

10-8-02

TOWN COUNCIL MEETING

SEPTEMBER 10, 2002

6:30 P.M.

AGENDA

Blessing

1. Pledge of Allegiance and Roll Call
2. Correspondence
3. Presentation of Jackets to the Lyman Hall High School Baseball Team CIAC Class L State Championship 2002
4. Consent Agenda
 - a. Consider and Approve Tax Refunds (#92-120) – Totaling \$10,047.31 – Tax Collector
 - b. Approve & Accept Minutes of the April 9, 2002 Town Council Meeting
 - c. Approve and Accept Minutes of the July 17, 2002 Special Town Council Meeting
 - d. Consider and Approve a Request from the First Congregational Church United Church of Christ for Use of the Parade Grounds on September 8, 2002 from 8:00 a.m. to 12 Noon for “Catch the Spirit Sunday” Activities
 - e. Note for the Record Mayoral Transfers Approved To Date
 - f. Note for the Record Anniversary Increases Approved by the Mayor
 - g. Consider and Approve a Transfer of Funds in the Amount of \$24 from Office Supplies Acct. #001-1400-401-4000 to Overtime Account #001-4001-101-1400 in the F.Y. 2001-02 Budget of the Parks & Recreation Department

- h. Consider and Approve a Transfer of Funds in the Amount of \$36 from Office Expenses and Supplies Acct. #001-7020-401-4000 to Regular Wages & Salaries Acct. #001-7020-101-1000 in the F.Y. 2001-02 Budget of the Zoning Board of Appeals
- i. Consider and Approve a Transfer of Funds in the Amount of \$59 from Office Supplies Acct. #001-6030-401-4000 to Overtime Acct. #001-6030-101-1400 in the F.Y. 2001-02 Budget of the Town Clerk's Office

5. Items Removed from the Consent Agenda

6. PUBLIC QUESTION AND ANSWER PERIOD

7. PUBLIC HEARING to Consider Amending Ordinance #494 Entitled, "Noise Ordinance" as Requested by Ordinance Committee Co-Chairman Stephen Knight - 7:45 P.M.

8. PUBLIC HEARING to Consider Amending Chapter 210 of the Code of the Town of Wallingford Entitled, "Tree Warden" as Requested by Ordinance Committee Co-Chairman Stephen Knight - 8:00 P.M.

9. PUBLIC HEARING to Consider Amending Section 198-16 of the Code of the Town of Wallingford Entitled, "Removal of Tree Limbs, Branches and Other Rubbish" as Requested by Ordinance Committee Co-Chairman Stephen Knight - 8:15 P.M.

10. Discussion and Possible Action Regarding the Appointment of an Auditor for Fiscal Year Ending June 30, 3003 as Requested by Councilor Mike Brodinsky

11. Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes with Respect to the Purchase, Sale and/or Leasing of Property - Mayor

TOWN COUNCIL MEETING

SEPTEMBER 10, 2002

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, September 10, 2002 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. Parisi at 6:32 P.M. Answering present to the Roll called by Town Council Secretary Kathryn F. Zandri were Councilors Brodinsky, Doherty, Knight, Papale, Parisi, Rys, Toman & Vumbaco. Councilor Gerald E. Farrell, Jr. was vacationing out of the country; Mayor William W. Dickinson, Jr., Assistant Town Attorney Gerald E. Farrell, Sr. and Comptroller Thomas A. Myers were also in attendance.

A blessing was bestowed upon the Council by Rev. Dean Warburton of the First Congregational Church United Church of Christ.

The Pledge of Allegiance was given to the Flag.

ITEM #3 Presentation of Jackets to the Lyman Hall High School Baseball Team CIAC Class L State Championship 2002

Mayor Dickinson and Chairman Parisi extended congratulations to each team player as they approached the stage to accept their jackets.

Coach Chuck Burkhardt, along with Assistant Coaches Dave Kennedy and Mike Burkhardt, each received a jacket and a personal handshake and congratulations from the Mayor and Chairman.

ITEM #4 Consent Agenda

ITEM #4a Consider and Approve Tax Refunds (#92-120) – Totaling \$10,047.31 – Tax Collector

ITEM #4b Approve & Accept Minutes of the April 9, 2002 Town Council Meeting

ITEM #4c Approve and Accept Minutes of the July 17, 2002 Special Town Council Meeting

ITEM #4d Consider and Approve a Request from the First Congregational Church United Church of Christ for Use of the Parade Grounds on September 8, 2002 from 8:00 a.m. to 12 Noon for “Catch the Spirit Sunday” Activities

ITEM #4e Note for the Record Mayoral Transfers Approved To Date

ITEM #4f Note for the Record Anniversary Increases Approved by the Mayor

ITEM #4g Consider and Approve a Transfer of Funds in the Amount of \$24 from Office Supplies Acct. #001-1400-401-4000 to Overtime Account #001-4001-101-1400 in the F.Y. 2001-02 Budget of the Parks & Recreation Department

ITEM #4h Consider and Approve a Transfer of Funds in the Amount of \$36 from Office Expenses and Supplies Acct. #001-7020-401-4000 to Regular Wages & Salaries Acct. #001-7020-101-1000 in the F.Y. 2001-02 Budget of the Zoning Board of Appeals

ITEM #4i Consider and Approve a Transfer of Funds in the Amount of \$59 from Office Supplies Acct. #001-6030-401-4000 to Overtime Acct. #001-6030-101-1400 in the F.Y. 2001-02 Budget of the Town Clerk's Office

ITEM #4j Motion was made by Mr. Knight to Approve the Consent Agenda as Presented, seconded by Mr. Toman.

VOTE: Farrell was absent; all ayes; motion duly carried.

ITEM #5 Withdrawn

PUBLIC QUESTION AND ANSWER PERIOD

Pasquale Melillo, 15 Haller Place, Yalesville asked if a report out by the Pension Commission will be scheduled as an agenda item as Chairman Parisi promised it would at a future meeting?

Chairman Parisi replied that the office is working on contacting the Commission members for their attendance at the next meeting.

Jack Agosta, 505 Church Street, Yalesville inquired about the Town-Owned American Legion Building.

Mayor Dickinson stated that there is presently an order from the court (injunction) prohibiting the demolition of the building pending a hearing on the matter.

Mr. Agosta asked if anyone has gained access to the building?

Mayor Dickinson replied that both Public Works and the Town Attorney has.

Mr. Agosta asked if the Mayor ordered Public Works to begin tearing the inside of the building apart?

Mayor Dickinson stated that he was aware that Public Works was in the building and that there was an interest in saving some of the interior design work.

Mr. Agosta felt that Public Works should not be allowed in the building.

Joseph Ferrara, 185 South Main Street stated that he felt the Council should change its rules to prevent the same six or more speakers who attend each meeting from speaking on each and every agenda item just to hear themselves speak. The Public Question and Answer Period could be extended by fifteen or so extra minutes in lieu of having the right to speak on each agenda item. He felt the Town is run very well and if it wasn't being managed properly the auditorium would be filled at each meeting. There is sarcasm in each of the questions asked.

Chairman Parisi agreed. He stated that no one wants to be the bad guy and bring the issue up and limit public input.

Mr. Toman stated, sometimes people forget that the United States and agencies such as this are a republic and not a pure democracy. We elect people to represent us.

Mr. Melillo was offended by Mr. Ferrara's statements.

On a separate matter, Mr. Melillo reminded Mayor Dickinson that at the last meeting he asked about PP&L/Wallingford Energy and how the entity is involved with the Town. He asked for an update from the Mayor.

Mayor Dickinson stated that he answered the question at the last meeting. He did not feel that he had to supply an explanation of PP&L's corporate structure and its various holding companies.

Geno Zandri, 9 Balsam Ridge Circle explained that PP&L is not associated with the Town. The electric plant has nothing to do with the Town of Wallingford.

Mr. Agosta stated that tomorrow is the first anniversary of the September 11th terrorist attacks. The public should have the right to free speech and to question their government. He felt Mr. Ferrara's comments were uncalled for. He did not want his right to free speech taken away.

Chairman Parisi stated, everyone has a right to their own opinion. The Council has heard many opinions this evening and will carry on with their meeting.

Robert Sheehan, 11 Cooper Avenue asked his standing three month question; who owns the West Dayton Hill Road dam?

Mayor Dickinson replied that the D.E.P. Hearing Examiner has ruled that the Town and two adjacent property owners on West Dayton Hill Road own the dam only for the purpose of the D.E.P.'s order of repair. The three entities are liable for repairs to the dam, according to the D.E.P. The Town Attorney will bring the matter to the Town Council at a future meeting. They made no determination on the larger question of who the owner is. It is only for the purpose of the order. We definitely don't agree with the position of the D.E.P., Mayor Dickinson stated. None of the property owners want to be responsible for repairing the dam. The State order requires the Town and two owners to repair the dam.

Mr. Sheehan asked, we have to?

Mayor Dickinson answered, that is correct.

Mr. Sheehan asked, how much will it cost to fix the dam?

Mayor Dickinson replied that it will cost in excess of \$100,000 but is not sure exactly how much.

Mr. Sheehan asked if the Town is still litigating the State's decision?

Mayor Dickinson answered, the Town Attorney will be bringing the matter to the Town Council in the future.

Fred DeAngelo, 146 Cooke Road approached the Council for assistance with an ongoing noise problem he has been experiencing. He stated that his neighbor has constructed an indoor shooting range and the activity takes place any hour of the day and night and also on weekends as well as weekdays. It is a breach of peace. He has spoken to the Chief of Police about the problem and has received a written reply stating that the activity is lawful. He is upset that nothing is being done and alleges that someone at the police department is tipping off the owner of the property when Mr. DeAngelo calls in a complaint. There are also ATVs and/or motorcycles operating all hours of the day and night as well. It is extremely disruptive and disturbing. On one occasion as soon as he hung up the phone with the Police Department the neighbor came outside to tell her sons to, "turn off the bikes the police are coming." He alleges that as soon as the phone call to the department ends, the annoying activity ceases within a minute or so later. Mr. DeAngelo states that he knows for a fact that there was no radio communication regarding the complaint and that an officer was dispatched from the station when the call came in which begs the question, how is the resident being warned that the police are on their way regarding a nuisance complaint? His property, although valued at \$500,000 is worthless due to the nuisance caused by neighbors. He stated that he cannot bring himself to pay his property taxes on property that is worthless. He felt this problem of ten years has gone on long enough.

Chairman Parisi agreed to meet with Mr. DeAngelo regarding the matter. He asked if Mr. DeAngelo has discussed the matter with the Mayor.

Mr. DeAngelo was very displeased with the Mayor and did not want to meet with him on this matter.

Mr. DeAngelo left copies of Chief Dortenzio's letter as well as other pertinent information to the issue with the Town Council secretary who will distribute copies to all Councilors.

ITEM #10 Discussion and Possible Action Regarding the Appointment of an Auditor for Fiscal Year Ending June 30, 2003 as Requested by Councilor Mike Brodinsky

Mr. Brodinsky stated, it is a function of the Council during May or June of each year to appoint an auditor and typically it is done during budget discussions. This year it was not done so the appointment of the auditor for the next fiscal year is still up in the air. For the past two years I have suggested that the auditing contract go out to bid but that idea was rejected by a majority of the Council. We have had the same auditor for approximately 18-19 years. The auditor contract has never gone out to bid. It was established during our last debate on this issue that if we put the auditor contract out to bid the Town would, in all probability save money. It was also established that there is a pool of qualified auditors that are available to audit a town such as Wallingford with its own utilities. The issue is, why not send it out to bid if we can save money? If there are qualified candidates out there, why not do it? There is some suggestion that we stay with the same auditor forever until something bad may happen and if nothing happens than just stay with the same firm forever. Across the industrialized world there has been a very strong school of thought that there is nothing to fear from rotating auditors on a periodic basis. Some very intelligent people have argued that there are some benefits to be gained by doing so. Sending it out to bid does not necessarily equate to rotating auditors because the present auditor that we have may be the lowest bidder. The two concepts should not be equated. The arguments in favor of rotating auditors are along the lines that an auditor should be a professional skeptic. It can be difficult for an auditing firm that has a contract that has been in place for 18-19 years and there is a perception that it is politically protected, it may be difficult for that auditor to be a professional skeptic, maybe not, maybe they can be. Those who argue in favor of auditor rotation say that changing auditors can be healthy because it can tend to break up cozy relationships and an element of predictability. If an auditing firm does the same thing in the same way every year, and I am not saying that our present auditor does, but if an auditing firm does the same thing in the same way, asks the same questions, looks to the same kind of transactions and becomes utterly predictable, then there is the opportunity for the entity being audited, whether it is a private organization or a government to sort of relax because they know what is coming. Some say that an auditing firm should change its position, its approach, its questions, the style of examination, maybe not every year but frequently to keep everyone on their toes. Balancing all of these factors in the year 2000 & 2001, I and Councilman Vumbaco, suggested that this be put out to bid to save the Town some money; there are qualified people out there and that idea was rejected. If we don't send it out to bid, there are two other alternatives; one is to re-appoint by majority vote of this Council, the same auditor that we have had for years, or the other alternative would be some hybrid, I suppose,

between sending it out to bid and appointment. Rather than getting bids, they would be R.F.P.s (Request for Proposals), getting them in, screening them, having somebody make the selection and since it is a Council appointment I suppose under this hybrid system there would be members of the Council or someone appointed by the Council to screen the proposals and then make the appointment. Going out to bid is the best choice. The worst choice would be this hybrid situation because what that would do is create the appearance that the auditor is being selected maybe on the basis of personality, or maybe for the wrong reasons. It may create the appearance that there is a possibility of political influence. Is this Council in a position to be a screening committee? Can any members of the Council sit down and interview an auditing firm and ask them technical questions about municipal finance and auditing; see how they handle the questions; see if they answer the questions correctly; can we really test their skill and expertise by interviewing these people on the basis of their answers, determine which is the best auditor? I don't think so. It can't be done. The appearance of that going on would be nothing but a charade and if there was some sort of screening process, the only possible way the Council could select an auditing firm on the basis of an interview is personalities. You can review the bid price but under the R.F.P. system you can reject the lowest price, reject any one you want; you can select the highest price and say that you have interviewed the candidates and like a particular firm better but on the basis of what? On the basis that they are a better auditing firm? What questions were asked at this screening process that revealed that the top candidate was the best auditing firm. Who on the Council has the skill to do that? I suggest nobody. Others may disagree. The way to taint the process of selecting the auditor from the start, put a cloud on it right from the get go is to have members of this Council pick an auditing firm on the basis of something other than the lowest responsible price. Sending it out to bid does not mean that you get the dregs. We can create bid specs with the help of our Finance Department that are very tight. We can create bid specs that will qualify only the auditing firms that have a track record and that audit clients such as Wallingford and do a good job. A little later on in this discussion I will make a motion to send the auditor contract out to bid. I know you prefer a little discussion before the motion comes in but I will be making that motion shortly.

Mr. Toman asked Mr. Brodinsky, this is my first term so I don't have the time on the Council that Mr. Brodinsky states but, did I hear Mr. Brodinsky correctly in that the reason for this motion is that he feels there is a cozy relationship between this auditor of 18-19 years and the officials of this town and, if so, could he please state some relevant evidence of this cozy relationship that is apparently troubling him?

Mr. Brodinsky stated, I never said that so I am glad you asked the question because I want to clarify that. What I said was, there is a very strong very school of thought that is across the industrialized world, not just in the United States but in Europe and other industrialized countries that long-term auditing contracts sometimes can create cozy relationships. I think, I'm not sure, but I think I said, "I am not saying that is the case here." What I am saying is that there is a strong school of thought that these long-term contracts can create cozy relationships and, according to this school of thought, in order to prevent that from

happening, because once it happens, it is too late, many people have advocated regular auditor rotation. I am not accusing anyone of anything. I am trying to pick the best selection process that would avoid some of the pitfalls that people more experienced than I have pointed out.

Mr. Knight stated, I wonder why, all of a sudden, the R.F.P. process has been called into question when not three months ago it was found to be a very suitable process when picking a contractor to handle the \$62 million school's construction project on the same guidelines. The State of CT. uses an R.F.P. process almost exclusively and hasn't found that it is a charade very often. I think they found the process fairly efficient and fairly free of influence from state legislators or the agencies who are writing the specifications for government contracts at the state level. I am really surprised that we should do such a quick 180 degrees on a process that is so widely used in other governmental agencies with such success. I think this might be a relevant process by which we can define exactly a smaller pool of professional accounting organizations than might bid under a wide open bidding process. I would like to make just one other observation and that is Mr. Brodinsky's reference to discussion we had concerning this subject one year ago. I would like to point out that, at that time, the "pool of qualified candidates" that we discussed one year ago included Arthur Anderson. Does that name sound familiar? I think it is instructive that we are embarking on this process again this year and perhaps the fact that certain large corporations have come under undo influence or have not been influenced enough by their accounting firms has brought this process to where it is today. I think that rather than discard the R.F.P. process, which I think has great benefit in perhaps allowing the Council some latitude for picking its firm and thus perhaps avoiding an Arthur Anderson situation that perhaps this is indeed, given the history of the past twelve months, the proper way of going about the process. I will listen to more discussion but I am probably more inclined to elect the R.F.P. process rather than a complete, open bid. We can write the specifications on an R.F.P. just as carefully as we could with an open bid. I think that is a false advantage. I think the R.F.P. process has a very good track record both in this town and certainly within the state of Connecticut and I think it should be considered.

Mr. Vumbaco stated, a couple of statements were made that I think were taken out of context. I don't think Mr. Brodinsky is trying to turn 180 degrees on the R.F.P. and Steve, you eluded that it worked for picking firms for the \$62 million school project but if I recall the reason we went the R.F.P. route was because we were under the gun. We had one organization leaving and we were being left in the lurch and we needed to respond quickly to bring on a new organization to oversee that project. The School Board requested a bid waiver at that time, we waived the bid and went along with the R.F.P. process so to me, comparing this R.F.P. process when we had the opportunity and the time to go out to bid with the process when this Council and this town was under the gun due to timing issues with a vendor aren't apples and apples but rocks and apples as far as I am concerned. That argument is just an excuse to try to downplay what Mr. Brodinsky is attempting to do. You also raised the issue that Arthur Anderson was one of the auditing firms that maybe

would have been out of the pool of candidates but I seem to recall that Enron was also one of the energy companies supplying CMEEC that supplies electricity to Wallingford. Do we just turn around and cancel out and don't agree with going with CMEEC and anyone that they purchase from because they happened to have one bad apple in the pool? To try and make that comparison just because there happened to be one bad auditing firm out there and tainting the professionalism of all the others that are out there I think is an absolutely ridiculous statement. My question is, why are we waiting so long? Ever since I have been following Town government and the nineteen years that the Mayor has been sitting in his chair, we have always had the auditing firm picked approximately within the same month that we passed the budget. Now, here it is September and we passed the budget in May and we are still sitting and waiting on the auditor. My question is, why are we waiting?

Chairman Parisi answered, with what has been going on in the financial world, I think it is something that should not be done in a hurry. I think we should take our time and consider all of the aspects of the situation and act accordingly. I don't see any reason why it has to be done right away. May of 2003 is the deadline, so to speak. I don't see any problem with waiting.

Mr. Vumbaco asked, then why didn't we wait in the past? Why were we told when we wanted to go out to bid in the past that it needed to get done right then and there?

Chairman Parisi answered, there wasn't this turmoil in the financial profession that there is now, was there?

Mr. Vumbaco replied, I would think that this turmoil goes back 3-5 years.

Mr. Rys asked Mr. Myers, if we go out to bid and we receive a lot of bids and the low bid meets all the criteria and everything that is asked for in the actual proposal by them to us, can we really reject that bid? I have been under the impression that the bid cannot be rejected if it is low bid, only if it doesn't meet the criteria.

Mr. Myers answered, there is a provision in the Charter... where the low bid can be rejected if it is, I believe the wording is, "if it is deemed to be in the best interest of the Town" the Council can reject the low bid and award to other than low bidder.

Mayor Dickinson added, if it isn't that exact wording, it is pretty close. I think there is something else to consider, there is a public bidding process for selection of professional services. That public bidding process is a two-envelope system. Using the two envelopes, firms are graded on both their qualifications and also their price in the second envelope. All of that is mathematically calculated and you end up with the "lowest responsible bidder." That is all well and good, now we consider another issue and that is, the Freedom of Information requirements. For the Council to be interviewing with a public bid, you could end up with a significant number of applicants to interview. Every interview is a

public meeting. If it is a committee of the Council and the Council doing it, it is a public meeting and you would have to be doing that in public session. It is a question of how many times you want to be doing that as a result of "x" number of bids being received. That is a whole other component. There is a public bid process and it does have an interview component and that is on the first envelope.

Mr. Rys stated the reason he raised this issue is so that people are aware that it is hard to reject the low bid. In some cases we can be sued for rejecting low bid, especially if they meet all of our criteria.

Ms. Papale stated, with what is going on in the financial world today, I would be thinking that maybe we would be keeping the auditor we have had, I have always liked this auditing firm and always have gone along with them. Knowing the kind of work that they do, I don't see why that would be the problem but it looks like we are going to go a different way and I have no problem with that either. Years and years ago, didn't we, as the Council committee, go out with an R.F.P. and that is how we have hired Levitsky & Birney? I was on the Council committee to hire the auditor and I think we gave whoever was in front of us...we put them through the ringer. Is that when we hired Levitsky & Birney or was Arthur Anderson involved with the Town at that time?

Mr. Myers answered, just before we hired Levitsky & Birney, Arthur Anderson were our auditors.

Ms. Papale asked, if we decided to go to an R.F.P. on this, how would you, Mr. Chairman, decide on a committee to sit in and conduct the interviews? How would that come about? Would it be 3 or 5 people?

Chairman Parisi replied, what ever the wish of the Council is. It may be the entire Council, we have to see who is interested.

Ms. Papale stated, it makes more sense to keep what we have right now. I really do believe we are better off with Levitsky & Birney.

Jack Agosta, 505 Church Street, Yalesville asked, isn't it correct that the auditor does not do any work in your department?

Mr. Myers answered, the auditor examines the records and financial statements that are prepared by the Town. It may be payroll records, payments to vendors, purchase orders, cash disbursements journals, cash receipts records, tax receipts, receipts for our Electric or Water business. Financial statements would be a more formal document like a balance sheet or an income profit or loss statement. It may be a statement of budget compared to expenses by department by line item. Those are examples of financial statements. Auditors typically examine those type of documents and their review is conducted in conformity with standards set by the American Institute of Certified Public Accountants.

The Governmental Accounting Standards Board and the Office of Management and Budget, which is federal, and the Office of Policy and Management, which is state. All of those organizations have certain rules and regulations and compliance factors that all independent auditors of municipal accounts have to comply with.

Mr. Agosta stated, you are saying that your department does all the work and the auditors just look at it to see if you are doing it right and that is why you get an award or commendation every year? I don't think the auditors are really; all they are doing is making sure that your people are doing their job right, all the paperwork they are requesting and looking at, am I correct?

Mr. Myers answered, that is right. The auditors have to follow an ethical guideline where they cannot prepare the documentation and then audit their own work. It is a conflict of interest situation.

Mr. Agosta stated, if all they are doing is checking the employee's work, why do we have to stay with the same person all the time? I think it is time to change. The auditors do not work for the town, they oversee what the town is doing. That doesn't mean that they are the best thing for this town. They may find things that can be done better. A company that has been with you for a long time begins to fit into a situation. A new company will bring more light to things and may be a bigger help than you can imagine. I trust Tom Myers.

Robert Sheehan, 11 Cooper Avenue stated, the state of this Town and how stable we are is a direct reflection on Tom Myers. We have been lucky because we have had him for a long time; longer than the Mayor has been here. He has assembled a staff that is very qualified and Levitsky & Birney does not come in here and generate any numbers. They don't go down to the Borough Electric and say how much to charge and how much to get; they rely on the work that his staff does. They make sure he follows the law and they follow the law. That is why we get awards. Change for the sake of change sometimes is not a good thing. It could be said the other way, too. But, given the current financial statement of not only the State of Connecticut, the state of Wallingford and on a national basis, I go to the old theory; you put it out to bid and I don't care what it is, you get what you pay for. This is not a hard audit. It does not get down to the basic nitty-gritty every year; every dime, every penny and every place it went. If you make this change...when a new guy comes in, he is going to want a hard audit. He is going to want to make sure that everything the other guy says is true or he can very well wind up being another Arthur Anderson or sinking Arthur Anderson. They have been here a long time; 19 years or so but my faith is more in the guy sitting over there in the fancy shirt (Tom Myers). He has guided this town for longer than that. I don't always agree with him and probably never will but on the whole, he has done us exceptionally well. You can find many auditing firms that will do what Levitsky & Birney does for a few dollars less, so what?

Pasquale Melillo, 15 Haller Place, Yalesville stated that the Charter speaks loud and clear to the subject of projects that must be put out to bid when their cost supersedes the bid limit as specified in the Charter. Therefore the auditor's contract must be put out to bid. There is no emergency, stop violating the Charter, send the contract out to bid.

Sharon Sanders, 37 Academy Street stated, in July there was an article in the newspaper and Mr. Parisi was quoted as saying that he wanted to change auditors this year because of everything that was going on in the financial world. Mr. Brodinsky responded by disagreeing with Mr. Parisi saying that Mr. Parisi finalized realized that the democrats had been right all along. My question is, if they had been right all along, why hasn't it changed long ago? For many years the democrats were in charge of the Council and they were in control 6-3 for a long time. If that was so important, then I don't know why it wasn't done before.

Mr. Vumbaco answered, that was then and this is now. I don't take it as a democrat versus republican issue. I take it as what Mr. Myers stated, there are regulations and rules that all auditing firms have to abide by. I have had to deal with them for the past 20+ years myself. If they are a good auditing firm and a reputable one, they follow the rules and regulations. All I agree with Mr. Brodinsky on in this is that if it can save the taxpayers money by going out to bid and getting the same service, the same service because you write your bid specs, the same service because every auditing firm has to follow the same standards, I think it behooves this Council to go out to bid and see if we can save the taxpayers money. It has nothing to do with one side of the aisle or the other.

Mr. Toman asked Mr. Myers, is corporate auditing and municipal auditing different kettles of fish? That is why big firms like Arthur Anderson have different units that handle each area. This is an area of specialization; the municipal side. In your estimation, how many firms in CT. are like Levitsky & Birney in their expertise that we would expect to receive a response from?

Mr. Myers answered, at least six highly qualified firms that perform municipal audits in communities similar to the Town of Wallingford in the State of CT.

Mr. Toman asked, is there a lot of rotation out of those firms by other towns?

Mr. Myers did not know.

Mr. Toman wondered about the competition; competitive forces that might be at work within those highly-specialized six firms if there is a lot of competition going after work. If we could, in fact, get decent reduction in cost by putting it out to bid...

Mr. Myers stated, I have been on the record before in other years regarding this issue and there is no question in my mind that if we seek proposals, prices are going to come in lower, that is not questionable. The question is, the lower price results in additional work.

The additional work is the indoctrination period for a new audit firm. The prices will come in lower.

Mr. Toman asked, how long of an indoctrination period would that be?

Mr. Myers answered, at least the first year of the audit. All bidders will look for a multi-year contract. I suspect, my educated guess would be you are not going to get a quality firm that does municipal audits for a one year contract. You are going to want to put it out for three to five years; three years firm and then maybe a negotiable price or a variable on the fourth and fifth year. It is very hard to forecast the economics that will come into play for professional services more than three years at a time.

Mr. Brodinsky stated, if we send it out to bid this is the terrible thing that is going to happen; we are going to get a qualified auditor at the lowest price, that is what is going to happen. We know they are going to be qualified because it is going to be in the bid specs and we know it is going to be the lowest price because we are going to take the lowest bidder subject to the interview process. Sending it out to bid will give us a qualified auditor at the lowest possible price. Mr. Rys seemed very concerned about rejecting the lowest possible price and I am more excited about accepting the lowest price. I guess there is a clear choice there. The Mayor said that we shouldn't go with bids because we would have a lot of interviews but if we went with R.F.P.s we would get the same number of candidates. We would have the same number of interviews either way. I know the Mayor was trying to discourage the bid process and encourage the R.F.P. but the same number of responders would appear in either case, it seems to me. To answer Mr. Knight's concern about the R.F.P. seems to be o.k.. in the context of the School Renovation project, why not here, there are a couple of distinctions, at least in my opinion. The first, in addition to what Mr. Vumbaco said, the school project has a building committee and an owner's rep. The building committee has a lot of expertise over the years, more than this Council has with auditors and certainly the owner's rep. adds to that but the point I was trying to make was, the building committee is non-partisan. This Council is very partisan. If the Council picked the auditor, you have the appearance of a very partisan body picking the auditor and I don't think that is the best way to go. To keep the process squeaky clean, don't put the majority or dominate party on this Council in the position of picking the auditor who may not come in with the lowest possible price to keep the process or the appearance of it to be squeaky clean. There was a member of the public who asked, why change now? I can only say, I am not responsible for what other members of the Council did five, ten years ago. Ever since I have been on the Council, I have been exploring the issue of putting this out to bid.

Ms. Doherty asked Mr. Myers to explain once again why the good auditing firms would only be interested in multi-year contracts?

Mr. Myers explained, to the best of my recollection, Levitsky & Birney has raised their fee based on the Consumer Price Index, the National Inflation Index each year. I think that if

the Council, and this is a Council appointment, my recommendation would be that if you put this contract out, do so for a 3-5 year term. We were working on a year to year basis with Levitsky & Birney. Every year at budget time the fee was re-negotiated and to the best of my recollection, their fee would increase by whatever the Consumer Price Index was. The C.P.I. is one of the leading economic indicators and it is usually the economic indicator that affects social security payments every year. If there isn't a forward-looking view that there is going to be a continuing relationship, you could get short-sighted. In this particular arena where you are asking a group of professionals to render a written opinion as to your financial condition, they have to be able to do that to the exact standards that they are held to and they, to a certain degree, have to rely on the past firm because they will want to examine work papers and audit papers of the previous auditors. I have been very pleased with Levitsky & Birney for nineteen years and before Levitsky & Birney we had Arthur Anderson and before that, Price Waterhouse.

Mr. Vumbaco asked Mr. Myers, if we are going out to R.F.P. you will be writing up the same specifications whether we were going out to bid or not, right?

Mr. Myers answered, we have the sealed competitive bid which is a two-step process. That is where professionals present qualifications as one set of documents. Those qualifications are ranked by the committee, whoever that may be. All proposers would be ranked; a technical ranking. At the time that they submit their technical information, they also submit a second envelope that is held by the Purchasing Agent. In that second envelope is their price. Their price is not opened until all the firms have been interviewed and ranked. When that has occurred and all firms have been scored, those scores are forwarded to the Purchasing Agent. When he receives those scores on a pre-determined date, he then opens the price and then the price and technical ranking are combined to come up with a composite score. In that situation, the lowest responsible bidder is that bidder with the highest score. It is a combination of qualifications and price.

Mr. Vumbaco asked again, if we go through the R.F.P. process or the bidding process, you still have to draw up the same specs that you had stated to Ms. Doherty? The amount of work on your part would basically be the same?

Mr. Myers answered, exactly the same, right.

Mr. Vumbaco stated, it is pretty much industry standard that new auditors do not make much, if anything, the first year that is why they look for a two, three or four year contract because they become more familiar with the process. It also costs the new auditor to review the previous auditor's paperwork. No one will bid on a one year contract.

Chairman Parisi added, a three year contract allows you to bid real low the first year, too. Mr. Knight asked, is this a third way to solicit proposals?

Mayor Dickinson replied, the building committees recently have had a bid waiver but they have pursued an R.F.P. process that may have involved two envelopes but it was not a public bid. The significant difference is the number of people who can respond and a public bid specification is going to be interpreted and applied a lot more strictly than an R.F.P. because once you have a public bid, every period, comma, word can mean something and that is where everyone has rights. In an R.F.P. process, where it is not a public bid, it is far more open and less subject to litigation or argument over exactly what the specification means. Quite frequently we have used the two envelope process for building committees but that is often...after a public bid waiver because they did not want to end up interviewing all of the firms that potentially could come in on a public bid. I think that has been a consistent argument from the School Building Committee.

Mr. Knight answered, if that is where we end up; we grade on both the standard of money and also the other standards that are developed in the process. If we were to vote for an R.F.P. process, in the carrying out of such a process, can we institute the two-envelope system as a method by which we could reach a decision?

Mayor Dickinson answered, that is correct but it would have to be a bid waiver then an R.F.P.

Motion was made by Mr. Brodinsky to Put the Auditing Contract Out to Bid for a Multi-year Contract, seconded by Mr. Vumbaco.

Mr. Toman stated that he does not quarrel with Mr. Brodinsky's attempt to lift a few rocks to see what else is out there that, basically, is a good idea but he urged the Council to reject the motion because he thought, given the specialization of municipal auditing and the fact that one of the nation's top people who we are fortunate to have working for us in municipal finance has told us that there may be six people who qualify to run against Levitsky & Birney in his estimation, he felt it was an inefficient motion and felt the Town could be better off with an R.F.P. process.

Chairman Parisi stated, I am in agreement with Ms. Papale, we never had a discussion about it which is interesting. However, I feel that option has gone by the board. I guess I say that to make myself feel better. I am strongly in favor of the R.F.P. process and I guess that is where I part with my colleagues to my left. I don't have a problem looking for something new and something different. I am willing to step back from what I believe is 100% the proper thing and probably the best way to go, looking at the other side of the issue, we know what we have, we know we had a strong operation and why gamble but, being as it may, I am in the minority and I sense that so I would go with Mr. Toman, and strongly recommend that we do the R.F.P. proposal.

VOTE: Farrell was absent; Brodinsky, Papale & Vumbaco, aye; Doherty, Knight, Toman, Rys and Parisi, nay; motion failed.

Motion was made by Mr. Knight to waive the bid to establish a committee of the council; membership to be made up of as many members as are interested whose charge would be to develop a request for proposal for the procurement of Audit Services for the Town of Wallingford. The work of this committee would also include solicitation of recommendations from the Finance Dept. in the development of specifications for this vendor, seconded by Ms. Doherty.

VOTE: Farrell was absent; Brodinsky, Papale & Vumbaco, nay; all others, aye; motion duly carried.

Chairman Parisi instructed all Councilors to let the Council secretary know by the end of the month if they are interested in serving on the committee.

ITEM #7 PUBLIC HEARING to Consider Amending Ordinance #494 Entitled, "Noise Ordinance" as Requested by Ordinance Committee Co-Chairman Stephen Knight - 7:45 P.M.

Wes Lube, 15 Montowese Trail asked, how many items are being revised?

Co-Chairman Stephen Knight answered, there have been many. In this particular edition, there have been approximately six amplifications of previously inserted language. They are fairly minor.

Exclusions added and approved by the state are as follows:

- #7 – un-amplified sounding of the human voice
- #8 – un-amplified sound made by any wild or domestic animals
- #9 – sound generated by natural phenomenon including but not limited to, insects, amphibious creatures and birds.

Exemptions:

- noise generated by governmental repair and maintenance operations (clarification per state: provided such activities are not regulated by the noise regulations of the State of CT.)
- #11 – noise generated by golf course maintenance equipment being operated on any public or private golf course so long as such equipment is properly muffled (added by state: "and provided that such activities are not regulated by the noise regulations of the State of CT.")

Other:

- Section 5, 1. – in addition to the foregoing regulations, the following acts and the causing thereof are declared to be in violation of this ordinance:
(underline is language added by State)

1. No person shall operate or permit the operation of any gasoline or electric-powered leaf blowers between sundown, but not later than 9:00 p.m., and 7:00 a.m. on weekdays and weekends

Mr. Knight concluded, those are the sum total of the additions that were made by the Ordinance Committee to this latest version of the Noise Ordinance. All of the rest of the additions were made in a public hearing prior to our meeting in the Ordinance Committee.

Mr. Lube asked what the timeframe was previously to the proposed 7:00 a.m., referring to the operating of gasoline or electric-powered leaf blowers?

Mr. Knight answered, 8:00 a.m.

Mr. Lube asked, who requested the change?

Mr. Brodinsky (Ordinance Committee member) thought the State dictated the change to Atty. Mantzaris.

Mr. Knight added, it may be a continuity matter; perhaps something having to do with State regulations; it may have to do with the fact that the State crews start at 7:00 a.m. rather than 8:00 a.m. I am not entirely sure what the derivation is but I believe it to be something that the State wanted inserted because of consistency with their regulations.

Mr. Lube stated that he objected if the State is not requiring it. Trash collection vehicles are roaring around the neighborhoods at 7:00 a.m., presently.

Mr. Knight stated that a great deal of discussion has taken place regarding that very subject in committee. The committee found that the best avenue it could take to elicit cooperation from such vendors is through Phil Hamel's office. A fair amount of cooperation has been obtained on that particular aspect of noise.

Chairman Parisi interjected that the trouble is that the cooperation does not last very long and that is why the time element is going to help by being specific.

Mr. Rys stated that Cheshire has an ordinance whereas the trash collectors cannot start prior to 7:00 a.m., nor can any equipment with back-up alarms. He thinks the 7:00 a.m. revision was requested by the Town's Public Works Department due to the fact that their crews start at 7:00 a.m. during the summer season. He preferred the start time be changed to 8:00 a.m.

Chairman Parisi stated that the trash collectors were starting anywhere from 3:30 a.m. on in various locations throughout the town, therefore 7:00 a.m. was a better situation for many.

Jack Agosta, 505 Church Street, Yalesville pointed out that if you start the trash collectors later, they will be collecting later into the day or evening as well. Which may result in an increase in cost to the customers because they may have to pay drivers overtime or the company may incur other costs associated with the adjusted schedules.

Robert Sheehan, 11 Cooper Avenue asked, how many summons or warnings have been issued due to violations of the noise ordinance since its inception?

Mr. Knight stated that it really has never been in effect because of the necessity to send it back to the State for approval each time it is reviewed and amended. It has been sent up to the State two or three times. The amendments make the ordinance easier to enforce and more in compliance with the State regulations. The State wants oversight over all of the noise ordinances being adopted by communities for the sake of consistency; they want the same regulations to prevail throughout the state because noise carries across town lines and they want to avoid jurisdictional disputes.

Ms. Papale asked, what ordinance addresses the noise generated from a party at someone's residence, for example?

Mr. Knight replied that he believes it to be state statute pertaining to breach of peace.

Mayor Dickinson referred to Section 4, "Noise Levels". It reads, "No person can have noise emitted from their property that exceeds the levels required in this ordinance." There is a second way to enforce noise and that is the breach of peace or other criminal behavior that Lt. Zakrzewski mentioned when he was here.

Mr. Rys stated that he believes he overheard an officer saying that the state statute can be enforced if a breach of the peace occurs 10:00 p.m. or later.

With regards to the noise generated by construction or demolition activities during daytime hours, Mr. Rys disagreed with the 7:00 a.m. start time.

Motion was made by Mr. Rys that the 7:00 a.m. start time with regards to noise generated by construction or demolition activities during daytime hours be changed to 8:00 a.m. on weekdays and Saturdays and that "Exemptions" on page 5 and Section 5, 1 on page 6 also be changed to reflect the 8:00 a.m. start time, seconded by Ms. Papale.

Chairman Parisi asked if this change will create a problem for the Public Works Department?

Mayor Dickinson replied, that could be a problem for Public Works. It is a question as to whether it is a D.E.P. or Health Department issue as well. I suspect the standard is 7:00 a.m. but I don't know for certain. It can create a problem for us.

Chairman Parisi asked Atty. Farrell, Sr., if he was aware of any law that prohibits someone from starting work prior to 7:00 a.m. in a neighborhood?

Atty. Farrell answered off microphone that he was unaware of any such law.

Mr. Brodinsky stated, the language currently in the proposed ordinance complies with the D.E.P. which has jurisdiction over noise ordinances and if a change is made, it has to go back to D.E.P. again and it will not be valid until it does. Atty. Mantzaris has gone over this so thoroughly with D.E.P. that any tinkering with the language would be another violation. I sympathize with Mr. Rys' concern but I think it would be contrary to what D.E.P. wants us to do.

Mr. Rys recalled that there could not be two separate sets of circumstances, for instance you cannot have one set of rules for Public Works and another for the public, if he recalls the conversations correctly. There is an emergency provision. He asked, what kind of work is going to commence at 7:00 a.m.?

Mr. Knight answered, there is a ton of work.

Mr. Vumbaco answered, most construction companies work on a 7:00 a.m. start. We would be asking every person building a house in this town to hold off starting until 8:00 a.m. Public Works, Water & Sewer Division trucks go out at 7:00 a.m. It is going to put so much of an undue burden on a good many of the businesses that do work in the Town that I cannot support changing this to 8:00 a.m.

Chairman Parisi pointed out that it is a lot cooler at 7:00 a.m. for work crews than at 8:00 a.m.

VOTE ON AMENDMENT: Farrell was absent; Rys, aye; all others, nay; motion failed.

Motion was made by Mr. Knight to Adopt Ordinance #494 as presented, seconded by Ms. Doherty.

VOTE: Farrell was absent; Rys, nay; all others, aye; motion duly carried.

ITEM #8 PUBLIC HEARING to Consider Amending Chapter 210 of the Code of the Town of Wallingford Entitled, "Tree Warden" as Requested by Ordinance Committee Co-Chairman Stephen Knight – 8:00 P.M.

Correspondence from Attorney Mantzaris outlined the following reasons for amending the present ordinance:

- allows for the appointment of a Tree Warden (existing ordinance does not);
- presently, Tree Warden has no authority to regulate trees or shrubs wholly on private property; and
- The proposed amendment merely sets forth the powers of a Tree Warden as set forth in Section 23-59 of the State Statutes. It does not provide for any fines because it does not seek to regulate any behavior of the public.

Motion was made by Mr. Knight to Adopt Chapter 210 as Presented, seconded by Ms. Doherty.

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

ITEM #9 PUBLIC HEARING to Consider Amending Section 198-16 of the Code of the Town of Wallingford Entitled, "Removal of Tree Limbs, Branches and Other Rubbish" as Requested by Ordinance Committee Co-Chairman Stephen Knight - 8:15 P.M.

Mr. Knight stated that an appeal process has been added to the Chapter. The appeals process is summarized as follows:

Any person cited for a violation of this section may appeal the citation on a form available in the office of the Town Clerk. The Mayor shall appoint a citation hearing officer other than an employee of the Engineering Department or an employee of the Police Department who shall serve until his successor is appointed. The hearing procedure shall be set forth in Section 7-152 of the (CT.) General Statutes except as modified herein. The hearing officer may consider any documentary evidence on behalf of the Town and he shall render his decision at the close of the hearing unless he determines to inspect the premises in which case he shall render his decision upon completion of the inspection. If he determines that the premises was not in violation or that the premises was cleared or otherwise made safe for public travel within the time limited, he shall dismiss the citation. If he determines that the premises were in violation and that the condition that made the premises unsafe for public travel was not abated, he shall dismiss the appeal. Any person whose appeal was dismissed may file a complaint in the form of an appeal for judicial review with the Superior Court for the judicial district of New Haven and Meriden within thirty days of the notice of decision of the hearing officer.

Mr. Knight stated, there were minor language changes made such as it is now being referred to as "Removal of tree limbs, shrubs and other plant growth" instead of "Removal of tree limbs, branches, and other rubbish." There was also some language suggesting that no tree, shrub or other object be allowed to overhang any part of any public sidewalk within seven feet of the surface nor any other part of any highway or public ground in said town within fourteen feet of its surface. We are now using nine feet from its surface as the specification rather than the seven or fourteen feet depending on what it is we are talking about. The committee felt it was fairer and would still afford the protection the public is seeking.

Geno Zandri, 9 Balsam Ridge Circle asked, are you saying there is a nine foot height limit over the sidewalks?

Mr. Knight read the ordinance as follows into the record, "a. The owner or occupant of any premises defined herein as a plot of land with or without any improvements thereon adjoining any public sidewalk, public street or public right-of-way within the limits of the Town of Wallingford shall remove any branch or limb of any tree or shrub or other plant growing on the owner's or occupants premises that, 1) overhangs such sidewalk closer than nine feet from its surface, or 2) encroaches onto any area of such sidewalk."

Mr. Zandri asked, does that also include the trees that are between the sidewalk and the street?

Chairman Parisi stated, at one time it was the homeowner's responsibility even though the Town owned the land. Is it still that way?

Mayor Dickinson answered, if that is public right-of-way, the tree is the Town's responsibility; the Town's tree. If the public right-of-way ends at the edge of the road and the sidewalk is on private property, then the tree is private property. Whoever's property the tree is growing on, that entity owns the tree.

Chairman Parisi asked, I thought the Town owned the sidewalks from the center line of the road into and a little past the sidewalk I thought was Town property at one time.

Mayor Dickinson answered, usually that is the case but it is not determined by where the sidewalk is, it takes a survey crew to determine what the limits of the public right-of-way are. Sometimes the sidewalks are on private property. Along Center Street, at times, and maybe Main Street, especially in the business district, there can be sidewalk but it is not necessarily Town-owned and in some cases it is on private property.

Mr. Zandri stated, the reason I bring it up is because there are a lot of trees that have been planted in town by Public Works in that area and there are a lot of limbs, if you walk around this town, because I walk in my neighborhood, and there are many occasions on which I have to duck to walk on the sidewalk. If this is going to be part of this ordinance

then we had better instruct the Tree Warden that they are going to have to be doing a lot of pruning because I think you will see that there are a lot of trees that are affected by this ordinance. There are also areas in town where the homeowners are not maintaining that portion of grass, so to speak, between the sidewalk and the street and a lot of them are naturalizing it now and that is becoming a problem as well. Maybe if an article is placed in the newspaper and if there is a problem it can be called in but I know there are many areas of town that will be affected by this.

Mayor Dickinson asked, was Henry McCully consulted at all regarding the height of nine feet?

Mr. Knight answered, probably not.

Mayor Dickinson asked, what had the height been before?

Mr. Knight answered, seven feet.

Mayor Dickinson replied, that will result in more trimming since anything over the seven foot height will now have to be trimmed up to nine feet.

Mr. Knight stated, we set it a little higher than seven feet in order to accommodate people walking with umbrellas on rainy days and also to allow for the lowering of branches in the winter months due to the weight of the snow accumulating on them.

Wes Lube, 15 Montowese Trail was opposed to changing the tree limb height requirement from seven feet to nine feet.

Motion was made by Mr. Knight to Adopt the Proposed Amended Section of the Code, seconded by Ms. Doherty.

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

ITEM #11 Withdrawn

ITEM #12 Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes Pertaining to a Pending Claim – Town Attorney

Motion was made by Mr. Knight to Enter Into Executive Session, seconded by Mr. Rys.

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

The Council entered executive session at 8:58 P.M.

Present in executive session were all councilors (with the exception of Mr. Farrell) Mayor Dickinson, Atty. Farrell, Sr., and George Cooke, Public Utilities Chairman.

Motion was made by Mr. Rys to Exit the Executive Session, seconded by Mr. Toman.

VOTE: Farrell was absent; all ayes; motion duly carried.

The Council exited executive session at 9:08 P.M.

ITEM #13 Discussion and Possible Action Pertaining to a Pending Claim as Discussed in Executive Session – Town Attorney

Motion was made by Mr. Knight to Settle a Pending Claim as Discussed in Executive Session in Accordance with that Discussion, seconded by Mr. Rys.

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

Chairman Parisi extended wishes for a Happy New Year in recognition of Yom Kippur.

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

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

There being no further business the meeting adjourned at 9:10 P.M.

Meeting recorded and transcribed by:

Kathryn F. Zandri
Kathryn F. Zandri
Town Council Secretary

Approved by:

Robert F. Parisi (RR)
Robert F. Parisi, Chairman

10-8-02
Date

Rosemary A. Rascati
Rosemary A. Rascati, Town Clerk

10-8-02
Date

RECEIVED FOR RECORD *Sept. 26, 2002*
AT *2:15 P.M.* AND RECORDED BY
Rosemary A. Rascati TOWN CLERK