

TOWN COUNCIL MEETING

JULY 25, 1995

6:30 P.M.

AGENDA

1. Roll Call and Pledge of Allegiance
2. Consider and Approve a Transfer of Funds in the Amount of \$400 from Health Insurance Acct. #001-8041-800-8300 to Physical Exams Acct. #001-1590-500-5750 - Personnel (F.Y. 1994-95)
3. Consider and Approve a Transfer of Funds in the Amount of \$218 from Part Time Secretarial Wages Acct. #001-7020-100-1350 to Advertising Acct. #001-7020-400-4100 - Zoning Board of Appeals
4. Consider and Approve Tax Refunds (#5-12) in the Amount of \$494.53 - Tax Collector
5. Consider and Approve the Abandonment of Property Adjacent to Pent Highway as Requested by Attorney Richard Gee
6. PUBLIC QUESTION AND ANSWER PERIOD - 7:30 P.M.
7. Discussion and Possible Action on Revising/Amending/Repealing Ordinance #104, Amended by Ordinance #170 Entitled, An Ordinance to Provide for a Reserve Fund for Capital and Non-Recurring Expenditures as Requested by Councilor Peter A. Gouveia, Chairman of the Ordinance Committee
8. Consider and Approve a Transfer of Funds in the Amount of \$43,010 from Contingency Reserve for Emergency Acct. #8050-800-3190 to Professional Services Acct. #001-7010-901-9026 (F.Y. 1995-96) as Requested by Councilor Peter A. Gouveia (Purpose of Transfer is to Fund the Route 5 Traffic Study)
9. Approve and Accept the Minutes of the June 27, 1995 Town Council Meeting
10. Approve and Accept the Minutes of the July 5, 1995 Special Town Council Meeting
11. Approve and Accept the Minutes of the July 11, 1995 Town Council Meeting
12. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Regarding Strategy and Negotiations With Respect to Collective Bargaining - Town Attorney
13. Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Regarding Pending Litigation - Town Attorney
14. Consider and Approve a Waiver of Bid to Hire Outside Legal Counsel - Town Attorney

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- 14. Approve a Waiver of Bid to Hire Outside Legal Counsel
 - Atty. Ciccarillo for Pending Labor Cases
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WAIVER OF RULE V

Approve a Transfer of \$550 to Self Insurance Unemployment Compensation Acct. #001-8040-800-8290 - Personnel 1-2

Fail to Approve a Waiver of Rule V to SET A PUBLIC HEARING to Repeal Ordinance #104, Amended by #170 8

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6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, July 25, 1995 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Thomas D. Solinsky at 6:32 P.M. All Councilors answered present to the Roll called by Town Clerk Kathryn J. Wall with the exception of Councilor Knight who was out of Town on vacation. Mayor William W. Dickinson, Jr., Comptroller Thomas A. Myers and Town Attorney Janis M. Small were also present.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Consider and Approve a Transfer of Funds in the Amount of \$400 from Health Insurance Acct. #001-8041-800-8300 to Physical Exams Acct. #001-1590-500-5750 - Personnel (F.Y. 1994-95)

Motion was made by Mrs. Duryea, seconded by Mr. Rys.

Mr. Killen asked why this transfer is coming so late after the close of the fiscal year?

Thomas Sharkey, Acting Personnel Director explained that he had to schedule an appointment for an independent evaluation of an employee. It was a matter of scheduling it on June 26th or wait until late August for an appointment due to the fact that the physician had scheduled vacation plans for that time period. He felt that it would be better to have the employee examined in late June for if the employee was going to be disabled and retired it would be best to get him off the rolls sooner rather than later, to free up the spot for the Police Chief. The independent medical evaluations range in cost from approximately \$200 to \$700, depending on the amount of work that is done by the doctor. If the cost were in the \$200 - \$400 range he would have had enough money in his account to pay for it. Until he actually received the bill, however, he could not tell what the cost would actually be.

Mr. Killen stated, the appointment should not be scheduled without prior approval of funding in the event that the Council did not pass the transfer this evening. If that were the case then Mr. Sharkey would personally be held responsible for expending funds that the Town did not have as dictated by Town Charter. It is a tricky situation and he did appreciate the dilemma that Mr. Sharkey was faced with.

VOTE: Knight was absent; Killen and Zandri, no; all others, aye; motion duly carried.

WAIVER OF RULE V Motion was made by Mrs. Duryea to Waive Rule V of the Town Council Meeting Procedures for the Purpose of Considering a Transfer for the Personnel Department, seconded by Mr. Killen.

VOTE: Knight was absent; all others, aye; motion duly carried.

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Consider and Approve a Transfer of Funds in the Amount of \$550 from Health Insurance Acct. #001-8041-800-8300 to Self Insurance Unemployment Compensation Acct. #001-8040-800-8290 - Personnel

Motion was made by Mrs. Duryea, seconded by Ms. Papale.

This transfer is being requested for the purpose of paying the Unemployment Compensation bill for the last period of F.Y. 1994-95. It is customary to receive the billing six to seven weeks following the period the Town is billed for. Normally the bill we just received would have been paid in the fiscal year in which it was received, namely F.Y. 1995-96. Due to a change in federal law however, if the books for the fiscal year in which the services are rendered are not yet closed, the billing must be applied to such fiscal year.

VOTE: Knight was absent; Killen and Zandri, no; all others, aye; motion duly carried.

ITEM #3 Consider and Approve a Transfer of Funds in the Amount of \$218 from Part Time Secretarial Wages Acct. #001-7020-100-1350 to Advertising Acct. #001-7020-400-4100 - Zoning Board of Appeals

Motion was made by Mrs. Duryea, seconded by Ms. Papale.

This transfer is being requested to resolve a shortage of funds in the Advertising Account for this Board for F.Y. 1994-95. A surplus remains in the Part Time Secretarial Wages Account.

VOTE: Knight was absent; Killen and Zandri, no; all others, aye; motion duly carried.

ITEM #4 Consider and Approve Tax Refunds (#5-12) in the Amount of \$494.53 - Tax Collector

Motion was made by Mrs. Duryea, seconded by Ms. Papale.

VOTE: Knight was absent; all others, aye; motion duly carried.

ITEM #5 Consider and Approve the Abandonment of Property Adjacent to Pent Highway as Requested by Attorney Richard Gee

It is noted that this item should be corrected to read, "...the Sale of Property.." not the abandonment of property.

Attorney Gee refreshed the Council's memory on this issue which appeared before the Council on two past occasions, September and December of 1994. At that time his client was seeking an abandonment of the property. The Council first tabled and then failed to approve the request. Since that time Attorney Gee's client, Joan Siniscalco, has approached the Town with an offer of \$1,000 to purchase the property.

Motion was made by Mrs. Duryea to Change the Easterly Description of Said Property on Schedule A (Appendix I) to Read, "Portion of Land

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Owned by Town of Wallingford on said Map, 12 feet, more or less." The motion was seconded by Ms. Papale.

VOTE: Knight was absent; all others, aye; motion duly carried.

Motion was made by Mrs. Duryea to Approve the Sale of Property as Described in Schedule A (revised) to Joan Siniscalco for the Sum of \$1,000 Based on the Provision that the Engineering Department Provide a Revised Map of Said Property, seconded by Ms. Papale.

Pasquale Melillo, 15 Haller Place, Yalesville stated that the Town should receive more money for the property than is being offered.

VOTE: Knight was absent; all others, aye; motion duly carried.

ITEM #7 Discussion and Possible Action on Revising/Amending/Repealing Ordinance #104, Amended by Ordinance #170 Entitled, "An Ordinance to Provide for a Reserve Fund for Capital and Non-Recurring Expenditures as Requested by Councilor Peter A. Gouveia, Chairman of the Ordinance Committee

Motion was made by Mrs. Duryea, seconded by Mr. Gouveia.

Mrs. Duryea read a letter into the record from Councilor Gouveia which had been forwarded to all Councilors, Mayor, Town Attorney, Director of Public Utilities, General Manager of the Electric Division, and all P.U.C. Members. The letter requested that everyone receiving it review the attached ordinance and its amendment prior to this evening's meeting in an effort to streamline the process by the Ordinance Committee of critiquing it for possible revisions. He asked that any and all suggestions/recommendations for revisions or deletions/additions be forwarded to him for discussion this evening. To this end the matter is before the Council for such discussion. Hopefully a consensus could be arrived at this evening to bring to the Ordinance Committee. If none is achieved, then he will not take the matter any further. He is seeking guidance from the Council on exactly what it is that they want to do. He cautioned that the discussion this evening should not be on retained earnings, access funds beyond what is needed for the maintenance and modernization of the plant, this should be strictly limited to what is a fair and just rate of compensation to the Town as owners and operators of the Electric Division for both P.I.L.O.T. (payment in lieu of taxes) and return on investment which should include risk and liability. That is the question tonight. Once determined, then it should be decided what is the best way to accomplish that goal so that we do not have to continuously go through the issue at budget time which only succeeds in creating hard feelings and havoc with the budget process.

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It is noted that the current ordinance (#104 amended by #170) is not enforced due to the fact that the rate of compensation is based on net earnings of the division. Should the division exhibit a deficit the Town could find that no compensation will be forthcoming.

Mr. Zandri stated that the easiest way to solve the problem is to take a percentage of gross sales so that the percentage is, at minimum, at least what we are currently getting from the Electric Division with the potential of obtaining a few additional dollars. A percentage of gross sales could be used as a base measuring tool.

Mr. Rys stated, in reading the letter to Mr. Gouveia from Mr. Knight requesting that this item be addressed, the fact is that Mr. Knight is unable to be present this evening and, at the very least, the P.U.C. should be on hand tonight for this issue if the Director of Public Utilities or Manager of the Electric Division was not able to attend. The P.U.C. is holding a meeting this evening and that is most likely why they cannot attend tonight. He asked if the new rates have been established yet?

Mr. Zandri stated, this issue has nothing to do with the rates.

Mr. Gouveia noted that the letter was sent on July 18th to all those listed above requesting input on this issue. Raymond Smith, Director of Public Utilities had forwarded suggestions for revisions to the ordinance to Mr. Gouveia. It was Mr. Knight's letter to Mr. Gouveia which prompted placing this item on the agenda this evening...this idea of establishing some sort of a percentage of gross sales as compensation to the Town from the division last year. At that time there were no takers. He was glad to see that throughout the discussions on this issue over the past year several members of the Council indicated that they felt that there should be additional compensation from the division to the Town, above and beyond what is currently contributed. Based on that and the fact that Mr. Knight requested that this item be placed on the agenda, Mr. Gouveia saw a reason to do so. He wanted first to have a public discussion on the issue to see what kind of interest is there. If there does not seem to be any, then he does not want to spin his wheels for nothing.

Mayor Dickinson stated, as indicated during the budget workshops it is very necessary that we amend this ordinance because, as it stands, it creates some real problems. It is not well-drafted and should be amended. A percentage of gross (sales) would appear to be a reasonable approach. It would be advisable to get information from the utilities regarding the impact on rates of what ever dollar figure it may be. We will be looking at an annual amount that would have to be raised through the rate structure.

Mr. Gouveia stated, the utilities are aware of this issue and if it is the desire of the Council there will be further public meetings on this issue. We are looking for fairness. The rates are secondary. The rates have to support that fair compensation. You don't need to make a \$1.3 million profit, you can make a \$100,000 profit which is still a healthy profit. There should not be any impact on the rates. First and foremost we have to determine what is a fair rate of

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compensation to the Town and then establish the rates to support that fair compensation, if need be.

Ms. Papale stated, this has been a long time coming. No one on the Council wants to continue going over this issue year after year during budget workshops. She is sure that the recommendations given by the Mayor and Mr. Zandri will be well-taken by the Ordinance Committee. Following the last budget sessions she did speak with some of the Councilors and agreed that the Town should be getting more from the division but in an amount that everyone can agree upon. She hoped that the Ordinance Committee would sit down with the P.U.C. to see what type of compromise can be reached.

Mr. Gouveia was concerned, hoping that everyone would be open-minded on this issue. Some people have taken issue with this particular item to the point that it seems to be an obsession more than anything else. Too many people have become pig-headed about this issue for no good reason. The Town has in its possession a 1990 study that it paid \$54,000 for which clearly indicated that the Town should have received beginning in 1990, \$2,005,000. In 1990 we received \$1,155,000. He is telling everyone this because each time this issue is discussed, of adopting an ordinance based on a percent of gross sales it always is with the understanding that it is to increase the amount of compensation somewhat. He is not saying that we have to double or triple the amount, just that there has to be a working number everyone can agree upon. If people come to the committee, as it has been suggested, to make that number four percent (4%) of net sales, that does not cut it because it is less than what we are receiving now. Let's be open-minded about it, let's work on it, but if the result is that we are not going to get anything additional than what we receive now, he will not waste his time.

Ms. Papale agreed. That is why she is making the recommendation that there should be a meeting between the Ordinance Committee, P.U.C., Mayor and Council before working on the ordinance for many hours.

Mr. Killen did not understand the role of the P.U.C. in regards to deciding what dollars would be available to be used for compensation. The ordinance is very explicit...once the books of the Electric Division have been closed for the year, the excess dollars that they have created are no longer under their control. They are available for appropriations. It was the intent of this ordinance that what ever portion of dollars was necessary and was not being met by either putting in two mills or what ever different sources were named in the ordinance, that balance would be taken from the Electric Division and put in the Capital and Non-Recurring Fund and the Town would have a capital program consisting of one, two, three, four or five items and these dollars would coincide and we would have a balanced budget, so to speak. There really is no necessity for anyone to call in the P.U.C. or the outside auditors or anyone else. All we have to know at the end of the given year is, roughly, what dollars are left over from the Electric Division and what are we going to use them for? Do we have a capital plan? If we don't have a plan then we are taking it from one pocket and putting it in another for nothing.

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It is Mr. Gouveia's feeling that the Capital and Non-Recurring component of this ordinance should remain part of the ordinance.

Mr. Zappala agreed with Mr. Killen that a percentage of the funds should be given to the Town and the division did just that this year by contributing \$1.6 million. What seems to be the problem is that we should be receiving more money and he agrees. We should come up with a determination as to how much everyone thinks is fair but one that does not tax the people of Wallingford through the Electric Division bills. The committee should meet with the P.U.C. to see if a compromise can be reached.

Mr. Gouveia responded, money that we pay for electricity should be used to pay for electricity and not for taxes. But he gets annoyed when he hears that argument because we continuously subsidize the trash disposal but no one talks about that. Our electric division buys electricity from Northeast Utilities for \$.03 per kwh and the trash plant sells electricity that they make to Northeast Utilities for \$.12 per kwh. If you want to be a purist then you should also say that the trash plant should not sell the electricity for more than Northeast Utilities sells it to other companies. The point is that Mr. Smith stood before this Council and stated that this ordinance has not been followed since 1985. It is time that we either repeal or amend it and adopt a procedure by which we can accomplish what we want to. During budget workshops we reached a compromise that would have equaled 5.5% or \$2.1 million of gross sales. That percentage is not an exaggerated number, it is a working number. He stated, personally, he would not go any lower than 5.5%. He is stating that right up front so people know where he stands on the issue, he will not change his mind or commitment afterwards.

Pasquale Melillo, 15 Haller Place, Yalesville asked if the Electric Division violated the Charter by using the remaining funds after their books were closed?

Mr. Killen responded that he never accused the Electric Division of violating the Charter. Once their books were closed they came before the Council with a request to use \$3 million as a credit rider. Enough votes of the Council were in favor of the transfer and the action was approved. He pointed out that the \$3 million in credit rider that has been passed back to the customers over the past three years along with the \$3 million in this fiscal year would have amounted to \$12 million that the Town could have used to pay for Yalesville School. In doing so the Town would have been reimbursed in five years from the State and would have saved an enormous amount of money in interest that we will pay by bonding the project.

Mayor Dickinson stated, the ordinance constitutes what the contribution should be if there is a net profit. There was no net profit and the division ran a deficit.

Mr. Melillo stated, he was under the impression that the division made a big profit the last year.

Mayor Dickinson stated, the division, generally, ran deficits and as a

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result of the credit rider which returned the money to the ratepayers, but there was a discounted rate that ended up utilizing the retained earnings. There was no net profit so you could not apply the ordinance.

Mr. Gouveia stated, the focus of our discussion should be on what is fair compensation to the Town. It should not be on retained earnings or budget or anything else. The Mayor stated that the division had a deficit. The Electric Division knew they were going to have a deficit of \$3 million because they were going to return \$3 million in the credit rider. In fact that was a premeditated effort on their part and that, in itself, is a violation of State Statutes because they cannot budget for a deficit. Of course they will come here and tell you that they really did not anticipate that deficit and the Council gets involved in this issue. This is the argument that has ensued here since he has been on the Council, maybe even before that. Instead of focusing on the issue at hand and take one issue at a time, maybe we will resolve something. We convoluted the entire issue by bringing on other issues that have absolutely nothing to do with the subject at hand. At this point, the subject is, what is a fair compensation to the Town from the Electric Division for being the owners and operators of that Electric Division and nothing else as determined by nine Councilors and the Mayor and if that compensation to the Town in 1995 dollars is \$2,100,000 which is 5.5% of gross sales, it is very basic and simple. All we have to do then is adopt an ordinance which states...and we should not get into net sales because those numbers can be manipulated. They cannot manipulate the gross sales figure. It is electricity which comes in and is metered out. That is a very dependable number each year for the Town to be able to use as its factor. It is amazing that year after year the State of Connecticut takes more from the Electric Division than the Town of Wallingford does. It is also a fact that the State determines that amount based on a certain percentage of gross sales.

Mr. Melillo asked, hasn't anyone tried to contact our local representatives to try and straighten that out?

Mayor Dickinson responded, for many years that was an item on our legislative agenda and we talked to Senators representing Wallingford and requested a repeal of the gross earnings tax but the legislature, as a whole, was not interested in losing that source of revenue. It is being gradually eliminated, phased out over the next few years.

Mr. Melillo supported Mr. Gouveia's view on this matter.

Mr. Killen read the last paragraph from a legal opinion to Raymond Smith, Director of Public Utilities on April 24, 1991 which reads, "In conclusion, the manner in which the Electric Division receipts are managed comply with Connecticut General Statutes and the Town Charter. Retained earnings are permitted under the law and are specifically required by Section 7, Chapter XIV of the Town Charter. Further, the retained earnings are not exempt from the normal appropriation process. The Electric Division receipts and expenditures are Town receipts and expenditures and are, in fact, Town monies even though they are accounted for separately." Those dollars are there whether

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you take them out this year or allow them to accumulate and become retained earnings. Every budget year, when the time comes to appropriate the Mayor has it within his purview to appropriate any portion of those retained earnings he so desires. He can appropriate to the Capital and Non-Recurring Fund through this ordinance or he can use them to lower the mill rate. We don't try to set the mill rate long before we know what our expenses are going to be. We can set out a capital plan and find out what our needs are over the years then we will know how much we will need from the Electric Division in addition to what other revenue sources are available to meet those needs. It is simple enough, someone just has to do it.

Philip Wright, 160 Cedar Street asked, who establishes what is going to be spent on capital and non-recurring for any particular year or is it necessary? Can we retain money in a capital and non-recurring fund so that if we don't have to build bridges and roads this year we can build schools next year?

Mr. Killen pointed out, in this year's budget we have a six year plan. Only the first year was adopted, the other five years are tentative and can be switched around. At least \$1 million is being spent every year in this capital and non-recurring budget. You don't have to stick with the \$1 million you can spend up to \$5 million, so long as you have it to spend.

Mr. Wright stated, a few years ago there was a plan to replace the Tyler Mill Bridge and that was on our Capital and Non-recurring list. Then all of a sudden we decided we were not going to do that. There ought to be something that is ironclad.

Mr. Killen made a motion to Set a Public Hearing to Repeal the Ordinance, seconded by Mr. Zappala.

The motion and second were withdrawn.

Motion was made by Mr. Killen to Waive Rule V of the Town Council Meeting Procedures for the Purpose of Setting a Public Hearing, seconded by Mrs. Duryea.

Mr. Gouveia asked, what is the purpose of repealing the ordinance?

Mr. Killen responded, so that we will get some action. The way that we are going now, we will end up back at square one.

Mr. Gouveia stated, he was ready to present comments by several members of this Council where they stated that they believe that there should be additional compensation from the Electric Division to the Town. Armed with that information he would remind those individuals of the comments that they made in public at the meeting and would therefore hold their feet to the fire as far as adopting an ordinance that would represent that. He plans to draft something. We have to have an ordinance which establishes a Capital and Non-recurring fund. By repealing the ordinance you are left with nothing.

Mr. Killen feels that we should have the Capital and Non-recurring

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fund and a six year plan that reflects the needs of the Town. We have neither one, in retrospect, here.

VOTE TO WAIVE RULE V: Knight was absent; Rys, Zandri, Zappala and Solinsky, no; all others, aye; motion failed.

Mr. Gouveia's intent is to convene a meeting of the Ordinance Committee and work on it.

PUBLIC QUESTION AND ANSWER PERIOD

Pasquale Melillo, 15 Haller Place, Yalesville stated that recently an article appeared in the newspaper regarding the Bristol Myers helipad. Last October a New Haven Superior Court Judge ruled that the Town issue a cease and desist order to Bristol Myers because the noise from their helicopter landing on site violated the Town's performance standards governing noise. Ms. Bush, he stated, has been quoted as saying that the performance standards which govern noise, odor, vibration and glare are outdated and have not been enforced for thirty years. He asked, when is this violation of Town Charter going to stop?

Mr. Solinsky stated, the Charter has not been violated, he believes that Mr. Melillo is confused and should be referring to the Planning and Zoning Regulations. He asked Town Attorney Janis Small to expound upon the issue.

Attorney Small stated that the expert she hired told her this morning that he will be mailing out his report to her today. Once she receives and reviews it she will take it from there.

Mr. Melillo is of the opinion that the resident who is filing the complaint against the Town has a lot going for him and the Town should support him and get after Bristol Myers.

Joe Ferrara, South Main Street suggested that the Public Safety Committee look into the possibility of placing a free-standing sign on North Main Street in the cross walk adjacent to Fishbein Insurance Co. The signs placed on the side of the road mounted on the poles are not being observed by the motoring public.

He then stated that he is in favor of the Route 5 Study that is being proposed this evening due to the fact that twenty-five percent (25%) of the land on the road is undeveloped.

Peter Wasilewski, 164 High Hill Road stated that the cease and desist order has not yet been issued to Bristol Myers. At the last Town Council Meeting he attended, June 27th, he stated his complaint and when he left the meeting he thought that the Town Attorney was awaiting documentation on the flight times and patterns of the helicopters in order to present cause for issuing the order. He and his neighbor forwarded letters to her listing specific dates and times when the helicopter landed, violating the performance standards. Still, nothing was done. At the July 10th meeting of the Planning & Zoning Meeting this issue was on the agenda, however, it was

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determined that there was an error in the notification process and the public hearing could not go forward. Mr. Wasilewski did not attend that meeting based on that fact. It was discovered that the item was brought back to the agenda of that meeting later in the evening by means of waiving the P&Z procedures. At that time a vote was taken and it was unanimously approved to have the Zoning Enforcement Officer, Linda Bush, issue a cease and desist order. Her statement, and in viewing this on the government access television, was that she would not issue the order unless ordered by the Mayor.

He went on to say, in the Zoning regulations, under Enforcement and Administration which is Section 8.1, Authority, "These regulations shall be administered by the commission and its appointed agents." In Section 8.2, Enforcement, it reads, "These regulations shall be enforced by the commission and its appointed agent who are hereby authorized to cause any building, structure, place or premises to be inspected and examined and to order in writing a remedy of any condition found to exist therein a violation any provision of these regulations." He stated, her statement that she would not issue a cease and desist order unless told to do so by the Mayor has no validity. The Mayor has no control over the Planning & Zoning Commission according to its regulations or any State Statute. He may have authority over the Town Planner (Ms. Bush) but that is a totally different position than Zoning Enforcement Officer. His original complaint went back to October. The memorandum from the court from Judge Booth was issued on October 20th. It wasn't that his complaint was made to coincide with the memorandum from the court, it was made long before that memorandum came out. That memorandum so reads, "The court notes that the Town indicated at oral argument that its position was that the helipad, when established, must comply with the performance standards and, in particular, must comply with standard subsection g-2a relative to noise and subsection g-2b relative to vibration. It is the court's expectation relying on the Town's position at oral argument that if subsequent events prove that the heliport violates any of the performance standards and in particular standard g-2a or g-2b the Town will issue to the defendant, Bristol Myers, a cease and desist order prohibiting the continuing operation of the helipad in violation of the performance standards." To date, the cease and desist order has still not been issued. On July 17th the Town Attorney wrote a memorandum to the Mayor regarding the performance standards. The last sentence of the first paragraph, "Section 4.9g is a proper zoning regulation." If it is proper, it is proven by the Town experts they violate the regulations, the Planning and Zoning Commission has ordered a cease and desist order to be issued, why hasn't it been done? The Mayor has no authority over that commission, none. He is violating legal limits.

Mr. Solinsky asked the Town Attorney, what exactly is she waiting to hear from on the noise expert?

Atty. Small responded, one, she asked him to clarify a few points in his report and to also address whether or not, given the fact that there isn't any modern equipment that can test in the measurements that are in the regulations. They are out of date and there is not any modern equipment that actually takes the readings of those octave

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band waves. He does not live in this area and therefore was not aware that it was in the daily newspaper. He was surprised given his comments that he has already given with respect to that regulation that we are pursuing enforcing it. She asked that he elaborate as to why he thinks there is a problem with the regulations. That is what his report is expected to address. She asked him if the ambient noises out there violated the standard when they went out to test and his response was, yes. She asked that he clearly state that in his report so that we all understand that. He talks about the fact that we don't take into consideration the ambient noises that are out there and to consideration when we have a noise standard is not the best way to go. She has asked him to elaborate further on the report that he has given. When the helicopter is physically on the pad, which is the area that the Town has jurisdiction over, it did not violate the standard. If it did it was only for a matter of split seconds that it takes for it to rev up and take off. She asked that he also elaborate upon that and to give his recommendation in a little more detail as to what we should be doing with these regulations. When we sought initially to do the testing of the helipad, when the complaint was made, she asked Mr. Bell when to do the testing. There had been comments made by the Town Planner in previous conversations that she thought that the regulations were not enforceable. At the same time Atty. Small had Mr. Bell do the testing, she asked him to look at and comment on the regulations. He did both of those things. The court decision was in respect to the proposed relocation of the helipad. Because Mr. Bell has indicated that, although he did not test the new pad, its not there, he cannot test it, he indicated that in all likelihood that it is going to violate the performance standards. On the basis of that, she has prohibited the building department from issuing a building permit for that new pad. We are still dealing with the existing pad and running parallel to the testing the commission has taken up the subject as to whether or not something should be done with those regulations. She expects to have his report in tomorrow's mail. We will take it from there.

Mr. Solinsky asked, was it the judge who stated that the regulations were proper?

Atty. Small responded, it was her. The Town Planner indicated that she did not believe that they could legally put such a performance standard in the zoning regulation. It is Janis' opinion that, yes, it can be properly there. One of Ms. Bush's claims was that noise couldn't be regulated by the Zoning Commission, however, Attorney Small did find a case that said it could be. That case does not talk about our specific performance regulations but it does state that under the enabling statute one of the protections that zoning can address includes noise. The Town Planner also raised the section of the statutes under the environmental protection statutes dealing with noise regulations, the fact that the Town can enact an ordinance addressing noise. It was the Town Planner's position that it was an exclusive remedy and it is the opinion of Atty. Small that it is not an exclusive remedy, that the statute provides that if there are other avenues for you to address these concerns, you may do so. Atty. Small addressed those concerns that Ms. Bush raised and she does believe that it is proper for the regulations to address it. Mr. Bell is

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addressing whether or not the regulations, as extracted, makes any sense. One, in particular because, although at the time it was adopted he says it was state-of-the-art. It is no longer state-of-the-art and when he did his testing what they have to do is take a recording of the noise, takes it back to his office and somehow translates it into a more modern type of analysis.

Mr. Wasilewski stated that his question has not been answered. If the person who receives the cease and desist order is not happy with the decision, there are mechanics in the regulations for them to appeal that decision. The Mayor does not have the authority over the P&Z Commission or the ZBA. So why hasn't this order been issued?

Atty. Small responded, when the Mayor asked that she address these concerns with Mr. Bell, she informed Mr. Fitzsimmons (Chairman, P&Z) that she was going to do so. That is where it stands. The P&Z Commission has the power to appoint and remove Zoning Enforcement Officers, she does not disagree. The Town Planner does work as a department that works under the Mayor. She has not studied the exact dynamics of what he can and cannot tell the individual in that position to do. It is Atty. Small's understanding that she is to take direction from the commission and she is being advised of that.

Mayor Dickinson stated, the real issue is, should any governmental entity issue an order that it knows to be unreasonable? He did not think so. He does not think that the Town should issue an order based upon, at this point, an expert's indication that the language involved is a problem, at best. All we are doing is giving the entity that we visit the cease and desist on a golden lawsuit against the Town. That is government at its worst. When we have information which leads us to believe that what we have and what we are looking to enforce is inadequate and proceed with it anyway? He does not find that excusable at all. If the expert tells us that it is enforceable and reasonable, he will then have no problem with the cease and desist being issued.

Mr. Wasilewski responded, then what you are telling me is that the Town went and argued an oral position that those performance standards exist and that if something exists they will enforce them with those performance standards, is a bunch of lies.

Atty. Small responded, it was not a lie. The argument was that the performance standard applied in the use and that is what the court upheld. She did not have Mr. Bell's expert opinion that the regulation was unworkable, unreasonable and out-dated at that time, otherwise maybe the argument would have been to the judge that the regulation does not make any sense to begin with. We did not take that position. It was after the court decision and Mr. Wasilewski's complaint to proceed with the existing helipad, which he has repeatedly told Atty. Small that he does not have a problem with, the Town tested it and Mr. Bell indicated to Atty. Small that there were problems with the regulations. That was not known to her when she stood in front of the judge and made those representations. If they were the argument would have been entirely different. That statement (made by Mr. Wasilewski) is not accurate. When the expert indicated

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that the new pad would, in fact, violate those standards she, at that time, blocked the building permit from being issued for that helipad. It is not as though the Town is not doing anything. Mr. Wasilewski is unhappy and so is Bristol Myers and they have to have some rights in this issue also. She will rely upon her expert, that is what he has been hired for.

Mr. Wasilewski responded, they (Bristol Myers) still has the right to appeal a decision.

Atty. Small answered, they do but if she is going to rely upon an expert and his testimony which tells her that the regulations are unreasonable and makes no sense to proceed with regulations that are far more stringent than the State's regulations which have been adopted by any municipality that has such regulations, where the ambient noise in the field violates our own noise standards in the regulations and does not take into consideration when testing the helipad, it does not make sense.

Mr. Wasilewski referred to the regulations once again, pointing out that they list the uses for the area. Those uses are not birds, planes flying to another airport, cars travelling on the street...it states the uses, it lists them.

Atty. Small did not disagree. In talking to her expert, however, it has been determined, if the ambient noise is above the decibel that creates the level of violation and then you are testing something over and above that, his (the expert's) conclusion is not entirely accurate. What he (the expert) is saying to Atty. Small is that the State regulations say that your (Mr. Wasilewski's) noise level, what ever use you may have, cannot exceed so many...what ever measurement they use...above the existing ambient. We don't make that distinction in the regulations. The fact that we don't take into consideration the existing ambient noises, is a flaw in the regulations. It is a flaw that does not exist in the State's version of the regulations. It was his (the expert's) recommendation that if we are going to have such noise performance standards that we be in line with what the State's standards are.

Mr. Wasilewski reiterated, the problem exists now under the regulations as they exist.

Mayor Dickinson stated, we have to make a case and what you are hearing is the Town Attorney would ultimately have to defend the cease and desist order which is not a small matter. You are telling someone whether it be a homeowner or a business, that they can no longer do something. You have to assume there will be a lawsuit. The Town is going to go into court and our expert is not going to support our position. The expert is going to be a witness for the other side.

Mr. Wasilewski pointed out that he did not create the position, the Town did.

Mayor Dickinson responded, how can we enforce something unreasonable that we have no defense for?

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Mr. Wasilewski stated, you should not have defended yourself in the first place in that position. You did not answer the question, "Do you (Mayor) have the authority to tell the Zoning Enforcement Officer not to issue that cease and desist order when it was voted on by the commission?"

Mayor Dickinson responded, what he indicated was that any Town employee has the right to question whether what is being requested of them is lawful. That was the first opinion of the Town Attorney. The Town Attorney also was looking into the reasonableness, the nature of the noise regulation, what the expert had to say about it, was that a reasonable exercise of the authority of local government? So the Town Attorney has indicated that with the expert's oral representations, it is not so she is indicating that the cease and desist order should not be issued for the legal department.

Mr. Wasilewski asked again, "Do you (Mayor) have the legal authority to tell the Zoning Enforcement Officer of the Town once she was ordered by the Planning & Zoning Commission whether or not to issue that cease and desist order?"

Mayor Dickinson responded, whether or not he has the legal authority would have to be something that is researched. At this point it is not being issued because the Town Attorney has indicated that it is to be held up until we hear from the expert.

Mr. Wasilewski asked, does the Town Attorney have that authority?

Mayor Dickinson responded, he believes that the Town Attorney has the authority to indicate that something should not move ahead to the point that it creates liability for the Town. In his opinion it would create liability for the Town.

Mr. Wasilewski asked, was that decided after the vote was taken by the commission?

Mayor Dickinson responded, the vote was taken and then the question came to him over the lawfulness of the regulation and it was turned over to the Town Attorney and has been there since.

Mr. Wasilewski stated, the ZBA is there to overturn the decision on appeal. If that is not a lawsuit then they go to a different board.

Mayor Dickinson responded, your proposition that government should move ahead regardless of expert witness indication that the grounds for its action are inadequate amazes him. Government should not think that way. There is a duty in government to be reasonable and to make sure that the standards that it uses are reasonable.

Mr. Wasilewski the standards were brought back to this Town to the Planning and Zoning Commission back when Bristol Myers, two years ago, Mr. Wasilewski brought the standards back to the P&Z and they did absolutely nothing about it and that is why he took the Town to court. Now all of a sudden the standards are no good, two years later. Government does not make sense when they don't stand behind what they

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have written down.

The Chair declared a five minute recess at this time.

ITEM #8 Consider and Approve a Transfer of Funds in the Amount of \$43,010 from Contingency Reserve for Emergency Acct. #8050-800-3190 to Professional Services Acct. #001-7010-901-9026 (F.Y. 1995-96) as Requested by Councilor Peter A. Gouveia

Motion was made by Mrs. Duryea, seconded by Mr. Killen.

Mr. Gouveia stated that this item appeared on the agenda of a Town Council Meeting back in May (May 9, 1995, Item #13) requesting that the Council approve a waiver of bid to hire a consultant for a study of Route 5. At that time he indicated that he was of the belief that a study should have been performed ten years ago, not now. But, nonetheless he still felt strongly that a study at this point, although maybe too little, too late would be better than no study at all. He voted in favor of that item. On June 27, 1995 there was a meeting of this Council which acted on a request made by P&Z to approve a transfer of \$43,010 to fund the land use and traffic study. He was absent from the meeting, as was two other Council members. Upon returning from vacation and reviewing the action on this issue he was disappointed that the five votes that were necessary to approve the transfer were not obtained. With three Councilors being absent from the meeting and two present who voted in favor of the study, it occurred to Mr. Gouveia that the study may have a second chance at being approved if he brought back the item for another vote.

He went on to say that it was a very naive action on his part that he did simply because he felt that it was either going to be a yes or no vote. Since placing this item on the agenda he feels that he has walked into someone else's argument, unbeknownst to him. He still believes, however, that the Council should entertain the idea of funding the study for various reasons. In ten years 230,000 square feet of commercial space was approved. Last February, in one night, 270,000 sq. ft. of commercial space was approved on Route 5. Although, ideally, the study should have been performed ten years ago, it shows that even ten years later it still would have been a good study for on one night alone more commercial space was approved than was done so in the past ten years. He believes that there remains plenty of land to be developed on Route 5. Eyelet Specialty factory, the present K Mart which will become vacant, Unimax, the former Feldman property, etc., etc., could potentially be re-developed. The study should be undertaken and the Council should fund it. It is such an important study that it cannot be performed a la carte. You have to have the same company put all the pieces of the puzzle together. In addition to that he does not believe that Planning & Zoning has the expertise to perform this kind of study. They may be able to do some of it but not all of it. Time is also of the essence. We have got to move. There is too much property and development is beginning to move again at the rate of 1987. This Council should reconsider the action taken on June 27th and appropriate the funds for this study.

Ms. Papale noted that the Council has in its possession letters from

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the Chairman of the P&Z Commission, James Fitzsimmons and P&Z Commission Vice Chairman, Jim Vumbaco. Mr. Vumbaco requested that his letter be read this evening so as to become part of the permanent record (Appendix II).

His letter is as follows:

"To: Members of the Wallingford Town Council
From: Jim Vumbaco, Vice Chairman Planning & Zoning
Date: July 24, 1995

I am asking the Town Council NOT to consider funding the Route 5 study until further review and input can be obtained by our Commission. At our July meeting the study was discussed at length. While it was agreed that we would like a study funded, we felt that this particular proposal needed further review. The Commission wants to see what portions of the study can be done by Town personnel and in an effort to save tax payer's dollars, only ask for funding, at some future date, of the portions of the study, i.e., traffic, etc. that cannot be done by Town personnel.

I firmly believe that every member of the Planning & Zoning Commission wants a complete indepth study done on Route 5 and all surrounding developable land and feeder roads associated with the Route 5 study area. Any new ideas as to how Route 5 can be developed proactively now and in the future are our utmost concern. However, a majority of the Planning & Zoning Commission want this study to be a result of work done by our Town personnel in combination with an outside consultant and only use them for work that cannot be done in house. This will then provide the Commission with a report that is more meaningful, as we will not be looking to an "outsider" to provide all the answers. A greater appreciation of the final report, one that has a greater chance of being followed, will be had when it is a result of the hard work put in by staff, commission members, Town personnel, etc.

Thank you for your time and I request this letter be read into the permanent record of this council meeting.

Respectfully submitted,

(signature)

J. Vumbaco"

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Mr. Fitzsimmons' letter (Appendix III) reads as follows:

"July 25, 1995

Wallingford Town Council
Thomas Solinsky, Chairman
Wallingford Town Hall
45 South Main Street
Wallingford, CT 06492

SENT VIA FAX

SUBJECT: Route 5 Study

Dear Members of the Wallingford Town Council:

I am writing this letter to inform you that a prior obligation for my employer does not allow me to attend tonight's Town Council meeting to discuss the Route 5 Study.

The Planning and Zoning Commission has discussed this issue extensively. On behalf of the majority of the Commission, we have directed staff to prepare a report of what elements of this study they feel can be accomplished utilizing town staff. Within the next two months, after the Planning and Zoning staff have reported back to the Commission we will be prepared to return to the Town Council with an update and a potential revised request for funding.

Thank you for your time. I again apologize for not attending tonight's meeting.

Very truly yours,

WALLINGFORD PLANNING AND ZONING COMMISSION

(signature)

James c. Fitzsimmons
Chairman"

Correspondence addressed to the Council and authored by Gurden H. Buck, Counsel for Captiva Realty, Inc. (Appendix IV) was read into the record as follows:

STATEMENT OF CAPTIVA REALTY, INC.
JULY 25, 1995

Good evening.

My name is Gurdon H. Buck. I am partner in the law firm of Robinson & Cole in Hartford.

We represent Captiva Realty, Inc. the owner of six and three quarters acres East of Route 5 bordering on North Main Street Extension and running through to Old Colony Road. The land is part of the proposed Route 5 corridor study which is before you this evening for your consideration.

Captiva purchased the site as a relatively long term investment. Several developers, including Stop & Shop itself have taken an interest in the site, but there is no present intent to develop it right now. Captiva hopes to develop the site for retail use and a part of the comprehensive development of the Route 5 corridor which it hopes will become one of the premier retail centers in the region. However, without comprehensive planning, the corridor could turn into just another congested suburban strip choked with traffic and a parade of ugly signs.

Therefor Captiva wishes to jump start the plan, with the hope that the planning process will create something that will make Wallingford proud, and redound to the benefit of the Captiva parcel.

As some of you may know, there is a trucking terminal operation currently on the Captiva Realty site. Our client purchased the site late last fall and has no immediate plans for development of the property. However, given the development in the area, eventually it would seem appropriate that the site be converted to some type of retail use. Since Captiva's site abuts the existing Stop & Shop property, Stop & Shop has taken a serious interest in the property. A future overall development plan for the site combined with that of Stop & Shop, could help alleviate certain parking configuration issues that currently exist with Stop & Shop's operation. Stop & Shop has indicated to my client that its interest in the site is dependent to some degree on the pattern of development of Route 5.

In any event, for Captiva and for any other property owners along this Route 5 corridor there is certain degree of concern about the impact of potential additional development along Route 5. The concern is about additional development that will effect the capacity of the road system to carry additional traffic and its development as a high class retail center. For Stop & Shop, it undoubtedly has concerns regarding traffic to and from its

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property as a successful supermarket operation requires that its customers be able to readily access a store. For Captiva, the problem is that without a current development plan it has no assurance that it will eventually be able to get any development approvals for its site. The capacity may be used up. It also is concerned that the quality of the corridor may degenerate and make its approvals worth much less. Because of its excellent location and the potential development of the Route 5 corridor as a first class retail magnet, Captiva paid a considerable sum for the property. It is deeply concerned about possibly watching its investment erode by reason of what seems to be a somewhat ad hoc development along the Route 5 corridor.

Consequently, I'm here to tell you this evening that Captiva Realty feels very strongly that the Route 5 study should be undertaken by the Town as soon as possible. This is so that all of the property owners along the corridor will know what their reasonable expectations for development should be in the future. If the plan goes well, the owners can expect that the Route 5 Corridor can be developed as a major retail magnet, with free flowing traffic, well conceived access to the shops, and attractive setting, building and accessory structure design.

We understand that this study is estimated to cost approximately \$43,000 and we fully appreciate that this is a large sum for Wallingford to expend. However, from our perspective, and undoubtedly that of all other property owners of the land which is likely to be developed sometime in the future, the amount seems relatively small weighed against the potential impact on the value of our properties if development continues in the corridor without some due consideration given to the carrying capacity of the infrastructure, curb cuts, turning geometry, design controls, utilities and particularly that of the road system.

Captiva Realty feels so strongly about this situation that it has not only asked me to attend this hearing this evening to emphatically urge you to authorize the Route 5 corridor study, but we are prepared tonight to offer to make a \$10,000 contribution to help defray the \$43,000 study cost. This is contingent only upon the Council's authorization and implementation of the study. Captiva simply believes that such a study is essential in assisting Route 5 corridor property owners in determining what they will be able to do with their sites in the long run and to slow down and possibly reverse the present trend of conversion to a conventional, congested highway strip. Obviously, a comprehensive planning effort will be to everybody's advantage.

There is only one string attached to the grant. The grant must only be used for the comprehensive study of the Route 5 corridor.

Gurdon H. Buck
Counsel for Captiva Realty, Inc.

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Mr. Gouveia asked Mr. Vumbaco if he would speak on behalf of the P&Z commission on the issue.

Mr. Vumbaco stated he would.

Mr. Gouveia had hoped that Town Planner, Linda Bush would have been present. He had personally requested the presence of both Ms. Bush and Rick Doll, Traffic Maintenance Officer of the Police Department. Mr. Doll was present. Mr. Gouveia asked Mayor Dickinson if he knew why Ms. Bush was not present?

Mayor Dickinson responded, he was under the impression that she would have attended as long the P&Z commission indicated that they wanted her present.

Jim Vumbaco, 81 High Hill Road, Vice Chairman of the P&Z Commission stated, he spoke with Chairman Fitzsimmons approximately four hours ago at which time Mr. Fitzsimmons stated that he spoke with Ms. Bush informing her that if he was unable to make the meeting, Mr. Vumbaco would be present to represent the commission, therefore her presence was not needed.

Mr. Gouveia stated, irregardless of how many members of the commission were present, he felt that her presence was needed.

Mr. Vumbaco stated, Linda Bush is the Town Planner and the commission directed her not to show up because it was not an issue because there is a spokesman for the commission here. As we have heard in debate held earlier this evening, the Town Planner does work for the commission.

Mr. Gouveia stated, he does not ever recall a case before that a member of the P&Z or any other commission, when asked by a Councilmember to kindly be present for any possible input on a major decision, that the invited party refused to be present. He thanked Rick Doll for coming this evening. Too often it happens in government that the issue at hand seems to evolve into something else other than what the issue really is. He is not sure exactly what has happened since placing this item on the agenda but he does not believe that people are looking at the merits of the study. People should put their personal politics aside and look at the merits of the study. The P&Z was before the Council on June 27th requesting that this Council fund the study. There has been a reversal of position since then that he does not understand. He read an excerpt of the July 10, 1995 P&Z Commission minutes which, in part, state "Bring another proposal back to the Town Council for consideration providing a visual aid for the Town Council so they can better understand why a study of Route 5 is so important." As late as July 10, 1995 members of the P&Z commission were still saying that this study was very important. It seems that their assumption was that they did not do a good job in presenting the item to the Council, therefore it seems they are saying, "Let's provide visual aid so that they can better understand that this a very important study that should be undertaken." The minutes also go on to read, "...the time staff would need to undertake a lengthier study. It took approximately six to

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eight months to prepare a plan of development. This was in 1991 when development was slow." Again, they are indicating that there is a problem with time. They also talk about expertise and how they don't feel that P&Z has the expertise to undertake all the components of this study. They don't have the time nor expertise yet as recently as July 10th they feel this is a very important study. Today both the Chairman and Vice Chairman of the P&Z Commission are now saying, don't fund the study. He does not understand what happened.

Mr. Gouveia stated, Mayor, I was told that you informed Linda Bush that she was not to be present tonight?

Mayor Dickinson responded, I did not indicate that to Linda. I told her that she should take direction from the commission. This is a commission matter, the commission directed and requested the earlier transfer...if the commission was taking a different position and did not want the transfer nor feel the need for her to be here, she should not be at odds with the commission which she is supposed to serve as a professional staff. That is a rightful direction she takes from the commission. Apparently she was in touch with the Chairman and he (Mayor) did not think that it would be good for her to be here when they don't want her here. Ms. Bush has to serve the commission and provide for their needs as professional staff should.

Mr. Gouveia stated, this Council depends on the expertise and opinions of all Town employees to make its decisions.

Mayor Dickinson stated, you are asking someone who is supervised to come to a meeting when the supervising authority is saying not to. That creates a conflict within the office. That is not conducive to the proper use of the study later on. Remember, we can fund the study but if the commission does not want the study, remember what is going to happen.

Mr. Gouveia responded, any kind of study that is done, whether it be for the P&Z commission or the Electric Division, there are recommendations made to that study. Obviously we do not expect P&Z or what ever agency the study is performed for, to accept all recommendations but we hope that, given a tool that is so important for planning, that the P&Z commission who is the planning commission would at least look at those recommendations. Mr. Vumbaco are you willing to tell us whether or not you would use this study if this Council went ahead and funded the study?

Mr. Vumbaco responded, I am willing to address the real issue here. You, Mr. Gouveia, raised the political issues. This commission does not want to get involved in a political battle between the Council, the Mayor's Office and/or Planning Office. This commission prides itself on being an apolitical organization for the Town because we consider this commission one of the important commissions of the Town. This commission is not saying that it does not want to do a study. This commission is not saying that the need for a study is not there, this commission fully recognizes the fact that there is a need for the study to help develop Route 5....not only Route 5 which is what the consultants address but all feeder roads and surrounding areas feeding

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Route 5 which we were informed by Officer Doll could go as far as the former Britannia Spoon all the way on up to downtown and beyond, areas that feed the Route 5 corridor study that is under the current consultant's proposal. This commission is asking its employee, our staff, to perform an inventory of sites to perform potential, developable land on Route 5 and the potential problems that exist currently and potential problems that will still exist after the build out from WalMart and K Mart which are doing approximately \$2 million of road improvements on Route 5 and surrounding Towns, then to have a vision of what we feel should be done on Route 5 and then fill in the blanks from what we have after the build out to what our vision is for Route 5 which is to incorporate the citizen's input we had from Wallingford Center Inc. all the way to the normal concerned citizens of Town who attended our meetings when we had the discussions on the Route 5 study. All we are asking our Planning Office to do is tell us what they can do...what portion of that study they can do so that we now have a proper well-defined road map to come back to this Council and to justify what ever dollars they request for that study. We were not well prepared the last time it was presented to the Council. We did not know what we were going to get out of the study, much less what we were looking for out of it. That question was asked, we were unable to answer that. This commission took a long, hard look at it for two straight meetings and asked, "what is it that we really want to do. Let's step back one phase, see what we want to do with Route 5, define where we want to go and then come to this Council if we have to bring maps, bring visual aids to show you what we feel we should do and what that money is going to be spent for. That is the bottom line. No one on the commission, which unanimously approved not to request funding for this current proposal, was against the Route 5 study. We are all one hundred percent (100%) for a Route 5 study but we don't want to do it haphazardly. We felt with the threat of the Eyelet representatives coming in and all the stuff that everyone was talking about, having massive retailers coming in, it was kind of pushed along on a very rapid pace to try and get something in front of the Council so that we can at least address the issue. That is the bottom line. The bottom line is not whether we are against it and we changed our mind since July 10th. The commission stands on its feelings that we still want a Route 5 corridor study but we want to expand it. We are not looking at the consultants to expand it, therefore if we are going to spend \$43,000., if the Town staff can perform \$5,000 worth of it, isn't it wiser to use that \$5,000 to expand the study base or save the taxpayers some money? That is all this commission is standing for at the current time.

Mr. Gouveia responded, if you admit that you do not have the expertise to do the study and if you admit that you do not have the time to do the study and if you take a long time to do the study, the \$5,000 may not be enough to pay for the damage of development that comes in while the study is being done.

Mr. Vumbaco corrected Mr. Gouveia by saying that the commission feels that it has some expertise. We have qualified, educated Town Planners that work for this Town. We have an individual who is very well schooled in the traffic area, does not have the tools to do the

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traffic studies or analysis but he knows what he is talking about (Officer Doll). We have John Costello as Town Engineer, we have people who have some expertise, all we are asking for is that a plan be put together as to what the commission can utilize from Town staff vs. what has to be contracted out.

Mr. Gouveia pointed out that all the expertise named by Mr. Vumbaco were in-house on June 27th. Yet, on June 27th the commission came before this body and asked for the funding. What has changed?

Mr. Vumbaco responded, the commission felt that it was not prepared after the last Town Council Meeting. The reason the request to fund the study was rushed before the Council was due to all the threats of all the "development" that was supposedly going to be going on at Route 5.

Mr. Gouveia asked, how long would it take to get this study before the Council?

Mr. Vumbaco answered, until the outline has been put in place that is an unfair question.

Mr. Gouveia asked, is it an unfair question when it comes to development?

Mr. Vumbaco responded, you are asking me to define a study time frame when we don't even have the outline in place which is what the commission asked the Planning Department to put in place.

Mr. Gouveia asked, how long is it going to take to get the outline in place?

Mr. Vumbaco responded, within thirty (30) days.

Mr. Gouveia asked, when will the commission act on it?

Mr. Vumbaco answered, after the thirty (30) day period, at our September meeting. Let us take a step back, let us do our homework and let us come back in front of the Council so we can intelligently request the funding that the commission needs.

Mr. Gouveia stated, this was such a simple request that has turned into an ugly event. He is of the opinion that Linda Bush and Rick Doll would be in favor of the study.

Mr. Gouveia asked the Mayor, did you suggest that Officer Rick Doll not appear at this meeting tonight?

Mayor Dickinson responded, yes. This is a request from the Planning & Zoning Commission, it is not his department. Normally we do not have one department talk about another department's request. This is a P&Z request that now appears that they are not planning to go ahead with it. Officer Doll and the Mayor talked about it. He is here tonight for Officer Doll is interested in any information which helps him with traffic analysis. Officer Doll should not be put in the position

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where he is looking to second guess what it is that P&Z needs because ultimately P&Z must use the information supplied.

Mr. Gouveia responded, that is precisely the same point that he (Mr. Gouveia) is trying to make. Officer Doll should not be put in that position and would not have been if all the players concerned were allowed to be here this evening to discuss this. He would have hoped that a decision in planning and zoning which effects the entire Town, all employees of the Town would be more than willing to step forth irregardless of the consequences of their actions to state their position on that action. To not allow someone to be before this Council to give this Council information to better arm them with that information to help them make a rational decision, is irresponsible. Are we afraid that the viewing public may see that we have a staff member disagreeing with the commission? What is wrong with disagreement? There is nothing wrong with it. The P&Z should put forth their opinion and the staff should put forth their opinion and the Council should be left to decide.

Mayor Dickinson responded, so the Council decides we are going to fund the study anyway and the P&Z commission indicates that they will not use the findings of the study?

Mr. Gouveia asked, has the commission indicated that they will not use it? They may have indicated that to you, Mayor, but they have not indicated that to me. They better not indicate to me that they will not use it.

Mayor Dickinson stated, you have a department who once requested something that is no longer requesting it. Who can force them to use something if they don't want it? We have not run into this very much where a department is asked to take something that they don't want.

Mr. Gouveia asked, don't you see what is happening here? Don't you see that there are political agendas in this? He could not believe the issue he stepped into when placing this item on the agenda. He thought it would simply be a yes or no vote. It was a very simple request. If the five votes are in favor then fund it. If not, then we lose. He feels that he stepped into a hornet's nest. He walked into someone else's argument totally innocent. Something is amiss and he still does not quite understand what it is but there is something that stinks about this.

Mayor Dickinson stated, everyone seems to be in agreement about the study it just seems that there is a disagreement about when it should be undertaken or what the parameters are. It does not seem as though this can be settled tonight. He (Mayor) would feel better about it if the commission is indicating that it wants the study. If it doesn't then another department is saddled with the responsibility of the study. The commission would like to know better what their staff can accomplish. If the commission wants the study then let them come back to us, hopefully before the thirty days, to let us know the parameters within which they can work with the study. In the final analysis the

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commission makes the judgements that will utilize the information provided in the study. He is afraid that it will not be utilized in a manner that perhaps could be best for everyone if there is controversy or less than a willingness to have the commission as part of the process of choosing the study.

Mr. Gouveia stated, that staff has informed the commission of what their limitations and time constraints are.

Mr. Vumbaco responded, he has attended every P&Z commission meeting except one and he does not ever remember the staff telling him what they can and cannot do.

Mr. Rys stated, the P&Z commission does not want this \$43,000? The transfer in front of the Council this evening is dated back to June 21st signed by Linda Bush and Planning and Zoning. Is this transfer legal now?

Mr. Vumbaco stated, what the commission is looking for....we are not saying that we do not want the \$43,000. We are saying that we are looking to redirect the funds to what the commission feels is the proper forum to use the money in. We know we are going to have a study, we are hoping to define what the ultimate goal, theoretically what we are looking for in the study....we are trying to determine what our inhouse Town personnel can do. It could be nothing. We could find out that once the inventory of the assets, the inventory is done of the property and what they are capable of doing, it may end up that they don't have the time or expertise to do the study. Then we will have to come back to the Council with our tails between our legs and say that you were right for the \$43,000. He doubts that will happen because we have paid professional Town Planners. They will be able to do something. Once they do something, the need for this study, as defined by the one group that we are looking to hire is now out the window because part of that work is going to be performed by someone else, therefore we want to be able to have the option to come back to this Council saying, "here is part of the total study that we need funding for because we don't have the expertise at the time to do it." To answer your question, yes, the commission wants the money but in this format we are not looking for the money at this present time.

Mr. Rys asked, we have a budget transfer from contingency to professional services that has been signed by Linda Bush, certified for funding by Deputy Comptroller Eva Lamothe and signed by the Mayor, is this transfer legal at this meeting?

Mayor Dickinson responded, it is a legal document. The question is, when the using department is no longer saying they want the money, should it be transferred anyway? The money could be transferred into the P&Z account but it does not necessarily mean that it will be utilized.

Mr. Rys was glad that the commission was reviewing the issue again especially when he did not receive answers to some of his questions on the night of the June 27th meeting pertaining to this issue. He may be able to support this transfer in the future but not now.

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Mr. Killen stated, \$43,000 is a lot of money in some people's minds. When you consider what it will cover, it is peanuts. The time is of the essence. When he was asked to serve on the board and the recommendation came forward for the commission to go ahead, he was glad to see that the zoning commission was becoming a planning commission. It had been too evident for too long that too many things have gone ahead and we have zoned and performed the planning afterwards. We are repeating ourselves. A while back there was a chance to call a moratorium and it did not pass. It looked as though they began to come to their senses and go ahead with the firm and get the job done. One of questions that was asked of the people who were interviewed was, "was there cause for a moratorium?" and they responded, "yes" which was common sense. You cannot let things continue along the way they are if you are trying to change them. You either have to have a plan in place or it cannot go forward. Somewhere marching orders have gotten mixed up. He would love to hear what the Mayor told the Town Planner with regards to what she could or could not do with respect to Mr. Peter Wasilewski and just the opposite of what he (Mayor) said in this particular case. In one instance the Mayor can give an order and in another, he cannot. He cannot tell who is running the ship but it is evident that it is not the Council. He feels that the P&Z Commission has created a very grave faux pas. Any planner who does not want a plan in front of them is not thinking very clearly. Especially when the money is not coming entirely from his pocket. If there is a real good reason why this should not be going forward why shouldn't the Council know that right now? What has changed in the interim? Has Ms. Bush been given orders from the Planning and Zoning Commission to not go forward with this request that was originally submitted to the Council on June 21st?

Mr. Vumbaco responded, yes, she has.

Mr. Killen asked if she was given a reason?

Mr. Vumbaco responded, for all the reasons previously stated by him. Due to a unanimous vote of the commission which stated that the commission at this time was not ready to come back in front of this Council to present a meaningful plan of how they were going to spend the \$43,000.

Mr. Killen asked, is there any reason that Ms. Bush should not be here this evening?

Mr. Vumbaco was not aware of any.

Mr. Killen asked, was she requested not to attend?

Mr. Vumbaco responded, not by him. He could not speak for anyone else. Mr. Fitzsimmons stated earlier today that he would be present this evening and so no reason to have the Town Planner here as well.

Mr. Vumbaco stated, to correct a few statements...only one of the three consultants felt that the Town should have a moratorium, not all three.

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At this point in time Mr. Killen stated that he felt that the Council was not going to get anywhere on this issue. Ms. Bush has always been able to represent the commission on any other matter having to do with Planning & Zoning. With something as vital as this she can no longer represent the commission and they cannot be here to represent themselves...the Council is left out in left field.

Mr. Vumbaco stated, he takes exception to the comment that the commission does not plan. The Planning & Zoning Commission over the past two years has done an extreme amount of planning. What they are trying to do is present a good, solid plan to this Council for the use of the Town's taxpayer's money. That is good planning. Hiring a group when the commission is not sure which way they are going to be heading is not good planning. Any person who runs any business knows that you have to have a plan, an outline in place before you commit your funds to it. When the commission appeared before the Council in June they did not have that plan fully in place. Therefore the commission decided to take one step back for they felt that they were reacting to many rumors. When the Council failed to approve the funding the commission took a break to see exactly where they were heading at that time.

Mr. Killen stated, the consultants were willing to work with the commission. If you gave them a rough idea of what was expected of them, they are experts and they could have come forward with it. In the meantime, time is not standing still. There are projects still coming forward. This Town is rapidly going downhill simply because we won't take action, not because we are incapable of it and for that we should hang our heads.

Dave Smith, 261 South Main Street stated that he, along with a lot of other citizens, is responsible, in part, for the moratorium drive. They collected 1,300 signatures in three days and the passion was significant on this issue. He takes issue with some of Mr. Vumbaco's statements. Mr. Smith has attended the last four meetings of the commission and the question arises, if the study was less, would you (Mr. Vumbaco) be endorsing it? We have witnessed that it has dropped by \$10,000 as a result of Captiva Realty's offer.

Mr. Vumbaco responded, we had someone, a developer, offer to pay for the full study but that would be a conflict of interest. No one with developable land in town should put one dime into this study to make it as independent as possible. The price was not a consideration.

Mr. Smith stated, on one hand we have heard that there is a feeling that the Town Planner should do work to save the taxpayer's money but yet the saving of the taxpayer's money is not important.

Mr. Vumbaco responded, he stated that he feels the money should be utilized for some other aspect of the plan but not part of the current plan that is before the Council.

Mr. Smith answered, that was not stated at the last meeting of the commission that Mr. Smith attended. There are two clear issues. First, is there value to a study? The Town Planner who is the only

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professional that he knows of and her staff, the only people who have degrees in planning and development say, yes, there is value to the plan and it is their position to advise the Mayor, Council and the commission as to their professional opinions. Their opinions have never changed. It is their opinion that there should be a study because, frankly, no one knows what will occur once traffic increases as significantly more development occurs and there begins to be a rapid base acceleration. It seems logical to say that the Planner, who is a professional, does not know what will occur, that there is logic to do a study, assuming it is done well. The second issue which he felt that everyone is skirting around and is very uncomfortable with is the conduct of the Planning & Zoning Commission. He is a businessman who owns a hotel consulting firm. He has never been an elected or appointed official and has once been identified as anti-development although he did once develop a hotel in a residential area of Houston, Texas and he does not feel that qualifies him as anti-development....but the point is that the commission has reversed itself three times that he is aware of. When the issue was a moratorium, Mr. Fitzsimmons and Mr. Vumbaco along with most of the other members of the commission agreed that they wanted a study but felt that the moratorium was not the way to do it. At the point where the study has become closer to becoming reality, now they don't want a study. The essence of politics is all over the place, you simply have to go to the meetings to see the sparks flying, the anger, the hostility. The question is, why doesn't Planning & Zoning want the study? What is the harm? Are there facts that will come out that will allow people to make logical decisions? Will there be questions as to the last plan that was done may have to be changed? The fact is, from a development point of view, if you do zone changes, most developers increase the value of their land. He feels that it is a delaying tactic to suggest that thirty days pass so there can be a determination as to what the Town Planner can do and what the consultants can do. At the meeting last week Mr. Vumbaco was told very clearly by the Town Planner that their capabilities were limited as to both their expertise in overall corridor development and the amount of time. Officer Doll was there and can support that fact. Moreover, all of the towns in our areas that have been checked with, don't use their planners for these types of studies for exactly the same reasons. The question is, what does Planning & Zoning not want to have happen with this information? The citizens of Wallingford deserve good planning and they deserve it now.

Pasquale Melillo, 15 Haller Place, Yalesville felt that all the perspective businesses and companies should fund the study. Any employee of the Town who is involved with this study should have been present this evening. If an employee disagrees with their immediate boss they should stand up and say so. That is how government is supposed to work. They should not cower in any way. They have to face up to the issues and determine what is best for the Town. Town government and the taxpayers come first and not the individual Town employees.

Mayor Dickinson asked, to what extent do you take the proposition that any employee can challenge a supervisor? Should that occur in the middle of a crises involving the police? Should it occur in the

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fighting of a fire? At what point is it o.k. for someone who is supervised to say to the supervisor that they do not need to follow the supervisor, they are going to have their own say? At some point you have no direction at all, everyone is just talking and nothing gets done because everyone disagrees with what they are being told to do. There has to be some inherence in the need to follow a supervisor's decision.

Mr. Melillo could not see what was so complicated about studying the traffic issue that we have to hire consultants for it?

Mayor Dickinson responded, it requires expertise to analyze traffic and to project the loads that various routes can handle, to evaluate land use and projected maximum development, number of vehicles and people that would be involved, etc.

Mr. Melillo felt that no human being is capable of projecting that information. How many times have so-called experts been wrong? He was of the opinion that the Town has enough professionals on staff to perform the study. We should stop putting Route 5 on a pedestal and divert business to other areas of Town to spread out the impact of traffic. Too much attention is being paid to Route 5.

Lucille Trzciensky, 262 N. Elm Street stated, the Planning & Zoning Commission in their own words have given Linda Bush and Rick Doll the expertise to begin the study yet, someone has asked them not to be here tonight. You have the people on the commission, in this Planning Department, by the P&Z's own admission that have the expertise to do the study, but have been asked not to come. She did not understand it. As a former teacher she is appalled that this Town body would be denied the benefit of Ms. Bush and Mr. Doll's comments. She always instructed her students to seek out all the knowledge they could get whenever they were attempting to make a decision. Ms. Bush is not here, yet she is the one with the expertise to do a major portion of this study. As to the fact of who answers to whom, all of you have to remember that all of you answer to the taxpayers of this Town. That is who you answer to and you are not doing your jobs. She has never been as heartsick about this Town as she has been recently. It is appalling what is going on and she is ashamed to be part of the Town (applause).

Rosemary Rascati, Planning & Zoning Commission member, North Main Street, apologized for the fact that this issue has turned into a political football. She directed her comments to Mr. Smith by saying that the commission wants the study and they have not changed their minds three times on the issue. They have changed their format. The commission asked the staff what they can do and Ms. Bush did tell them that her expertise was limited. She could not analyze traffic impact on outlying roads and the commission understood that. The commission, however, asked that she perform an inventory and report back as to how far and to what degree the Assistant Town Planner and herself had gotten in working with the Town Engineer and Officer Doll. Was this out of order? The commission did not think so. When Ms. Bush reports back in thirty days with whatever knowledge they have and records they can present then the commission will come back to the

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Council to see where they would go from there. What is so difficult about waiting a few weeks to let the commission do what they decided to do as a whole? As far as asking Ms. Bush not to come tonight, this is the first that she is hearing about it.

Mr. Killen stated, there would have been no harm in hiring the consultants and working with them either. What can be gained by having the study performed in-house?

Mrs. Rascati responded, maybe something, maybe nothing.

Mr. Killen pointed out that the only thing that can be gained is dollars and that is not the commission's responsibility, they are the Council's. By hiring the company who wanted to put a moratorium into effect immediately, that would have given the commission and everyone else the time to get their thoughts together on the issue. By the time everyone reaches a decision we will not recognize Wallingford.

Mrs. Rascati asked that the Council see what the commission can do for a few weeks.

Mr. Killen stated that the consultants could be working hand and hand with the commission in the meantime. What Wallingford does not have is time with regards to Route 5. The \$43,000 is peanuts compared to the figure that was paid by one concern to another for property in that area. We are worrying about \$43,000 to see if we can do right by our townspeople? We should be ashamed of ourselves.

Mrs. Rascati stated, if the Council wants it done their way then that is the way it will be. She was simply explaining the commission's standpoint was on the issue.

Mr. Killen responded, how can the Council have it their way if they cannot even get the Town Planner to come here tonight? The Council's hands have been tied for time immemorial. He has heard the Mayor state tonight on one hand that the Town Planner should follow the commission in one instance and to not follow their instructions on another issue.

Mrs. Rascati stated, if the Town Planner wanted to come tonight she would have been here.

Mrs. Duryea could understand Lucille Trdziensky's feelings. This is precisely why some of the Councilors have chosen not to run again. They are prevented from helping anyone or making any decisions. Even if they passed the transfer this evening it does not mean that the money will be used for the study. She asked those P&Z members present if there was any chance that they would reconsider a moratorium for six months while everyone got their act together?

Mr. Vumbaco could not answer for the commission but reminded everyone that the word moratorium is what started all of this nine months ago. He simply asked that the commission be allowed to finish its commitment to itself and its staff that it made when the Council originally failed to approve the transfer. Once finished, they will

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report back to the Council at that time.

An unidentified speaker stated that he has been in business downtown for twenty years. He was told by another store owner that they will have to close their shop this week. The heart of this Town is being ripped out.

Lester Slie, 18 Green Street stated, if P&Z knew that this issue was coming up on the agenda tonight, why didn't they contact Mr. Gouveia and ask that he withdraw the item rather than discuss it for two to three hours. This is a waste of time for everyone.

Mr. Vumbaco stated, Mr. Gouveia was approached by Mr. Fitzsimmons and informed of what the commission's feelings were on the matter and to request that this item not be brought up this evening.

Mr. Gouveia stated, this is time well spent if we come closer to the truth of the matter.

Mr. Solinsky asked the Town Attorney if there would be a problem by accepting the contribution from Captiva Realty for the study?

Attorney Small responded, no, the Council would have to formally accept it as a gift or donation. There would be no conflict.

Mr. Solinsky asked the Attorney representing Captiva Realty, how long their offer was good for?

Atty. Buck responded, the \$10,000 offer remains on the table. The commission is taking an understandable position. He and his client hoped that there will be a rapid response and the study will be undertaken as quickly as possible. To encourage that, Captiva will leave the offer on the table, not forever but for some period of time.

The time period could not be determined.

Atty. Small needed clarification on the language regarding a contingency placed by Captiva on the donation.

Attorney Buck assured that the contingency is that the \$10,000 is applied specifically to the study and nothing else.

Mr. Zappala stated, it is too late for the study. We have a Town Planner who should be doing the job. He would have withdrew the item had he placed it on the agenda as soon as he learned that the commission was not ready for it.

Mr. Gouveia asked that Officer Doll would offer testimony to the validity of the study and the staff limitations on performing parts of the study.

Officer Doll explained that he can only address what his traffic limitations are. We have taken the traffic impact studies that have been received throughout all of the hearings and constantly review them. The traffic division is very limited as to what they can do

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from the standpoint of manpower and tools available to them. They do not own a capacity analysis on software. Most of their review is handled out of regular textbook operation. If they were to look at a regular corridor study, they would basically have to stop all Town operations. The only person in town who handles this type of issue is Officer Doll, himself. Operational-wise his department is nine months to one year behind on requests. Most of those are stop sign issues which require a regular traffic study. They have to meet warrants in order for him to install them. It is not simply a matter of placing a request. They currently have a lot of Route 5 data from both the Walmart and K Mart operation, hundreds and hundreds of pages from it. What has to be done is to combine the Walmart and K Mart information and take that as a data base. Where do we end up from there? We look at the land we have on Route 5, we would have to look at what the possible uses may be. Land use codes run over 1,200...everywhere from fast food operations to retail to grocery stores. If you take all 1,200 codes you could end up with approximately how many trips per code through a trip generation book each parcel may generate. The problem is, in order to do that would take weeks and weeks if not months and months to do on their end alone. There are a lot of issues involved. In the past week or two he has met approximately three times with Tom Talbot (Asst. Town Planner) and John Costello (Town Engineer) to find out exactly what they would bring into Planning & Zoning's scope. Every time we open a door we seem to come up with more questions than answers. One of his major concerns is what impact would Route 5 have on our collector streets, North Main St., North Elm St., east-west movements through town, North Plains Industrial Road and Main Street in Yalesville. That entire area has to be looked at. We cannot simply concentrate on Route 5. The other issue is, we have to know where this traffic is planning to be drawn from. There is no way that he or Planning would have that type of data bank in order to look at where the draw is for any retail establishment would end up coming from. That information has to be extracted from marketing data. These are just a few of the issues he feels that he will run into. One of the comments that was made earlier that Walmart is in and K Mart is in means we are all done, is not true. We have a lot of potential out there for impact not only on Route 5 but any of the adjacent streets. Should we not have the information needed for the traffic numbers he may have to come before the Council at a later date and say that the Town may have to look at it from another standpoint. There are a lot of issues on the table. We should try and look at Route 5.

Mr. Gouveia agreed that the other areas such as Main Street, etc. need to be looked at carefully. He views streets such as Main Street as an ideal residential street of the Town. If you drive up and down North and South Main Street you will find a good number of houses for sale. He is concerned that eventually those houses will no longer be of any value for residential customers and will be sold only for commercial customers because there is going to be so much traffic through the area avoiding Route 5 that people will not want to reside there. This piece of land (Route 5) has such vitality when it comes to commercial development that it will always change. One store opens and another closes. We need to have studies to help us plan for the future. Ten, twenty or more years ago would have been the time to

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perform the study but we cannot change that. There is a lot of potential for a lot of development in that corridor. We need the study as soon as possible.

Mr. Doll commented, speaking as a taxpayer of the town, although it is kind of Captiva Realty to help defray the cost of the study, he would hate to see this issue end up looking as though it were tainted at all. He would like to see the study done with what ever monies can fund it in-house.

Mr. Zappala stated, eighty percent (80%) of the land has been developed. Once the existing K Mart closes, how are you going to change the zoning for that property? You cannot build houses there or condominiums. This should have been done but it wasn't (the study). If the commission comes back and says that they do need a study then we should fund it. To invest \$43,000 in a company who may not give the commission the answer that it needs is unrealistic and daring.

Mr. Doll responded, this is not only looking at the traffic on Route 5 but also land use issues. We would also like to look at a traffic access management plan for all the curb cuts on Route 5. There are a lot more issues than simply the traffic. It is his understanding that there are ways to limit the size of the establishments which are able to be built on the land, itself, thus limiting the amount of parking which will not have as great an impact on our roadways, along with additional landscaping and things of that nature which will make Route 5 look more attractive.

Mr. Zappala stated, we should be doing that now. Do you have to have someone to tell you what to do at this point?.

Mr. Doll responded, we are trying to obtain as many tools as we can so we can look into the future to be positive that we, as staff and commission and Council, do not overlook anything. This money would be well-spent.

Mr. Zappala disagreed.

Mr. Gouveia moved the question.

Mr. Killen stated, everyone is aware of his position on voting on transfers and especially when it comes to the contingency account. When push comes to shove, however, he has to do what is best for the Town, even if it means going against his own personal convictions. He will vote in favor of this study. He does not see the Town going anywhere with the rate it is going now if someone does not stand up and be rebellious (applause).

VOTE: Knight was absent; Papale, Rys and Zappala, no; all others, aye; motion duly carried.

(Applause)

ITEM #9 Approve and Accept the Minutes of the June 27, 1995 Town Council Meeting, seconded by Ms. Papale.

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VOTE: Knight was absent; Killen abstained, all others, aye; motion duly carried.

ITEM #10 Approve and Accept the Minutes of the July 5, 1995 Special Town Council Meeting

Motion was made by Mrs. Duryea, seconded by Ms. Papale.

VOTE: Knight was absent; Killen abstained, all others, aye; motion duly carried.

ITEM #11 Approve and Accept the Minutes of the July 11, 1995 Town Council Meeting

Motion was made by Mrs. Duryea, seconded by Mr. Gouveia.

VOTE: Knight was absent; Killen abstained, all others, aye; motion duly carried.

ITEM #12 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Regarding Strategy and Negotiations with Respect to Collective Bargaining - Town Attorney

Motion was made by Mrs. Duryea to Enter Into Executive Session, seconded by Ms. Papale.

VOTE: Knight was absent; all others, aye; motion duly carried.

ITEM #13 Executive Session Pursuant to Section 1-18a(e)(2) of the CT. General Statutes Regarding Pending Litigation - Town Attorney

Motion was made by Mrs. Duryea to Enter Into Executive Session, seconded by Mr. Killen.

VOTE: Knight was absent; all others, aye; motion duly carried.

Present in Executive Session were all Councilors, with the exception of Mr. Knight, Mr. Zandri was excluded from Item #12 Executive Session only, Town Attorney Janis Small, Mayor William W. Dickinson, Jr. and for a portion of Item #12, Town Council Secretary Kathryn F. Milano.

Motion was made by Mrs. Duryea to Exit the Executive Sessions. Seconded by Mr. Killen.

VOTE: Knight was absent; all others, aye; motion duly carried.

ITEM #14 Consider and Approve a Waiver of Bid to Hire Outside Legal Counsel - Town Attorney

Motion was made by Mrs. Duryea to Waive the Bid to Allow Attorney Dennis Ciccarillo to Proceed with Pending Labor Cases, seconded by Ms. Papale.

VOTE: Knight was absent; all others, aye; motion duly carried.

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Motion was made by Mrs. Duryea to Waive the Bid to Allow the Law Firm of Tyler, Cooper and Alcorn to Handle the CFL Case, seconded by Mr. Killen.

VOTE: Knight was absent; all others, aye; motion duly carried.

Motion was made by Mrs. Duryea to Waive the Bid to Allow Attorney Miguel A. Escalera to Handle the Electric Division Arbitration Cases, seconded by Mr. Killen.

VOTE: Knight was absent; all others, aye; motion duly carried.

Motion was made by Mrs. Duryea to Adjourn the Meeting, seconded by Mr. Killen.

VOTE: Knight was absent; all others, aye; motion duly carried.

There being no further business, the meeting adjourned at 11:06 P.M.

Meeting recorded and transcribed by:

Kathryn F. Milano
Kathryn F. Milano
Town Council Secretary

Approved by:

Thomas D. Solinsky
Thomas D. Solinsky, Chairman

8-22-95

Date

Kathryn J. Wall
Kathryn J. Wall, Town Clerk

August 22, 1995
Date

SEP 8 1994

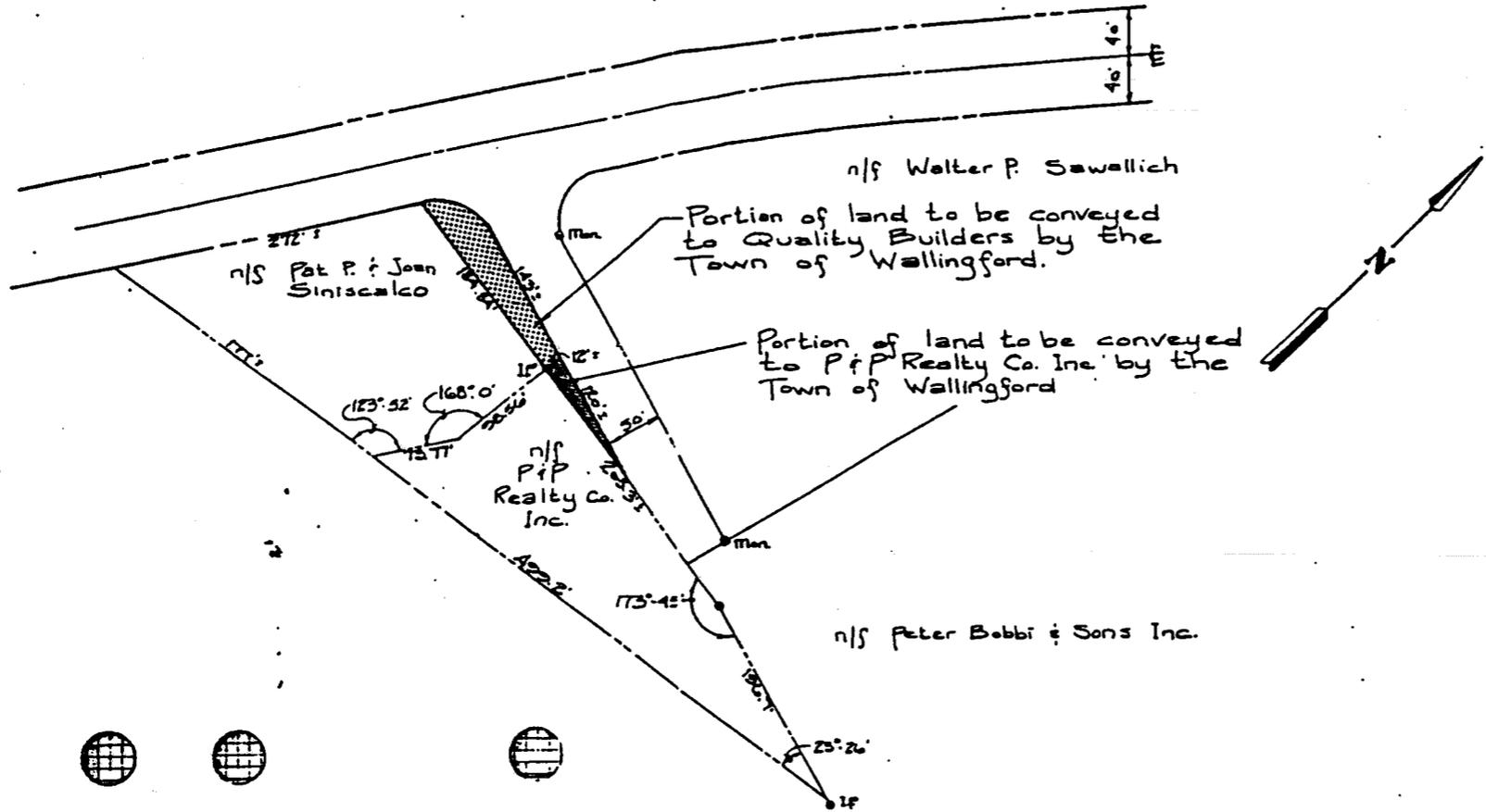
SCHEDULE A

All that certain piece or parcel of land in the Town of Wallingford, County of New Haven, State of Connecticut on the southerly side of Pent Highway designated as "Portion of land to be conveyed to Quality Builders by the Town of Wallingford" on a map entitled "Map Showing Portion of Pent Highway to be Abandoned Scale: 1"-100' Date 6-29-83 Department of Engineering Town of Wallingford Drawing Number BB-627", to which map further reference may be had. Said premises is further bounded and described as follows:

- NORTHERLY: On Pent Highway, as shown on said map, 143 feet, more or less;
- EASTERLY: By parcel designated "Portion of land to be conveyed to P&P Realty Co., Inc. by the Town of Wallingford" on said map, 12 feet, more or less;
- SOUTHERLY: By land now or formerly of Pat P. and Joan Siniscalco, as shown on said map, 184.84 feet; and
- NORTHWESTERLY: By the arc of a curve forming the confluence of the southerly street line of Pent Highway and the easterly street line of North Plains Industrial Highway, as shown on said map.

SEP 8 1994

n/s Meriden - Wallingford
Sand & Stone Co.



Map Showing Portion of Pent Highway to be Abandoned		
SCALE 1"=100'	APPROVED BY	DRAWN BY C.S.A.
DATE 6-25-83		REVISED
Department of Engineering Town of Wallingford		
		DRAWING NUMBER BD-627

To: Members of the Wallingford Town Council
From: Jim Vumbaco, Vice Chairman Planning & Zoning
Date: July 24, 1995

I am asking the Town Council **NOT** to consider funding the Route 5 study until further review and input can be obtained by our Commission. At our July meeting the study was discussed at length. While it was agreed that we would like a study funded, we felt that this particular proposal needed further review. The Commission wants to see what portions of the study can be done by Town personnel and in an effort to save tax payer's dollars, only ask for funding, at some future date, of the portions of the study, i.e. traffic, etc. that cannot be done by Town personnel.

I firmly believe that every member of The Planning & Zoning Commission wants a complete in-depth study done on Route 5 and all surrounding developable land and feeder roads associated with the Route 5 study area. Any new ideas as to how Route 5 can be developed **proactively** now and in the future are our utmost concern. However, a majority of The Planning & Zoning Commission want this study to be a result of work done by our Town personnel in combination with an outside consultant and only use them for work that cannot be done in house. This will then provide the Commission with a report that is more meaningful, as we will not be looking to an "outsider" to provide all the answers. A greater appreciation of the final report, one that has a greater chance of being followed, will be had when it is a result of the hard work put in by staff, commission members, Town personnel, etc.

Thank you for your time and I request this letter be read into the permanent record of this council meeting.

Respectfully Submitted,


J. Vumbaco



Town of Wallingford, Connecticut

Appendix III.

JAMES C. FITZSIMMONS

CHAIRMAN - PLANNING & ZONING COMMISSION

LINDA A. BUSH, AICP

TOWN PLANNER

WALLINGFORD TOWN HALL
45 SOUTH MAIN STREET
WALLINGFORD, CT 06492
TELEPHONE (203) 294 - 2090

July 25, 1995

Wallingford Town Council
Thomas Solinsky, Chairman
Wallingford Town Hall
45 South Main Street
Wallingford, CT 06492

SENT VIA FAX

SUBJECT : Route 5 Study

Dear Members of the Wallingford Town Council :

I am writing this letter to inform you that a prior obligation for my employer does not allow me to attend tonight's Town Council meeting to discuss the Route 5 Study.

The Planning and Zoning Commission has discussed this issue extensively. On behalf of the majority of the Commission, we have directed staff to prepare a report of what elements of this study they feel can be accomplished utilizing town staff. Within the next two months, after the Planning and Zoning staff have reported back to the Commission we will be prepared to return to the Town Council with an update and a potential revised request for funding.

Thank you for your time. I again apologize for not attending tonight's meeting.

Very truly yours,

WALLINGFORD PLANNING AND ZONING COMMISSION

James C. Fitzsimmons
Chairman

STATEMENT OF CAPTIVA REALTY, INC.
JULY 25, 1995

Received
7/25/95
G. H. Buck

Good evening.

My name is Gurdon H. Buck. I am partner in the law firm of Robinson & Cole in Hartford.

We represent Captiva Realty, Inc. the owner of six and three quarters acres East of Route 5 bordering on North Main Street Extension and running through to Old Colony Road. The land is part of the proposed Route 5 corridor study which is before you this evening for your consideration.

Captiva purchased the site as a relatively long term investment. Several developers, including Stop & Shop itself have taken an interest in the site, but there is no present intent to develop it right now. Captiva hopes to develop the site for retail use and a part of the comprehensive development of the Route 5 corridor which it hopes will become one of the premier retail centers in the region. However, without comprehensive planning, the corridor could turn into just another congested suburban strip choked with traffic and a parade of ugly signs.

Therefor Captiva wishes to jump start the plan, with the hope that the planning process will create something that will make Wallingford proud, and redound to the benefit of the Captiva parcel.

As some of you may know, there is a trucking terminal operation currently on the Captiva Realty site. Our client purchased the site late last fall and has no immediate plans for development of the property. However, given the development in the area, eventually it would seem appropriate that the site be converted to some type of retail use. Since Captiva's site abuts the existing Stop & Shop property, Stop & Shop has taken a serious interest in the property. A future overall development plan for the site combined with that of Stop & Shop, could help alleviate certain parking configuration issues that currently exist with Stop & Shop's operation. Stop & Shop has indicated to my client that its interest in the site is dependent to some degree on the pattern of development of Route 5.

In any event, for Captiva and for any other property owners along this Route 5 corridor there is certain degree of concern about the impact of potential additional development along Route 5. The concern is about additional development that will effect the capacity of the road system to carry additional traffic and its development as a high class retail center. For Stop & Shop, it undoubtedly has concerns regarding traffic to and from its

property as a successful supermarket operation requires that its customers be able to readily access a store. For Captiva, the problem is that without a current development plan it has no assurance that it will eventually be able to get any development approvals for its site. The capacity may be used up. It also is concerned that the quality of the corridor may degenerate and make its approvals worth much less. Because of its excellent location and the potential development of the Route 5 corridor as a first class retail magnet, Captiva paid a considerable sum for the property. It is deeply concerned about possibly watching its investment erode by reason of what seems to be a somewhat ad hoc development along the Route 5 corridor.

Consequently, I'm here to tell you this evening that Captiva Realty feels very strongly that the Route 5 study should be undertaken by the Town as soon as possible. This is so that all of the property owners along the corridor will know what their reasonable expectations for development should be in the future. If the plan goes well, the owners can expect that the Route 5 Corridor can be developed as a major retail magnet, with free flowing traffic, well conceived access to the shops, and attractive setting, building and accessory structure design.

We understand that this study is estimated to cost approximately \$43,000 and we fully appreciate that this is a large sum for Wallingford to expend. However, from our perspective, and undoubtedly that of all other property owners of the land which is likely to be developed sometime in the future, the amount seems relatively small weighed against the potential impact on the value of our properties if development continues in the corridor without some due consideration given to the carrying capacity of the infrastructure, curb cuts, turning geometry, design controls, utilities and particularly that of the road system.

Captiva Realty feels so strongly about this situation that it has not only asked me to attend this hearing this evening to emphatically urge you to authorize the Route 5 corridor study, but we are prepared tonight to offer to make a \$10,000 contribution to help defray the \$43,000 study cost. This is contingent only upon the Council's authorization and implementation of the study. Captiva simply believes that such a study is essential in assisting Route 5 corridor property owners in determining what they will be able to do with their sites in the long run and to slow down and possibly reverse the present trend of conversion to a conventional, congested highway strip. Obviously, a comprehensive planning effort will be to everybody's advantage.

There is only one string attached to the grant. The grant must only be used for the comprehensive study of the Route 5 corridor.

Gurdon H. Buck

