

TOWN OF WALLINGFORD, CONNECTICUT

TOWN COUNCIL MEETING

Town Council Chambers

March 8, 2011

MINUTES

ATTENDANCE:

Councilors Vincent Cervoni, Nick Economopoulos, Jerry Farrell, Jr., Craig C. Fishbein, John LeTourneau, Chairman Robert F. Parisi, Rosemary Rascati, John J. Sullivan and Vincent F. Testa, Jr. Mayor William W. Dickinson, Jr., Town Attorney Janis Small and Comptroller James Bowes were also in attendance.

The meeting was called to order at 6:34 P.M.

1. Opening Prayer was given by Deacon Eugene C. Riotte, Most Holy Trinity Church, and the Pledge to the Flag was said.
2. Correspondence
None
3. Consent Agenda
 - 3a. Consider and Approve Tax Refunds (#577 - #594) totaling \$25,658.38
Acct. # 001-1000-010-1170 - Tax Collector
 - 3b. Consider and Approve an Appropriation in the Amount of \$25,000 to Overtime Acct # 001-5015-101-1400 from Contingency-General Purpose
Acct # 001-7060-800-3190 – Public Works
 - 3c. Approval of Resolution to authorize the Mayor to execute and deliver to the State of Connecticut, DEMHS, any and all documents deemed appropriate for the 2011 Civil Preparedness Emergency Management Performance Grant - Mayor
 - 3d. Consider and Approve Appointment of James Vitali as a regular member of the Inland Wetlands and Watercourses Commission for a term ending March 1, 2016
– Chairman Robert F. Parisi
 - 3e. Consider and Approve Appointment of James Heilman as an alternate member to the Inland Wetlands and Watercourses Commission for a term ending March 1, 2014 – Chairman Robert F. Parisi
 - 3f. Approve minutes of Regular Town Council meeting of February 22, 2011

MOTION TO APPROVE CONSENT AGENDA ITEMS 3a. to 3f.

MADE BY: RASCATI
SECONDED BY: LETOURNEAU
VOTE: ALL AYE/9
MOTION PASSED

James Vitali was sworn in by the Town Clerk as a regular member of the Inland Wetlands and Watercourses Commission where he has served for 23 years.

Jared Whittier, Boy Scout, who is working on a badge in Communications, was in attendance.

4. Items Removed from the Consent Agenda
None

5. PUBLIC QUESTION & ANSWER

Paul Ciardullo, 2 Bayberry Lane, spoke about taxes, the budget process and his interest in budget development before the budget is proposed by the Mayor. He suggested a special budget forum with the Town Council and residents. Mayor Dickinson stated that the budget is not a Town budget until the Town Council adopts it. He said that they are following the procedure as outlined by the Town's Charter.

Bill Comerford, 5 Broadview Drive, introduced himself as representing Thomas Mezzei.

6. Consider and Approve a Transfer in the Amount of \$500 to Meetings, Seminars & Dues Acct # 001-5010-701-7990-00 from Continuing Education & Training Acct # 001-5010-501-5700-00 – Engineering

In attendance John Thompson, Town Engineer

MOTION TO APPROVE a Transfer in the Amount of \$500 to Meetings, Seminars & Dues Acct # 001-5010-701-7990-00 from Continuing Education & Training Acct # 001-5010-501-5700-00

**MADE BY: FARRELL
SECONDED BY: RASCATI**

Mr. Thompson explained the transfer is necessary to cover registrations, professional dues and limited attendance at some seminars for the Town Engineer, the Assistant Town Engineer and the Construction Engineer.

No comments from the Council or from the Public.

**VOTE: ALL AYE/9
MOTION PASSED**

7. Conduct a Public Hearing at 7:00 P.M. to consider repeal of existing Ordinance and enactment of revised Ordinance regarding Abandoned Vehicles, Chapter 214, of the Code of the Town of Wallingford – Co-Chairmen Cervoni and Farrell

*In attendance: Adam Mantzaris Corporation Counsel
Sgt. Joseph Cafasso, Wallingford Police Department
Officer Megan Baur, Wallingford Police Department*

a Co-Chairman Vincent Cervoni explained that the Ordinance Committee received presentation of the change to Chapter 214 of the Code of the Town of Wallingford.

The Committee voted to unanimously to advance this item to the Town Council agenda.

Corporation Counsel Mantzaris reviewed the history of the Ordinance and explained reasons for the amendment to Chapter 214 so as to more closely match what the Police actually do. Sgt. Cafasso explained the enforcement process of violations carried out by the Police Department. He noted in that monitoring is continual even after the initial 60 days/
Councilor Cervoni added the ordinance clarifies that each vehicle on the property is a separate violation and that the return of the vehicle to the property, which vehicle was previously cited, if it returns within 60 days, amounts to a continuing violation.

There were no public comments.

MOTION TO CLOSE THE PUBLIC HEARING

**MADE BY: FARRELL
SECONDED BY: RASCATI
VOTE: ALL AYE/9
MOTION PASSED**

The Public Hearing was closed at 7:19 P.M.

MOTION TO APPROVE the repeal of existing Ordinance and the enactment of the revised Ordinance regarding Abandoned Vehicles, Chapter 214, of the Code of the Town of Wallingford

**MADE BY: FARRELL
SECONDED BY: RASCATI**

No comments or questions.

**ROLL CALL VOTE: CERVONI-YES; ECONOMOPOULOS – YES;
FARRELL – YES; FISHBEIN – YES;
LETOURNEAU – YES; RASCATI – YES;
SULLIVAN – YES; TESTA – YES;
CHAIRMAN PARISI – YES**

**AYE - 9
MOTION PASSED**

ADDENDUM

Consider and Approve the Appointment of Michael Misiti as Commissioner to the Wallingford Housing Authority to fulfill the remaining term of Frederick Monahan, which expires October 31, 2011 – Councilor Craig C. Fishbein

MOTION TO APPROVE THE Appointment of Michael Misiti as Commissioner to the Wallingford Housing Authority to fulfill the remaining term of Frederick Monahan, which expires October 31, 2011, as requested by Councilor Craig C. Fishbein

**MADE BY: FARRELL
SECONDED BY: RASCATI**

Robert Gross, 114 Long Hill Road, expressed concern that perhaps Mr. DiNatale would not have the time to serve on the Wallingford Housing Authority Board.

Bill Comerford expressed that he would like to see Mr. Misiti take the seat of Mr. Prentice, and not that of Mr. Monahan.

Mr. Farrell acknowledged Mr. Misiti as being an eminently qualified person to go on the Housing Authority Board with substantial background in managing building issues. The community is lucky to have him. Mr. Fishbein said he was also impressed.

**ROLL CALL VOTE: CERVONI-YES; ECONOMOPOULOS – YES;
FARRELL – YES; FISHBEIN – YES;
LETOURNEAU – YES; RASCATI – YES;
SULLIVAN – YES; TESTA – YES;
CHAIRMAN PARISI – YES**

**AYE - 9
MOTION PASSED**

Mr. Sullivan reported that he was the one to have Mr. DiNatale's name withdrawn from tonight's agenda, and that he is the one who asked to interview all of the candidates.

He said the community needs the best of the best. He referred to the Council's 'Rules of Procedure' and that he erred in interviewing Mr. DiNatale on the phone. With the agreement of the Council, Mr. DiNatale's name was withdrawn for tonight to give the Council the opportunity to interview him in an open forum when he returns to Wallingford.

Consider and Approve the Appointment of Joseph DiNatale as Commissioner to the Wallingford Housing Authority to fulfill the remaining term of Robert Prentice which expires October 31, 2012 – Councilor Craig C. Fishbein Withdrawn to the March 22, 2011, meeting.

Michael Misiti was sworn in by the Town Clerk as Commissioner to the Wallingford Housing Authority.

8. Discussion and possible action on scheduling proceedings (pursuant to C.G.S. § 8-43) to remove William Fischer as a Commissioner of the Wallingford Housing Authority - Councilor Craig C. Fishbein

Councilor Fishbein related the history of this issue from the October 10, 2010 Town Council meeting that led to this item on the agenda. He said he made certain Freedom of Information requests. There are problems with the Wallingford Housing Authority that need to be addressed, he said. From what he learned, he prepared a list of charges. He stated that state statutes allow the Council to institute proceedings to correct the dysfunction via the removal of a Commissioner. He stated that there are two separate documents that he has revised both of them. The document listing the charges was given to Mr. Fischer, and the charges were read.

The Town Attorney explained that this evening is for the Council to decide to move forward, or not, in bringing charges and in holding a hearing. She said that tonight is not a hearing but that this is a public agenda item and that people can make public comment in the public portion of this item. It is not the time to present one's defense.

Councilor Economopoulos asked to make a statement for the record. He declared that he initiated these proceedings. There was discussion of evidence, of working with the Town Attorney, of the oversight of the Commissioners of the Executive Director of the Housing Authority, and of the meeting held with Councilors Fishbein, Economopoulos and Sullivan. Councilor Economopoulos expressed strong feelings that the last thing he wanted was a schism of the Council, which he avoided all along the way. He reported that he has worked diligently with the Council, the Town Attorney, and Mr. Fishbein. He reported that his FOI requests to the Housing Authority for financial documents remain unfulfilled. He expressed his disappointment at the way this issue is currently being handled. Mr. Fishbein responded that all that is before them are allegations. He read the charges with regard to William Fischer.

MOTION to direct Attorney Small to give notice to Mr. Fischer of the specific charges; and that hearings be scheduled with regard to these proceedings with the anticipation that it would take no more than two nights to deal with it; and that some time should be taken before this occurs, with the suggestion of April 6 & 7, a month, for that to occur; and that Attorney Small be authorized to investigate further any charges as alleged.

**MADE BY: FISHBEIN
SECONDED BY: RASCATI**

Councilor Sullivan stated that with regard to procedure, he wants to make sure that the Council is doing this properly, and so asked the Town Attorney about the process going forward. He referred to her memos dated 11/3/10, 11/7/10, and 1/14/2011. He asked if discussing charges, pointing charges and serving charges to Mr. Fischer and/or Mr. Mezzai is proper procedure and is the starting point tonight.

Attorney Small said that if the Council decides that it is, it can be. There are several options –the Council can determine at this point in time that some one or all of those allegations could go forward to a hearing; the Council can decide that none do; the Council can decide that a further investigation is necessary; the Council can decide how to proceed in that format. It's really the Council's decision to make. She addressed evidence stating that if the Council were to go forward and proceed, then the decision has to be made as to procedurally how the hearing is going to be handled. She said that you need someone to present the case to the Council because the Council is the body that is going to make the decision. She said that the Council is going to need an advisor. She said that the best way to proceed is that the Council needs a presenter, someone to present whatever evidence that needs to be brought forward on the subject matters that the Council as a whole approves. She said the Council needs an advisor to the Council because the Council sits in judgment and makes all of the decisions. If there are any evidentiary issues, or anybody makes any particular arguments, the Council will resolve it. You need legal advice to do so. She

said that cannot be served by the same person. So she said that she as the Town Attorney cannot both present and give you advice. She said that she would prefer to give the Council advice but that the most cost effective way would be that if the Council determines to go forward with charges, that the Council instruct her to be responsible for presenting whatever evidence there is of those charges. She said that she would find for the Council a third party to provide advice during the procedural process.

Councilor Sullivan stated that no one who sits on the Town Council can sit as an accuser and in a judgment role as well because that would be a conflict. Attorney Small referred to her example with the Governor. There was focus on 'charges' and that it would be the Town Council that does it, if the Council votes to do so, and that Councilor Fishbein is bringing this to the full Council and that he wants the Council to consider going forward with a removal hearing on all or some of those allegations. He is requesting of the Council. Councilor Sullivan said that he would like to see evidence.

Councilor Fishbein asked what would he like him to present. He said that they failed, for instance, to create a cash policy; it's in the negative, so that there are two responses to that – they did or they didn't and this is the reason why they didn't, and that is justifiable. No document is required for that. He said most of them are that they failed to do certain things, and therefore, wouldn't call for any documents.

Councilor Testa added that these are *very serious allegations* that should be backed up to justify them. These are not to be taken lightly, and that this is an extreme burden on Mr. Fischer and is very stressful and costly, and finally, it carries with it a taint. He read prepared material and said that he thinks that the Town Attorney should support Mr. Fischer's defense so that he does not incur any expense. Although he understands that it will not happen, he thinks that the points should be voted on separately.

Councilor Economopoulos stated that the charges should be met individually since some of them are vague. He said that regarding cash policy, they have not had a policy for the last ten years which was noted in the forensic audit. He talked about vending machines, vacancy rates and would like to have subpoena powers. Councilor Sullivan made a statement regarding the 'tenant commissioner'

Thomas Mezzei spoke.

Robert Gross asked about making the materials public.

Paul Ciardullo, as a taxpayer, does not want to pay for this lawsuit.

Patricia Hogan, former tenant commissioner, spoke as did Ray Ross who suggested that an outside agency run the Housing Authority.

Bill Comerford spoke about Executive Sessions.

Vincent Avallone asked if Mr. Fischer could make a statement.

Mr. Fischer read from a prepared statement, which was handed out the Town Council. (*This statement is part of the record of the meeting.*)

Ben Martin spoke about presenting the items individually.

Mike Brodinsky asked for a point of order to have the Chairman break up the points in the petition and said that the Council votes on the point of order. He also referred to the Town Attorney's memo of January 14, 2011, regarding substantiating and sufficient facts. Mr. Fischer is due his due process, he said.

AMEND MOTION TO empower the Town Attorney's Office to investigate the allegations with regard to Mr. Fischer perhaps to come up with different things, perhaps take things out, and to come back to the Town Council with something or not.

**MADE BY: FISHBEIN
SECONDED BY: FARRELL**

Chairman Parisi asked for a point of information to consider Mr. Mezzei in the same light; and asked how can they be separated; and stated that there isn't any sense in reading the charges in Item 9; and that they should also be investigated by the Town Attorney.

Mr. Testa requested the withdrawal of the original motion rather than amend the original motion.

Mr. Fishbein withdrew his original motion. Mr. Farrell withdrew his second.

MOTION TO empower the Town Attorney's Office to investigate the charges concerning Mr. Fischer and Mr. Mezzei and to report back to the Council with the findings.

**MADE BY: FISHBEIN
SECONDED BY: FARRELL
ROLL CALL VOTE: CERVONI - YES; ECONOMOPOULOS - NO;
FARRELL - YES; FISHBEIN - YES;
LETOURNEAU - YES; RASCATI - YES;
SULLIVAN - NO; TESTA - NO;
CHAIRMAN PARISI - YES**

**AYE - 6; NAY - 3
MOTION PASSED**

9. Discussion and possible action on scheduling proceedings (pursuant to C.G.S. § 8-43) to remove Thomas Mezzei as a Commissioner of the Wallingford Housing Authority - Councilor Craig C. Fishbein

Addressed in motion of Item 8.

10. Discussion on Judge Berdon decision on *CT Historical Commission vs. Town of Wallingford*, and possible action involving options, including sale of the property. - Councilor John Sullivan

MOTION TO SELL WHAT IS KNOWN AS THE AMERICAN LEGION PROPERTY AT 41 SOUTH MAIN STREET.

**MADE BY: LETOURNEAU
SECONDED BY: SULLIVAN**

After a review of the history of the subject property from the time of the town's acquisition of the property, explanation of the legal process and the court's decision;

the Council and the Mayor discussed a great deal about the various ways the property could be used in the future by the Town of Wallingford, by leasing the property, or by selling the property. They discussed to sell or not to sell. They discussed that methods of selling would be part of a future discussion.

**ROLL CALL VOTE: CERVONI - NO; ECONOMOPOULOS – YES;
FARRELL – YES; FISHBEIN – YES;
LETOURNEAU – YES; RASCATI – NO;
SULLIVAN – YES; TESTA – YES;
CHAIRMAN PARISI – NO**

**AYE – 6; NAY - 3
MOTION PASSED**

11. Discussion and action regarding selection of firm to conduct the Town's audit - Comptroller

**MOTION TO AUTHORIZE COMPTROLLER, JAMES BOWES, TO
NEGOTIATE WITH BLUM, SHAPIRO TO DETERMINE WHAT THE
SAVINGS WOULD BE WITH REGARD TO THE TOWN'S AUDIT**

**MADE BY: FARRELL
SECONDED BY: RASCATI**

The Council discussed with the Comptroller, Mr. Bowes, the RFP process to include Blum, Shapiro, McGladdery & Pullen, and possibly Kostin, Ruffness, as some Councilors indicated that would like to hear from more than one firm. They also talked with him about just negotiating with Blum, Shapiro to begin the process.

AT 10:03 P.M. MR. TESTA LEFT THE MEETING.

**MOTION WAS READ BACK BY TOWN CLERK:
MOTION TO AUTHORIZE MR. BOWES TO NEGOTIATE WITH BLUM,
SHAPIRO FOR A COST SAVINGS ON THE AUDIT PROCESS. MR. FARRELL
AGREED TO THIS RE-STATEMENT OF HIS MOTION.**

**ROLL CALL VOTE: CERVONI - YES; ECONOMOPOULOS – YES;
FARRELL – YES; FISHBEIN – NO;
LETOURNEAU – YES; RASCATI – YES;
SULLIVAN – YES; TESTA – ABSENT
CHAIRMAN PARISI – YES**

**7-AYE; 1-NAY; 1-ABSENT
THE MOTION PASSED.**

12. 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

Withdrawn

MOTION TO ADJOURN AT 10:07 P.M.

**MADE BY: FARRELL
SECONDED BY: CERVONI
VOTE: ALL**

**AYE/8-1 ABSENT
MOTION PASSED**

Respectfully submitted,

Sandra Weekes
Town Council Secretary
Meeting digitally recorded

Robert F. Parisi, Chairman
Date

Barbara Thompson, Town Clerk
Date