

TOWN OF WALLINGFORD, CONNECTICUT
REGULAR TOWN COUNCIL MEETING
Town Council Chambers

October 27, 2009

The following minutes are a record of the Regular Meeting of the Wallingford Town Council held in the Robert Earley Auditorium of the Wallingford Town Hall on Tuesday, October 27, 2009. The Meeting was Called to Order at 6:38 P.M. Responding present to the Roll Call given by Town Council Secretary Sandra Weekes were Councilors Mike Brodinsky, Vincenzo M. DiNatale, Nick Economopoulos, Jerry Farrell, Jr., John LeTourneau, Robert F. Parisi, Rosemary Rascati, Michael Spiteri and Vincent F. Testa, Jr. Mayor William W. Dickinson, Jr., Town Attorney Janis Small and Comptroller James Bowes were also present.

The meeting began with a Moment of Silence, the Pledge of Allegiance and the Roll Call.

2. Chairman's Report
Chairman Brodinsky announced that the Pension Commission meeting scheduled for October 29, 2009, will be held in Room 205, the Bid Room.
3. Consent Agenda
 - 3a. Consider and Approve Tax Refunds (#343 - #380) totaling \$14,404.12
Acct. # 001-1000-010-1170 - Tax Collector
 - 3b. Consider and Approve the Appointment of William Fischer to the Wallingford Housing Authority Board of Commissioners for a five-year term, beginning 10/31/09 and ending 10/31/14 – Chairman Mike Brodinsky
 - 3c. Consider and Approve the Appointment of Patricia Hogan as Tenant Commissioner to the Wallingford Housing Authority Board of Commissioners effective immediately and ending 10/31/10. This appointment fills the vacancy created by the resignation of Jill Kelliher – Chairman Mike Brodinsky
 - 3d. Consider and Approve a Resolution Authorizing the Mayor to enter into the Project Grant Agreement between the State of Connecticut and the Town of Wallingford under the Local Bridge Program for the West Dayton Hill Road over the Muddy River, Bridge No.04834 – Town Engineer
 - 3e. Consider and Approve a Resolution Authorizing the Mayor of the Town of Wallingford, Mass Dispensing Area (MDA) 23, to receive and dispense the \$15.00/vaccine administration fee approved by the Center for Disease Control and the Connecticut Department of Health for a total of available funds up to \$10,500 and designate Eloise Hazelwood, Director of Health, as the administrator MDA 23 for the purpose of coordinating the novel H1N1 vaccine distribution plan – Director of Health

- 3f. Acceptance and Appropriation in the Amount of \$10,500 to H1N1 Vaccine (Expenditure) Acct # 001-3010-601-6030 and to Revenue H1N1 Acct # 001-1040-050-5508 – Director of Health
- 3g. Acceptance and Appropriation in the Amount of \$30,000 to ARRA-JAG OPM Acct # 001-1050-050-5891 and to Server Replacement Acct # 001-2005-999-9947 – State and Federal Program Administrator, Donald Roe
- 3h. Acceptance and Appropriation in the Amount of \$38,039 to ARRA-JAG Grant Acct # 001-1050-050-5890 and to Traffic Maintenance Vehicle Acct # 001-2005-999-9946 – State and Federal Program Administrator, Donald Roe
- 3i. Consider and Approve a Resolution Authorizing the Mayor to enter into an Agreement with the State of Connecticut, Department of Transportation, for the purchase of alternative/clean fuel vehicle(s) and to execute any amendments, recisions and revisions – State and Federal Program Administrator, Donald Roe
- 3j. Consider and Approve a Budget Amendment in the Amount of \$6,500 to Transportation Equipment Acct # 433-9012-392 and to Miscellaneous Non-Operating Revenue Acct # 431-8960-421 – Water Division

Mr. Testa made a motion to approve the Consent Agenda 3a to 3j. Mr. Spiteri seconded the motion. All Councilors present (9) voted Aye, and the motion passed.

4. Items Removed from the Consent Agenda

None

5. PUBLIC QUESTION & ANSWER

Geno Zandri, 9 Balsam Ridge Circle, commented that he expected to see the land he suggested on Fairfield Blvd on the agenda. Chairman Brodinsky said that this type of item is taken up during Executive Session. Mr. Parisi said that he had looked into it.

Bob Hogan, Grieb Road, said that the old mortgage lenders property is going into foreclosure and that according to Mr. Hogan that Workstage, the builder, was given permission to, to stock pile sub-soil on the property. He said they stockpiled the soil and to keep the neighbors happy they buried half of the corn field, which parallels Grieb Road from Leigus to the end of the property towards I-91. He watched them for nine or ten months, truck after truck after truck, dumping that subsoil instead of taking it out of there. He said the pile of dirt is about 50' wide, 10' deep and 500' long. He is concerned. Even though Linda Bush gave them four years to remove the dirt, he thinks that its removal will get overlooked in the foreclosure process, and he wants it out of there. The dirt is covering up topsoil that is at least four or five feet thick and rich as can be since it is over 200 or 300 years old.

Bob Gross, 114 Long Hill Road, asked if Wallingford is going to use hybrid vehicle program that the state is funding. Mayor Dickinson said that it's possible, and that it depends upon the vehicles needed and whether they will fit within the program. He said

that after budget adoption this year, the departments met and reviewed the issues regarding hybrid vehicle program. Mr. Gross said that other towns have adopted this program and he talked about American carmaker, Ford, and that the Electric Division uses a lot of Taurus cars as does the town. He said that Ford makes the Mercury Fusion, which is a hybrid of almost the same size and falls under the program as does the Ford Escape.

Mr. Zandri made another comment about the property that he suggested and said that the price is half the amount that the Council is willing to pay for the other piece and the residents deserve an explanation as to why this is not being considered.

With regard to the Purchasing Ordinance, the Public Hearing, scheduled for 7:00 P.M. was delayed by consensus of the Council as it was not yet 7:00 P.M. Instead Items 7, 8, 9 and 10 were taken up.

7. Consider and Approve an Appropriation in the Amount of \$971,400, Small Cities Community Development Block Grant-Recovery Program (CDBG-R), to State Grant Acct # 240-1040-050-5000 and \$925,133 to Construction Activity Acct # 240-7700-783-7991 and \$46,267 to Administrative Acct # 240-7700-783-7993
-- State and Federal Program Administrator, Donald Roe

Mr. Testa made a motion, seconded by Mr. Parisi, to Approve an Appropriation in the Amount of \$971,400, Small Cities Community Development Block Grant-Recovery Program (CDBG-R), to State Grant Acct # 240-1040-050-5000 and \$925,133 to Construction Activity Acct # 240-7700-783-7991 and \$46,267 to Administrative Acct # 240-7700-783-7993 as requested State and Federal Program Administrator, Donald Roe.

Mayor Dickinson said that this relates to a grant that was previously discussed and for which the Council approved the application. He said the funds have been received and will be used for infrastructure improvements and the Housing Authority in and on its surrounding housing property. Tonight, the purpose is to appropriate the funds for expenditure.

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

8. Consider and Approve a Bid Waiver for Discover Video, LLC (an equipment provider to AT & T) to provide U-Verse service, so that governmental and educational programming becomes available to AT & T U-Verse customers - State and Federal Program Administrator, Donald Roe

MOTION

Mr. Testa made a motion, seconded by Mr. Parisi, to Approve a Bid Waiver for Discover Video, LLC (an equipment provider to AT & T) to provide U-Verse service, so that governmental and educational programming becomes available to AT & T U-Verse customers as requested by State and Federal Program Administrator, Donald Roe

In attendance:
Scott Hanley, Manager, Government Television

Mr. Hanley said that they have determined what equipment they are going to install and that AT & T will support that in the monetary amount for both the governmental and the educational channels.

Mr. Spiteri wanted to know where this leaves the third public television entity. Mr. Hanley said that Wallingford Public Access (WPA) has been on AT & T for some months.

Mr. Testa stated that this is simply for equipment that allows you to put the signal out appropriately. Mr. Hanley said that was correct.

Mr. LeTourneau asked how soon can the system be up and running. Mr. Hanley said that this is largely up to AT & T that they have to send paperwork to AT & T, sign an agreement, and AT & T will then issue a check to the town so the equipment can be ordered. He said that AT & T has to order a T-1 line for installation. He said that he hopes sometime in December but that realistically it may be January 1, 2010.

Mayor Dickinson added to underline one facet of this that this \$20,000 unlike Comcast, which is obligated to provide broadcast capabilities, with AT & T is one-time, and when this has to be replaced, it becomes the responsibility of the municipality. These are the differences between cable and the U-Verse approach.

Mr. Hanley said that everyone should be aware that since cable was deregulated in 2007, Comcast may no longer have the obligation to replace and maintain the equipment. He said they have tried in the past two sessions to secure some legislation to correct that issue but that they have not succeeded. He said that across the state it is a concern that this equipment really should be the responsibility of these companies but that they have passed the responsibilities on to the access providers.

Ben Martin, Ward Street, wanted to know if AT & T has stipulated that the town use this company. Mr. Hanley said that they looked at several proposals, and this one provided them with the best package and support, and the company is based in Wallingford. He said that this was the best fit for them. Mr. Martin shared that the U-Verse System is integrating cable, broadband and internet altogether. He asked if this purchase of equipment will provide for some online access to the government channel programs. Mr. Hanley said not at this time but that there is some capability built into the equipment that may provide us with some options; however, at this time their interest is in connecting with AT & T to serve AT & T customers directly. Mr. Martin said it's great that there is an expansion of access to government television but that it should be available to people who don't have U-Verse or cable or anything.

Mr. LeTourneau asked if the package will have the capability to be able to get it out on the internet. Mr. Hanley said that there is a streaming option in the package but at this time that have not explored activating that. Mr. LeTourneau said that he strongly suggests that once we get this package that this streaming option is looked at.

Mr. Spiteri said that he agreed with that.

Robert Gross, 114 Long Hill Road, said that streaming is not the same thing as loading it onto the internet. He said that streaming means that when it is playing on U-Verse, or one of the stations, that it will play at the same time on your computer. He said that it will not be video-on-demand (VOD). Mr. Hanley said that was correct. Mr. Gross added that this means that at midnight, for example, you can't pull it up and look at it. He said it only works when it is playing on Channel 20, like simulcast.

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

9. Consider and Approve Acceptance of AT & T equipment payment in the Amount of \$20,281 - State and Federal Program Administrator, Donald Roe

MOTION

Mr. Testa made a motion, seconded by Mr. Parisi, to Approve Acceptance of AT & T equipment payment in the Amount of \$20,281 as requested by State and Federal Program Administrator, Donald Roe

Mr. Hanley said that this is the process that they need to follow to take the money in and then to spend it.

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

10. Consider and Approve an Appropriation in the Amount of \$20,281 to AT & T U-Verse (Revenue) Acct # 001-1075-070-7050 and to Distribution Equipment: AT & T U-Verse Acct # 001-1303-999-9903-00 - State and Federal Program Administrator, Donald Roe

MOTION

Mr. Testa made a motion, seconded by Mr. Parisi, to Approve an Appropriation in the Amount of \$20,281 to AT & T U-Verse (Revenue) Acct # 001-1075-070-7050 and to Distribution Equipment: AT & T U-Verse Acct # 001-1303-999-9903-00 as requested by State and Federal Program Administrator, Donald Roe

There was no discussion.

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

6. Purchasing Ordinance

- 6a. Conduct a Public Hearing at 7:00 P.M. with respect to the Purchasing Ordinance of the Code of the Town of Wallingford, Connecticut - Chairman Mike Brodinsky

At 7:00 P.M., Mr. Testa read Item 6a., and Chairman Brodinsky opened the PublicHearing with respect to the Purchasing Ordinance of the Code of the Town of Wallingford, Connecticut. He gave some background on this ordinance, which has been in front of the Town Council before this date, and they have looked at different aspects of it. He said that the new ordinance was put together with contributions from the Law Department, the Purchasing Department and the Town Council. He said that the text more carefully matches what the Purchasing Department would like to do and has been doing, and that it is a good ordinance. It addresses how goods and services are purchased by the town, provisions for the standard, competitive bid process and a section for purchasing by request for proposal (RFP) when it is determined that it is the best value for the town, which is the chief criteria.

He discussed that if that is going to be the procedure that the Council has 30 days to object; otherwise, it goes through. He said that the town now uses a two-part bid, and it is restated in the draft ordinance. He said when it is determined that price and qualification are to be

given equal consideration, and you come up with the highest score winning. He said that the new one is pre-qualification, a purchase of services by qualification-based selection, and that is what it is called in the ordinance. He said this requires prior Town Council approval but that it is rare to look first for the most qualified firm or individual to perform specialized work. He said that there are other provisions in the ordinance that are worthy of note. He said that it defines a qualified bidder as someone who can do the job and is more rigorous.

Attorney Small said that those are the main points and that this looks to eliminate the things that the Purchasing Department no longer does and looks to various techniques that can be used for purchasing.

Mr. Bowes acknowledged that the Purchasing Department is supportive of the draft ordinance.

Mr. Gross asked if the town can purchase online. Mr. Bowes said that no bids are accepted online and that the town does not purchase online. Mr. Gross read the gifts and rebates section and asked if an employee can accept an invitation to lunch. Attorney Small said that this would be covered by the Code of Ethics and that this language was not touched.

Mr. Gross next asked about Special Services, which he said, includes employee health insurance and third part administrator. He said that you could still put this out to bid and propose it to the collective bargaining agreement (*unit*) and see if they would accept it. Attorney Small said that this is covered that the language provides that when deemed appropriate by the Personnel Director that he will do a request for proposal but not later than every five years. She said that unions can negotiate to agree to something, and this doesn't prohibit that. She said that the town has not put out a request for proposal for a third party administrator.

Mr. Martin asked about getting the most qualified person for the job and wanted to know what the realm of qualifications are. Chairman Brodinsky read-

“...when a department wishes to use the qualification based selection process to pre-qualify bidders, it has to submit a written request with the rationale to the Purchasing Department...”

Chairman Brodinsky said that there has to be a reason stated that avoids the standard bid process, and that the way that he looks at it is that the qualifications have to be very technical, very special, very unique, very rare. Mr. Bowes said that from the fiscal viewpoint that this is how he views it. Mr. Martin said this is for very special projects to which Chairman Brodinsky agreed.

Mr. Gross asked is the Purchasing Department had a fax machine.

Ms. Rascati said that 6b. states that we are going to approve the amendments in accordance with the proposed draft dated September 14, 2009 and that she has memo from the Town Attorney to the Town Council dated September 16, 2009, that states –

“...the Purchasing Agent has reviewed the latest draft and has offered the following comments...”

Ms. Rascati said that she does not see those comments incorporated into the Purchasing Ordinance that the Council is approving tonight, and she does not know whether they were considered and deemed unimportant or what. Attorney Small responded that the 30 days was discussed, and they were going to leave it at 30 days. She also said that as a clarification for 43-3 to be crystal clear on the duties of the Purchasing Agent in the third line where it says "...*other commodities and contractual services*" to **add in** "*and professional/special services*" to enumerate completely and have it spelled out in the ordinance just what the duties are. She said that this is a clerical change and can be done when the Council votes.

She said that in 43-2, the language would probably be better to change "*as defined in this ordinance*" to "*which are treated separately in this ordinance.*" She said that there is no substance to the change but that this makes it a little bit clearer. Ms. Rascati asked if the Council is to amend the question. Attorney Small said since the changes are minor and not an issue, the Council can do that in its vote, if the Council chooses to do that.

Mr. Farrell said that in regard to Mr. Gross' comments on Gifts and Rebates and that if you look at the language of Section 43-8 c. Mr. Farrell quoted,

"...every officer and employee of the Town are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or corporation to which any purchase order or contract is or *might be* awarded..." Mr. Farrell stated that *might be* are key words.

Mr. Farrell said that the one insertion that he wanted to make into the legislative history would be that we are not contemplating that the world is prohibited but that it is someone who is reasonably in front of the Town seeking work. It is not if his mother wants to give him a gift, and she *might* someday in the grand universe be someone seeking the Town's work but isn't seeking it right now, and it's not logically envisioned that she would. He does not want to see the wording rendered sort of ridiculous.

Attorney Small said that this is not language that was changed, so it is existing language. She said in this ordinance it's talking specifically about the Purchasing process, and it is talking about someone engaged in the Purchasing process and that you can't try to influence the Purchasing process. This is the context. She said the Code of Ethics covers everything but here it is about the ongoing Purchasing process of the Town. Mr. Farrell said he wanted to clarify that because the question that Mr. Gross asked and the answer that he got left that a little murky.

On that last point, Chairman Brodinsky said that if the Town buys golf balls and the Town just signed a three-year golf ball contract, and then a month after we signed that contract, another golf ball manufacturer begins to court members of the Purchasing Department. He said that he hopes that would be in violation of 43-8-C. He said that is his legislative history that he wants to inject and hope that administratively that is the case. Attorney Small said that it would be someone involved in the Purchasing process.

Ms. Rascati asked if it was necessary to make a motion to add the clarifying language into the ordinance. Chairman Brodinsky said he thinks that it would be a good idea to protect the minutes to read them very carefully, so that it can taken in the minutes and will reflect exactly what is going to be passed.

Attorney Small said that when the Council makes the motion, the memo can be referred to for the definition of contractual services 43-2 and with respect to 43-3, it would read:

“The Purchasing Agent shall have the exclusive authority and it shall be his duty to purchase or contract for all supplies, materials, equipment, other commodities, contractual services, *and professional/special services.*”

She said the remainder stays the same.

Procedurally, Mr. Testa asked if the conversation which just occurred means that sentence will actually be changed. Attorney Small said if the Council moves to adopt the new ordinance with those additional two changes that she just referred to, then the Council should be fine. Mr. Testa said that this is the Public Hearing on the ordinance and as long as we are discussing the change during the Public Hearing, then we can incorporate the language when we approve the ordinance. Attorney Small said as long as the changes you make are not of such a substantive nature that the public wouldn't have had some reason to believe you would make the change, so this is not changing the substance in any way. She said that this is just a grammar-type language issue.

Chairman Brodinsky summarized that in 43-2, there is a small change after the phrase “...other professional/special services *as defined* in the ordinance.” and that the words “*as defined*” are being deleted and substituted in lieu thereof are words which read “*which are treated separately in the ordinance.*” He said that it's a change of form, not substance.

He continued that in 43-3, we are going to add to the duties of the Purchasing Agent the phrase “...*professional/special services.*”

He said that there are no further changes because the draft that we have in front of us provides for 30 days and the memo also says 30 days.

Chairman Brodinsky closed the Public Hearing at 7:22 P.M.

- 6b. Consider and Approve Amendments to the Purchasing Ordinance, Chapter 43, in accordance with the proposed draft dated September 14, 2009 of the Code of the Town of Wallingford - Chairman Mike Brodinsky

MOTION

Mr. Testa made a motion to Approve Amendments to the Purchasing Ordinance, Chapter 43, in accordance with the proposed draft dated September 14, 2009 of the Code of the Town of Wallingford incorporating those clarifications and changes as discussed during the Public Hearing. Mr. Parisi seconded.

There were no questions or comments from the public or from the Council.

ROLL CALL VOTE

Brodinsky -yes, DiNatale -yes, Economopoulos - yes; Farrell -yes, LeTourneau -yes, Parisi -yes, Rascati -yes, Spiteri -yes, Testa -yes
9 - Aye; 0 - Nay

The motion passed.

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
12. Executive Session pursuant to §1-200 (6)(B) of the Connecticut General Statutes regarding strategy and negotiations with respect to the pending tax appeal matter of James McManus v. Town of Wallingford – Town Attorney

Mr. Testa made a motion to go into Executive Session pursuant to:

(Item 11.)

§1-200 (6)(D) of the Connecticut General Statutes with respect to the purchase, sale and/or leasing of property as requested by the Mayor, and

(Item 12.)

§1-200 (6)(B) of the Connecticut General Statutes regarding strategy and negotiations with respect to the pending tax appeal matter of James McManus v. Town of Wallingford as requested by the Town Attorney.

Chairman Brodinsky seconded the motion. All Councilors present (9) by voice said Aye. The motion passed. Executive Session commenced at 7:25 P.M.

At 8:24 P.M., Chairman Brodinsky announced that the Council was back in session.

Attendance at Executive Session included nine (9) Councilors, Mayor Dickinson, Town Attorney, Janis Small and Fire Chief Peter Struble. Mr. Testa and Chief Struble left the Executive Session at 8:12 P.M.

13. Motion to consider and approve settlement of James McManus v. Town of Wallingford tax appeal matter as discussed in Executive Session - Town Attorney

Withdrawn

Mr. Parisi made a motion to Adjourn from the meeting. Chairman Brodinsky seconded. All Councilors present (8) by voice said Aye. Mr. Testa had left the meeting at the time of adjournment.

The motion passed

The Town Council meeting adjourned at 8:26 P.M.

Respectfully submitted,

Sandra R. Weekes
Town Council Secretary

Meeting digitally recorded by Sandra Weekes

Chairman, Mike Brodinsky Date

Town Clerk, Barbara Kapi Date