

TOWN COUNCIL MEETING

NOVEMBER 14, 2000

6:30 P.M.

AGENDA

Blessing

1. Pledge of Allegiance and Roll Call
2. Correspondence
3. Consent Agenda
  - a. Approve and Accept the Minutes of October 24, 2000 Town Council Meeting
  - b. Note for the Record Mayoral Transfers/Mayor
  - c. Note for the Record Anniversary Increases/Mayor
  - d. Consider and Approve Tax Refunds (#100-125) Totaling \$6,060.04/Tax Collector
  - e. Consider and Approve the Release of an Electric Division Easement Owned by Verna Home Builders Inc. at 1 North Plains Industrial Road/Director of Public Utilities
  - f. Consider and Approve Authorizing the Mayor to Execute an Assignment and Conveyance of Water Main Easement Rights Between Mountain Brook LLC and the Town/Law Department
4. Items Removed from the Consent Agenda
5. Consider and Approve a Resolution Authorizing the Mayor to Execute an Agreement Between the State of Connecticut and the Town of Wallingford for Rights of Way Activities in Conjunction with the Replacement of Bridge No. 04419 on Wall Street Over Wharton Brook Utilizing Federal Funds and a Project Grant Under the Local Bridge Program/Town Engineer
6. PUBLIC QUESTION AND ANSWER PERIOD

7. PUBLIC HEARING to Consider and Approve Adopting an Ordinance Entitled "Ordinance Providing Tax Abatement for Members of Volunteer Fire Departments – 7:45 P.M.
8. Report From the Town Engineer Regarding Harrison Road/Councilor Robert Parisi
9. Consider and Approve Authorizing the Mayor to Execute a Grant of Easement Between the Town of Wallingford and Algonquin Gas Transmission Company/Law Department
10. Statutes to Discuss Pending Litigation in the Matters of WHTR Real Estate v. Town of Wallingford and Vincent R. McManus v. Town of Wallingford/Law Department
11. Motion to Consider and Approve the Settlement of the Tax Appeal Matter, WHTR Real Estate v. the Town of Wallingford, as Discussed in Executive Session/Law Department
12. Motion to Consider and Approve the Settlement of the Tax Appeal Matter, Vincent R. McManus v. Town of Wallingford, as Discussed in Executive Session
13. Executive Session pursuant to Section 1-200(6)(D) of the CT General Statutes Pertaining to the Purchase, Sale and/or Leasing of Real Estate/Mayor
14. Possible Action Regarding Matters Discussed in Executive Session/Mayor

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NOVEMBER 14, 2000

6:30 P.M.

ADDENDUM TO AGENDA

3. Consent Agenda

- 3g. Consider and Approve Granting Permission to Wallingford Center, Inc.  
Use of the Parade Grounds for the "Seasons of Celebrations Festival"  
On Saturday, November 25, 2000 from 9:00 A.M. to 6:00 P.M.

TOWN COUNCIL MEETING

NOVEMBER 14, 2000

6:30 P.M.

ADDENDUM TO AGENDA

15. Consider and Approve One Appointment to the Position of Alternate  
On the Planning & Zoning Commission to Fill a Vacancy which  
Expires 1/8/2001

TOWN COUNCIL MEETING

NOVEMBER 14, 2000

6:30 P.M.

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Addendum

15. **Approve Appointing Steve Bertucio to the Position of Alternate on the Planning & Zoning Commission to Fill a Vacancy in a Term Which Expires 1/8/2001** 2

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TOWN COUNCIL MEETING

NOVEMBER 14, 2000

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, November 14, 2000 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Chairman Robert F. Parisi at 6:34 P.M. Answering present to the Roll called by Town Clerk Rosemary A. Rascati were Councilors Brodinsky, Centner, Farrell, Knight, Parisi, Rys, Vumbaco & Zappala. Councilor Papale arrived at 8:08 P.M. Mayor William W. Dickinson, Jr., Assistant Town Attorney Gerald E. Farrell, Sr. and Deputy Comptroller Eva Lamothe were also present.

A blessing was bestowed upon the Council by Rev. Dean Warburton of the First Congregational Church of Wallingford.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Correspondence

Mr. Rys announced the Wallingford Fire Fighter's Annual Food Drive, informing everyone that food items will be collected at Fire Companies 1, 5, 7 & 8 from now until November 20<sup>th</sup>.

ITEM #3 Consent Agenda

ITEM #3a Approve and Accept the Minutes of the 10/24/00 Town Council Meeting

ITEM #3b Note for the Record Mayoral Transfers Approved to Date

ITEM #3c Note for the Record Anniversary Increases Approved by the Mayor

ITEM #3d Consider and Approve Tax Refunds (#100-125) Totaling \$6,060.04 – Tax Collector

ITEM #3e Consider and Approve the Release of an Electric Division Easement Owned by Verna Home Builders, Inc. at 1 North Plains Industrial Road – Director of Public Utilities

ITEM #3f Consider and Approve Authorizing the Mayor to Execute an Assignment and Conveyance of Water Main Easement Rights Between Mountain Brook, LLC and the Town – Law Dept.

ADDENDUM ITEM #3g Consider and Approve Granting a Request to Wallingford Center, Inc. Use of the Parade Grounds For the Seasons of Celebrations Festival on Saturday, November 25, 2000 from 9:00 a.m. to 6:00 p.m.

Motion was made by Mr. Rys to Approve the Consent Agenda as Presented, Items #3a-addendum #3g, seconded by Mr. Farrell.

VOTE: Papale was absent; all ayes; motion duly carried.

ITEM #4 Withdrawn

ADDENDUM ITEM #15 Motion was made by Mr. Rys to Move Agenda Item #15 Up to the Next Order of Business, seconded by Mr. Zappala.

VOTE: Papale was absent; all ayes; motion passed.

ITEM #15 Consider and Approve One Appointment to the Position Of Alternate on the Planning & Zoning Commission to Fill a Vacancy Which Expires 1/8/2001

Motion was made by Mr. Rys to Appoint Steven Bertucio to the Position, seconded by Mr. Zappala.

VOTE: Papale was absent; all ayes; motion duly carried.

Mr. Bertucio was present in the audience therefore Town Clerk, Rosemary A. Rascati performed the Swearing-In Ceremony at this time.

ITEM #5 Consider and Approve a Resolution Authorizing the Mayor to Execute an Agreement Between the State of CT. and the Town for Rights of Way Activities in Conjunction with the Replacement of Bridge No. 04419 On Wall Street Over Wharton Brook Utilizing Federal Funds and a Project Grant Under the Local Bridge Program – Town Engineer (Appendix I)

Motion was made by Mr. Rys, seconded by Mr. Knight.

VOTE: Papale was absent; all ayes; motion duly carried.



PUBLIC QUESTION AND ANSWER PERIOD

Jack Agosta, 505 Church Street, Yalesville referred to a Record Journal article that appeared in today's paper which stated that the School Building Committee has found that \$2 million could be cut from the school building project. He stated that this should have been done before bringing it to the Town Council and not only after the Council sent it back to committee. He encouraged the Town Councilors to attend the School Building Committee meetings for he felt that it would benefit them to do so.

Pasquale Melillo, 15 Haller Place, Yalesville asked if it was true that the State will not consider costs associated with renovations that are needed due to lack of maintenance over time in their reimbursement program?

Mr. Parisi replied that the question is one that should be posed to the Board of Education and not the Council.

Mr. Melillo next asked about the Yankee Gas clean-up project occurring on Washington Street. He asked if all the coal tar sands will be removed from the area and, if so, who pays for this work?

Mr. Parisi answered, Yankee Gas is performing the work and the Town does not incur any costs associated with the project. Any contaminated materials identified as such by Yankee Gas are being removed.

Mr. Melillo next inquired about the status of the Cooke Property?

Mr. Parisi announced that there is no new news to report.

Mr. Melillo asked when the Wooding/Caplan Property will come back before the Council?

Mr. Parisi replied, information will be forthcoming in the near future.

Mr. Melillo next asked about the status of the former Simpson School property?

Mayor Dickinson stated that the Housing Authority is in the process of trying to secure financing or funding so that it can utilize the property. He stated that the Town will not wait much longer, however, and suggests that the Town seek out proposals for use of the property if the Housing Authority does not come through.

Mr. Agosta returned to the microphone to ask about the status of Garden Road. He noticed that fill is being stockpiled on the site and inquired what it will be used for?

Mayor Dickinson stated that he was not entirely sure what the fill will be used for but it could be replacement material for the roadbed that was removed or it could be stockpiled for the time being before being used elsewhere.

Mr. Melillo asked if the Goldfeder issue has been resolved?

Mayor Dickinson stated, the state had been performing work on the site and he was not certain as to whether they had completed it. The property has not changed ownership to his knowledge.

Mr. Melillo asked the Mayor to follow up on the state's work on the Goldfeder property. He also wanted to know what the Mayor's plans were with regards to Garden Road?

Mayor Dickinson replied that the property will be returned to natural conditions; it will have uses of a park.

Alison Manke, 21 Killen Road stated, I have one additional petition to present to the Town Council, bringing our list of people who want to have the name of the road changed to 15 out of 18 families. I will give this to Mrs. Zandri (Town Council Secretary). I have a brief statement for the record and a question or two regarding this and one unrelated matter.; because my neighbors and I have been excoriated in the press of late regarding our request to have Killen Road changed to another name from the pre-approved list, I would like to read for the record the alternative honors that our neighborhood association has suggested to Mr. Parisi and the Mayor. I think this clearly demonstrates that we have made a good faith effort to assist the Council in determining how and not if, Bert Killen should be honored. Those suggestions were; an annual award called the "Albert E. Killen Community Service Award" given as either a medal or plaque or a scholarship to a deserving individual who exemplifies the type of community work Mr. Killen is known for; a refurbished flag pole in front of Town Hall with brass plates at the base of the flag pole describing Mr. Killen's contributions; the naming of a room or a chamber here, at Town Hall, or a park or land area of conservation whose entrance is marked with a large boulder and a brass plate and the name of Mr. Killen describing his contributions. Wallingford has other park areas and center medians that could accommodate another well-placed monument of some type. My first question is, as of today, the road that I live on is still private property; is there a legal precedent that the Town Council relies on to be able to change the name of the road the way it did? If Planning & Zoning approved Argyle Road and ergo the Fire Marshal approved Argyle Road, what is the precedent for just wholesale changing it?

Mayor Dickinson answered, only the Town Council has the authority to place conditions or decide names of property that is publicly-owned. The Town Council, under our Charter, is given responsibilities regarding acquisition, purchase, sale, lease of real property and I believe that is where the authority to name the road is determined.

Ms. Manke stated, but Planning and Zoning and the Fire Marshal did approve and other road names have been basically wholesale changed and we are just wondering, what is the actual legal precedent?

Mayor Dickinson replied, the legal authority is the Town Charter.

Ms. Manke asked, when I was doing some research in the Town Council's office, there is a sign on the door that says that any citizen requesting research has to give their name and each Town Councilor has to be notified of the name of the person that is requesting research yet, on the actual policy, there is no mention of anyone having to give their name. My feeling is that the sign on the office door can serve to scare off some people from seeking information at the best case and, at the worst case, it is a Freedom of Information violation. Can you clarify this for me, please? Has a Councilor ever asked to be informed as to the name of a citizen requesting information?

Mr. Parisi answered, the application for that rule was that in the past we have had people come in asking for information specifically about Councilors and we put that rule into effect just so that if someone is looking for specific information on an individual councilor or several councilors that they be notified and that is all it is.

Ms. Manke asked, so that is an interpretation of the policy and not the policy itself? Because there is nothing in the actual policy that says you have to leave your name; you have to tell who you are to get this information.

Mr. Parisi answered, I don't think it is a condition of information, is it? I don't believe...I don't think it is a condition of getting information.

Ms. Manke answered, but that is what the sign on the door says. I think it is something that you might want to investigate because that is something that concerns me.

Mr. Parisi stated, the only sign I am aware of is the one that I just....that happened two or three years ago.

Ms. Manke repeated, it is something that concerns me and that really smacks of the Freedom of Information thing and if it is not in the policy...if it is part of the policy then it

should be in the official policy and not just a sign on someone's door. That could really lead to misinterpretation.

Mr. Parisi stated, I would yield to the counsel but I think departments can have a procedure or process themselves.

Ms. Manke asked, on an unrelated subject, you were just discussing Simpson School; is that property available for private purchase or is the Town amenable to a private purchase?

Mayor Dickinson stated, right now we are waiting for an evaluation by the Wallingford Housing Authority as to their desired use of the property. If they are unable to come to a decision, the Town Council could open it up for private parties to bid or make proposals regarding the property for sale.

ITEM #8 Report from the Town Engineer Regarding Harrison Rd. as Requested by Councilor Robert F. Parisi

Town Engineer, John Thompson was present for this item.

Mr. Parisi stated, we have worked about two years on this project and I think it is about time we had an official update as to where we are, what been done, what is going to be done and so forth.

Mr. Thompson stated, the project for the Harbor Ridge Golf Course and the back nine holes and forty-three houses or so was approved by PZC (Planning & Zoning Commission) in December, 1996 with the stipulation that Harrison roadway be improved as part of the overall project, that the at grade crossing of the railroad tracks at Harrison Road also be improved. That element of the project's approval had a very specific timeframe associated with it and that was that the crossing had to be upgraded prior to the opening of the back nine holes. There was no such time stipulation on the Harrison Road element and it wasn't until March of 1999 when Redstone's contractor actually began work on Harrison Road, in the vicinity of the Beaumont's property. At that point in time there was an over-excavation of the road way onto the Beaumont property which set in motion a number of activities, re-evaluating the original approval, re-evaluating the geometry of the road, re-evaluating the impact on the Beaumont property and the development of a strategy of how to correct that situation. In the past twenty months since that original incursion onto the Beaumont property and excavation of Harrison Road, we have been attempting through meetings, coordination and I don't want to say threats but by what ever measures fell within the prerogative of the Town to have Redstone and their contractors undertake the necessary repairs to Harrison Road and construct it in accordance to the plans approved by PZC. For the past twenty months we have been

struggling with trying to get their attention to correct the problems. It wasn't until a meeting on October 3<sup>rd</sup> where the Mayor had indicated that enough time had passed, enough chances had been afforded the developer and his contractors to resolve the problem and, at that point, the Mayor said no more building permits until the situation was resolved. In the meantime between October 3<sup>rd</sup> and today, there has been a number of meetings with the contractor, developer and correspondence back and forth between my office, the Law Department and the developer's attorneys. We are sitting here today as a result of a meeting as recently as last Thursday where the contractor has said that he is not planning on building the road in accordance with the approved plans. We sit here tonight with no schedule, no program and no commitment to have the roadway improvements done in accordance with the approved plans.

Mr. Parisi asked, what will our next step be?

Mr. Thompson answered, the Law Department and Mayor can speak to the Administration and legal issues, respectively. We are trying to still work with the developer in terms of developing a plan that satisfies the Town requirements for the roadway and simultaneously satisfies the Water & Sewer Division's requirements for coverage over the road. The fact that the Mayor has issued a stop issuance of building permits has gotten the developer's attention. Since October 3<sup>rd</sup>, however, there has been repeated promises, again, and still not activity. I am still not quite certain what is going to happen from his perspective but he has to do something if he does plan on continuing to develop the site.

Mayor Dickinson stated, the plan was presented and approved. At this point we are expecting him to correct what is wrong and rectify the situation on the road. Short of that, ultimately, we would have to pursue chasing the bond and taking that money and using it to accomplish the work ourselves. I don't know that we are right at that point yet. The developer has said that he will comply with the plan the last I heard by so far no work is being performed.

Mr. Thompson added, as of this afternoon, they came back and said that they cannot achieve the plan that was approved by Planning & Zoning in 1996 and they are asking again, is there some alternative plan that the Town may be receptive to.

Mr. Parisi asked, why can't they follow the plan that was approved? There was never any complaint in the beginning, after it was approved; what is their problem?

Mr. Thompson answered, very simply, the contractor made some construction mistakes and built the road at the wrong elevation, installed the water main at a location that did not provide sufficient cover and meeting the standards of the Water & Sewer Divisions which now necessitates him going back and basically digging up all the work that he has recently

completed; recently within the context of the project. He is very reluctant to spend the monies to do that. They are seeking every single avenue to get relief from the Town. At this point, as the Mayor has indicated, they do have an approved plan and they have been instructed to build to that. They essentially are saying they can't and won't do it.

Mr. Parisi stated, we are at a point where, if they don't move, we will make a move.

Mr. Zappala stated, he promised that he was going to do the road by July 15<sup>th</sup>.

Mr. Thompson answered, the developer has made a number of promises that the road was going to be done in the springtime, summer, fall; we have those letters of correspondence. He has not fulfilled any of the commitments he has made to us.

Mr. Zappala asked, doesn't the developer need a Certificate of Occupancy for the homes that he has built?

Mr. Thompson answered, yes.

Mr. Zappala asked, how can we issue them to him if the road is not properly finished? We should be able to deny him a certificate of occupancy for anything that he is selling.

Mayor Dickinson stated, you are involved with what the Town Attorney would call a sticky issue. She has been advising the Town and thus at this point we have not taken that action per advice from the Town Attorney.

Mr. Zappala stated, this man is getting away with everything he wants to. I travel that road every day since the bridge has re-opened and in the last two days I have seen two different holes in that road with someone in it that are about four feet wide and no signage warning of them. I could have easily run the guy over who was in the hole. I don't know who is keeping track of what is happening on the road but this happened yesterday and two days ago both on the north and south sides of the road.

Mr. Thompson explained, the contractor is doing some corrective drainage work at the intersection of Harrison Road and North and South Mulligan Drive. Again, it is areas that we, in our inspections, uncovered that were constructed not in accordance with the approved plan and we advised him of the drainage changes. He is doing the changes. Even though they may look like big holes, it is relatively a minor operation in the context of his overall improvement scheme. To re-do Harrison Road is a major undertaking. To do the little drainage that actually provides him direct benefit, is a much less-costly undertaking and he is prepared to do that. Your observations about the quality of work zone protection are also noted and we have conveyed that to the contractor.

Mr. Zappala stated, the man is doing what ever he wants to do with that road... and we haven't taken any action as far as I can see. Unless we push the issue of him doing what he is supposed to do, he is not going to do anything because he has done the same thing to Pilgrim Harbor residents by tearing down the clubhouse and he just never re-built it. He is not doing anything different with us. I think it is a shame that he is getting away with it.

Mr. Parisi stated, there has been action taken because he is not getting any building permits. He is going to build the clubhouse at Pilgrim Harbor, I'll tell you that right now; he is going to build it either on his own or he is going to be made to build it but, he will do it. It looks like it moves slow but, it does move forward.

Mr. Zappala stated, once he is finished with what he has to do and is through selling what he has to sell, he is going to kiss it good-bye.

Mr. Brodinsky asked, how many building permits might he be looking for but for the Town's action?

Mr. Thompson answered, I believe there is an additional six houses on the north side of Harrison Road and some twenty-five or so units on the south side that still remain to be constructed yet; those are approximate numbers.

Mr. Brodinsky asked, what was the timeframe by which he planned to apply for these building permits, do you know?

Mr. Thompson answered, no.

Mr. Brodinsky asked, how much is the bond on the road that has not been completed according to our plans?

Mr. Thompson answered, I believe it is \$280,000 or thereabouts.

Mr. Brodinsky asked, if the bond is called, is that enough money to cure the problem?

Mr. Thompson answered, based on estimates from Public Works, yes it is.

Mr. Vumbaco asked, what was the Beaumont situation?

Mr. Thompson explained, the area in front of the Beaumont property had a little knoll in the road and part of the P&Z's approval was to remove the hump in the road and make it a smoother traveling road. When the contractor went to do the work in that area, he over-

excavated on the south side, onto the Beaumont property and on the north side, onto the Bertini property. That set in motion all of these concerns we are facing now. Had he dealt with that in a more responsive and timely fashion, it would have allowed up to work more cooperatively with him. He has been an uncooperative developer with us. He has resisted every effort to work with the abutting property owners who are being adversely impacted by his operation. It started with the Beaumont property and has worked its way to every abutter along the street and every resident that drives that road.

No action was taken.

ITEM #9 Consider and Approve Authorizing the Mayor to Execute a Grant of Easement Between the Town of Wallingford and Algonquin Gas Transmission – Law Dept. (Appendix II)(Map on file in Town Council Office).

Motion was made by Mr. Rys, seconded by Mr. Knight.

Public Utilities Director, Raymond F. Smith stated, the Public Utilities Commission acted on this just this afternoon, approving the granting of the easement as it impacts certain portions of Electric Division custodial property.

Asst. Town Attorney Gerald E. Farrell, Sr. stated, I had many meetings with Roger Dann and Ray Smith concerning the wording of this easement. You now have the final version that actually came in yesterday. We have built in as many protections for the Town as we could. I think it is a good easement for the Town. The reason it was place don the agenda tonight is that Algonquin hopes to break ground and get moving with excavation to get this done before the frost is in the ground.

Mr. Brodinsky asked, what is the purpose of the easement, why are they looking for it and what is it intending to accomplish?

Mr. Smith answered, this would be the primary gas line that serves the new power project. It will be a twelve inch high-pressure transmission main that will connect back to a paper street called "Oliver Creek Road" back in the landfill area where there is a high-pressure gas main existing. It will come up across Town property in front of the Animal Shelter, and will come out to Cherry Street. We recommend that it be routed back across Town-owned property just north of the bulky waste area and tie it into the back of the Electric Division property parallel to the road that goes down to the Sewer Treatment Plant. We felt that, by staying out of the intersection of John and Cherry Streets, we would avoid a lot of conflicts that are there. There are a lot of underground facilities that are there between water, sewer, gas, AT&T has equipment there and, of course, we have an underground circuit to the Water Division office. They were amenable to that. We have



agreed and they have agreed to put up a fence line across that bulky waste area where the line will run and that land will be fenced in.

Mr. Brodinsky asked, are there any inconveniences that the neighbors ought to know about or any inconveniences that may effect them?

Mr. Smith answered, we are the most inconvenienced. There will be some inconvenience when they put in part of the line because they will have to close off a portion of the Recycling Center access for a while and, of course, the access to the Sewer Division. We are talking about hours, not days, involved. As they work on South Cherry Street there will be some traffic control required and Algonquin is aware of what the Town's requirements would be regarding traffic.

Mr. Zappala asked, what do we get for this? Ten dollars?

Mr. Smith answered, as far as the Host Community Agreement (associated with the power plant project) we were obliged and required to provide the necessary easements to support the project that was included in the deal that we signed in March. Yes, the ten dollars is a token amount; it used to be \$1.00.

Atty. Farrell, Sr., explained, it is just a recitation of consideration. Money does not really pass hands.

Mr. Smith stated, the Town committed to supply easements necessary to allow the project to happen.

Mr. Zappala asked if there was any possibility that the Town may have future needs for the land we are allowing them to pass through?

Mr. Smith answered, we already have a sewer main which is the primary use of the property right now that goes back across from S. Cherry into the main treatment plant. It was a 50' strip that was created back in the 1950s and it was deemed to be the primary access to the Sewer Treatment Plant for some reason. In researching it, it was a dirt road back then. Right now it does house the sewer main that goes through there. We may add a line in there in the future. We still retain the right to use that for our own purposes. I don't see any realistic use for that. I assume the Sewer Treatment Plant will always be there. What other facilities are constructed down there...it is an industrial zone.

Mr. Zappala asked, will it render the property useless to us?

Mr. Smith answered, it is just going to be a buried gas line. We will still be able to take our equipment down to the area. It will be constructed just as it would be under a public street.

Mr. Farrell asked, when we have done similar deals with Algonquin in the past, did we get something out of them? I ask because I was walking in the area of Algonquin and Tennessee Roads and found a Town park that I had never, ever heard of. It appears to be over the Algonquin transmission line and is called, Sheehan Park.

Mr. Smith answered, I am not aware of any prior arrangements with Algonquin. This is my first dealings with them.

Mr. Farrell asked, it would be interesting to know what Algonquin has given us in similar dealing because it appeared we got a town park out of it at a prior point.

Mr. Smith answered, it probably did not involve the utilities. Our involvement here is because of the project.

Pasquale Melillo, 15 Haller Place, Yalesville asked, if the line exploded, would the Town be responsible for injuries and damages?

Atty. Farrell, Sr., replied, Algonquin would be responsible and have accepted that liability; it is here in the document. We have required them to file with the Town a \$3 million insurance certificate. That does not limit their liability to \$3 million but, in fact, at least we have the certificate on file and they have agreed to all damage caused to us or any other people involved in the construction and/or any use of the right-of-way. I do not see exposure to the Town. We don't pay anything for the work.

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

WAIVE RULE V Motion was made by Mr. Rys to Waive Rule V of the Town Council Meeting Procedures to Include a State Statute that was Omitted Mistakenly Dealing with Items 10, 11 & 12 on the Agenda, seconded by Mr. Knight.

VOTE: Papale was absent; all ayes; motion duly carried.

ITEM #10 Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes for the Purpose of Discussing Pending Litigation in the Matters of WHTR Real Estate v. Town of Wallingford and Vincent R. McManus v. Town of Wallingford – Law Dept.

ITEM #13 Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Leasing of Real Estate – Mayor

Motion was made by Mr. Rys to Enter Into Executive Sessions listed above, seconded by Mr. Farrell.

VOTE: Papale was absent; all ayes; motion duly carried.

The Council entered executive session at 7:28 P.M.

Present in Executive Session were all Councilors (with the exception of Councilor Papale), Mayor Dickinson, Asst. Town Attorney Gerald E. Farrell, Sr., and Town Attorney Janis M. Small.

Motion was made by Mr. Rys to Exit the Executive Session, seconded by Mr. Farrell.

VOTE: Papale was absent; all ayes; motion duly carried.

The Council exited Executive Session at 7:55 P.M.

The Mayor did not return to the meeting until 8:01 P.M.

ITEM #11 Consider and Approve the Settlement of the Tax Appeal Matter, WHTR Real Estate v. Town of Wallingford, as Discussed in Executive Session – Law Dept.

Motion was made by Mr. Rys to Approve Settlement of the Tax Appeal Matters of WHTR Real Estate v. Town of Wallingford, as Discussed in Executive Session, seconded by Mr. Farrell.

VOTE: Papale was absent; all ayes; motion duly carried.

ITEM #7 PUBLIC HEARING to Consider and Approve Adopting An Ordinance Entitled, "Ordinance Providing Tax Abatement for Members of Volunteer Fire Departments - 7:45 P.M. (Appendix III).

Ms. Papale entered the meeting at 8:08 P.M.

Mr. Knight, Chairman of the Ordinance Committee stated that the committee has worked on this ordinance for quite a while and could have introduced it earlier but had been anxious to accept input from the members who would be affected. There have been many suggestions made by those members, most of which have been incorporated in the

ordinance before the Council tonight. There are two matters that will come up in discussion having to do with a provision for retirees and another having to do with provisions for those members of the volunteer fire department that reside outside of the Town of Wallingford.

Councilors Farrell and Zappala are the remaining members of the Ordinance Committee.

Mr. Zappala asked, why wasn't the retiree provision included in the ordinance?

Atty. Mantzaris answered, his interpretation of the enabling state statute limited the provisions of the ordinance to active volunteers.

Mr. Zappala asked if he would be in order if he were to amend the ordinance?

Atty. Mantzaris answered, in my opinion, that retirement benefit is not authorized by the Public Act which allowed municipalities to provide for this kind of a benefit to volunteers.

Mr. Parisi asked that input and questions be allowed from the public first, since it is a public hearing. When they have had their say, then the public hearing will be closed and the discussion will come back to the Council.

Mr. Zappala felt that it was better to get the answer on this issue before the public spoke simply because he feels the public will be asking the exact same questions on the topic.

Tim Wall, 386 Main Street, Yalesville stated, you have a packet in front of you that was basically worked on with the ordinance committee and some information given to Atty. Mantzaris and with the assistance of Chief Struble, Chief Pisard and Chief Joe DaCunto and myself. It is not new to you or us, the challenge and the time that a volunteer firefighter or EMS personnel has to put in. I think you have a great program that we can market to the Town, to individuals who want to join the fire service or EMS personnel; you have given an opportunity for someone to receive some kind of benefit after a few years of service. I have talked to some of your personally and given you information. At the ordinance committee meeting, the vote was taken to enact the South Windsor program, based on what they do. We all know that the program in front of you does not give a retirement benefit or package. After twenty years of service, he or she may receive the full \$1,000 tax abatement for a lifetime if he or she resides and owns property in the town, You have an excellent program in front of you and I encourage all of you to vote for that and encourage you to take into consideration possibly the retirement package. I have given you programs from other towns that have enacted it; I spoke with the author of the bill from the state and they commented back to me that they left it broad so that you can write it for your town. I appreciate your support and help in this program.

Jack Agosta, 505 Church St. Yalesville, said he had attended the ordinance committee meeting that night. He asked if this ordinance was the same as the once reviewed that night? Have any changes been made to it?

Mr. Knight answered, essentially it is the same except for this retirement provision which the Town Attorney felt was not included in the legislation and, therefore was not included in the ordinance.

Mr. Agosta stated that he thought the provision was very good and commended the committee for including it in the proposed ordinance. He stated that there is no better fire department in the entire country than Wallingford's. This tool will help attract more fire fighters to join.

Pasquale Melillo, 15 Haller Place, Yalesville with regards to years of service and the corresponding abatement figures, the fire fighters are well-deserving of the proposed abatements which are more than reasonable. The Council should support this ordinance without hesitation.

Mr. Knight stated, with regards to those volunteer fire fighters who reside outside of Wallingford, there is a provision in the legislation for crafting a town to town agreement. From what I understand from the chief, whether that would be appropriate would be in agreement with the City of Meriden. My intention, as a member of the Ordinance Committee, is to proceed with crafting that agreement. At such time as we do, and I wouldn't think it would be all that complex, I would like to entertain revisiting the ordinance and amending it to make sure those active volunteers that would otherwise qualify if they resided and owned property in Wallingford would be included. We have spent a lot of time on the ordinance and I am especially appreciative of the chiefs who have provided so much information from other communities. Wallingford is not like other communities, we are unique as you can expect, and I think we have crafted an agreement that makes sense for Wallingford. I am sure that there are other parts of it that might seem a little confusing but we have gone over every possible qualification and are looking forward to seeing it implemented for purposes of recruitment and retention and hope that it works.

Mr. Farrell stated, like both Mr. Knight and Mr. Zappala or my colleagues on the Ordinance Committee, I am pleased that we got about 95% of what we were looking for. We had had, through the auspices of Tim Wall, a number of the other ordinances that other communities had enacted. I thought the South Windsor one was a great one and we pushed to basically get as much as we could. I do respect what the Town's attorney is saying, that he doesn't feel the statute presently provides for a retirement plan. I would,

however, like to see it made part of the Town's legislative agenda. I know that we do put out such a legislative agenda to clarify the statute. If, indeed, the author of the bill feels that it was intended to be included, perhaps there is a way that the legislature can clarify that to say, yes indeed, that is a permissible part of the statute and then we could come back at a soon date to add that to the program. I thought it was reasonably important. Most of the people in the audience tonight are my age or slightly above and not quite ready to retire and some with experience, but I would hope that this is something that we can revisit because I think it is decently important. I made the point in the Ordinance Committee that a lot of time gets taken away from families, from jobs, from other things for the volunteers to come out and do this for the town. I don't think we can take their services for granted. I am all in favor of doing that. I hope we can come back and do that soon.

Mr. Zappala stated, we drafted a nice ordinance that will satisfy our volunteers and I am sure in the future we will be able to revise it somewhat to make it better. But I think we have taken something out of it that I think is important. It affects the experienced volunteers who are going to retire after serving the community for 20+ years. They will not be able to have what we offered, which is the \$1,000 per year. The Town of Wethersfield was able to adopt their ordinance with the retirement issue included. I don't see why we can't do that the same way; make this a complete ordinance which treats young and older volunteers alike.

Motion was made by Mr. Zappala to Amend the Ordinance to Include Volunteer Fire fighters who have Reached an Age of 62 and have Served in the Past Twenty Years in Good Standing with the Fire Dept. And who Own Property and Reside in Wallingford, seconded by Ms. Papale.

Discussion ensued on the motion.

Mr. Farrell stated, I concur that it should be part of the program but I respect the opinion of Atty. Mantzaris, that the statute does not allow it at this point. I am not one who will try to overreach where the legal department feels that the statute has certain bounds and I read through the statute and I don't see the retirement issue even mentioned. I don't think Atty. Mantzaris is taking a radical position in saying that's not there. I do agree with you because I am the one who made the motion in the Ordinance Committee, that this should be part of it. I think it is part of the whole package, so to speak. I do look at it similar to the situation we encountered with the motor vehicle exemption that we did recently, that we weren't able at the time that we did that to take advantage of further legislation that had yet to go into effect. I think, like that, we can try to revisit this soon enough. The legislative session is coming into effect in January. Chief Wall is a politically-astute person; politically able, I am sure he would be able to get this moving. Once that clarification was made, I would be the first person to ask the Ordinance Committee to

revisit this ordinance and push the whole package together. I feel, like you, that it is essential. I just don't want to muddle the whole thing at this point by trying to do something that he says is illegal.

Mr. Knight concurred with Mr. Farrell stating that the Ordinance Committee voted unanimously to put this particular provision into the ordinance. We rely on legal counsel, therefore it is important to abide by the opinions of someone who has spent a lifetime reading and crafting ordinances and reading legislation from the State of Connecticut, he commented. I am not anxious to have something that we have put into place, have any part of it questioned for any reason. I think it will be a very easy matter for our state legislators to tighten this up so that it really means what they intended it to mean and not what we think it might be interpreted to mean. The state enables us to write ordinances but the state also tells us that we are not to exceed those limitations that they set forth; it is not for our interpretation. I think it is important that we understand that. At this point I am leery of defining the judgment of the Town's attorney.

Mr. Brodinsky stated, I am somewhat troubled by the fact that other towns have accomplished this but we are not able to. I know judges can disagree on the same point and so can lawyers, so I am wondering, Adam (Atty. Mantzaris), is there any rational basis for including this?

Atty. Mantzaris explained how he arrived at his decision, reading from the public act as follows, "The legislative body of any municipality may establish by ordinance a program to provide property tax relief for the non-salaried, local director of civil preparedness and for individuals who volunteer their services as a fire fighter...." He stated, to me "who vv volunteer their services as a fire fighter" means exactly that, they are volunteering at the present time their services as a fire fighter, not that they have volunteered their services for a number of years as a volunteer fire fighter, but they are presently involved in volunteer fire services. I reviewed my file because we started working on this in 1995 on the ordinance and I remember Representative Adinolfi was at a meeting once for some reason, and I wrote to him and asked him for some help in trying to draft an ordinance. He sent me a copy of a letter to Rep. Tulisano from Bob Harris, Acting Director of the Office of Fiscal Analysis for the State of CT. He explains to Rep. Tulisano the purpose of this legislation. He also attached a copy of sample tax abatement ordinance language and it defines "active" and refers to an active fire fighter at east (anywhere) volunteer fire department, so the samples provided by the State of CT. Office of Fiscal Analysis also used the word "active" in describing the word "fire fighter". After the Ordinance Committee meeting on this matter, I began to try and draft the ordinance that everyone agreed to. I looked at the statute again and I had the thought that I had that I expressed to you a minute ago, "who volunteer their services". To me that says, "right now", volunteering their services presently. In my letter to you members and to the volunteer

chiefs, I gave my opinion that the enabling legislation did not allow for a retirement package as part of the tax abatement program. There is no rational way to include a retirement package under this particular enabling legislation as I read it and I seem to be supported by something from the State of CT.

Mr. Brodinsky stated, that was a good answer and persuasive. Is there another way to skin a cat? Does the Town Council of the Town of Wallingford have the inherent authority to extend a tax abatement outside of the enabling legislation? Under other statutes?

Atty. Mantzaris answered, no, it doesn't. I don't know of another statute that would allow an abatement of taxes for anybody.

Mr. Brodinsky asked, can you think of any way that we can get this accomplished, other than waiting for another term in the legislature, but is there any other way this can be done in your view?

Atty. Mantzaris answered, tax abatements or exemptions are strictly a matter of state permission or statute. I know of no way that it can be included in LOSAP (Length of Service Program) or any other program without authority from the state.

Mr. Brodinsky asked, have you been in touch with any other town attorneys?

Atty. Mantzaris stated, I called attorney Barry Guiliano who is the full-time town attorney for the town which adopted the ordinance that was before the Ordinance Committee which allowed for the retirement benefit. I explained how I had a concern under the statute, that it did not allow for retirement package. He informed me that they enacted it a year ago and he would look at his file and call me on Monday; I called him on a Friday. That was some two or three weeks ago and he has not called me as of yet, despite my calling him two more times, just recently this morning.

Mr. Brodinsky asked Atty. Mantzaris if he would continue to pursue calling Atty. Guiliano? I would be curious to find out what rationale he used.

Mr. Parisi stated, it is probably easier to drive up there, Adam.

Mr. Brodinsky asked Chief Struble, is anyone going to retire in the next twelve months? Is this amendment that we are talking about, practically speaking, going to affect anyone immediately? Do we have time?

Chief Struble answered that no one has approached him to tell him that they are going to leave the service in the next twelve months. We do have some people that have served



thirty years, twenty-eight years, twenty-five years, in excess of twenty years; there are probably a half-dozen to a dozen people who have served that number of years and are currently still active in the organization.

Mr. Parisi stated, I can't believe that this cannot be settled in the next legislative session. If it isn't there is something wrong, quite frankly.

Ms. Papale apologized for arriving late. She stated, unless I am missing something, how can it pass in one town and not another?

Atty. Mantzaris answered, I will give you an example of another ordinance and how it worked. There was a statute passed three or four years ago which allowed municipalities to exempt vehicles that provided ambulance service exclusively and also for non-profit ambulance services. So long as the municipality provided a definition of an ambulance-type vehicle. A lot of towns provided that definition which allowed for an individual person who was disabled to get their car exempted from taxation. It came to our office to draft a similar ordinance for Wallingford and it was my opinion that the enabling legislation did not allow for an individual to be exempt. Although a lot of communities had adopted such a thing, the legislature the next year amended the state statute to allow for individuals to have their cars exempt, probably because of many inquiries on the same subject from many entities. If one town does something, it doesn't mean that it is right or proper for all towns to do it.

Ms. Papale stated, this ordinance was introduced on April 14, 2000. It went through the Town of Wethersfield and voted on. How come there was not legislative problem? Is it because you have one opinion and their attorney has another? Why do we have to go through the legislature if it is legal in other communities?

Atty. Mantzaris replied, you can't say that it is legal in another community just because they have adopted it. Communities adopted the ordinance exempting vehicles equipped for disabled persons but I don't think it was legal in any community to do that until the state legislation amended it to allow for individuals to be exempt.

Ms. Papale stated, I have always relied on legal counsel and department heads. I very seldom question a department head because they are the experts. Would you please check into the matter for us? I wonder if the Council should wait to find out the answer before voting on the ordinance or vote on half the ordinance and then have the rest of the ordinance come back? This is an important ordinance. All of us agree that the volunteer fire departments in Wallingford have been nothing but an asset to the Town. If we ever had to provide the services that the volunteers provide for us through paid departments, our taxes would go up; we would be in a dilemma. These individuals have served the

town and I have always supported the fire fighters. Without them we would be in a mess with our fire departments. The people who have been volunteers all these years deserve to have some kind of a pension when they retire.

Mayor Dickinson commented, from my perspective, we should always be doing what is justified under the law. I agree with Atty. Mantzaris. Given the intent of the legislation which is to encourage people to become volunteers, the focus was the active status of volunteers, encouraging them to be volunteering. The communities in which this is a paramount need are those that have no career departments, they are only staffed by volunteers and they were reaching a crises situation where they were not able to recruit new people. This was a means of recruiting new people and making sure the ranks of volunteers were still filled. The focus, as far as I know, is clearly to keep volunteers active in providing fire and protection for the public. Whether it should be beyond that to encourage people who are current volunteers to remain or be a benefit to them having volunteered is clearly not what the language of the statute talks about. Maybe other towns do that but, from my perspective, a lot of other towns do a lot of things that I am not going to put my name to.

Mr. Centner thanked the volunteers for all their service to the town. He concurred with Mr. Farrell and Mr. Knight regarding the package. He stated that he came prepared to vote for the package that was presented and unanimously approved by the committee. It will provide an attractive benefit for volunteer members, but he was not ready to vote for the proposed amendment because there has been a lot of hearsay on it. He did not have any data to help spell out the fiscal and legal ramifications of the Council's actions, should the amendment be passed. He supported the package as presented but preferred to vote to see that the package is approved and would support revisiting the retirement benefit portion within the prescribed period as outlined in the ordinance.

Mr. Vumbaco stated, I am in favor of providing the retirement piece of the ordinance. Unfortunately, it is an issue that the Council cannot resolve this issue. He encouraged the Council to go on record to request A.S.A.P of its town representatives to present the issue to Hartford, through the legislature and have this changed so that the retired volunteers with 20+ years of service will be able to take advantage of the full abatement on their taxes. Unfortunately, there is no one present tonight who sponsored the original legislation to give the Council an idea of what the intent of the legislation was. The Council should contact our local representatives immediately, asking them to put through legislation that will adjust that regulation so that it can move forward as quickly as possible.

Mr. Rys concurred with Mr. Vumbaco. He stated, I hope the Council, as a body, can get together and draft a letter to our state representatives and senator and send that message up to Hartford that we are very interested in being able to comply with the law and therefore we would need them to do this and draft it so that we can do this for our retirees and take care of their needs. They certainly are very deserving of what they do.

Mr. Zappala stated that he has tremendous respect for Atty. Mantzaris. He received the information about Wethersfield today and thought we could apply the same thing to our ordinance. By all means I do not want to go against Atty. Mantzaris' better judgment which he does respect very much.

Motion and second were withdrawn.

Mr. Farrell commented that he agreed with Ms. Papale; if there is a way to come at this without legislation, that is a good idea. Perhaps Atty. Mantzaris can go to the State Library and read the legislative history. If the author of the bill is saying that he thought it was part of it, maybe that is somewhere in the legislative history and would give Atty. Mantzaris something to hang his hat on if he wanted to change his mind.

Atty. Mantzaris stated that one of the legislators told him there was not much legislative history, but he will get a copy of what history there is on the matter.

Mr. Parisi suggested that the ordinance be passed tonight so that it is on the books. It is very obvious that the Council agrees that the retirement issue is important and should be passed.

Atty. Mantzaris suggested one amendment be made to the ordinance before it is voted upon. It would pertain to Section 5, B. He would like to see the second sentence amended to read that the Fire Chief and Tax Collector would be the authorities who would approve the necessary form(s) required of an applicant for the abatement. He would like to see the language pertaining to the Fire Chiefs removed because they are also candidates for the abatement program.

Motion was made by Mr. Farrell to Amend Section 5. **PROCEDURE**, Paragraph B, Line 2 of the Ordinance to read, "certificate, the form to be agreed upon by the Fire Chief and Tax Collector, to each", seconded by Mr. Knight.

Bill Celata, 15 Sorrento Road asked, with regards to the retirement benefit, is there any way when you vote tonight that, if legislature changes to include the benefit, it would be retro-active?

Mr. Parisi answered, if the law is changed, we can just comply with it. The whole object of this is to keep people active. I don't think so and would suggest that it not be (retro-active). I don't think it is legitimate to do.

Mr. Wall complimented the Council for what they have done. They have heard the concerns of the Fire Chiefs, have addressed them, taken it to the state representatives. He stated that he has tremendous respect for Atty. Mantzaris. The Wallingford Fire Services does their annual recruit training with a class starting in January. An Open House is scheduled for December 9<sup>th</sup> at 1:00 P.M. The Council is invited to come and participate.

Tim Sweeny, 15 Nod Brook Road asked, how does this ordinance affect the few of us who are already max'd out on our LOS and already have 30 years? How do we qualify for this program?

Chief Struble answered, at this point, Mr. Sweeny does not serve because of the Length of Service but just because he wants to. The answer to Tim's question is that, the way this is designed, he would have to get to 100 points to receive the annual tax abatement. It doesn't affect his length of service at all. To receive his annual tax abatement, he would have to get the 100 points as he has done for 30 years. He would get the full \$1,000 tax abatement so long as the activity level was there that year. For every year you get the 100 points, you would get the abatement in that tax year.

Pasquale Melillo, 15 Haller Place, Yalesville stated that the incentive should apply to all fire fighters.

Mr. Parisi asked, are they going to have to come out of retirement and get their 100 points?

Chief Struble answered, we are going to have to address that with the Ordinance Committee and amendment at the time. There certainly is more detail to look at here.

VOTE ON AMENDMENT TO SECTION 5: All ayes; motion duly carried.

Motion was made by Mr. Farrell to Close the Public Hearing, seconded by Mr. Knight.

VOTE: All ayes; motion duly carried.

Motion was made by Mr. Farrell to Adopt the Ordinance as Amended, seconded by Mr. Knight.

VOTE ON ORDINANCE AS AMENDED: All ayes; motion duly carried.

ITEM # 12 Consider and Approve the Settlement of the Tax Appeal Matter, Vincent R. McManus, v. Town of Wallingford, as Discussed in Executive Session

Item was never addressed.

ITEM #14 Possible Action Regarding Matters Discussed in Executive Session

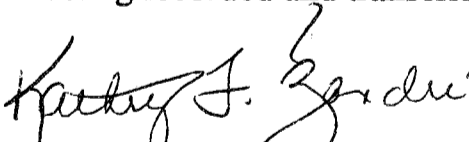
Item was never addressed.

Motion was made by Mr. Farrell to adjourn the Meeting, seconded by Mr. Centner.

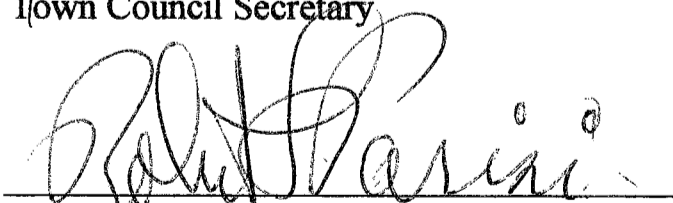
VOTE: All ayes; motion duly carried.

There being no further business the meeting adjourned at 8:53 P.M.

Meeting recorded and transcribed by:

  
Kathryn F. Zandri  
Town Council Secretary

Approved:

  
Robert F. Parisi, Chairman

Date

11-28-00

*Rosemary A. Rascati*  
Rosemary A. Rascati, Town Clerk

11-28-00  
Date

**RESOLUTION**

Project Description:

State Project No. 148-169      Federal Project No. BRZ-6148(2)

Right of Way Activities in Conjunction with the Replacement of  
Wall Street Bridge #04419  
Town of Wallingford

Be it RESOLVED, that William W. Dickinson, Jr., Mayor, of the Town of Wallingford is authorized to sign the agreement "BETWEEN THE STATE OF CONNECTICUT AND THE TOWN OF WALLINGFORD FOR RIGHTS OF WAY ACTIVITIES IN CONJUNCTION WITH THE REPLACEMENT OF BRIDGE NO. 04419 ON WALL STREET OVER WHARTON BROOK UTILIZING FEDERAL FUNDS AND A PROJECT GRANT UNDER THE LOCAL BRIDGE PROGRAM."

ADOPTED by the Town Council of the Town of Wallingford, Connecticut on

\_\_\_\_\_  
(date)

(Municipal Seal)

\_\_\_\_\_  
Signature of Clerk

\_\_\_\_\_  
Date

Tract Nos. C-7-2, C-7-3, C-7-4, C-7-7 &amp; C-7-8

## GRANT OF EASEMENT

STATE OF CONNECTICUT  
COUNTY OF NEW HAVEN

KNOW ALL MEN BY THESE PRESENTS: that the undersigned The Town of Wallingford, a municipal corporation of the State of Connecticut, of 45 South Main Street, Wallingford, Connecticut 06492, hereinafter called "Grantor," for and in consideration of the sum of Ten Dollars (\$10.00) paid by Algonquin Gas Transmission Company, a Delaware corporation having its principal place of business at 5400 Westheimer Court, Harris County, Houston, Texas, hereinafter called "Algonquin" or "Grantee," the receipt and sufficiency of which is hereby acknowledged, does hereby give, grant and convey with warranty covenants unto Grantee, its successors and assigns, subject to the limitations and reservations herein stated permanent Rights-of-Way and Easements for the purpose of laying, constructing, maintaining, operating, altering, replacing, repairing, abandoning and removing an underground pipeline or pipelines with above or below grade valves, tie-overs, meters, regulators, cathodic protection devices, launchers and receivers, meter and data buildings with associated piping and other appurtenant facilities all of which shall be and remain the property of the Grantee, for the transmission of natural gas and all by-products thereof or any liquids, gases or substances which can be transported through a pipeline; over, under, across and upon the following described rights-of-way situated in the Town of Wallingford, County of New Haven, State of Connecticut, more particularly described as running through the following parcels:

As to Tract No. C-7-3

The land described in deed from: Helen M. Martin to the Town of Wallingford dated 6/11/60, Volume 284, and Page 64, in the Town of Wallingford, Connecticut Land Records.

As to Tract No. C-7-7

The land described in deed from: Ernest E. Ball to the Borough of Wallingford dated 9/11/1924 and recorded in Volume 134, Page 528, in the Town Wallingford, Connecticut Land Records.

As to Tract No. C-7-8

The land described in deed from: The Borough of Wallingford to The Borough of Wallingford Electric Works dated 12/19/1950 recorded in Volume 213, Page 368 in the Town of Wallingford, Connecticut Land Records, said parcel also depicted on Town of Wallingford Assessor's Map 65, Block 003, Lot 005, having a street address of # 179 East Street, Wallingford, Connecticut 06492.

The bounds of the permanent rights-of-way and easements granted herein are more particularly described on Schedule "A" attached hereto and made a part hereof. Also as shown on Drawing entitled "Location of Algonquin Gas Transmission Company Proposed Permanent Easement & Temporary Workspace Across the Property of Town of Wallingford, Prepared for Algonquin Gas Transmission Company, LOC. Town of Wallingford, New Haven County, Connecticut, YEAR: 2000, W.O. 004180008, Scale: 1"=125', DWG. SQ-P-8502, REV. 0" a copy of which is incorporated by reference and filed hereafter in the Wallingford Land Records.

NOW THEREFORE, the Grantee shall have all other rights and benefits necessary or convenient for the full enjoyment or use of the rights and easements herein granted, including but not limited to the right to remove, to clear, and keep clear, all buildings, walls or similar structures, above or below ground swimming pools, decks, rocks, trees, brush, limbs, and other obstructions including, but not limited to, pipelines and conduits, no longer in use, which might interfere with the use of the right-of-way. Also included in this Grant is the free and full right of ingress and egress, over and across said right-of-way and Easement, electric plant access roads to public roads and streets including but not limited to "Proposed Road" to be built by others as shown on the above-referenced drawing, as may be necessary for Grantee's exercise of the rights herein granted.

Also included in this Grant is the temporary use of strips of land more particularly described and shown as "Proposed Temporary Workspace" on said drawing as referenced above, also described below as Tract C-7-2 and Tract C-7-4 and portions of Tract C-7-7 and Tract C-7-8 as described above, excluding the area depicted as "Proposed Temporary Workspace" southerly of a chain link fence from Station No. 49+68 to Station No. 52+88, presently used as a recycling center, which is leased by Grantor to a third

(W1152141,6)

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party. Said temporary grant shall expire twelve (12) months after completion of construction of the pipelines and facilities herein described.

As to Tract No. C-7-2

The land described in deeds from: Helen M. Martin to the Town of Wallingford dated 6/11/60, Volume 284, Page 64; The Connecticut Light and Power Company to the Town of Wallingford dated 10/21/1966, Volume 338, Page 364; Ulbrich Realty, Incorporated to the Town of Wallingford dated 12/7/1959, Volume 280, Page 531, all as recorded in the Town of Wallingford, Connecticut Land Records.

As to Tract No. C-7-4

The land described in deeds from: Helen M. Martin to the Town of Wallingford dated 6/11/60, Volume 284, Page 64; Ulbrich Realty, Incorporated to the Town of Wallingford dated 12/7/1959, Volume 280, Page 531; Henry J. Totz, Jr. and Mary Totz dated 8/7/1961 in Volume 292, Page 588; from Theresa M. Buza, dated 7/11/1955, Volume 237, Page 189; all as recorded in the Town of Wallingford, Connecticut Land Records.

The Grantee acknowledges that certain portions of the easement have water, sewer and other utility facilities located with the right-of-way herein granted. By accepting and recording this Grant, Grantee agrees to indemnify and hold harmless the Grantor, its officials and employees from any and all claims, obligations, liabilities, costs, demands, damages, expenses, suits or causes of action, including reasonable attorneys' fees, for injury to persons or damage to properties, including that of the Grantor, arising from Grantee's construction activities, operation or use said right-of-way, and it is understood that Grantee shall also be liable for all damages suffered by the Grantor. Grantee further agrees that prior to installing additional facilities, not depicted on the above mentioned drawing to obtain Grantor's prior written consent, which consent may not be unreasonably withheld. Prior to exercising any of the rights herein granted, the Grantee will post a certificate of insurance running to the Grantor in the amount of \$3,000,000 to insure its obligations under this paragraph.

Grantor agrees that any future replacement of or additional water, sewer and other utilities to be located longitudinally on Tract No. C-7-7 shall be located no closer to the proposed 12" natural gas pipeline than the existing 18" VCP, unless Grantor obtains Grantee's written approval, which approval shall not be unreasonably withheld. Grantee agrees to furnish Grantor with an as-built survey of Drawing SQ-A-1003 and SQ-A-1004, depicting Grantee's facilities and Grantor's facilities on Tract No. C-7-7, within ninety (90) days of completion of the installation of Grantee's pipeline, and to file a mylar of such drawing with the Wallingford Town Clerk.

Grantee agrees to restore existing grades and stabilize disturbed soils on Grantor's land, and to repair the pavement of any streets and roads excavated by the Grantee as soon as possible. Grantee further agrees to install a four foot (4') high chain link fence with a twelve foot (12') wide gate, as depicted on Drawing Nos. SQ-A-1003 and SQ-A-1004. Grantee will install its facilities in conformity with the plans as depicted in the above-mentioned drawing and other plans submitted and approved by the Grantor, which approval shall not be unreasonably withheld.

It is mutually understood and agreed that the person securing this grant is without authority from the Grantor to make any agreement in respect of the subject matter hereof not herein expressed.

The Grantor shall not grade, excavate, fill or flood the rights-of-way without obtaining the Grantee's prior written consent, which may not be unreasonably withheld.

The rights, title and privileges herein granted may, in whole or in part, be sold, leased, assigned, pledged and mortgaged, and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.

The failure of Grantee to exercise any rights herein conveyed in any single instance shall not be considered a waiver of such right or rights and shall not bar Grantee from exercising such right or rights, or if necessary, seeking an appropriate remedy in conjunction with such right or rights.

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2000.

Signed and sealed  
In the presence of:

\_\_\_\_\_  
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THE TOWN OF WALLINGFORD

By: \_\_\_\_\_  
William W. Dickenson, Jr., Its

Mayor

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE PROVIDING TAX ABATEMENT FOR  
MEMBERS OF VOLUNTEER FIRE DEPARTMENTS**

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

**SECTION 1. PURPOSE**

The Town Council, pursuant to the authority of Public Act 99-272, Section 7, and Public Act 00-120, Section 10, hereby adopts a program of tax abatement for individuals who volunteer their services as a firefighter, emergency medical technician, paramedic or ambulance driver in Wallingford as an incentive to encourage those currently serving in such capacities to continue their volunteer service and to encourage others to join one of this community's volunteer fire departments.

**SECTION 2. DEFINITIONS**

A. "VOLUNTEER" means an individual who volunteers his or her services as a firefighter for the Yalesville Volunteer Fire Department, "YVFD", the North Farms Volunteer Fire Department, "NFVFD", the East Wallingford Volunteer Fire Department, "EWWFD", or as an emergency medical technician, paramedic or ambulance driver for any of said volunteer fire departments. The members of any volunteer fire department created after the effective date of this ordinance shall be added by amendment with coverage effective as of the date said volunteer fire department is certified as fully operational by the Fire Chief.

B. "ABATEMENT" means the reduction in property taxes provided by this ordinance.

C. "PROGRAM YEAR" means the calendar year from January 1 to December 31.

D. "ASSESSMENT YEAR" means October 1 to September 30.

E. "FISCAL YEAR" means the same as Assessment Year.

F. "CERTIFICATION DATE" means December 15, 2000 for the Assessment

Year/Fiscal Year commencing October 1, 1999 and means March 1, 2001 for the Assessment Year/Fiscal Year commencing October 1, 2000 and means March 1 for each Assessment Year/Fiscal Year thereafter.

**SECTION 3. ABATEMENT**

Each Volunteer shall be entitled to an abatement of property taxes, real and personal, otherwise due from the Volunteer on property owned by or held in trust for the Volunteer, for the Assessment Year/Fiscal Year next preceding the Certification Date in accordance with the following schedule:

<u>Years of Service</u>	<u>Abatement</u>
1-4	\$250.00
5-6	\$500.00
7-9	\$750.00
10 or more	\$1,000.00

Except that the Years of Service shall not begin to be credited unless and until the Volunteer has qualified for the Town of Wallingford Length of Service Award Program, "LOSAP", for the next preceding calendar year.

**SECTION 4. INTERRUPTED SERVICE**

Beginning with January 1, 1992, the date at which LOSAP became effective, a Volunteer whose service is interrupted shall, upon his or her resumption of service, have any prior years restored provided, however, that the Volunteer qualified for LOSAP credit for such years, but not unless and until the Volunteer has also qualified for LOSAP credit for the next preceding calendar year, except that any Volunteer who enters the Armed Forces of the United States of America in time of war, national emergency or pursuant to a national conscription law or draft, and was separated from active duty under conditions other than a dishonorable discharge, and returns to said service within three (3) months of the date of separation shall receive Years of Service credit for the Volunteer's period of active duty not to exceed three (3) years.

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**SECTION 5. PROCEDURE**

A. The respective Chiefs of the YVFD, the NFVFD and the EWWFD shall, on or before the Certification Date, submit the original list of their members who are eligible for the Abatement to the Fire Chief for verification who would then forward said original lists to the Tax Collector with copies forwarded to the Mayor, the Chairman of the Town Council, the Comptroller and the Assessor. The list shall include the member's mailing address and the amount of the Abatement.

B. The Chiefs of the YVFD, the NFVFD and the EWWFD shall also submit a certificate, the form to be agreed upon by the Chiefs and the Fire Chief, to each individual member specifying the amount of the Abatement due the Volunteer. Upon presentment to the Tax Collector, the tax due from the Volunteer on property identified by the Volunteer shall be reduced up to the amount of the Abatement.

**SECTION 6. ELIGIBILITY**

A. Each Eligible Resident must earn at least 100 points during any Program Year by participating in the activities set forth in Section 7 in order to qualify for the Abatement for any Assessment Year/Fiscal Year.

B. Points will be earned by the Volunteers in accordance with the point system outlined in Section 7. The determination with respect to a Volunteer's performance of his or her duties and entitlement to points shall be a mathematical calculation based upon attendance and performance as established by the records of each Volunteer Fire Department. Each Volunteer Fire Department shall maintain accurate written records of its member's attendance and participation in and performance of their duties upon which the determination of the number of points earned by said members in each Program Year shall be based. Points earned in any Program Year shall be fully transferable between the Volunteer Fire Companies.

C. Volunteers shall not be entitled to any reduction in property taxes for any Program Year in which he or she has not been credited with the requisite number of points set forth in Section 7. Points earned in one Program Year cannot be carried forward or backward in any other Program Year.

D. The Fire Chief may periodically revise the determination of activity standards or points as outlined in Section 7.

**SECTION 7. POINT SYSTEM**

The activities that follow establish the point system under which Volunteers must qualify in order to satisfy the entitlement to the Abatement provided by this Ordinance. Where a percentage requirement is used, the computation will be based upon the particular Volunteer Fire Department's number of activities in that category.

**A. TRAINING – Total Points Allowed: 40**

Points will be awarded as follows:

2 points for attending any scheduled departmental training event

1 point for every 8 hours of training attended out-of-house, the completion of which is evidenced by a Certificate of Completion or similar document. Out-of-house training includes, but is not limited to, any State or Federal classes or any college level courses that are related to fire department functions.

**B. ALARMS – Total Points Allowed: 50**

Points will be awarded as follows:

1 point for every one percent (1%) of alarms (calls) that the individual responds to except that no points will be awarded if the individual's response total is less than ten percent (10%) of the total number of alarms.

**C. MEETINGS – Total Points Required: 10; Allowed: 16**

Points will be awarded as follows:

10 points for attending fifty percent (50%) of the individual Volunteer Fire Department's scheduled business meetings.

1 point for each additional business meeting over the fifty percent (50%) minimum.

**D. EXTRA INCENTIVES**

1. Points will be awarded for holding an elective office within the Department as follows:

Chief:	10
Assistant Chief:	8
Captain:	6
Lieutenant	4
Engineer:	4
Treasurer:	2
Secretary:	2

2. Three (3) points will be awarded each year for holding a valid State of Connecticut Fire Service Administration certification in each of the following: (cumulative)

- Firefighter I, II or III
- Fire Instructor I, II
- Fire Officer I, II
- Safety Officer
- Hazardous Material Technician
- Pump Operator
- Public Educator I, II

3. The following specified points will be awarded each year for holding a valid State of Connecticut Fire Service Administration certification in each of the following: (cumulative)

- 1 point for Medical Response Technician
- 3 points for Emergency Medical Technician

4. One (1) point will be awarded for every meeting, other than scheduled business meetings, sanctioned by the Volunteer Fire Department, including Fire Department committee meetings, officer meetings, chiefs meetings, inter-Volunteer Fire Department meetings, State Committee meetings and any other sanctioned meetings.

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I HEREBY CERTIFY that this Ordinance was enacted by the Town Council of the Town of Wallingford this \_\_\_\_\_ day of \_\_\_\_\_, 2000, in accordance with the provisions of the Charter of the Town of Wallingford.

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Rosemary A. Rascati  
Town Clerk

APPROVED: \_\_\_\_\_  
William W. Dickinson, Jr., Mayor

DATE: \_\_\_\_\_