking in the rest rooms are prohibited; the Fire Department has a separate room for smokers, there is no smoking in any of the rest rooms; the Public Utilities Division has a separate room for smoking with an exhaust fan, smoking in the rest rooms are prohibited; the Engineering Department, as of 2/23/92, has prohibited smoking in the building, all smokers must go outside; smoking is prohibited in the Park and Recreation Department including the rest rooms. Community Day Care in Simpson School has a pilot program for before and after school and there is smoking allowed in the room with the children. That has to be addressed immediately. The staff was smoking in the hall and the Park and Recreation Department staff approached them and they no longer smoke in the hall but continue to do so in the classroom. There is a State Statute which regulates day care centers and group day care homes which states that there will be no smoking in the presence of children.

Located on the first floor of the town hall is a room built specifically for smoking. Smoking also takes place in the second floor handicapped rest room. She stated that she suffers from second hand smoke allergies all the time and knows first hand the effects it has on the non-smoker. The town hall is the only town owned building that allows smoking in rest rooms. These rest rooms are also used by the public attending meetings or paying bills, etc., Non-smokers are subjected to secondary

back in this area. She realized that there are other rest rooms available but one on the basement level has a sign posted on the door which asks the public to please use the rest rooms on the first and second floors.

The second floor rest rooms are handicapped accessible and, therefore, would be the most logical place for the public to use. Also, most town meetings are held in the Town Council Chambers or surrounding areas. When she enters the hallway behind the chambers it is filled with smoke from the ladies room. She doesn't care who the smokers are, she does not want to be subjected to someone else's smoke. We need to address the rights of the non-smoker. She has researched the harmful effects that second-hand smoke has on the non-smoker and has documented information from the Surgeon General's Office supporting the claims. It is an important issue that should not be treated lightly. We are not talking about taking away all smoking areas but rather limiting the areas where smoking is allowed. She asked the Mayor and Council to support her in designating one area of the town hall for smoking and that it not be the second floor rest room area.

Mr. Killen supported Mrs. Duryea one hundred percent (100%). He asked the Mayor if this problem will be solved?

Mayor Dickinson responded, as I have stated earlier, I prefer that there be no smoking in the building at all. Realistically, I don't know if that is enforceable. We have designated two areas for smoking, one is the second floor ladies room and the other is the first floor smoking room. My understanding is that the first floor smoking room is almost never used.

Ms. Wall responded that it is, she uses it personally.

Mayor Dickinson clarified his statement to mean in terms of frequency it is not used. Anything you do will have repercussions. If the Council decides that they don't want smoking in the second floor rest room, I am happy to be aware of that and we can post it. I don't necessarily feel that any action will solve problems. It is a complicated issue and we dealt with it at an earlier time and limited the two areas. If the majority feeling is that there should be one area, then we will look to implement that.

Mrs. Duryea responded that no action can be very harmful also to the non-smokers. I am not here to protect the smokers, but to address the issue for the non-smoker. She read from the Clean Indoor Air Act under Worksites which states, "the law allows employers to make their entire facility non-smoking". She then read excerpts from the American Lung Association the following, "employers have a legal right to restrict smoking in the workplace, to ban smoking altogether in the workplace or to decide not to hire smokers". "The legal system has not acknowledged a right to smoke and the courts thus far have refused to grant employees any special smoking privileges." I would like to leave some of this with you Mayor, it is very important to address this with you.

Mayor Dickinson: Again, I am aware of those things. The issue is the rights of the employee who smokes.

Mrs. Duryea: They have a designated smoking area. May I ask you one thing? May I ask you why every other town department in the Town of Wallingford does not allow smoking in the rest rooms and we do?

Mayor Dickinson: We made an effort to come up with designating areas that would be agreeable to those who smoke to the extent that enforcement would be effective. Changes in that may result in effective enforcement situation or it may not but that is the reason that the action was taken. There certainly was not an agreement amongst employees as far as one area. We made an effort to supply two areas. It is very easy to say, no smoking, and very difficult to enforce. The issue is one that every school faces. Enforcement becomes an issue and when you have an issue of this kind that people become very adamant on both sides of the question it is best to choose a course that will allow people to be as much in agreement as possible and voluntarily comply with the rules and guidelines. That is the effort that we made and if that is not something that everyone is willing to agree to at this point, I am happy to skewer another proposal and see what happens with that.

Mr. Killen: Bill by nature you are a very cautious man, I am very well aware of it and the way that you are approaching this shows that you have always been a cautious man. Time and again you have warned us of our liabilities in certain situations. We have liabilities in this case, we have people who have allergies, heart problems, etc., and we are allowing something to go on in their workplace. They have a damned good case against us. We are aware of the situation and are allowing it. The law says that we can make it a smoke-free building and we have designated one room for that purpose. When I visit this building I find several employees courteous enough to go outside to do their smoking. Why we have to allow a few who want to use that room to endanger the lives of other people or make them ill, I don't understand. To me that is a very selfish attitude and we should not stand for it. I am not out to punish anyone who smokes, not having smoked it is easy for me to say, but I am aware that there are courteous smokers who do their best not to bother other people. I wish they all had that attitude.

Ms. Papale: I have been in this building more in the past month than I used to be. What has been done in that ladies room? I ask because I still can tell that smoking has taken place. It does not seem to be as strong as it used to be. Has another fan been put in?

Mayor Dickinson: Yes there was and there has been some discussion about putting a larger one in there.

Ms. Papale: It is working but not as good as it should be for a designated smoking area.

Mayor Dickinson: I don't know what else to say on the issue. We have made efforts to try to accommodate everyone when we first moved in here, we made it a non-smoking building, we recognize that we could

certainly say no smoking in the building. Of course the result would have been that we would have had smoking everywhere in the building, enforcement being the problem. We designated areas and have existed this way since 1987, it is an issue now, we can make a change, anything is possible.

Mrs. Duryea: We are still running around in circles here, as usual. We are addressing getting rid of the smoke, not addressing the non-smoker. We are worried about getting smoke out of the rooms. We are still not addressing the person that doesn't smoke that goes in there and is subjected to the smoke, when the smokers can, indeed, go down to a room that was built for them specifically. We are not saying, go outside. We are asking that they go downstairs to a designated area that does not effect the public or non-smokers. I realize that there has been an effort made to exhaust the smoke out but it is not working. I don't have any reason to go down to the first floor area but I do have to use the ladies room.

Mayor Dickinson stated that, if his memory served him correctly, the first floor area was deemed inadequate for the number of smokers.

Mrs. Duryea asked if they all go in there at one time?

Mayor Dickinson answered, at this point they don't because there are two rooms being used.

Mrs. Duryea stated, anyone who really cares about someone else's health, I can speak for Kate Wall since all this has come about, Katie has been courteous enough to go outside...I would really like to commend her for that....anyone else that cares will do the same thing. Yes, you are going to have a few people who will go in and smoke twice as much. For those people I am very sorry.

Mr. Edward Musso, 56 Dibble Edge Road spoke in favor of the smokers. He feels that smokers have as many rights as non-smokers.

Ms. Papale asked, how many rest rooms are there in the town hall?

Mayor Dickinson responded, one on each floor.

Ms. Papale asked if a poll was taken of the town hall departments to see how many people were bothered by this?

Mrs. Duryea responded, no.

Ms. Papale asked how this area came to be a designated smoking area?

There was no answer to Ms. Papale's question.

Mr. Zandri pointed out that Northeast Utilities will be moving into a new office building that will hold 1,500 employees. There is no smoking in the building what so ever in any room.

Ms. Papale asked, what happens if someone is caught smoking?

Mr. Zandri answered, they have to go outside. There will be measures taken.

Mrs. Duryea read from the Surgeon General's literature the following information: "Exposure to environmental tobacco smoke poses significant health risks to non-smokers. The U.S. Surgeon General and the National Academy of Scientists have concluded that passive smoking is a cause of lung cancer in non-smokers. In the words of the Surgeon General, a substantial number of lung cancer deaths that occur among non-smokers can be attributed to involuntary smoking." This is what Mrs. Duryea is addressing this evening. It has to be put back in the Mayor's lap, there needs to be no more discussion on it. She urged the Mayor's and Council's support on this issue.

Mr. Lester Slie, 18 Green Street stated that in his family he has five sisters and six brothers. Out of the brothers, three of their wives chain smoked. His three brothers are hospitalized because, according to the doctors, they have inhaled the smoke from their wives and they now have asthma and other complications. He asked the smokers to be courteous to the people who do not smoke.

Mr. Philip Wright, Sr., 160 Cedar Street felt that the Mayor is likening the adults in the town hall to the children that go to school. He did not feel it was proper. He asked if it was permissible for a department to spend the town's money to change the design of equipment without coming before the Council for approval? If money has been spent to put a bigger, different fan in there, it is an expenditure that should be approved, is this correct?

Ms. Papale responded that we were aware of it.

Mr. Wright asked, did the Council approve the expenditure of money to change the fan in that ladies room?

Mayor Dickinson felt that it would not have to happen if it is part of the maintenance of the building.

Mr. Wright asked if the same size fan was used or replaced?

Mayor Dickinson stated that maintenance can require the repair or enhancement of a system where it is not working adequately. The problem was that it was not removing the smoke, it was not properly ventilated.

Mr. Wright went on to say that upon listening to the Democrats and Republicans on T.V. today, everyone is looking for change. Let us change something for once and see what happens. Let's go for a change and take a bold step of saying, no smoking except in the room that was designed for it. Let the chips fall where they may. Don't anticipate that everyone is going to cheat and there will be union grievances.

Sharon Sanders, 100 Franklin Street stated that she understood where the Mayor is coming to. She cannot understand how Northeast Utilities will enforce their rule. She works for S.N.E.T. and they have a designated area but people smoke in the ladies room, men's room, etc. Smoke alarms were put in, batteries were taken out. These are adults doing this. She agreed that there should be only one room but did not see how it can be stopped.

adults do not obey rules, unfortunate but true.

Mr. Zandri feels that if the rule is broken, it is up to a supervisor to make sure the rules are understood. I would hope that adults act as such and will not have to be treated like grammar school children. Until this is posted as a non-smoking room we will continue to have this problem.

Mayor Dickinson: If the Council feels that we should have one area and not two, I am happy to comply and post it as a no smoking area.

Mr. Killen: We have tried carrying the smoke away and it did not work, let's try to prohibit smoking in the room.

Ms. Papale: It is worth a try.

Mrs. Duryea made a motion to Designate One Specific Area for Smoking in the Town Hall Which Does Not Infringe Upon the Rights of the Non-Smoking Population and to Exclude all Rest Rooms, seconded by Zandri.

VOTE: Holmes & McDermott were absent; all others, aye; motion duly carried.

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

VOTE: All ayes; motion duly carried.

There being no further business, the meeting adjourned at 10:28 P.M.

Meeting recorded and transcribed by:

Kathryn F. Milano

Kathryn F. Milano, Town Council Secretary

Approved by:

Iris F. Papale

Iris F. Papale, Chairperson

April 14, 1992

Date

Kathryn J. Wall

Kathryn J. Wall, Town Clerk

April 14, 1992

Date

TOWN COUNCIL MEETING

MARCH 24, 1992

7:00 P.M.

AGENDA

1. Roll Call & Pledge of Allegiance
2. Consent Agenda
 - a. Consider and Approve Merit Increases Approved by the Mayor
 - b. Consider and Approve Tax Refunds (#164-196) Totalling \$7,542.03 - Tax Collector
 - c. Consider and Approve a Transfer of Funds in the Amount of \$3,000 to Advertising - Department of Police Services
 - d. Consider and Approve an Appropriation of Funds in the Amount of \$15,000 to Accept Tuition Payments from Other Towns Towards the Severely Handicapped Student Program - Board of Education
 - e. Consider and Approve a Transfer of Funds in the Amount of \$2,873 to Purchase 2 Giant Vac Leaf Loaders - Dept. of Public Works
 - f. Consider and Approve a Transfer of Funds in the Amount of \$1,000 to Utilities - Civil Defense - Dept. of Public Works
 - g. Consider and Approve a Transfer of Funds in the Amount of \$2,299 to Utilities - Dept. of Public Works
3. Items Removed From the Consent Agenda
4. Approve and Accept the Minutes of the 2/25/92, 3/10/92 and 3/16/92 Town Council Meetings
5. Consider and Approve Appointments (2) to the Inland Wetlands Commission to Fill One Vacancy and One Expired Term
6. Consider and Approve the Appointment of Robert Hammersley to Fill a Vacancy in the Position of Alternate on the Zoning Board of Appeals to Expire on January 8, 1995
7. Consider and Approve Appointments (2) to the Committee on Aging for a Term of Three Years
8. PUBLIC QUESTION AND ANSWER PERIOD - 7:30 P.M.
9. Remove From the Table to Discuss and Possibly Act Upon a Request for Tax Abatement on Dairy Farm Property Pursuant to Public Act #90-270 - Mayor's Office

(OVER)

10. Remove From the Table to Consider and Approve a Transfer of Funds in the Amount of \$9,035.00 for Site Assessment Work at the Wooding and Caplan Properties - Town Attorney's Office
11. Report Out From the Board of Tax Review as Requested by Timothy Reardon, Chairman of the Board of Tax Review
12. Consider and Approve a Transfer of Funds in the Amount of \$45,000 to Parking Lot Doolittle - Dept. of Public Works
13. Discussion on the Town Attorney's Response to Mr. Killen's Letter Regarding the Mayor's Authority to Veto the Budget as Requested by Councilor Albert E. Killen
14. Discussion and Possible Action on the Designation of One Specific Area for Smoking in All Town Buildings Which Does Not Infringe Upon the Rights of the Non-Smoking Population as Requested by Councilor Susan S. Duryea