

TOWN OF WALLINGFORD, CONNECTICUT

TOWN COUNCIL MEETING

Town Council Chambers

October 13, 2015

6:30 p.m.

RECORD OF VOTES & MINUTES

The Regular Meeting of the Wallingford Town Council was called to order at 6: 31 p.m. The Opening Prayer was given by Father Thomas Walsh, The Most Holy Trinity Church of Wallingford.

The Pledge of Allegiance was said. Councilors in attendance were: Chairman Vincent Cervoni; Vice-Chair Tom Laffin; Councilors John LeTourneau; Christine Mansfield; Larry Russo; John Sullivan; Craig Fishbein Vincent Testa.

Councilor Bob Parisi was not in attendance. Mayor William W. Dickinson, Jr., Town Attorney G.E. Farrell, Sr. and Comptroller Jim Bowes were also at the meeting.

3. Consent Agenda

- 3a. Consider and Approve Tax Refunds totaling \$9,488.92 (#241-310) Acct. # 1001001-41020/Tax Collector
- 3b. Consider and Approve Acceptance of Donation of funds from the Friends of Kendrick Par and Consider and Approve Appropriations of Funds in the amount
Of \$693 to Spec. Revenue Fund Misc. Grants & Donations Revenue Acct. #2505002-47152 and to Kendrick Park Project Expenditures Acct. #25050050-58830-10111/Recreation Department
- 3c. Consider and Approve Acceptance of Federal/State Highway Safety Grant "2014/ Comprehensive DUI Enforcement Program "and Consider and Approve Appropriation of Funds in the amount of \$1,529 to Revenue Highway Safety Acct. #1002001-45208 and to Police Overtime Acct. #10020050-51400/Police Department
- 3e. Consider and Approve Acceptance of Donation of funds from Masonicare Ashlar Village for ongoing fire safety/public education project and Consider and Approve Appropriation of funds in the Amount of \$8,900 to Revenue Misc. Fund
Acct. #2502002-47152 and to Expense Account Fund 250 Acct. #TBD/Fire Department

- 3f. Consider and Approve Acceptance of Donation of funds from Wallingford Peer Advocates for The Alzheimer's Association and Consider and Approve Appropriation of funds in the amount of \$884 to Donations Revenue Acct. #2134002-47152 and to Expenditure Acct. #21340100-58830/Youth and Social Services
- 3g. Consider and Approve Appropriation of funds in the amount of \$2,500 to Revenue Acct. #2264002-47152 and to Expenditure Acct. #22640150-58830/Youth and Social Services
- 3h. Consider and Approve a Transfer of funds in the amount of \$17,621 to Capital Rooftop A/C Unit Sr. Center Acct. #TBD from Maintenance of Buildings & Grounds Acct. #10020000-54315/Public Works
- 3i. Consider and Approve an Agreement between the Town of Wallingford and Comunidad Hispana de Wallingford, Inc., "SCOW", as our subcontractor, to fulfill all terms and conditions of the Connecticut Department of Social Services Hispanic Human Resource Development (HHD) Grant/Program Planning
- 3j. Consider and Approve an Appropriation of Funds in the amount of \$81,130 to SCOW grant HHD Revenue Acct. Fund #217 and to SCOW Grant HHD Expenditures Acct. Fund #217/Program Planning
- 3k. Consider and Approve an Agreement between the Town of Wallingford and Comunidad Hispana de Wallingford ("SCOW"), as our subcontractor, to Fulfill all terms and conditions of the Connecticut Department of Social Services Human Resource Development (HRD) Grant/Program Planning
- 3l. Consider and Approve Appropriation of Funds in the amount of \$42,460 to SCOW Grant HRD Revenue Acct. Fund #231 and SCOW Grant HRD Expenditures Acct. Fund #231/Program Planning
- 3m. Schedule a Public Hearing for October 27, 2015 at 6:30 p.m. for an Amendment to Chapter 203, Taxation, Articles III and X, Tax Deferral Programs for Senior Citizens and Disabled Persons
- 3n. Consider and Approve Acceptance of donation of two used 275 gallon ploy tanks from United Concrete for use at the Recycling Center/Public Works
- 3o. Consider and Approve Town Council Meeting Minutes of September 24, 2015

Motion to approve and accept Consent Agenda items 3a to 3o.

Made by: Laffin
Seconded by: Letourneau
Vote: 8 aye
Motion approved and Consent Agenda passed.

4. Items Removed from Consent Agenda -None

5. PUBLIC QUESTION & ANSWER PERIOD

Bob Gross, Long Hill Road, questioned the power peaking plant. He said back in 2006 the plant was supposed to be built, but at that time, former Public Utilities Commission Chairman David Gessert said in an article in the Record-Journal, that (quote) "we are part owners of this and is in our turf, so we will be watching closely and the Town is leasing the Pierce facility to the Energy Co-operative for \$300,000 a year, splitting the revenue between the Electric Division and Town's General Fund."

Mr. Gross said this year during budget season, there was a discussion of how much this peaking plant was bringing in revenue wise which he said was considerable more than \$300,000.

Mr. Bowes said regarding the lease of the land , there is a split between the General Fund and the Electric Division for these revenues and is around \$150,000 or more with a built-in escalator.

Mr. Bowes said they also pay taxes on the assets of the plant and the building. He said this year in totality; they will be paying approximately \$1 million in taxes this year. He said for the next the fiscal year, the Town entered into an agreement with LS power, whereby they will be making a PILOT (payment in lieu of taxes), payment.

Mr. Gross pointed out that CMEEC controls this particular plant.

Mayor Dickinson said Mr. Gross was confusing the two. He said CMEEC was separate from LS Power and CMEEC is the one we have the lease with the Pierce plant. Mr. Bowes said we are still receiving half of the funds. He noted this is in the General Fund Revenue under a line item "Rent of Town Property.

Mr. Gross said this line item is not differentiated and that there are other Town rental properties. Mr. Bowes pointed out that this is very small, i.e., the farms, but most of this is the lease money from CMEEC.

Mr. Gross noted that with the LS Power Plant, it is not split 50/50. Mr. Bowes said with the LS Power Plant, there are two separate agreements, one to the lease to the Electric Division and one for the pilot payment. Mr. Gross asked if the land is the same land, why they aren't splitting with Wallingford 50/50 also. Mr. Bowes said this is not being done currently.

Mayor Dickinson said LS power pays taxes but CMEEC is tax-exempt. Mr. Gross said the land belongs to Wallingford. He noted LS Power is private and would be taxed and this is why the Town has entered into a PILOT agreement in order to iron out what the taxes would be.

Mr. Gross asked why none of this revenue comes to the Town and just to the Electric Division. Mayor Dickinson said this is why there is a PILOT payment to arrive at the acceptable amount of taxes otherwise the monies goes to the Electric Division.

Larry Morganstein, South Main Street, asked about the drug problem in Town which was discussed during the recent Candidates Forum. He said the Mayor cited a number of things the Town has been doing, notably, the Mayor's Council on Substance Abuse. He said he has worked with the coalition the past few years, and asked who comprises this council and what they do.

Mayor Dickinson said Mayor's Council on Substance Abuse operates out of the with Craig Turner's offices and volunteers serve on the Committee and are helpful with a number of programs.

Mr. Morgenstein said on the Town website he now notices there are 20 names listed where in the past there were 40 names and there are no records of Minutes or agendas. He asked when the last time a meeting took place. Mayor Dickinson said he believed they regularly met, but noted Mr. Morgenstein should check with Mr. Turner. Mr. Morgenstein said all this seems to be are names on a piece of paper.

Bob Gross, Long Hill Road, asked about the pension fund paying \$6.6 million and asked about return on the money for the smoothing affect. Mr. Bowes said the Town utilizes 7.6 % and may lower it this year. He said it was 8% two or three years ago. He said in discussing this with the actuary it was decided to bring this down a bit to create a "softer landing" so the budget is not spiked up drastically. He said it will be approximately 7% in a few years.

Mr. Gross asked if there would be an increased payment to the pension. Mr. Bowes said if it stays constant, there would be contribution by the rate payers through utilities and more taxes in the general fund component of the budget.

Mr. Gross said in the 15/16 budget the Town is almost at 6.7% so next year if the Town lowered the percentage to 7/3% or lower, this number could be raised to over \$7 million if everything stays constant.

Mr. Bowes said the budget was created based upon 7.6 % and going forward, would probably lower down go down to 7.3 % and a few years from now down to 7%. Mr. Gross said in the long or short term, this would continually be a heavy burden to the budget.

Mr. Bowes said everything isn't equal because of market returns. He noted that one negative thing that is affecting pension plans of this nature, nationwide, is that every decade the actuaries revise the mortality tables and life expectancy has gone up for males and females and will have an effect on the Town as well.

Mr. Gross said the Town needs to be looking at this because we will be over \$7 million. Mr. Bowes said fees are a definite factor and a lot of indexing has been done. He said the Town is at 38 basis fees as far as Towns go, and this is low in the industry and noted that fees and return are a factor. Mr. Gross said he hopes the Council gets involved because this will be a heavy burden on the budget in the following years.

END OF PUBLIC QUESTION AND ANSWER PERIOD

6. Consider and Approve Budget Amendment in the amount of \$42,000 to Outside Services Employee Acct. #46100923 from Appropriation from Cash/Public Utilities

MOTION MADE TO APPROVE A BUDGET AMENDMENT IN THE AMOUNT OF \$42,000 TO OUTSIDE SERVICES EMPLOYEE ACCT. #46100913 FROM APPROPRIATION FROM CASH/PUBLIC UTILITIES.

**Motion made by: Laffin
Seconded by: LeTourneau**

Appearing in front of the Council was George Adair, Director of Utilities. He said the Division has a need to continue their efforts which have been ongoing since approximately 2012 to come up with or produce a more rational permit limit for phosphorous discharge, and to ensure the Town will be eligible as it should be for all applicable funding to the installation of any future improvements for phosphorous removal. He said for this purposes the Division requires the continued and expanded assistance of the law firm of Barnes & Thornberg as represented by Atty. Fred Andes.

Councilor Fishbein asked what was going on. He said he has heard since 2012 that DEEP has through the EPA, has set certain limits for phosphorous. He said the Town has gone to outside services to try to get the State to reduce these requirements.

Mr. Adair provided more details and noted as permit renewal came up, the Division was faced if left unchallenged, with a permit limit which would have imposed measured in milligrams per liter, parts per million, a limit of .2 ppm. He said the estimate the Division developed at the time of the improvement in the wastewater treatment plant to meet this limit was approximately \$19 million. He said the bonding for this would have substantial impact on rates, and felt at the time there was not adequate certainty as to the necessity to meet that particular limit.

He said with the assistance of Mr. Andes and another law firm, the Division banded with three other CT towns and negotiated with DEEP for a permit which has two tiers; the current limit which instead of .2 is set at .7 ppm and then in 2022, unless there is a change to the permit, a limit of .2 would come into effect. He said in addition, legislatively, the Division was able to sponsor legislation which ultimately passed, which calls for investigation by DEEP, into the methods for measuring phosphorous in streams and also looking at available technologies and costs and the impact of non-point sources, i.e., agriculture and storm water.

Mr. Adair said the significance of this collaborative effort which DEEP was charged with putting in place, is that it is an endeavor to get science to look more broadly at the subject and this

effort was undertaken and three workgroups established with Water & Sewer Divisions General Manager Roger Dann co-chairing the Science workgroup. He said out of this came a commission with CASE which produced a significant study to what the appropriate way would be to evaluate water quality from nutrients, namely phosphorous. He noted this isn't a human health issue or acute toxicity, it is a biological phenomenon from this nutrient.

He said the Division is hopeful this will bring in other studies and are seeking what the appropriate number is. Mr. Adair said there will be a master report to the CT General Assembly by the Coordinating Committee which he serves on. He said the Science Workgroup 2, endorses all of the findings and recommendations in the CASE Report which he noted are far-reaching. He said they call for a lot more work to be done to get at the target phosphorous limit. He said this could be potentially helpful to the Town in terms of the approach to this.

Mr. Adair said there has been an increase in funding from normally 30% for nutrient programs to a possible 50% subject to how tight the limit is for a given community. He noted that for a community with a .2 ppm, Wallingford qualifies under the language of the Statute. He said former DEEP Commissioner McCleary said the Town does not qualify along with five other communities. He said Mayor Dickinson challenged this position which has not been answered by DEEP. He said if left unchallenged by the Town, Wallingford could miss out on significant dollars if additions have to be made. He said the Town hopes to prevail on the scientific argument regarding phosphorous limits, but if the Town fails, it is important to have the maximum funding available, as a hedge on this possibility.

Councilor Fishbein asked what was being hedged. He said it appears we are collecting information not collaborately, separate and apart from the State. Mr. Adair disagreed saying the Co-Chair of the Science Workgroup is a DEEP employee and the scientist who developed the original standards.

Councilor Fishbein asked Mr. Adair if the Division is hedging to produce a lawsuit. Mr. Adair said the information produced that if DEEP goes ahead with the recommendations CASE has put forth, will shed light on a problem the Division believes is not directly linked with our discharge as was originally believed. He said we will know one way or the other.

Mayor Dickinson said in the broad prospective, the Town wants as many options as possible because a \$19 million or \$20 million plan will probably double the sewer rate which isn't affordable and this is what is being hedged.

Councilor Fishbein said he doesn't want to hear another amount will be needed. Mayor Dickinson said he doesn't know if more money will be needed. He said the Town has to investigate and prepare but ultimately there is a judgment we are looking to prepare for. He said this is a tough call as to where to cut this off. Councilor Fishbein said he heard the Town is still in the fact finding report collecting stage. Mayor said this is part fact finding and requesting a change in the judgment from DEEP for the 50% funding and is a procedural issue more than fact-funding. He said the Town is pursuing a procedural issue because we believe DEEP is incorrect.

Mr. Adair said DEEP is fundamentally incorrect with their rejection with Wallingford's eligibility. Councilor Fishbein asked why the other towns aren't sharing in this cost. Mr. Adair said they are

not involved in this effort with Atty. Andes and we are not pursuing them. He said the other three towns are not affected by this particular issue. He said Southington is going its own way in terms of constructing a treatment plant, and potentially Meriden and Danbury could see some improvement. He said the key point is Mr. Dann was serving co-chair of the committee and now he (Mr. Adair), has stepped into this role.

He said Mr. Dann was playing a major role with this committee and stressed the success with the consensus to issue the report they issued, is because of Mr. Dann. Mr. Adair said he is trying to take a rational approach and noted it prudent to have Atty. Andes available in Mr. Dann's absence.

Councilor Fishbein noted the Town has worked until recently, with Meriden Southington and Danbury. He asked if the next step is that the Town goes its own way. Mr. Adair said we not dissolving our relationship with the other three Towns. He said they don't have this funding issue and their limits were slightly lower than Wallingford, so they were not rejected. He said none of these Towns were serving as Chairman of the Workgroup 2. He note Dennis Waz from Meriden chairs another workgroup.

Councilor Fishbein asked if Wallingford is at the higher phosphorous level of the other two towns. Mr. Adair said it would be prudent to install a treatment capable of achieving this pounds limit at our permitted flow rate which is greater than our current average. He said we have a defacto .1 milligram per limit, the permit states .2 and noted the statute providing 50% funding is based on .2. He said Wallingford will build to a tighter standard to get the full use of the plant for the long haul.

Councilor Sullivan noted Wallingford was deemed ineligible for the 50 % grant funding and asked if any of the municipalities were able to receive the 50% grant funding. Mr. Adair said he believes Southington anticipates receiving this level of funding and presumes Meriden will receive the funding as well. Councilor Sullivan asked how much grant monies are available. Mr. Adair said this competes with the clean water funding and believes there has been an attempt on DEEP's part to ration the funding.

Mr. Sullivan asked even if Wallingford were to qualify for 30% funding, would the Town still be on the hook for \$11 million or \$12 million to upgrade the plant. He said this is a considerable amount of money to fund or bond out.

Mr. Adair said we are continuing our efforts until proven otherwise, some hope of ending up with a more rational and economically achievable limit by 2022. He said it seems wise to cover the other basis and cover our bases.

Mr. Sullivan said he supported the \$42,000 to get the ball rolling. He said he didn't know how to stop water and sewer rates from increasing. He asked if the Town was bonding the other fifty percent.

Mayor Dickinson said there are significant costs and at some point people in the highest level of government have to realize this money is coming to an end, and have to take into consideration what the citizens can afford. He stressed that if all possibilities aren't exhausted, we have not done our job to the public.

Councilor Mansfield said the partnerships are well entrenched and well documented. She said Southington might have spent \$10 to \$15 million to upgrade their plant. She said there are precedents set. She said to see this come back again makes her uncomfortable. Councilor Mansfield said the State is going to force the Town to do this, but it is a question of how much. She said this must be fought. She said it is pennies on the dollar in general but people are needed to help us digest this. She said it is priceless to have people with us that have these skills and commended the partnerships. Councilor Mansfield asked about the dates

Mr. Adair said this appropriation is just for additional funding for Barnes & Thornberg . He noted that if the appeal doesn't work, court action is a possibility which would require additional funding. He said the reporting by the coordinating committee will take place over the next three months. He said the other necessary effort that Atty. Andes may do is other legislative initiatives between now and 2018. He said there isn't a lot of time left before things converge.

Councilor Mansfield asked about the \$17,000 estimate and asked if this was the billing portion for Wallingford. Mr. Adair said it is and this is Atty. Andes estimate and has to be worked on by the four towns. He said there could be further interaction with DEEP.

Public Comments

Bob Gross, Long Hill Rd, asked Mr. Adair about enhancing the plant and whether this included enhancing the capacity. Mr. Adair said the flow rate would still be 8 million gallons per day permitted facility, but would be installing phosphorous removal technology capable of taking down the discharge in pounds to the permitted level at the full flow rate which works out to about a little over .1 per milligram per liter concentration.

Mr. Gross said if the effluent flow rate doesn't go down, the DEEP would tell the Town to increase the size of the plant, and asked if this would be an additional expense to the Town.

Mr. Adair said this is a possibility and a mandated I/I program by the State is also a possibility. He said certain aspects of the phosphorous upgrade may make permit exceedances of solid releases less likely I the event of a high flow. He said the \$19 million would be just for phosphorous removal.

Mr. Gross asked where all the phosphorus is coming from. Mr. Adair said from wildlife to natural soils, stormwater and agriculture. He said point discharges from the Waste Water Treatment Plant,(WWTP) are a source of this. He asked if the Division investigated who is doing this.

Mr. Adair said to control lead and copper, the water treatment industry deliberately adds phosphorus to its water supply and it is being successfully controlled, but now this seems to be at odds with environmentalists.

Mr. Gross asked about Cytec and Allnex's special permits and asked if they add to the phosphorous. He asked if the Division is looking at any of them as a source because they have permits to add extra chemicals into the system. Mr. Adair said he didn't recall discussing this aspect with the staff. Mr. Gross said he hoped the Town would look at these potential sources to bring these figures down. Mr. Adair noted Allnex has its own treatment plant.

Mr. Adair said we are at .7 milligrams per liter removing over 75% of the phosphorous in the waste stream. He said if one went back three years before removal began and looked at the pounds per day (ppd) leaving the plant during April through October, which is the time of year the permit levels apply, the (ppd) emitted are less by more than 75 % and to remove that additional tranche is expensive. Mr. Gross said removing 75/5 of material doesn't mean anything because so much material is being produced. Mr. Adair said the (ppd) is 25% less than what we were admitting.

ROLL CALL VOTE

**FISHBEIN-YES; LAFFIN-YES; LeTOURNEAU-YES; MANSFIELD - YES; RUSSO-YES;
SULLIVAN - YES; TESTA-YES; CHAIRMAN CERVONI-YES
MOTION PASSES**

7. Consider and Approve Utilization of the Qualifications-based Selection Procedure
Engineering
Services for Design and Construction of Wallingford Energy II Transmission
Upgrades/Public
Utilities

**MOTION MADE TO APPROVE UTILIZATION OF THE QUALIFICATIONS-BASED
SELECTION
PROCEDURE ENGINEERING SERVICES FOR DESIGN AND CONSTRUCTION OF
WALLINGFORD
ENERGY II TRANSMISSION UPGRADES/PUBLIC UTILITIES**

**Motion Made by: Laffin
Seconded by: LeTourneau**

Mr. Adair spoke about Wallingford Energy II which refers to the two new units to be added and Wallingford Energy, the operator of the five and their parent company, LS Power. He said under Lease Amendment #4, its now allowed to add two additional generators to the site. He said in order to do this, there is a great deal of due diligence required and studies which have already taken place. He said the costs, which are modest, will be recaptured under the terms of the Participation Agreement and the Interconnection Feasibility Study agreement which was approved by the Town Council in June 2015.

Mr. Adair said ISO New England has identified a number of significant upgrades to the facilities which interconnect these units ultimately to the grid. He pointed out there will be improvements within our fence to the sub-station which are required, and some upgrades and configurations to the tie between the Wallingford Energy Plant and our East Street sub-station. Mr. Adair said these will be in the several millions of dollars in cost and involves significant engineering efforts and must be completed and commissioned in parallel with installation of the units so they can be up and running by May 2018. He said there are two plus years ahead to get this done.

He said ISO/New England requires all interconnecting generators to execute along with the transmission owner (Wallingford), is a three-party agreement; ISO/New England, Wallingford and Wallingford Energy, is called the large generator interconnection agreement. Mr. Adair said

this is 95% ISO/New England boilerplate, and noted the Division's legal firm of McCarter & English, LLC has looked over this agreement and confirmed it's the appendices where all the details are. He said the fabric of the LGIA stipulate that the generator pays for all costs, not only to facilities they own, but to all improvements to transmission assets, those that are and aren't part of the grid, and for any distribution improvements the Division may have to make.

Mr. Adair said the cost obligation for this extends to engineering, construction and anything to do with this. He said there was a similar situation with CMEEC back in the 2006-2007 timeframe, but a far more extensive project was the Wallingford Energy undertaken and in this case, they constructed all of the improvements including configuring the Division's substation and dedicated these to the Town as part of the deal. He said this is the path the Division intends to follow here.

Mr. Adair pointed out that the Division doesn't know at this time precisely, the scope of work which will be involved. He said unlike a well-defined project in which it is reasonable to use a 50/50 cost qualifications bid, which doesn't require Council approval, the Division thinks this one most closely fits this which is a qualifications-based bid. He said the Division first ensures the correct firm is selected and then to solicit pricing proposals from each party. He said the big divide is whether this will be overseeing LS Power's engineering and construction activities or designing on the Division's behalf and overseeing our own paid for construction. He said Wallingford Energy would construct this all and dedicate it to the Division. He said this could be an oversight scope vs. an all-in, and the work to be designed is not known or the scope of the time involved, this is why he is seeking a qualifications-based approach.

Councilor Fishbein asked about the open-ended job scope and doing it on an hourly basis. He said he was generally supportive. He asked about oversight which he noted was important. Mr. Adair said the Division is entitled to rental revenue. Mr. Adair said the Division will also set up the contract for the work and its dedication to the Town in a way we can claim revenues from ISO/New England because for an increase in the value of POOL transmission facilities, by owning transmission assets which are seen as network assets. He said this has not been talked about or counted in with any of the revenues. Mr. Fishbein asked about the intent of these funds.

Mayor Dickinson said the Electric Division receives funds and this offsets the Towns cost of operation and this provides a valuable site and this and means the town receives money which supports our rates and operations and the taxes go to the Town as a separate agreement. Mr. Adair said this is a source of revenue and reduces the amount of revenue from rates. He said the Division has the option to replace or maintain this.

Councilor LeTourneau asked who owned the substation. Adair said WED/Town of Wallingford owns it all. He said the 115,000 volt line is co-owned between LS Power and WED. He said everything in the fence is owned by the Town through its Electric Division.

Councilor LeTourneau asked for clarification of Mr. Hendershot's memo about LS Power contracting to build. Mr. Adair said in terms of the LGIA and three party document, it is clear that LS Power or Wallingford Energy has to build and be responsible for anything on their side of the fence. He said the LGIA doesn't care what WED builds. He said WED would be coming to the Council for an addendum on the Lease which spells this out clearly. He said if LS

Power/Wallingford Energy couldn't complete the improvements, this would fall on the WED. He said the financial obligation is theirs.

Mayor Dickinson noted what will be ceded to the Town is what LS Power improves, i.e. our substation and distribution system

Councilor LeTourneau asked if LS Power would do all the engineering. Mr. Adair said they would with help from WED. He said this will require significant engagement from WED's engineering representative. He said even if LS power has the design and oversees construction, WED needs its Clerk of the Works because it is vital assets they are touching.

Public Comment

Mr. Gross asked Mayor Dickinson about the money from this helps offset electric rates for the consumer in Wallingford. He asked if the Town received over \$1 million which the Town receives from LS Power Equipment from the lease of the towers. Mr. Adair noted that prior to the new amendment, the Town was receiving \$585,000 and it now receives \$825,000 a year lease and will receive an additional amount when the two new units are installed. Mr. Gross said \$600,000 is a large amount to the Town and this would have covered the all-day kindergarten or other programs. He said this is a small amount to the Electric Division but it is a good amount to the Town.

Mayor Dickinson said if one looks at the forecast for electric energy, one should be worried. He said in 2017, capacity charges will go up 17 percent and transmission and generation charges are going up. He said we are facing serious issues regarding the cost of electricity. He said we could no longer have low rates and wonder where the businesses went because we have heavy industry in Town now because of the low electric rates.

ROLL CALL VOTE

**FISHBEIN-YES; LAFFIN-YES; LETOURNEAU-YES; MANSFIELD-YES; RUSSO-YES;
SULLIVAN-YES; TESTA-YES;
CHAIRMAN CERVONI-YES**

MOTION PASSES

8. Consider and Approve Resolution for Discontinuance of a portion of Beaumont Avenue/Law Department

MOTION TO APPROVE THE RESOLUTION FOR THE DISCONTINUANCE OF A PORTION OF BEAUMONT AVENUE/LAW DEPARTMENT

**Motion made by Laffin
Seconded by LeTourneau**

Councilor Mansfield recused herself from discussion and vote.

Mayor Dickinson said the issue is to vote to abandon this part of Beaumont Avenue to improve facilities at the Choate/Rosemary Hall campus.

Atty. Farrell said the Law Dept. has suggested the resolution for the Council.

Councilor Fishbein asked about the maps and where the snow shelf, (where snow would be left now) because they will not go all the way to the end. He said he understood a portion of this road would be plowed by the Town. Mayor Dickinson said the Town would be responsible the road the Town still owns.

Atty. Joan Molloy of Loughlin Fitzgerald, representing Choate/Rosemary Hall, said a snow shelf easement that has been proposed and reviewed by Public Works. She said there is an access easement because this will be over a portion of the property Choate owns, and there is an area where the snow would go. He said Choate would probably remove the snow before the Town. She said if the Town removes the snow before Choate, the Town does have an accessway and an area to store the snow.

Public Comments – None

ROLL CALL VOTE

**FISHBEIN-YES; LAFFIN-YES; LETOURNEAU-YES; RUSSO-YES; SULLIVAN-YES; TESTA-YES; CHAIRMAN CERVONI-YES
MANSFIELD-RECUSED
RESOLUTION APPROVED**

9. Discussion with regard to the apparent reduction in grant Revenue from the State of Connecticut, and adjustments to the Town of Wallingford budget for the 2015-16 Fiscal Year/Councilor Craig Fishbein

Councilor Fishbein asked the Mayor how he came up with this. Councilor Fishbein noted he originally intended for this discussion to be an action item.

Mayor Dickinson said he contacted the departments to determine what would be the best route. He said he received their advice. He said no one is looking to amend the budget or transfer anything, just put a hold on things to see where things go. He stressed the budget stands as it is.

Councilor Fishbein asked the Mayor if he had another "hit list" of additional items. Mayor Dickinson said this is the determined list. He said he didn't send a memorandum to all departments, just certain ones.

Councilor Fishbein asked about salaries and engineering. Mayor Dickinson said with the retirement of John Thompson, it is unlikely another position will be filled in that department. Councilor Fishbein asked about the fire engine and asked if these monies are not being booked, noting this was not an expenditure. Mayor Dickinson said this money is in the budget and is still there but should funds need to be reduced, this is something that could not be spent in order to

avoid other financial difficulties. He noted the Town is not purchasing a truck this year, but monies will be put aside for future purchase.

Councilor Fishbein noted there was no discussion of the basketball courts, it was not in the budget. He asked where the basketball courts were to be redone. Mayor Dickinson said there are six court will not be resurfaced at this time. Councilor Fishbein asked about the Community Garden fencing and noted he had a meeting with John Gawlak, Supt. of Recreation, regarding this. Mayor Dickinson said he and Mr. Gawlak discussed a number of items and he believed this was one which he would rather see on the list than other items.

Councilor Fishbein noted that when the budget was prepared last year, \$350,000 was appropriated for contingency. He asked why monies couldn't be taken out of contingency. Mayor Dickinson said once the contingency is gone, there is no support. He noted monies have already been taken from contingency and the Finance Dept. was concerned since it is so early in the fiscal year. Mr. Bowes said a lot of the contingency was utilized for snow and ice removal which might exceed the Town's expectations when the budget was adopted. He said the amount the Town starts the year is around \$360,000 and in years where there has been a warmer weather, this money has been freed up and noted that contingency is a potential source. He said it is too early weather wise and with regards from a fiscal standpoint. He noted the State closed in their books in 2013 with a \$113 million deficit and projected to 2016 a \$900 to \$1 billion dollar deficit in the fiscal year. He said he is concerned.

Councilor Fishbein asked as is done every year, proceed as budgeted, and when we arrive to next spring, deal with this then. He said he doesn't understand the timing. Mayor Dickinson said he is worried about the State and fully expect there will be more reductions and to make moves now and be honest about it. He said he doesn't want to be put in a position where the Town can't move. Councilor Fishbein asked Mr. Bowes about what line got affected in the revenue budget. Mr. Bowes said there are two line items under the PILOTS and State grants. He said the largest reduction is the PILOT and this was the State's attempted reimbursement for revenue loss to hospitals and colleges which is approximately a \$180,000 reduction. He said the second was the PILOT for State-owned properties, i.e. Wharton Brook and State Right-Of-Ways, which was the remainder of approximately \$53,000. He said this \$53,000 is gone and the Town will be getting zero.

Councilor Fishbein asked about the Social Services groups, particularly SCOW, coming to the Mayor concerned about their funding stating they are not going to get what we have always gotten from the State and requested an additional. \$34,000 which was given to them. Councilor Fishbein noted that on tonight's Consent Agenda, their correspondence stated that last year the State gave the Town two grants totaling \$127,592 for years and Gov. Molloy's proposed budget eliminates these grants and this was the reason they wanted this funding. He said tonight the Council approved \$123,590 for SCOW. He asked why the Town isn't going to the outside agency and request it be returned.

Mayor Dickinson said the Town doesn't plan to spend this money. He said if they receive the grant monies they didn't anticipate, the Town won't be spending its side of it. He said that will have to sort itself out during the year. Councilor Fishbein pointed out our appropriation wasn't contingent upon them not receiving the funding. He said the Council voted to give this money without contingency. He said he faced with this, would have contacted these groups and asked

them where they were on funding. He noted the \$34,000 would have paid for the basketball courts. Mayor Dickinson said he and Councilor Fishbein will not agree on this and noted he isn't sure if they will receive this money. He said the Town isn't planning on giving out the additional money because the Town was informed they didn't need it. Councilor Fishbein questioned the timing and said this is the first time the Council is hearing about this. Mr. Bowes said for many years, the Town has been contributing \$10,000 and this year it is \$34,000 so the total budget is \$44,000. He said if SCOW gets the grant, won't need the additional \$34,000. He said this wasn't an attempt by the Mayor to come down to the nitty gritty dollar because it is early in the fiscal year, but noted if one looks at the Mayors listing and add it up, it is short of the \$223,000 so there may be reductions elsewhere. He said this was an attempt to try to communicate with the Council that we are concerned and paying attention to this.

Mayor Dickinson said all that is being done is putting a hold on some funds so that the Town doesn't end up in a position of an inability to handle something properly. Councilor Fishbein asked if the Mayor has directed Henry McCully, Public Works Director, to not resurface the basketball courts. Mayor Dickinson said Mr. McCully is aware at this point that he shouldn't be resurfacing the courts immediately, but sometime later in the year. He said a warning is being given that everything can't be done now as forecast. He said he didn't know what would be next on the "hit list" without a dollar figure and becomes an entirely new discussion on how to handle this. Councilor Fishbein said he didn't agree.

Chairman Cervoni said he discussed this memowith the Mayor and clearly understood this is not an amendment to the budget and absent this in the Mayor's budget, there is no Council action to be taken on the budget. He said once budget is passed, the Council could only take action if a department head requested this through the Mayor.

10. Discussion and possible action on notification to the Town Council as to disciplinary actions undertaken against any employee of the Town of Wallingford and/or of the Utilities/Councilor Fishbein

Councilor Fishbein said he submitted other agenda items in regards to recent events regarding a Town employee. He said it was determined this matter would not come before the Council.

Mayor Dickinson said this determination was made by the Law Dept and this was not an independent determination made by himself.

Councilor Fishbein said in his opinion, he believes for him to find out about the arrest of a Town employee for alleged filing and forging documents of false claims, essentially the Town is the victim.

Town Attorney Farrell said this is the subject of a grievance and noted the Law Dept. ruled this not be discussed at all. Councilor Fishbein said it was inappropriate to find out about the arrest of a Town employee through an article in the Record-Journal. He said while the Council can't direct the administration to give the Council timely notice of these events, he believes this should happen.

Chairman Cervoni said there are certain assumptions the employee is entitled to and are entitled to the presumption of innocence and we should be careful in regards to spreading information. He said he deferred to the Law Dept. whether it is appropriate to defer to the Council. He said the Administration should be careful about making statements.

Atty. Farrell said even if someone is arrested, it is no indication of their guilt or innocence. He said the way the contracts are drawn, even if the employee is guilty, it doesn't take away from his right to a pension. He said the Council could request the Personnel Dept. to try to negotiate something else. Atty. Farrell said the Council could request to be notified but this is not required in the contract.

Councilor Fishbein said he is aware of the assumption of innocence but noted the Town Employee met with the Police and admitted his guilt. He said the Council should find out instead of hearing it from the Press.

Councilor Laffin said the Council is the legislative body not the executive. He said coming from the Board of Education, they dealt with more personnel issues than the Council and have to be careful in discussing people's lives. He said this is where the line is drawn. He said the Council has to trust that the department heads will do a good job and can't micromanage how they do their jobs.

Councilor Fishbein said the fact is that we pay the Town Atty. to administer this and in this particular instance, the question should be what Anthem has in place to protect the Town and taxpayers and other individuals. He asked what has been put in place as a result of this incidence and noted these are issues which fall within the Council's jurisdiction.

He said he is not on a head hunting mission but is concerned that \$28,765 in claims were paid and at the time of the arrest, there was another \$9,700 in claims pending. He said 273 claims were filed within a two-year period and according to the Police Report they were forged. He asked what Anthem is doing to protect us.

Chair Cervoni said this was a good question but noted this was not how the agenda item was framed. Councilor Fishbein noted that when someone is arrested, the Council should know and be able to go to Anthem or have them before us. Mayor Dickinson said the case is not over.

Councilor Fishbein said if an Anthem representative was here, the Council could pose hypothetical questions.

Atty. Farrell Sr. recommended waiting until the grievance is over. Chair Cervoni said this discussion was not using hypotheticals and can't base a policy based on reported police confessions and advised caution on further discussion.

Councilor LeTourneau said he believed there is a certain perception by the public of what the governing body knows or should know. He said it was disturbing to find out about this by reading it in the paper. He said when the article came out in the Record-Journal, he was approached. He said he didn't know anything about it because the Council wasn't told. He said at some point, even in executive session, the Council should have been notified. He said this isn't about micromanaging a certain dept. but notification of a governing body. He said this is

something to think about in the future and suggested a plan should be put together regarding a better notification process.

Councilor Sullivan said he does labor relations for a Fortune 500 company. He said the Town Attorney is correct in stating this should not be discussed with a pending grievance. He said as far as notification, he doesn't need any, because we have a Law Department and Personnel Dept. to handle this. He said the Council has no jurisdiction in the Charter to handle this matter. He noted that when this is discussed in the Council chambers, we run the risk of having the union asking the Council what they know. He said this should absolutely not be a Council issue.

Vice-Chair Laffin said if the Council was briefed in executive session and the paper asked us about it, nothing would be said and technically we couldn't acknowledge it. He said nothing could be achieved by discussing this.

Councilor Mansfield said the Council has no legal precedence on this. She said this is not the Council's purview. She said the Council doesn't have the power or authority to review pension changes. She said there is anger and emotion but is beyond the confines to satisfy the Town Charter. She said the entire discussion is beyond the agenda item and is a troubling precedent to set for this governing body.

NO ACTION TAKEN

11. Discussion and possible action with regard to modifying all of the Town of Wallingford pensions to include language calling for the forfeiture of benefits upon termination and/or coerced retirement of an employee/Councilor Craig Fishbein

Councilor Fishbein said there is a State Statute Section 1-110A which states that if the employee is convicted of embezzlement, the Atty. General is to file a petition in Superior Court to affect this pension. He said the Town Attorney previously mentioned there is language in the pension is somehow contrary to this contrary language in the contract and brought attention to the Town Attorney, CT. Gen. Statute 1-110D, which says no collective bargaining agreement entered into on or after Oct. 1, 2008 should contain any provision which limits the application of 1-110A. He said while this might appear in the pension, this is contrary to State law.

He said the question is whether or not the alleged facts would constitute embezzlement. He said this is an ambiguity in his mind. He said while the Town can't unilaterally change the pension, he doesn't believe anything can stop the Town from approaching the individual unions which some sort of agreement which makes clear whether or not the alleged facts would fall within embezzlement. He said he understands embezzlement requires a direct payment. He said Anthem was a third-party intermediary and approved the payments, he believes a court could find this is not embezzlement. He said the Town is in a unique situation and believes we have the power to approach the unions to solidify the language.

He mentioned the memo from Atty. Janis Small which he believed left the door open to this for us to be able to inquire from the Pension Council as to the procedure, and said he would like to see this happen. He said there has been talk about whether the unions are protecting possible criminal activity. He said this is demoralizing to the workforce in general and said he would like

to see this go to the Pension Council or have Atty. Small look into this to see if this could take place.

Mayor Dickinson said the Town won't move on this matter until there is a resolution on the pending case.

Atty. Farrell said the administration is aware of certain facts on this case which shouldn't be disclosed, including the time frame.

NO ACTION TAKEN

12. Executive Session pursuant to Section 1-200(6)(D) of the Connecticut General Statutes with Respect to the purchase, sale and or leasing of property/Mayor

NO EXECUTIVE SESSION

Adjournment

Councilor Fishbein made a motion to adjourn the Meeting at 8:40 p.m. which was seconded by Councilor LeTourneau The motion passed unanimously.

Respectfully submitted,

Cynthia A. Kleist
Acting Recording Secretary

RECEIVED FOR RECORD 10-16-15
AT 10:15 AND RECORDED BY
Dorcas Anglin TOWN CLERK