

TOWN OF WALLINGFORD, CONNECTICUT

TOWN COUNCIL MEETING

October 28, 2008

The following is a record of the minutes of the Regular Meeting of the Wallingford Town Council held Tuesday, October 28, 2008, Robert Earley Auditorium of the Wallingford Town Hall. The Meeting was Called to Order at 6:35 P.M. Responding present to the Roll Call given by Town Council Secretary Sandra Weekes were Councilors Mike Brodinsky, Nick Economopoulos, Jerry Farrell, Jr., John LeTourneau, Robert F. Parisi, Rosemary Rascati and Michael Spiteri. Councilor Vincent F. Testa, Jr. arrived at 6:50 P.M. and Councilor Vincenzo M. DiNatale arrived at 7:15 P.M. Mayor William W. Dickinson, Jr. and Corporation Counsel Adam Mantzaris were also present. Town Attorney Janis Small arrived during the discussion of Item 6.

The meeting began with a Moment of Silence, the Pledge of Allegiance and the Roll Call of those present from the Town Council and the Administration.

2. Chairman's Report

Chairman Brodinsky announced that November 4 is Election Day and as such the scheduled Town Council meeting is cancelled and that the next Town Council meeting will be November 18, 2008. He said that there might be Special Meetings to consider the CRRRA issue. He also let people know that the Addendum would be taken up after the Public Question and Answer Period.

WAIVE RULE V

Consider and Approve Tax Refunds (#313- #327) totaling \$3,383.69
Acct. # 001-1000-010-1170 - Tax Collector

Mr. Parisi made a motion to Waive Rule V for the purpose of considering and approving additional tax refunds on the amount of \$3,383.69 (#313- #327) Acct. # 001-1000-010-1170 as requested by the Tax Collector. Mr. Farrell seconded the motion. All Councilors present (7) voted Aye, and the motion passed. Mr. DiNatale and Mr. Testa were absent at the time of the vote.

3. Consent Agenda

3a. Consider and Approve Tax Refunds (#280- #312) totaling \$10,035.05
Acct. # 001-1000-010-1170 - Tax Collector

3b. Approve three (3) Merit Reviews - Mayor

- 3c.** Acceptance of and Consider and Approve an Appropriation in the Amount of \$1,821 to Revenue Highway Safety Acct # 001-1050-050-5883 and to Police Overtime Acct # 001-2005-101-1400 – Police Chief
- 3d.** Acceptance of and Consider and Approve an Appropriation SCOW-HRD-55 in the Amount of \$17,884 to State Grant Acct # 219-1040-050-5000 and to Expenditures Acct # 219 – various – Program Planning
- 3e.** Consider and Approve a Transfer in the Amount of \$45,000 to Base Station Radio Replacement Acct # 001-2030-999-9110 from Training Tower Stairs 1st Year of 3 for \$35,000 Acct # 001-2030-999-9083 and from General Contingency \$15,000 Acct # 001-7060800-3190 – Fire Chief
- 3f.** Approval of a Bid Waiver for \$45,000 for repair of radio equipment by Motorola./Utility Communications to enable repairs to occur in a timely manner in the unlikely event that a public bid to be issued soon does not result in the ability to award the work to the vendor – Fire Chief
- 3g.** Approve corrected Town Council Special Meeting Minutes of August 7, 2008
- 3h.** Approve Town Council Special Meeting Minutes of October 7, 2008
- 3i.** Approve Town Council Regular Meeting Minutes of October 14, 2008
- 3j.** Approve 2009 Town Council Calendar of Meetings

CONSENT AGENDA

Mr. Farrell made a motion to approve the Consent Agenda Items 3a. to 3j. Mr. Parisi seconded the motion. All Councilors present (7) voted Aye, and the motion passed. Mr. DiNatale and Mr. Testa were absent at the time of the vote.

4. Items Removed from Consent Agenda

None

5. PUBLIC QUESTION AND ANSWER PERIOD

Jason Zandri, Lincoln Drive, spoke about the clock in front of Town Hall, the time that it displays, about leaf pickup and bagging leaves and whether there is an ordinance or not, regarding bagging of leaves. Mayor Dickinson said that indeed there is an ordinance to bag leaves, and it was suggested that Mr. Zandri telephone Public Works.

Bob Gross, 114 Long Hill Road, talked about Ordinance 345 regarding appointing an insurance commission. He said that he sent a letter to the Mayor and the Council. Mayor Dickinson said that he has no plans to appoint such a commission, as there are no duties to perform. He said the Ordinance Committee has voted to repeal the ordinance but the Council has not taken it up.

Mayor Dickinson said that the Risk Manager performs all of the duties of an insurance commission. He also said that an insurance commission would never address health insurance.

Bob Hogan, Grieb Road, asked how to get a copy of the CRRA report and was advised to call the Mayor's Office.

Phil Wright, Sr., 160 Cedar Street, suggested that there be a dollar cap as to what is allowed on the Consent Agenda.

Bob Gross, 114 Long Hill Road, also asked about the new CRRA MSA Report and plant ownership/

Item 2

Mr. Testa announced that in light of the Council's interest in last year's BOE budget process, Roxanne McKay, Board of Education Operations Committee, has invited the Council to attend a budget meeting on November 10. He continued that at the meeting the Superintendent delivers an overview of the process and an outline of the budget planning schedule to the Board of Education members.

REGULAR AGENDA ADDENDUM

Consider and Approve a Transfer of Funds in the Amount of \$10,000 to Demolition Acct # 001-2050-901-9030 From General Contingency Acct # 001-7060-800-3190 – Chief Building Official

MOTION

Mr. Testa moved to approve a transfer, seconded by Mr. Farrell, in the Amount of \$10,000 to Demolition Acct # 001-2050-901-9030 From General Contingency Acct # 001-7060-800-3190 as requested by the Chief Building Official.

In attendance was Richard Boyne, Chief Building Official.

Mr. Boyne explained that the house that burned on 467 North Main Street is a safety issue and needs to be removed as soon as possible. Mr. Boyne said that he does not think there is any insurance on the property and that the owner is unable to take the building down and that the town could recoup the money, or part of it, from the property. He said there are several liens currently on the house. He stated that the State of Connecticut Building Code directs the town to take on the demolition and that Public Works will do the project. The money he is asking for is based on an estimate that Henry McCully (Public Works) received for the use of dumpsters to remove the materials from the site. Mr. Boyne added that his budget would be short if there is another event. He said that this would cover the cost of the demolition and leave some operating funds in case there is another emergency. Chairman Brodinsky asked Mr. Boyne if he considered this as an emergency. Mr. Boyne said that yes, that the building is ready to implode, and that it is near a neighbor's property.

Mr. LeTourneau asked about insurance asked how the town is going to be able to recoup the cost of the demolition. Mr. Boyne said that his department takes care of the demolition, and then the legal department would place a lien of the property.

Mr. LeTourneau asked where the town would stand since there are already multiple liens on the property. Attorney Mantzaris replied that the liens aren't substantial, nor is the mortgage, and that a lot on North Main Street should be worth about \$150,000. Attorney Mantzaris asked the cost of the demolition. Mr. Boyne said that the estimate is \$18,000 to \$24,000. Attorney Mantzaris said that the town should be able to recoup the funds but that this would not be a priority liens with the other liens that are already in place. Attorney Mantzaris suggested that the transfer of funds could be authorized subject to our opinion that we will be able to recoup those funds by way of a lien. Mr. LeTourneau wanted to know about timing. Attorney Mantzaris said that if the demolition costs not paid, he would bring an action to foreclose. Mr. LeTourneau is of the opinion that the town recoup the money as soon as is possible.

Ms. Rascati asked if the town would just put the lien on the lot. Attorney Mantzaris confirmed that the lien would be placed on the lot. It was agreed that there should be an inquiry into the mortgage insurance, if there is any. There is a scheduled meeting that includes Webster Bank. Attorney Mantzaris said that if there is fire insurance that the proceeds would come to the town first by state statute for any expenses that the town has incurred.

Chairman Brodinsky said that this could be taken up again in a few months to review the status.

Mr. Testa added that mortgage insurance is basically a life insurance policy that someone secures to pay their mortgage off if they die, or become disabled. He said if the legal department feels that the value of the lot is sufficient to cover the liens, that's really all we need. He said that the bank would not want to rebuild.

Mayor Dickinson said that we do know that, according to the building code, the building has to come down, so we are faced with the need to demolish the building. He stated we don't know if there is enough property value to recover our demolition costs, but we believe there is. He said he doesn't think that we're saying approve this on the basis that we know our costs will be recovered, and, he added, that there isn't much that we can do if we face a loss. He said don't vote on this thinking that there is enough money to cover us because we don't know that.

Mr. Parisi said, in referring the scheduled meeting with the bank, that it is an opportune time to get all of the technical questions answered.

Mr. Economopoulos said that we will get our money back. Mayor Dickinson said that we believe that we will be covered but we don't know for certain that that is the case. He said that if the mortgage balance is large, the property sells for that, and then there is no other money. The town's lien is not a priority lien. Chairman Brodinsky said that we would do our best to get our money back considering the state of the law and the state of insurance.

Ms. Rascati asked when the lien is placed on the property. Attorney Mantzaris said when they receive a bill from the company that will take the building down, it would be right away.

Bob Gross, 114 Long Hill Road, explained mortgages and insurances.

Jason Zandri, Lincoln Drive, suggested investigated insurance and liens on this property and wanted to know about meter recovery.

Mr. DiNatale wanted to clarify the options. Mr. Boyne said that he is required by the state building code to demolish the building. This house will sit as it is if we don't transfer the money, and the house will collapse on its own. Mr. DiNatale asked where blight falls into this in regard to the Blight Ordinance. Chairman Brodinsky said that it wouldn't be a blighted building because we are going to demolish it as soon as we transfer the money. Mayor Dickinson said that if the house stands there, it could be claimed as a blighted building. The issue is safety, and there is no state money for the towns to handle these situations. The state says you have to get it down and recover wherever you can.

VOTE

All Councilors present (9) voted Aye and the motion passed to transfer the funds.

6. Discussion and Action with regard to the sale of tax liens in connection with the property located at 1254 Old Colony Road (Matias) – Corporation Counsel

Attorney Mantzaris said that this is for a property that we foreclosed on in 2002, according to the letter, but it was actually 2000. He said that as a result of the foreclosure, there was a public auction for taxes and that no one was there to bid on it. He said that since then the property has just sat there. He added that the property is not in very good condition and has cost us several thousands of dollars, perhaps up to \$6,000, to handle the foreclosure in 2000. He said that since the property is in such poor condition, he did not want to go back out again. For the past 3 or 4 months, there have been four (4) credible inquiries about the property and whether it was for sale or not.

He said that he brought the tax bill up-to-date, so that whoever buys the liens will be able to go in as a plaintiff in a foreclosure action and take title of strict foreclosure provided the Council approves the motion and the amount that is being offered. He said that the property is not worth the amount of taxes that are owed, and that is why he is suggesting an auction and not going back to court at this time. He added that if the auction is not successful, or there aren't sufficient bids, we could go back to court but that might be a lost cause. He states that there are only two or three other properties in the law office where the liens are not worth the value of the property. He said that one of them is Goldfeder and one is a waste oil company where there is a fear of contamination. We may be doing something very soon with the Yalesville Silver Company. He said that according to Mr. Bowes that we are in good shape with collection rate at 98 %.

Mr. Farrell wanted clarification on what is being asked of the Council, and asked if it was for permission to go back to the court and get the auction re-authorized. Attorney Mantzaris said he is asking for authority to sell the tax liens to interested purchasers through the Purchasing Department. He said that he has drawn up a suggested invitation, which, if the Council votes yes, he will turn over to the Purchasing Agent, and it will be like any other advertisement that they make. We will get bids in, etc.

Mr. Farrell asked about the money that is being offered but Attorney Mantzaris said interested parties haven't revealed that to him. He said that they seemed seriously interested and that, if you know the property, don't get your hopes up too much. He said an adjoiner is interested for expansion. The way to handle it is to sell the tax liens and hope to get a decent bid on it. He said

get rid of it, and maybe make the property taxable revenue after that. He said that the property is not doing anything now, and it won't be doing anything in the future.

Mr. Farrell said so the motion would be to authorize the Purchasing Agent to sell the liens at public auction for the highest dollar amount. Attorney Mantzaris agreed. He said that the Agent, would go out for the highest bid but Council would decide; it's your property; the Council controls the property and decides whether it's an adequate bid or not. Mr. Farrell asked if it comes back to the Council for acceptance. Attorney Mantzaris said yes.

Ms. Rascati asked, as in the year 2000 where there were no bidders, if the practice is to not try it again and to let the property just accumulate taxes. She said that there was a time when property values were high and asked if we couldn't we have tried it again then. When you look at the taxes then, they were \$134,000, and now they are \$289,000. Attorney Mantzaris said that he didn't think the property had value even when the property values for properties were climbing (2004, 2005 and 2006) to go out for another foreclosure by sale. He said he doesn't know what the value would be now, and would not be as high as it was in the year 2000, and the practice of the courts is if the debt exceeds the value, then it's called 'strict foreclosure,' which means that the town would end up owning that property. He said that in his letter if he proposed to the judge about letting it go again by sale, that we had poor luck before, that he just didn't think that it was worthwhile. Ms. Rascati said that she doesn't like to see the back taxes mount up like that, and that we don't know that we couldn't have done something a few years ago.

Attorney Mantzaris said that it is the same as with Goldfeder and Yalesville Silver, the assessment never gets changed, and it should have been, but the owners never came forward to look for a change in assessment so we have lots of high taxes. The Assessor's estimate realistically would not generate this kind taxation, but they leave it alone. He said that it has happened with those other properties too where the taxes are high.

Chairman Brodinsky that he didn't think that the Council received a computer run of the accumulation of the taxes from the time they first started to be in arrears and asked he it was available. He asked what year it started going bad. Attorney Mantzaris said in 1989 and the foreclosure action was brought in 2000. Chairman Brodinsky asked what system do we have, if any, that brings these kinds of growing tax arrearages to the attention of the Tax Collector and/or the Law Department, so that action can be taken on it. He asked how this works.

Attorney Mantzaris said that the Tax Department sends a notice, and in the past, it hasn't happened regularly. He said that is changing now as a consequence of meetings with the Law Department and the Comptroller. He said that formerly the Law Department waits on the tax office, and he doesn't know if there was a system.

Chairman Brodinsky asked how it could be that the arrearage grows like it did without this coming up to the surface five years ago. He said that he knows it isn't the fault of the Law Department since they act on what the Tax Office gives them, but why didn't the town foreclose when the taxes were, for example, \$40,000.

Attorney Mantzaris said that this won't happen any longer, even though it has happened in the past. Normally, except in certain limited cases, the town doesn't get hurt by it. He said letting taxes accumulate at 18% is a very fine investment. However, he said that in this case it is not.

Attorney Mantzaris said in the usual case, there are properties where the town has substantial tax arrearages but the town will get paid. He continued saying that the land is over the value of the tax debt, and that now there is a system to go after them right away. He reviewed four properties that fall into the same category as the subject Matias property – Goldfeder, Yalesville Silver and the oil recycling facility next to Matias. He said that is four out of all of the foreclosures that are in his office. He said that the system that we now have is that letters are prepared and sent by the Tax Collector when the first tax payment is missed – residential, commercial and industrial. He said that the Law Department would get notice of the first letter. The next letter will be sent by the Law Department. He said that where a small amount of taxes are owed and there were no action, the Law Department would bring foreclosure.

Chairman Brodinsky asked if not collecting taxes in arrears was a strategy to get 18%. Attorney Mantzaris said no, it was not a strategy, and they didn't push it because they worked out payment schedules on the property taxes, which is the case with almost every property in foreclosure. Chairman Brodinsky said several years ago he asked for a computer run which ages the accounts by amounts and by length that they were due and to cross-match them, so that you get the oldest and largest on any filter that you want, like all those taxes over \$50,000, or all those taxes over \$100,00 and pull it up on a computer run. He said he asked if this could be done monthly, quarterly, etc., and the answer that he received was no, that it is all manual and by memory. He said that he was assured that nothing would slip through the cracks, yet this subject is one that did. He said that new software should have an aging schedule, so that the Council and the Law Department and the Mayor and the Tax Department can get these aging accounts and make certain determinations from those reports.

Attorney Mantzaris said that as he saw it, these four properties that just don't have the value it would not have paid for him to go back out again with another foreclosure. He said that he could have gone back out 2004 or 2006 at a cost of \$7,000 or \$8,000 with no guarantee that it would get anything. We have liens on four properties in town in which we have taken a loss. He said that with every other property we are collecting, and the town is not losing anything on those properties. He said that our system has not been on computer, and we rely on people to keep track.

Chairman Brodinsky referred to Ms. Rascati's point of letting things grow to the point that they have and why didn't the town take action in the 1990's. Attorney Mantzaris said that he did not know when it was referred to the Law Department for collection, and that he suspects it ran for several years with the Law Department not knowing about it, and before he brought the foreclosure action. Attorney Mantzaris said that this would happen again on these kinds of properties because there is no value in them. He said that through the efforts of the Chairman, we are going to have a closing on Yalesville Silver soon and get it back on the tax roles. He said that there are problems with contaminated properties with which you can't do much.

Mayor Dickinson said that the property sits there because we don't want to foreclose on contaminated properties and become the owner of the property, so it becomes a question of who becomes the buyer.

Ms. Rascati said that she feels that we should have tried a few more times to see if we could have sold it instead of allowing the tax claims to accumulate at this rate.

Mr. Testa said that he wants to narrow this down to understand what we are going to do. He said given where we stand today, if you were to initiate another foreclosure in court, we would end up holding the property, which we don't want. He said that what we are going to do is sell the tax liens, get what we can and let the person who now owns the tax liens go to court and foreclose on the property and become the owner. So we will get something, and it is clear that the total amount is not back taxes per se. He said that this total amount is probably more than 50% interest, which we want to try to collect.

Chairman Brodinsky stressed his point about having an aging schedule available for past due items.

MOTION

Mr. Farrell made a motion to authorize the Purchasing Agent to sell at auction Tax Liens for 1254 Old Colony Road subject to confirmation by the Town Council. Mr. Parisi seconded the motion.

It was clarified that an 'auction' equals a 'public bid', and that the Purchasing Agent would invite bids and list all of the tax liens and what they are worth and invite people to bid on them.

Mayor Dickinson said 'auction' in the motion means a 'public bid' but it is conditioned on approval of the Council because if it was just a bid, it would go to the highest bidder. This one will come back to the Council and that needs to be included in the bidding document.

Jason Zandri, Lincoln Drive, asked about a break-out of taxes for each year since 1989. He favors to not let taxes get to this state and to be tighter on this type of thing.

All Councilors present (9) voted Aye. The motion passed.

7. A *brief* report from the Mayor and Town Attorney on the status of:

- a. A trial date for the litigation involving the American Legion Building

Attorney Small addressed this report stating that no date has been set for the trial but that in conversations with their attorney, it would be after the first of the year. She thinks that it won't be before February, and they are waiting to see what the judge says.

- b. The Police Station Study

Mayor Dickinson said that the needs assessment study done by the consultant would be coming out soon and will be reviewed, and on agreement that there is an appropriate need that Phase 2 will begin which would be a site evaluation.

- c. The Town's website and compliance with P. A. 08-03;

Mayor Dickinson said that the current software cannot handle the minutes, so that it is being worked on as part of the upgrade. There is no target date for conclusion. He said they are doing it as efficiently as possible. Chairman Brodinsky asked if a target date could be set.

- d. Appointments to the Conservation Commission;

Mayor Dickinson said that he has been doing interviews and hopes to soon make appointments.

Jason Zandri, 35 Lincoln Drive, asked about the limitations of not being able to post the minutes to the town website. Mayor Dickinson said to his understanding the software cannot handle the volume of the number of minutes that would be posted, and that we would not be able to do that until we have the new software up and running, which is being worked on. Mr. Zandri wanted to know how many minutes. The Mayor reviewed some of them. Mr. Zandri offered to demonstrate to the Council the simplicity of the task.

8. *Executive Session pursuant to §1-200 (6) (E) of the Connecticut General Statutes with regard to strategy and/or negotiations with respect to collective bargaining – Personnel
Withdrawn*
9. *Executive Session pursuant to the Connecticut General Statutes §1-225(f), §1-210(b) (5)(B), (7), (10) and §1-200(6)(E), regarding the confidential financial and legal aspects of the CRRA/Covanta trash project and legal advice relating thereto – Mayor
Withdrawn*
10. Executive Session pursuant to §1-200 (6) (B) of the Connecticut General Statutes regarding strategy and negotiations with respect to the pending matter of Dibble Edge partners, LLC v. Town of Wallingford – Town Attorney
11. Executive Session pursuant to §1-200 (6)(D) of the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property – Mayor

MOTION

Mr. Testa made a motion, seconded by Mr. Farrell, to go into Executive Session pursuant to:

10. Executive Session pursuant to §1-200 (6) (B) of the Connecticut General Statutes regarding strategy and negotiations with respect to the pending matter of Dibble Edge partners, LLC v. Town of Wallingford – Town Attorney
11. Executive Session pursuant to §1-200 (6)(D) of the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property – Mayor

All Councilors present (9) voted Aye. The Council entered into Executive Session at 8:14 P.M.

Mr. Farrell made a motion, seconded by Mr. Parisi, to come out of Executive Session.

All Councilors present (9) voted Aye. The Council exited Executive Session at 9:06 P.M.

EXECUTIVE SESSION ATTENDANCE

Nine (9) Councilors, Mayor Dickinson and Town Attorney Janis Small.

MOTION

Mr. Parisi made a motion, seconded by Mr. Farrell, to adjourn the meeting. All Councilors present (9) voted Aye. The meeting adjourned at 9:08 P.M. with no further business to conduct.

Respectfully submitted.

Sandra R. Weekes
Town Council Secretary

Meeting recorded by Sandra Weekes

Chairman, Mike Brodinsky

Date

Town Clerk, Barbara Kapi

Date