

TOWN OF WALLINGFORD

TOWN COUNCIL MEETING

Robert F. Parisi Council Chambers

TUESDAY AUGUST 23, 2016

6:30 p.m.

MINUTES

PRESENT: Chairman Vincent Cervoni; Vice-Chairman Tom Laffin; Councilors Craig Fishbein; Vincent Testa (arrived at 7:30 p.m.); Joseph Marrone; Jason Zandri; John Sullivan; Mayor William Dickinson; Corporation Counsel Janis Small.

NOT PRESENT: Councilor John LeTourneau and Christopher Shortell.

Chairman Cervoni called the Meeting to order at 6:40 p.m. and the Pledge of Allegiance was recited. A moment of silence was observed in memory of Ernie Frattini, Retired Director of Civil Preparedness, who recently passed away.

Opening Prayer – Rev. Margaret Jay, First Congregational Church

- 1. Consent Agenda

Vice-Chair Laffin made a motion to approve Consent Agenda items 3a through 3aa Councilor Fishbein seconded the motion

Vote: Unanimous

3a. Consider and Approve Tax Refunds totaling \$29,751.54 (#8-123) Acct. #1001001-41020 – Tax Collector

3b. Consider and Approve use of Parade Grounds, Town Hall, Lawn, Simpson Court, South Main Street, North Main Street and Hall Avenue for Celebrate Wallingford Street Festival Oct. 1 and 2, 2016 – Mayor Dickinson.

3c. Consider and Approve use of the Parade Grounds in front of the First Congregational Church Buildings #9, 23 and 35 South Main Street on Sunday, September 11, 2016 from 9 a.m. to 1:30 p.m. – Chairman Cervoni

3d. Acceptance of donation and Consider and Approve Appropriation of funds in the amount of \$600 to Revenue Acct. #2264002-47152 – and to Expenditures, Acct. #226640150-58830 – Y&SS

3e. Acceptance of donation from Napier Foundation and Consider and Approve Appropriation of funds in the amount of \$5,000 to Donations, Acct. #2274002-47010 and to Expenditures, Acct. #TBD – Y&SS

3f. Acceptance of donation and Consider and Approve Appropriation of funds in the amount of \$256 to Donations, Acct. #2134002-47152 and to Expenditures, Acct. #21341000-58830 – Y&SS

3g. Acceptance of National Education Foundation Grant and Consider and Approve Appropriation of funds in the amount of \$1,000 to Revenue, Acct. #2264002-47010 and to Expenditures, Acct. #TBD – Y&SS

3h. Acceptance of Grant from the Wallingford Foundation and Consider and Approve Appropriation of funds in the amount of \$2,580 to Revenue, Acct. #2264001-47152 and to Expenditures, Acct. #22640150-58830 – Y&SS

3i. Consider and Approve Appropriation of funds in the amount of \$4,620 to Revenues, Fund #228 and to Expenditures, Fund #228 – Finance

3j. Acceptance of funds in the amount of \$2,500 from East Shore Health District, MRC Regional Coordinator and CT Region 2 fiduciary for Health and Human Services funding and Consider and Approve Appropriation of funds in the amount of \$2,500 to MRC-ESHD Regional Funds (Revenue), Acct. #2504002-47152 and to MRC –ESHD Regional Funds (Exp.), Acct. #250 – Health

3k. Consider and Approve Resolution authorizing the Mayor to contract with a CT DPH, Childhood Lead Poisoning Prevention and Control in the amount of \$7,408 and designate Eloise Hazelwood, Director of Health, as the administrator of said program for the purpose of conducting mandated functions to prevent childhood lead poisoning, including education and outreach – Health Dept.

3l. Acceptance of Appropriation and establish Revenue and Expenditure line items for \$7,408 to Lead Poisoning Prevention – Grant, Acct. #TBD and to Lead Poisoning Prevention – Exps., Acct #TBD – Health

3m. Consider and Approve a Transfer in the amount of \$24,177 – Fire Dept. (FY 2015-2015)

\$24,177 From: Replacement Pay Acct. #50020155 – 51500

\$3,300 To: Depreciation Acct. #50020155-59110

\$9,000 To: Fringe Benefits Acct. #50020155-52050

\$3,622 To: Refunds Acct. #50020155-58840

\$6,600 To: PS-Ambulance Acct. #50020155-56778

\$1,655 To: Gas & Diesel Acct. #50020155-53100

3n. Consider and Approve a Transfer in the amount of \$145,745 - Personnel

\$145,745 From: Contingency Accrued Exps. Acct. #10019000-58821

\$100,723 To: Regular Wages (Police) Acct. #10020050-51000

\$7,500 To: O/T (Police) Acct. #10020050-51400

\$8,956 To: Wage Diff. (Police) Acct. #10020050-51450

\$2,825 To: Replacement Pay (Police) Acct. #10020050-51500

\$24,001 To: Pension Match Acct. #10020050-52305

\$1,740 To: Medicare Match Acct. #10012050-52105

30. Consider and Approve a Transfer in the amount of \$117,000 – Personnel – (FY 2015-2016)

\$50,000 From: Hypertension –Fire Acct. #10012100-52956

\$67,000 From: Hypertension – Police Acct. #10012100-52957

\$117,000 To: Workers Compensation Acct. #10012100-52120

3p. Consider and Approve a Transfer in the amount \$22,700 from Administrative and General Salaries, Acct. #43100920 to Injuries and Damages, Acct. #43100925 – Water Division – (FY 2015-2016)

3q. Consider and Approve a Transfer in the amount of \$1,700 from Injuries and Damages, Acct. #43100925 to Property Insurance, Acct. #43100924 – Water Division

3r. Consider and Approve a Transfer in the amount of \$300 from Transmission-Station Expenses, Acct. #562 to Transmission-Load Dispatch, Acct. #561 – Electric Division (FY 2015-2016).

3s. Consider and Approve a Transfer in the Amount of \$5,600 from Distribution – Station Expenses, Acct. #682 to Distribution – Load Dispatch, Acct. 581 – Electric Division

3t. Consider and Approve an Appropriation of funds in the amount of \$4,770 from Retained Earnings, Acct. #NA and to Property Insurance, Acct. #924 – Electric Division

3u. Consider and Approve a Bid Waiver for the Horizon Software International, Point of Service computer system, for maintenance and support costs of approximately \$14,000 for the FY 2016-2017 school year- BOE Food Service.

3v. Consider and Approve a Bid Waiver Request for New Britain Emergency Medical Services Academy Program for \$14,050 per year – EMS Division Fire Dept.

3w. Consider and Approve the Appointment of Joel M. Rinebold to the Public Utilities Commission to fill an existing vacancy effective immediately and expiring March 1, 2017 – Mayor Dickinson

3x. Consider and Approve a Resolution authorizing the Mayor to enter into an agreement with the State of Connecticut for funding in the amount of \$227,228 for a Connecticut Recreational Trails Grant – Program Planning

3y. Consider and Approve acceptance of 2016 Small Cities Community Development Block Grant and consider and approve Appropriation of \$800,000 to Small Cities Grant Revenue, Acct. #TBD and to Small Cities Grant Expenditures, Acct #TBD – Program Planning

3z. Approve Town Council Minutes of July 12, 2016 Meeting

aa. Approve Town Council Workshop Minutes of July 12, 2016 Meeting

Chairman Cervoni congratulated Joel Rinebold, newly appointed Public Utilities Commission member.

4. Items Removed from the Consent Agenda – None

5. PUBLIC QUESTION & ANSWER PERIOD

Bob Gross, Long Hill Road, asked about the status of the company which was interested in installing solar panels at the landfill. Mayor Dickinson said to his knowledge, there has been no further contact by this company, and noted the company was supposed to be applying to the State, but may not have been successful. Mr. Gross said the Town should use this land for solar panels. He said CMEEC decided to construct an array of solar panels around Bozrah and are producing enough electricity to power 8,400 homes. He said if CMEEC is interested in solar, noting they used to be Wallingford's energy provider, why wouldn't Wallingford want to do something like this.

Mayor Dickinson noted that Utilities Director George Adair should speak to this but pointed out much of the issues come down to whether it is cost effective. He said Wallingford's electric rates are low and solar panels require subsidies. Mr. Gross said CMEEC is receiving rebates. He said it isn't only about money, it is a green footprint which produces no fossil fuel and is a fixed cost for 20 years which is advantageous for Wallingford in the long run. He said Mohegan Sun, Bosrah and Norwich participate with CMEEC and they have the lower rates. Mr. Gross pointed out there are 50 acres available at the landfill and noted that CMEEC installed their 4.3 megawatt plant on a little over 15 acres.

Mr. Gross asked if it was allowable to smoke on public property, i.e. parks. Mayor Dickinson said he wasn't aware of any ordinance which would not allow smoking outside. He said the Board of Education has a prohibition on smoking indoors or out on school properties.

Larry Morgenstein, South Main St., took a moment to congratulate Mr. Reinbold on his appointment to the PUC. He said Mr. Reinbold represents hopefully a fresher approach in looking into green energy. He said he was impressed with his resume, i.e. saving the Sound, his involvement with micro grids and with solar energy, panels and storage. Mr. Morgenstein said possibly Wallingford is at the cusp of establishing a vision for the future of what energy should be and will be in Wallingford. He congratulated Mayor Dickinson for making this appointment.

End of Public Question & Answer Period –closed at 6:50 p.m.

6. Discussion and Possible Action regarding Collective Bargaining Agreement Between Town of Wallingford, Wallingford Board of Education and United Public Service Employees Union, Local 424, Unit 18, (Management) Contract from July 1, 2016-June 30, 2018 – BOE

Appearing in front of the Council was Cindy Lavalette, Assist. Supt. for Personnel for the Wallingford Public Schools; Roxane McKay, Chair, Board of Education; Sal Menzo, Schools Supt.

Ms. Lavalette said this is a contract for a manager's union which has a total membership of four. She said if the contract was approved, the total number would drop to two members with the position of business manager and food service director being eliminated from the union. She said although this is a two-year contract, there was a one-year wage opener which would be retroactive to the 2015-2016 school year. Ms. Lavalette said for all three years, the retro year and the two-years going forward, there will be a 2% general wage increase. She said one of the highlights is the elimination of the waiver in the contract and an increase in the premium cost shares each year of the three year contract, so into the retro year and into the two years going forward, the deductibles associated with urgent care and office visits, ER outpatient and inpatient hospitalization was increased. She said while the HSA wasn't approved, progress was made in that the union agreed to allow the HSA as an option. Ms. Lavalette said there will still the PPO and the premium cost shares for the option will be the same as the PPO.

Councilor Sullivan said he supported this contract, stating it was fair and would sign off on it. He said the playing field is level and things are in place which in time will remove the insurance waivers. He said both the administration and unions did a good job. Councilor Fishbein asked about the plan for the Director of Food Services coming out of the union. Ms. Lavalette said currently there is an interim food service director for this current year. She said the reason for not moving forward with a permanent position was because of a difficult year with the bottom line. She said everyone is trying to find ways to run less in the red and are working at it one more year to try to make the food service profitable and gives more flexibility in the future. Councilor Fishbein asked about the prospects of this union merging with another union. Ms. Lavalette said this is something that will be explored and considered and steps will entail moving things to the union membership and taking steps through the legal process.

Councilor Sullivan said his concern that by making a motion, this may not pass and if no motion is made, the contract will go into effect in 30 days.

Public Comment

Bob Gross, Long Hill Rd., asked about the defined benefit plan and defined contribution and was it discussed noting just a few highly compensated employees are involved. Ms. Lavalette said this was not discussed. Mr. Gross said he said it is great the insurance waiver is gone. Mayor Dickinson said this is not a pension agreement and is a separate agreement.

NO ACTION TAKEN-CONTRACT PASSES BY FUNCTION OF LAW WITHIN 30 DAYS.

7. Executive Session pursuant to Connecticut General Statutes Section 1-200(6)(B) regarding strategy and negotiations with respect to the pending Worker's Compensation claim of Philip Coleman – Personnel

8. Executive Session pursuant to Connecticut General Statutes Section 10200 (6)B() regarding strategy and negotiations with respect to the pending CHRO matter of Delgado v. Town of Wallingford- Personnel

Vice-Chair Laffin made a motion to go into Executive Session at 7 p.m. for Items 7 & 8. Councilor Fishbein seconded the motion which passed unanimously.

Present at Executive Session Items #7– Cervoni; Fishbein; Laffin; Marrone; Sullivan; Testa – (arrived during #7); Zandri; Mayor Dickinson; Kurt Treiber; Collet Griffin; #8 – All Council members including Personnel Director James Hutt.

Chairman Cervoni called the Meeting back to order at 7:22 p.m.

Vice-Chair Laffin made a motion to come out of Executive Session at 7:22 p.m. Councilor Fishbein seconded the motion which passed unanimously.

9. Discussion and Possible Action regarding the Worker's Compensation claim of Philip Coleman as discussed in Executive Session – Personnel

Vice-Chair Laffin made a motion to settle the Worker's Compensation claim of Philip Coleman as discussed in Executive Session. Councilor Fishbein seconded the motion.

Public Comments – None

Vote: Unanimous

10. Discussion and Possible Action regarding the matter of Delgado v Town of Wallingford as discussed in Executive Session.

Vice-Chair Laffin made a motion to settle the matter of Delgado v Town of Wallingford as discussed in Executive Session. Councilor Fishbein seconded the motion.

Public Comment - None

Vote: Unanimous

11. Discussion and Possible Action regarding the possible renaming of Yalesville Elementary School to Mary G. Fritz Elementary School – Town Council

Chairman Cervoni said before the Council takes action, even if they have the right to, this should be run by the Board of Education, stating there is an impact when a school is renamed.

Public Comment

Iris Papale, 46 S. Cherry Street, thanked the Council for putting this on the agenda. She spoke about why Yalesville School should be named after Mary Fritz. She went over the file on Mary Fritz and noted the Fritz family was willing to provide funds to change the sign at Yalesville School and donate \$7,000. She said Mary Fritz was an exceptional person and everyone in town knew her. She said Mary Fritz touched us in every way and asked the Council to give this consideration. Ms. Papale noted Mary Fritz also taught at Yalesville School.

Bill Fritz, 43 Grove Street, Yalesville, spoke about his family and said Mary devoted her life to education and tried to solve people's problems. He said the family will guarantee the cost of signs and letters so there would be no cost to the Town.

Roxane McKay, Board of Education, thanked the Council for agreeing to wait the two weeks when the Board of Education will meet to put this on their Sept. 12 agenda.

Bob Reynolds, 844 Old Durham Road, said Mary Fritz devoted so much of her time, so it is only fitting the town reciprocate.

Barbara Kapi, 6 Deme Road, said Mary Fritz inspired her love of politics and would like to see a portrait of her in every one of Wallingford's schools. Ms. Kapi said Mary put others needs in front of her own.

Bill Fritz noted that very few things are named after women. He suggested naming the Town Hall after Mayor Dickinson when he retires.

Rep. Mary Mushinsky said she supported renaming the Yalesville School after Mary Fritz. Rep. Mushinsky said Mary cared more about education and this was her passion at the Capital and in Wallingford. Rep. Mushinsky said Mary was responsible for saving Yalesville School.

David Fritz, 3 Cliffside Drive, said naming Yalesville School after his mom would be awesome and pointed out that finances shouldn't dictate decisions. He said it would be heartwarming to have his mom's name associated with Yalesville School.

Elizabeth Verna, 26 Mapleview Road said Mary Fritz was a unique individual, great leader and role model for women in Connecticut and Wallingford. She asked the Council to consider a conditional vote.

Chairman Cervoni pointed out there was not much opposition to renaming the Yalesville School, but a conditional vote is a mandate. He said this item will be taken up by the Council after the Board of Education operational meeting on Sept. 12.

Will Fritz, Clinton, said he appreciated the consideration. He said his mom's efforts were far-reaching beyond the Town Hall.

Councilor Fishbein said he attended Yalesville School and spent a lot of weekends in the Fritz's garage doing arts and crafts. He said money shouldn't matter and supported what was before the Council.

Councilor Zandri said this has the full support of everyone here and was certain the Board of Education will look at this the same way. He said the process should be allowed to unfold the way it should and we will get this done for all of us and for Mary.

Councilor Sullivan said he spent many nights at the Fritz's home and said Mary was the consummate politician. Councilor Sullivan said Mary took a practical approach to government and that Mary served not only this District but the Town. He spoke about Lyman Hall's synthetic track which came to fruition because of Mary and noted he entered politics because of Mary Fritz. He suggested the \$7,000 be raised for a scholarship in Mary Fritz's name.

Vice-Chair Laffin thanked Mary Fritz's family for allowing her to serve and noted this isn't about politics, but public service.

Chairman Laffin said as soon as the Council hears from the Board of Education, this will be back on the agenda.

Chairman Laffin said Councilor Zandri would seek a waiver under Rule 5. Councilor Zandri noted this past week there was a PUC meeting and some amendments made. Councilor Zandri made a motion for discussion and possible action with respects to the actions taken on the Agreement from the PUC meeting of August 16, 2016.

Councilor Zandri made a motion to waive Rule 5 in consideration of the above item. Councilor Fishbein seconded the motion.

Roll Call Vote: Fishbein-yes; Laffin-yes; Marrone-yes; Sullivan-yes; Testa-yes; Zandri-yes; Chairman Cervoni-yes

Motion passes

Councilor Zandri made a motion for discussion and possible action the PUC action from August 16, 2016 with regards to Amendment #1 for the Market Priced Power Supply Agreement. Councilor Fishbein seconded the motion.

Chairman Cervoni noted this was how the item would appear on the agenda, but his concern was that as a motion this didn't direct the Council to take any action. Councilor Zandri noted that the idea is to take a look at the information rather than come right out and take an action to veto the item, he wanted a discussion first. Councilor Zandri noted that unless he was satisfied with the explanation, this would be his action to take a vote to veto the action taken by the PUC under this Amendment.

Chairman Cervoni asked Council Zandri if he would amend or withdraw his original motion.

Councilor Zandri amended his original motion accordingly. Councilor Fishbein seconded this motion.

The motion was re-read: **"Zandri-Motion to take a vote to veto the PUC action of August 16, 2016 regarding Amendment #1 of the Market Priced Power Supply Agreement between the Wallingford Electric Division (WED) and Bristol Myers-Squibb (BMS). Councilor Fishbein seconded this motion.**

Mayor Dickinson said Director George Adair and PUC Chairman Robert Beaumont were away at a conference and could not appear at tonight's meeting.

Appearing in front of the Council was Electric Division General Manager Rick Hendershot; PUC Commissioner Patrick Birney and Tom Sullivan, Electric Division Office Manager.

Mr. Hendershot said Amendment #1 was an amendment to the Market Based Power Supply Contract between WED and BMS. He read Amendment #1 into the record. Chairman Cervoni

noted that the Agreement, not amended, would have provided that Bristol Myers rates increase. Mr. Hendershot confirmed that revenues collected from Bristol Myers would increase. Chairman Cervoni said the impact of the Amendment was to not to impose the increase which would have occurred because WED simultaneously by a different action, adjusted the Town-wide rates, so the Amendment makes the BMS rates consistent with the other rates adjustment done around Town. Mr. Hendershot confirmed this statement.

Mr. Birney said there were two points: one that the WED had an Executive Session, Attorney/Client privilege communication on the CMEEC arbitration and Counsel during these negotiations made clear that every contract in the State has an implied Covenant of Good Faith and Fair Dealing. He said when the Executive Session was over and deliberations began, that implied Covenant of Good Faith and Fair Dealing was at the forefront of his mind. Mr. Birney pointed out the WED had just completed four rate workshops, multiple public hearings and the end result of the Rate 5M modification was a .01 increase. Mr. Birney said overall the entire increase to the Town of Wallingford ratepayers for the upcoming fiscal year will be .34%. He said the increase to BMS under the Market Priced Power Supply Agreement if the WED did not vote to modify would have been a 12.5% increase. He said when he looked at the Agreement, his interpretation of the customer demand charge provision, he looked at this provision as a tag along. He said if demand charges are increasing, the Power Supply agreement will also go up. He noted that if demand charges go down or remain the same, the Implied Covenant of Good Faith and Fair Dealing in his view dictates the modification was warranted.

Councilor Zandri said he had concerns not only with what has occurred here but with some of the statements. He said his issue is that there is a rate increase which wasn't intended under the action taken but would have been the end result and would have been 12%. He said the rates that we were looking at, the original rate changes to the residents were originally going to be 12.1%. He said he understood these were future costs and not current, but said it seemed to him this was less of an issue putting this on the backs of the ratepayers. He said he was trying to understand the special circumstance. Councilor Zandri asked if this change impacted BMS, did it impact other major users.

Mr. Hendershot explained the intent or structure of the changes to Rate 5 is that demand Mr. Birney said the three numbers which caught his attention were .01% which was what the 5M rate increase was going to be and across all rate classes, .34%; Bristol-Myers, 12.5%. Mr. Hendershot said the reason this occurred is because the rates approved which will go into effect Oct. 1, were intended to operate for the remainder of the fiscal year and are a restructuring of rates a mechanical change but not intended to raise further revenues. He said total revenues will go up less than 1%. He said the effect on Rate 5 which includes 5M are customers classified as manufacturers. He said they have slightly different rates so the gross earnings tax is not over-collected because they receive a tax break as manufacturers.

Mr. Hendershot said the demand charges, which are charges that are applied to the maximum load the customer imposes on the system during their highest hour of usage during each billing month, are going up and the energy charges, the cost of energy during all hours of the year, are going down. He said the effect on customers in retail Rates 5 and Rates 5M is effectively zero. He explained that if Bristol Myers-Squibb was a Rate 5M customer they would see the same result. Mr. Hendershot said as a special market-based customer, BMS goes into the market themselves and see to their power supply needs with WED acting as a conduit. Mr. Hendershot said the intent of those provisions of the contract are such that when WED changes its retail rates, produce more operating revenue, or spread. He said the rates from October going forward are not going to raise more operating revenue but if WED had left the mechanical changes of the special market priced contract in place, it would have raised over \$150,000 in additional operating revenue from BMS. Mr. Hendershot said it was the Director's opinion in concurrence with the PUC that this not take place because it was not what the overall rate changes were intended to do.

Councilor Zandri asked if there are other entities which fall under this clause. Mr. Hendershot said there was one other large customer with a similar, but not identical contract. Councilor Zandri asked how this rate change would affect the residential customer. Mr. Hendershot said that portion will go up approximately 8 tenths of a percent. He clarified by stating that revenues will be 8 tenths of a percent higher than they would have been without the change, but because of anticipated changes in the PCA (Power Cost Adjustment), the net effect on the typical residential customer will be an approximate 7 cents a month decrease.

Councilor Zandri noted that this last part was based upon speculation. Mr. Hendershot said he believes WED's energy position is 90% covered for the period being spoken about. Councilor Zandri said the issue he has is multi-faceted. He said the little guy doesn't have any benefits such as this. He that one conversation he had with a resident involved the fact that BMS is leaving so why reduce their rates. He said if this amendment is the right thing to do to 100% of the ratepayers in town and it negatively impacted 2 of them, why did WED go through this trouble to fix it and said if it was the other way, WED wouldn't be so quick to fix this.

Mr. Birney said that evening, he grappled with the same thoughts and asked the same questions. He said in the exercise of his sound business judgment as a member of the PUC, he believed this was the right decision and moved the motion which passed unanimously. Councilor Fishbein said he didn't receive this backup in their packets originally. He said this ended at Item #12 which has been an issue. He said he received the supplement, Item #16, the day before the meeting. He said he would have liked to review this before tonight's meeting. Mr. Hendershot, in answer to Councilor Fishbein's question, stated there would be no giveback or retroactive charges. Councilor Fishbein said when BMS came to Town, they were given certain breaks. He said now, BMS, in his opinion, have preemptively broken the implied Covenant of Good Faith and Fair Dealing by telling their employees that they are not employed by them anymore. He said as far as he is concerned, we got slapped in the face first, and

doesn't believe BMS deserves this consideration. He said he was happy this was being discussed.

Mayor Dickinson said one should not mix the tax incentives the Town engaged in with BMS with the providing of electric energy to the same business, which are different issues. He said the good faith dealing applies to the intent of a contract entered in with BMS. He said we are in a different relationship with them because they generate their own electricity. Mayor Dickinson said the good faith dealing is a significant issue and stressed he would not want a message to go out to other companies contemplating coming to Wallingford, and have them become aware that the Town in their rate making, doesn't subscribe to good faith dealing. He said if BMS has not broken the Covenant of Good Faith and Fair Dealing because they purchase energy and WED supplies the energy and they have a contract with WED that if the rates go up, they will pay a portion of this. Mayor Dickinson noted this is not what is going on with this issue, because if that were the case, BMS would be paying outside of what the WED deserves to collect. He said Wallingford lives up to what it promises.

Vice-Chair Laffin said a veto would communicate a message that the Town doesn't want to communicate to other businesses in Town and would undermine the ability of the PUC to negotiate with businesses. He said a veto would undermine the trust to the PUC and noted he didn't believe BMS was leaving to "stick it to the Town" and wouldn't be fair to "stick it back to them" because they are leaving. He said BMS has been a strong partner in Town. He said this is fair and is what the contract which was originally discussed with BMS was to be. He said this is good faith and fair dealings that this be discussed and re-opened. He said this type of scenario was envisioned and would not be appropriate to back off this.

Councilor Zandri he didn't believe the Town was "sticking it" to BMS. He said the Town has a condition where this change was made, and the unintended result was that BMS got pressed the hardest on the rate change. He said Wallingford, WED and the PUC has to look at our large biggest picture, which is a large base of ratepayers who don't have the ability to pick up and move. He said this change was not done nor made to get a few large customers to pay more, it was set to make changes to the rates everyone would pay. He said it ended up that one customer ended up paying a higher proportion. He noted the residential customer service charge is \$18 a month just to be tied into the service. He said this situation outlines this.

Councilor Zandri said the timelines to consider doing something like this are very tight. He said he would have preferred to have had more time to look this over and had more time to do this without having to request a Special Meeting. He said this would come up with Charter Revision which wasn't addressed. He noted the PUC's "unanimous" vote involved two people and why the consideration of Charter Revision was to have five members which didn't get addressed.

Mr. Hendershot said there was another company where a similar change was made to a similar contract. Councilor Zandri noted this change was 12% and this other was less than 2%.

Councilor Marrone commented he didn't believe this discussion would be taking place if BMS weren't leaving.

Public Comments

Bruce Conroy, 13 Burke Heights, said BMS signed the contract and it is too bad. He said two people voting "unanimously" and the people in Town shouldn't "eat it" BMS signed the contract, let them pay.

Geno Zandri-9 Balsam Ridge Circle, spoke about BMS paying high fees for their electricity. He said if any company considering moving to CT, and was driven by electric rates, they would come to Wallingford because they have the lowest rates.

Bob Gross, Long Hill Road, spoke about the \$3.71 KWh charge. Mr. Hendershot said this was the demand charge is \$3.71. Mr. Hendershot said the KWh isn't charged because BMS is a market-based customer. Mr. Gross asked if this was a raise in the electric rates but the infrastructure. Mr. Hendershot said WED gives power to them and has a structure with which to do this. Mr. Gross said what WED is charging them for is bringing the power to them. He said we need to maintain the infrastructure for them and this could be for anyone. He said he finds it vindictive if someone is leaving and want to stick it to them. He said we need to maintain the service fee. Mayor Dickinson asked if BMS was purchasing any power from an entity outside of Wallingford. Mr. Hendershot said BMS acquires all of the energy needs from the market and said some of their needs are supplied from their on-site energy. Mr. Gross said BMS still has to bring in power and needs a source not from WED. He said the only thing WED charges to BMS is the means to get the power there and agrees with Councilors Zandri and Fishbein. He said a contract is a contract and said this came up in Charter Revision in 2009 and 2016.

James Hine, 342 S. Elm Street, said the rate increase applies to everyone in Town. Mr. Hendershot pointed out that for the remainder of Fiscal 2017, there is essentially no rate increase, it's more of a rate adjustment which will apply to everyone. Mr. Hine asked if there was anything in the contract which would have prevented the rate increase or adjustment to be made to BMS. Mr. Hendershot said not without the Amendment which was approved. Mr. Hine said this is something BMS agreed to and so he is having a hard time understanding where the bad faith is. He said this was allowed by the contract.

Mayor Dickinson said in this case there are not increases in other rate classes, and yet the Town would be substantially increases the rates for BMS. He said that is where that was not the intent of the contract and where one gets into the good faith bargaining issues.

Mr. Birney said the PUC asked the same questions Mr. Hine asked. He spoke about the "tag along" provision which is a course of conduct between the Town and BMS. He said if the rates go up, or go down, these provisions are renegotiated. Chairman Cervoni noted that WED operates as a co-operative. Mr. Hendershot said WED doesn't look like a cooperative but noted

WED doesn't have the profit motive an investor-owned utility would have. He said WED is required by State Statute to run in the black to the tune of between 5 % and 8% return on investment and the rates accomplish this. He said the return is used to fund the payment to the Town (PILOT) – Payment in Lieu of Taxes.

Mr. Gross wondered if BMS was receiving electricity from WED exclusively would the rate structure be different and would they have had a surcharge. Mr. Hendershot said they would be subject to the new Rate 5 structure, but its impact would be different. He said he didn't know if this would be lower or higher because there is no energy charges associated with the BMS contract. He said the customer charge for Rate 5M would be lower if BMS would be receiving electricity from WED. Mr. Hendershot said when the Director saw how the provisions of the contract would play against the rate changes that are going into effect, the amendment was proposed.

Mr. Gross asked Mr. Zandri if this negatively affected the little guy, would the Director have been so protective. He said he doesn't know what the dollar amount is because this has never been discussed. Mr. Hendershot said it is 12.5% and is just under \$13,000 a month. Mr. Gross asked how much electricity BMS used per month. Mr. Hendershot said he didn't know. Mr. Gross said the WED charges BMS based on ¼ kilowatt and megawatt in order to get taxes and conservation funds so there must be an idea what BMS uses. Mr. Hendershot said ballpark average energy use per month is 700,000 kWhs. Mr. Gross asked what this figure would be at the residential rate. Councilor Zandri said this figure would be approximately \$72,000 a month but wouldn't be charged residential. Mr. Gross said if BMS was buying electric from WED, BMS would be paying a much lower rate. Mr. Hendershot said he didn't know because they would have to behave the same way they are now but probably wouldn't because there cost signals are different.

Mr. Gross said they were playing the odds and taking a chance. He asked if this sunsets in January. Mr. Hendershot said there would need to be a new contract in place. Mayor Dickinson responded regarding the Director being fair with a large or small user. He said there is a concerted effort to be fair and everyone within a rate class is treated with the utmost fairness. He said he has never seen any instance where there has been favoritism. Councilor Marrone asked Mr. Hendershot if there was no amendment would BMS be treated in a manner inconsistent with large corporate customers. Mr. Hendershot said he believed this would be the case. Councilor Marrone said he believes this amendment would give no special treatment to anyone and treats BMS the same as anyone else. He said the PUC took the right action.

Councilor Sullivan said this is a complicated issue and says we look to the PUC to filter this down to a level we can understand. He said he wanted more time to review this and was not prepared to make a decision tonight. He asked if this needed to be resolved at a specific time, or could this be tabled for two weeks. Mr. Hendershot said the Charter is firm on this matter and the Council must act within 15 days within PUC action. Mayor Dickinson said the Council

could act because the matter could be revisited on Monday or Tuesday of next week at a Special Meeting and still be in the legal timeframe. He asked the Council to consider a Special Meeting next week.

Councilor Sullivan moved to table this item and call a Special Meeting next week. Councilor Fishbein seconded the motion.

Chairman Cervoni said a yes vote would end discussion on this item tonight until the Special Meeting. Councilor Fishbein asked if it was 15 or 14 days for action to be taken. Atty. Small said she believed it was 15 days. She said a date would be picked within the time limit. Chairman Cervoni said if the motion to table is successful, the meeting will be scheduled within the legal timeframe

Roll Call Vote to TABLE this item: Fishbein-yes; Laffin-no; Marrone-no; Sullivan-yes; Zandri-no; Testa-yes; Chairman Cervoni-no

MOTION TO TABLE FAILS

Councilor Zandri said he didn't see this customer as not a special customer. He asked if any other customer in Town had an agreement like this where they utilize our equipment, distribution, operations and service and don't pay the Town for any electricity at all. Mr. Hendershot said an energy charge isn't applied to them, just an demand and an customer charge sufficient to raise the appropriate amount of spread to them to see the delivery of the electricity. He said another customer also buys a portion of their energy this way and at the regular retail rate at 5M. Mr. Hendershot said BMS has a generator but the other customer has an operating process where they can curtail their load to avoid transmission and capacity cost for the portion of their load which is market-based not retail. He said this customer would have faced a a 1 ¼% increase if this amendment wasn't put in place.

Councilor Zandri said BMS is unique and sophisticated in their own use to know their own demand use which would incur them to pay a bill from WED. Mr. Hendershot said the contract is structured so that BMS cannot purchase energy from WED, but they take energy from off-site because their generator doesn't meet all their needs. Councilor Zandri said this affects our ability to start a new contract negotiation because the Town is already at a disadvantage. He said we are going to reset the rates right now and when the negotiation begins, we will start at a reduced number and said he doesn't know why we would do that to a company that is getting every benefit of WED and not paying electricity from our generation pool which we sell back. He said this is why this issue was brought up. Councilor Zandri said if this was vetoed, it would go back to the PUC for other action, but if we let this go tonight, it is set in stone. He said his fellow Councilors should look that we could be setting precedent for other customers.

Councilor Fishbein said this is like a three-month contract with a reopener. He asked why this couldn't be dealt with now. Mayor Dickinson said this was done because this is outside the

intent of the contract which was entered into. He said the Town is not taking advantage of anyone and noted rates are not increasing. He said it is up to the Town to live up to this intent and their rates shouldn't go up any more than anyone else's. Councilor Fishbein asked what would change three months from now. Mayor Dickinson said three months from now, this contract with BMS comes to an end. He said he was confounded by our willingness to ignore what our intention was with a responsible ratepayer because they are leaving. He said he didn't believe this would be done with a ratepayer who was not leaving.

Councilor Zandri said if there are other customers in the future who have agreements in place signed contracts and better deals than other customers and he is still on the Council, he will question this every time. He said the residents are going up between 10% and 12% and commercial/industrial up between 6% and 7% and that is a skew. Mayor Dickinson emphasized that no rates were increasing; the only rate adopted was for one-year and the other rates are being evaluated by a consultant. He said there are no rate increases, so why would one or two rates be going up. Councilor Zandri said this is in their contract.

ROLL CALL VOTE-"YES" VOTE WILL VETO PUC DECISION

Fishbein-yes; Laffin-no; Marrone-no; Sullivan-no; Testa-no; Zandri-yes; Chairman Cervoni-no

Motion fails-no veto of PUC Decision of August 16, 2016.

12. Discussion regarding Wallingford's streetlight maintenance program – Councilor Zandri

Councilor Zandri said this has been an ongoing issue brought to the Council numerous times and what he has seen on his own. He said the question is who is responsible to turn this in; should it rest on the WED who needs to pay overtime or residents. He said he wanted to get a quasi-report out to see what is being done. He noted Northford turns in a lot of non-working streetlights. He said he walks downtown and sees what lights are out and his father has been reporting this for years. Councilor Zandri noted this is also a safety issue when the lights are out. He said it is one thing for him to take the number of lights down in his neighborhood or be on Cook Hill Road this hour of the night and try to take a photo of non-working street lights.

Councilor Zandri said the WED website says the clerk can be called between 7 a.m and 3 p.m. for streetlights and his memo indicates one can call 24 hours. Police William Chief Wright said their efforts have been inconsistent because of time. He said his department answered between 34,000 to 35,000 calls for service this past year. He said much of the RT. 5 corridor is 24 hours and the police are busy in this area and to dedicate resources to this issue, at most nights, there isn't the time. He pointed out when an officer comes across a non-working streetlight, they report it. Councilor Zandri read a memo from Director George Adair who noted that over the past 12 months, the WED did 916 streetlight repairs which is 76 per month.

Public Comment

Geno Zandri said this has been an ongoing topic with him for over three years. He said he checks the streetlights on Center Street and there is still 14 streetlights out. He said he was told by some police officers that they were not instructed to report non-working streetlights. He said the first six months of the year, the Wallingford Police had not turned in any non-working streetlights. He noted Northford Police turn in 15 non-working lights per month. Mr. Zandri said the effort is not being made by the Police to remedy this situation. He said unless there is assistance from the Police Dept. this won't work. He said he was tired of this because he has been arguing of this for three years over a simple thing and he can't get any help. Mr. Zandri said there are six patrol cars out every night and wondered why they can't report one street light out a night. He said if this were done, this problem could be eliminated in six months and there is no reason why this problem can't be solved in this town.

Councilor Sullivan said he never felt it was the Police Dept's job to count street lights. He said he doesn't take Councilor Zandri's position and noted crime is a lot different than in Northford. He said WED has a plan in place and noted it is also the resident's duties to report non-working street lights. Councilor Sullivan said he spoke with Schools Supt. Sal Menzo who told him a working app could be put together to report non-working streetlights without having to call a phone number. He said he would never put the Chief to task that they need to report non-working streetlights. He said these should be reported because of a safety issue, but we cannot hold the Police accountable, he said this is a community issue.

Mayor Dickinson said the Police Dept. is critical for public safety and the men and women of the Police supply good service. He said this issue requires all of the public's co-operation. He said when the Town goes to the LED lighting, there will be longevity to these lights. He said he didn't want the Police to think tonight was universal criticism of their service.

13. Discussion regarding Quinnipiac River Linear Trail – Councilor Zandri.

Appearing in front of the Council was State Rep. Mary Mushinsky, Co-Chair of the Quinnipiac River Linear Trail Committee and Cathryn Granucci, Co-Chair of the Quinnipice Linear Trail Committee.

Rep. Mushinsky went over the details and the background. She said Phase 3 opened on July 9 after 10 years of permitting and one year of building. She said they were working with former Town Engineer John Thompson and were aware the Town had legal access from Main Street to Fireworks Island. Rep. Mushinsky said the Town acquired this through a Warranty Deed in 2004 which laid out an agreement between the developer and the Town. She said the Developer needed sufficient parking to build Yalesville on the Green and didn't have it. She said this was obtained by placing some parking on Fireworks Island. Rep. Mushinsky said the Town in return acquired the northern part of Fireworks Island from the developer for future use as the trail. She said the easement in the Warranty Deed guaranteed trail access to Main Street around the

south side of the condo complex. She said the Town was allowed motor vehicle access across Yalesville on the Greens bridge to reach the Towns land on Fireworks Island as well as temporary construction access.

Rep. Mushinsky said the permitting for Phase 3 produced surprises, which included endangered species on Fireworks Island, so the Committee had to redesign the project. She said these delays and the redesign increased the cost of the project, so the funders asked if the existing bridge could be shared with Yalesville on the Green. She said if sharing wasn't possible, a parallel bridge would have to be constructed. Rep. Mushinsky said the Committee won a \$150,000 grant in preparation of constructing this bridge. She said Federal and State funds are in place to connect the half-loop trail to the Senior Center. She said as construction was ongoing, Town Engineer Rob Baltramaitis said the second study for the parallel bridge came in and would have to be long and high to get above the floodway. She said the Committee questioned this and learned that the FEMA floodway map was in error. She said the map shows the canal as the entire floodway, when in reality the Quinnipiac River splits at Fireworks Island and passes on either side.

Rep. Mushinsky said because of this error, the engineers said the bridge had to be more complicated. She noted the parallel bridge is not possible now because of opposition from residents of Yalesville on the Green. She said now the Committee is working with Mr. Baltramaitis on spending some of the bridge grant to fix the map error. She said they will then proceed with an affordable short bridge. She said Mr. Baltramaitis is preparing the scope of work to go out to bid. She said temporarily trail users with motor vehicles can access Fireworks Island but trail users without motor vehicles cannot cross the Associations bridge legally. She said they will gain pedestrian access with the new pedestrian bridge. She said the DOT and DEEP are supporting the solving of this problem. She said it may take 12 months to fix the floodway designation and may also be possible to get a Letter of Map Amendment (LOMA), which is a quicker process.

Councilor Zandri asked about signage and parking . Rep. Mushinsky said Mr. Baltramaitis has ordered the signs and said when one crosses the bridge, the parking to the left belongs to the Association and parking to the right belongs to the Town. Mayor Dickinson said there are three signs to the left showing condo association parking and signs indicating public parking and signs off the street indicating public access only.

Councilor Fishbein said he spoke with residents over there who were distressed over the parking lot. He said there are at least two plans for this project: one with one bridge and one with two. Rep. Mushinsky said the working plan is two bridges because of being denied shared use of the existing bridge.

Mayor Dickinson clarified by stating this bridge will just be a span across the water. He said this would never meet ADA requirements without this. He noted in 2004 this issue was taken up and

the Developer was adamant regarding no walking through Association property and why the deed reads the way it does and was the terms under which the Town acquired title to Fireworks Island. Councilor Testa said the residents took offense of being put in a bad light by the local press. In answer to Councilor Fishbein's question, Rep. Mushinsky said \$2.4 million was spent on Phase 3. She said it was believed the 40 x 20 ft. bridge would cost approximately \$80,000. She said the previous bridge which would carry vehicle weight would cost \$150,000 but doesn't apply because that is not an option. She said the simple pedestrian bridge can't be installed unless the floodway is changed on the FEMA map and this changes the engineering.

Councilor Sullivan said barren wasteland was taken and made into something nice. He said he would have liked to have had Community Lake restored but stated that the Town should be moving forward as it is doing.

14. Executive Session pursuant to Connecticut General Statutes Section 1-225 (f) and Section 1029(6)(B) regarding strategy and negotiations with respect to the following pending litigation:

- (a) Bristol-Myers Squibb Co. v Town of Wallingford
- (b) Wallingford Associates of Connecticut v Town of Wallingford; and
- (c) Town of Wallingford v Vernon Stancuna – Law Dept.

Vice-Chair Laffin made a motion to go into Executive Session at 10:20 p.m. Councilor Fishbein seconded the motion which passed unanimously.

Attending the Executive Session were Town Council members Laffin-Fishbein-Cervoni-Marrone-Sullivan-Testa-Zandri; Atty. Janis Small; Atty. McQuade.

Vice-Chair Laffin made a motion to come out of Executive Session and resume the normal Meeting at 10:38 p.m. Councilor Fishbein seconded the motion which passed unanimously.

15. Motion to consider and authorize a settlement in the pending tax appeal in the matter of Wallingford Associates of Connecticut v. Town of Wallingford as discussed in Executive Session.

Vice-Chair Laffin made a motion to authorize a settlement in the pending tax appeal in the matter of Wallingford Associates of Connecticut v. Town of Wallingford as discussed in Executive Session. Councilor Fishbein seconded the motion which passed unanimously.

ADJOURNMENT

Councilor Fishbein made a motion to adjourn the Meeting at 10:40 p.m. Councilor Sullivan seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording secretary