
TOWN COUNCIL MEETING

OCTOBER 14, 2003

6:30 P.M.

AGENDA

Blessing – Pastor Bish, Heritage Baptist Church, Wlfd.

1. Pledge of Allegiance and Roll Call
 2. Correspondence
 3. Consent Agenda
 - a. Consider and Approve Tax Refunds (#244 - 336) Totaling \$15,803.42 - Assistant to the Tax Collector
 - b. Approve and Accept the Minutes of the September 23, 2003 Town Council Meeting
 - c. SET A PUBLIC HEARING for October 28, 2003 at 7:45 P.M. on an Ordinance to Amend an Ordinance Appropriating \$770,000 to Design a Denitrification System for Wallingford's Wastewater Treatment Plant and Authorizing the Issue of \$770,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose

(The purpose of the amendment is to increase the appropriation and bond authorization therein by \$2,530,000 from \$770,000 to \$3,300,000. to provide for construction, grant funding and project contracting.)
 - d. Consider and Approve an Appropriation of Funds in the Amount of \$172,239 from State Grant Revenues to Program Expenditures in the IDEA-Part B, Section 611 Grant of the Board of Education Budget
 - e. Consider and Approve a Transfer of Funds in the Amount of \$2,680.94 from Revenue Highway Safety Acct. #001-1050-050-5883 to Police Overtime Acct. #001-2005-101-1400 in the Federal Highway Safety 2003 Memorial Day/July 4 DUI Enforcement Program – Dept. of Police Services
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- f. Consider and Approve an Appropriation of Funds in the Amount of \$8,667 to Revenue Acct. #226-1042-701-7010 and to Project Expenses Acct. #226-3070-611-6500 in the Young Astronaut's Club Special Fund – Youth and Social Services Dept.
 - g. Consider and Approve an Appropriation of Funds in the Amount of \$6,000 to Revenue Acct. #226-1042-701-7010 and to Project Expenses Acct. #226-3070-611-6500 in the Young Astronaut's Club Special Fund – Youth and Social Services Dept.
 - h. SET A PUBLIC HEARING for October 28, 2003 at 8:00 P.M. to Amend Chapter 203, Article VI, "Abatement for Members of Volunteer Fire Departments" – Stephen W. Knight, Co-Chairman, Ordinance Committee
4. Items Removed from the Consent Agenda
 5. PUBLIC QUESTION AND ANSWER PERIOD
 6. PUBLIC HEARING to Amend Chapter 62 of the Code of the Town of Wallingford Entitled, "Alcoholic Beverages" – 7:45 P.M. – Stephen W. Knight, Co-Chairman of the Ordinance Committee
 7. PUBLIC HEARING to Amend Chapter 139 of the Code of the Town of Wallingford Entitled, "Littering" – 8:00 P.M. – Stephen W. Knight, Co-Chairman of the Ordinance Committee
 8. Consider and Approve a Transfer of Funds in the Amount of \$65,000 from Contingency – General Purpose Acct. #001-7060-800-3190-00 to Sidewalk Install/Repair Acct. #001-5010-999-0024-00 – Town Engineer
 9. Consider and Approve a Request for a Waiver of Bid to Select a State-Certified Construction Inspection Firm to Provide Inspection Services Associated with the Wall Street Bridge Project - Town Engineer
 10. Executive Session Pursuant to Section 1-200(6)(E) of the CT. General Statutes to Discuss Collective Bargaining Matters Regarding AFSCME Council 4, Local 1183 Contract Agreement –Personnel
 11. Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes to Discuss Pending Litigation in the Matter of the Town of Wallingford v. RAC Construction Corporation – Town Attorney
 12. Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Leasing of Property – Mayor

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13. Consider and Approve an Agreement Between the Town of Wallingford and Local 1183 - Council No. 4, American Federation of State, County and Municipal Employees (AFSCME) - AFL-CIO Effective 7/1/03 – 6/30/08 – Personnel
 14. Consider and Approve a Transfer of Funds in the Amount of \$151,323 from Contingency – Accrued Expenses Acct. #001-7060-800-3230 to Various Wage Accounts within the General Fund Budget of the Town – Personnel
 15. Consider and Approve an Appropriation of Funds in the Amount of \$2,238 to Revenue – Local Match Acct. #207-1041-060-6000 and to Regular Salary and Wages Acct. #207-3070-101-1000 in the Budget of the Youth and Social Services Dept.
 16. Consider and Approve Settlement of Pending Litigation in the Matter of the Town of Wallingford v. RAC Corporation as Discussed in Executive Session – Town Attorney
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TOWN COUNCIL MEETING

OCTOBER 14, 2003

6:30 P.M.

A regular meeting of the Wallingford Town Council was held on Tuesday, October 14, 2003 in the Robert Earley Auditorium of the Wallingford Town Hall and called to Order by Vice Chairman Stephen W. Knight at 6:33 P.M. Answering present to the Roll called by Town Clerk Rosemary A. Rascati were Councilors Brodinsky, Farrell, Knight, Papale, Rys, Toman & Vumbaco. Councilor Doherty was out of state on personal business and Council Chairman Robert F. Parisi was ill. Mayor William W. Dickinson, Jr., Corporation Counselor Adam Mantzaris and Comptroller Joseph Swetcky, Jr. were also present.

A blessing was bestowed upon the Council by Pastor Thomas Bish of the Heritage Baptist Church of Wallingford.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Correspondence

No items of correspondence were presented.

ITEM #3 Consent Agenda

ITEM #3a Consider and Approve Tax Refunds (#244 - 336) Totaling \$15,803.42 - Assistant to the Tax Collector

ITEM #3b Approve and Accept the Minutes of the September 23, 2003 Town Council Meeting

ITEM #3c SET A PUBLIC HEARING for October 28, 2003 at 7:45 P.M. on an ordinance to Amend an Ordinance Appropriating \$770,000 to Design a Denitrification System for Wallingford's Wastewater Treatment Plant and Authorizing the Issue of \$770,000 Bonds of the Town to Meet Said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for Such Purpose (The purpose of the amendment is to increase the appropriation and bond authorization therein by \$2,530,000 from \$770,000 to \$3,300,000. to provide for construction, grant funding and project contracting.)

ITEM #3d Consider and Approve an Appropriation of Funds in the Amount of \$172,239 from State Grant Revenues to Program Expenditures in the IDEA-Part B, Section 611 Grant of the Board of Education Budget

ITEM #3e Consider and Approve a Transfer of Funds in the Amount of \$2,680.94 from Revenue Highway Safety Acct. #001-1050-050-5883 to Police Overtime Acct. #001-2005-101-1400 in the Federal Highway Safety 2003 Memorial Day/July 4 DUI Enforcement Program – Dept. of Police Services

ITEM #3f Consider and Approve an Appropriation of Funds in the Amount of \$8,667 to Revenue Acct. #226-1042-701-7010 and to Project Expenses Acct. #226-3070-611-6500 in the Young Astronaut's Club Special Fund – Youth and Social Services Dept.

ITEM #3g Consider and Approve an Appropriation of Funds in the Amount of \$6,000 to Revenue Acct. #226-1042-701-7010 and to Project Expenses Acct. #226-3070-611-6500 in the Young Astronaut's Club Special Fund – Youth and Social Services Dept.

ITEM #3h SET A PUBLIC HEARING for October 28, 2003 at 8:00 P.M. to Amend Chapter 203, Article VI, "Abatement for Members of Volunteer Fire Departments" – Stephen W. Knight, Co-Chairman, Ordinance Committee

Motion was made by Mr. Farrell to Approve the Consent Agenda as presented, seconded by Mr. Rys.

VOTE: Doherty & Parisi were absent; all others, aye; motion duly carried.

ITEM #4 Withdrawn

PUBLIC QUESTION AND ANSWER PERIOD

Gary Linsley, 520 Ward Street, Extension stated that he appeared at a Town Council meeting approximately one month ago at which time Mr. Knight stated that he would get back to Mr. Linsley. To date, there has received no contact from Mr. Knight and Mr. Linsley asked if there was any particular reason for the lack of communication?

Mr. Knight replied, I think all of us are in receipt of a significant amount of correspondence from you and the School Board and members of the school Administration. It seemed that everything was being taken up in the proper venue which, indeed, is the Board of Education and the Superintendent's office.

Mr. Linsley stated, you were going to look into the money of it, which is why I was here in the first place and I brought to your attention that the Mayor received an annual report that does not disclose what is supposed to be disclosed by Charter. What seems to be the problem? I guess the Mayor is looking into a situation now where they can just bypass the Charter? The Charter is there for a reason and I suggest that everybody abide by it, don't pick and choose. You didn't answer my question on the reason why you did not get back

to me. You said you would; why didn't you send me a note or something. What seems to be the problem?

Mr. Knight answered, my recollection was pretty much, having seen all the correspondence as I said, that most of your concerns had to do with the asbestos at Dag Hammerskjold school and that was being addressed and your correspondence was voluminous, if I may say, between you and the school Board.

Mr. Linsley stated, two minutes ago someone said there was no correspondence. Is that what I heard somebody say?

Mr. Knight answered, there's no correspondence needed to be read into the record.

Mr. Linsley asked, you don't want to read it into the record because there are things you are not doing or abiding by the Charter? Is that why you don't want to read the correspondence?

Mr. Knight replied, I understand that you have issues with certain things having to do with the school board.

Mr. Linsley stated, either you have correspondence or you don't. If you have correspondence, you just said that you have volumes of it, don't you think you should read into the record what you are and what you are not doing?

Mr. Knight stated, look, we are going to keep calm here, alright?

Mr. Linsley stated, I asked you a simple question.

Mr. Knight answered, you will get a simple answer. We do not read everything we receive into the record. We would be here until morning.

Mr. Linsley replied, I have been to a bunch of these, you don't read anything into the record.

Mr. Knight asked, would you want to repeat your concern briefly regarding...

Mr. Linsley answered, my concern is, after I have looked into it, the Mayor was supposed to get an annual report from the Board of Education that spells out, in detail, by the Charter, what is supposed to be in that report. That report was not consistent with the Charter. Now I find out from the Mayor that he is having the Town Attorney's Office look in to see whether he can override that or not. Nobody in this Town is going to override a Charter. That Charter was written for a reason. If you think that you can just do what you want with that Charter, you are wrong. We have to abide by the law, you people do, too.

Mr. Knight answered, we understand that.

Mr. Linsley commented, if you understand it, why don't you do it?

Mayor Dickinson explained, there is language in the Charter that has to be interpreted. He is talking about a report at the end of the year, a fiscal report, from the Board of Education. It is a question of what would be in that fiscal report. Obviously, all of the finances are known by the Finance Department. He is talking about a report that deals with information we already have in the Finance Department regarding transfers made at the end of the year. Now, that is part of the issue; is it just transfers at the end of the year? Or is it the entire year of transfers? We can end up with a very significant lengthy report of transfers throughout the whole year. It is a matter that is being dealt with, it has to be interpreted. It is not a question of not having the information, it is a question dealing with, what the language in the Charter would mean given the modern days record keeping. Is there an issue of not having the financial records? No. The Finance Department and Board of Education have a complete record of the expenditure of funds.

Mr. Linsley stated, that's not quite the answer I want because what happened last time...

Mr. Knight answered, it may not be, Mr. Linsley....

Mr. Linsley continued, the last time I went looking for records, somebody had them in their house for ten years, which is a felony to take public records off of Town property, you know that. This time I am trying to be a little more cautious and make sure I stay ahead of the game. Say someone takes the papers home? We had missing tapes, no fiscal reports; this is ridiculous. The Charter is there for everybody to obey, not for you to make an interpretation of.

Mr. Knight stated, you have noted your concerns and I believe the Mayor has answered them.

Mr. Linsley answered, one thing I do expect is a reply from you that you said you would give me. If you don't have the time to take a hand written note saying that you will looking into it, there is something wrong. I don't come here for my health, I come here to get answers. I came here last time taking you at your word. Now I want your word to be fulfilled. Are you going to send me a note telling me what's going on or aren't you?

Mr. Knight answered, I certainly will deal with the Mayor on this issue and you will get a response from me.

Mr. Linsley asked, in writing?

Mr. Knight answered, you'll get a response from me.

Mr. Linsley asked, when?

Mr. Knight answered, when I have it ready, you will get it.

Mr. Linsley asked, when you are ready? I gave you a month. You haven't got the decency to respond?

Mr. Knight answered, I am not going to get into an argument with you, you have had your opportunity, I would like to go onto some other questions.

Mr. Linsley asked, when are you going to respond? Last time it turned out to be an out and out lie, so what are you going to do this time?

Mr. Knight answered, within a month? Thank you kindly. That was really difficult, wasn't it?

Pasquale Melillo, 15 Haller Place, Yalesville asked about the status of the Wooding Caplan property.

Mr. Knight answered, a committee was established (Wooding Caplan) and the committee has been working and Mr. Farrell just told me that they are finishing up a draft of a report back to the Council. When it's completed, we will probably have them present it to the Town Council and I am sure that will be forthcoming within the next few weeks. Stay tuned as they say.

Mr. Melillo next stated that an item should not be placed on the consent agenda if it deals with a significant amount of money, i.e., Item #3d, \$172,200+. That amount of money should not be passed automatically but should be discussed.

Mr. Knight explained, all nine councilors are given this agenda at least a week before the meeting; approximately one week before the meeting. We go through it and read the accompanying material and decide for ourselves whether or not we think that a discussion is necessary. Apparently, among the nine councilors, this item was determined to be one that didn't require any discussion and therefore it stayed on the consent agenda and was voted on affirmatively. That is the whole purpose of the consent agenda.

Mr. Melillo asked, all of the Republicans and all of the Democrats on the Town Council approved passing that?

Mr. Knight answered, that is correct; it was a unanimous vote.

Mr. Melillo reiterated, that amount of money should still be discussed.

Mr. Melillo asked that an item be placed on an upcoming agenda to have a report out by the Pension Commission.

Mr. Knight noted Mr. Melillo's request.

Mr. Melillo asked if there have been any major developments in the area of preparation for possible terrorist or would-be terrorist attacks?

Mr. Knight answered that whenever this type of specific question is asked of any public safety agency, they are rather reluctant to discuss their plans for obvious reasons. To discuss such plans that might be ongoing in the Town of Wallingford, might serve to gut the effectiveness of those preparations.

Mr. Melillo acknowledged the importance of keeping specific information secretive and asked, are we prepared for possible food or water poisoning or the contamination of our water supplies? Are we prepared in any way?, he asked. He felt that these topics should be discussed. He was concerned that there may be a lack of coordinated effort on the part of local, state and federal authorities to protect the community.

Mr. Knight stated that Mr. Melillo had no reason to suspect such a thing. He believes the professionalism of both the Town's police and fire departments might lead Mr. Melillo to believe otherwise. Mr. Farrell informed Mr. Knight that there have been extensive planning sessions that have taken place. He stated, both gentlemen who are heading up the public safety agencies are pretty much tops in their field as far as he is concerned. They are very well prepared and that would include coordination with the appropriate probably state agencies in some cases, perhaps, because of the post office sorting facility, there might be some federal coordination as well. Most of this is done out of the limelight for obvious reasons and to better protect us all. These kind of plans and contingencies that are developed are done with a good deal of security, even with the plans.

Mr. Melillo next asked for an update on the former American Legion Building.

Mr. Knight answered, once the lawyers get a hold of it and it goes to court, progress grinds to a halt. I don't believe there is anything to report is there Mayor?

Mayor Dickinson replied, I don't believe so. I don't think they have a court date for trial as of yet but the cases are being put together with expert testimony as far as I know.

Robert Sheehan, 11 Cooper Avenue asked, is it true that as of now, if you are stopped for a noise violation in Wallingford, you are immediately arrested, taken uptown, photographed and fingerprinted. Is that a state law? Is that a Town Ordinance?

Mr. Farrell replied, I can't tell you specifically what the Police Department's practices are. They may have changed because, as of October 1st, I believe, the State's law on certain

noise offenses did change and I think it made it a heavier penalty than it was before. What you are saying may be correct. I am not sure because all I have read thus far is what the change in the law was and I don't know how the police are implementing it.

Atty. Mantzaris stated, I don't think our local ordinance, first of all, I don't know that it is actually being enforced yet with a noise meter. I don't believe, although I can't be positive, it results in an actual arrest of a person in violation but I can check that. But I don't think our local ordinance is yet being enforced with the machinery that is needed. It would be state crimes or violations that people are being arrested for, for noise.

Mr. Farrell added, it has to do with the type of machinery as opposed to the volume of noise. I only read it once but it had something to do with certain equipment being a violation in and of itself, not necessarily the noise.

Mr. Sheehan stated, how it got through to start with, riding a motorcycle is considered too loud, you are immediately thrown in like you committed a bank robbery, murder or what ever. It seems a little ridiculous to me. I don't think it will stand up constitutionally. I don't think it should.

The Public Question and Answer Period was declared closed at this time.

ITEM #8 Consider and Approve a Transfer of Funds in the Amount of \$65,000 from Contingency – General Purpose Acct. #001-7060-800-3190-00 to Sidewalk Install/Repair Acct. #001-5010-999-0024-00 – Town Engineer

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

Mr. Farrell asked, is part of the sidewalk you are talking about replacing around the perimeter of the old Simpson Pond?

John Thompson, Town Engineer replied, that is correct.

Mr. Farrell continued, a lot of people have called me who live at the Silver Pond Apartments who have said that, basically, Carabetta, the land owner there, is neglecting to maintain that section of sidewalk. Is this going to help that situation?

Mr. Thompson answered, yes. Carabetta has to be reminded on a fairly regular basis to go out and shovel the walk. There is an accumulation of sediment that washes down the hill, it's the low point of the street and it has been very difficult to maintain. There has been vegetation overgrowth. We hope that with the roadway reconstruction and installation of new walk, it will be significantly easier to maintain.

Mr. Farrell stated, I know we have an ordinance that talks about vegetation overgrowth of sidewalks. Are we going to try and enforce that when we do this because I went out there

this afternoon and it is pretty overgrown. If you are a taller person walking along that sidewalk, you are going to have to duck from all of that vegetation.

Mr. Thompson answered, I think we are pretty aggressive on sending out letters to adjacent property owners when the vegetation impedes the ability of people to walk. Yes, we will be pretty aggressive in making sure that the sidewalk is maintained.

Mr. Farrell stated, a lot of seniors use that area so we need to pay special attention.

Mayor Dickinson asked, are we actually replacing the sidewalk in that area?

Mr. Thompson answered, yes. We are replacing that sidewalk because it is essentially a foot lower than the new roadway grade. To explain, the roadway is being reconstructed in its entirety. We went out and looked at the actual condition of the sidewalk and the walk is being replaced in locations where it's, number one, deteriorated and in need of replacement by itself, and second, in those areas where the roadway grade has gone up or down and has necessitated the replacement of the adjacent walk. The combination of the two has dictated exactly what we are going to do in terms of overall sidewalk replacement.

Mr. Rys asked, is this a bid item at all?

Mr. Thompson answered, yes. We have a sidewalk contractor, Bee-Mac Construction, is the Town's sidewalk contractor based on receipt of bids. We had several bidders for that project. The anticipation is that we would go to Bee-Mac and ask him if he would be able to do this additional sidewalk work if, and only if, it doesn't adversely affect our normal sidewalk replacement program. The last thing we want to see happen is to get away from the schedule of sidewalk repairs that we have already established. This sidewalk work would be done either by Bee-Mac with a separate distinct sidewalk crew just for this job or we would go to the second low bidder on the sidewalk contract and have them do the work. The answer is, under either scenario it would be through a competitive process.

Mr. Rys asked, they bid already?

Mr. Thompson answered, yes.

Mr. Rys asked, and Bee-Mac came in?

Mr. Thompson answered, yes.

Mr. Vumbaco asked, while I don't doubt that the work needs to be done, I guess my concern about this is that it is only October 14th and here we are, less than three months beyond the initial start of our budget year and you are asking for a transfer of \$65,000. that has nothing really to do with the project itself. It is the theory behind it that I am a little concerned with. Especially in your letter where it says, "extensive scope of that

project..." why, on 7/01 did we not know that we needed these sidewalks repaired, especially since there has been a major construction going on on Constitution Street and now, all of a sudden, we need an additional \$65,000 to fix sidewalks. I fail to understand, with our Engineering and Public Works Department, why we didn't know this at the time the budgets were being prepared and that that street was being planned for construction.

Mayor Dickinson answered, I think it was just, frankly, missed. It was on the plans. Engineering had put together plans four years ago. They are being implemented at this point and Public Works wrongly assumed, apparently, that Engineering was doing the sidewalk because Public Works has not been doing sidewalks. As a general rule, most of the road projects have been in locations without sidewalks. We got into the project and everyone was assuming that someone else was doing it and, in reality, it became clear...Public Works was saying, "that's not part of our project" and Engineering was saying, "well, that was on the plans, we didn't budget for it." We were faced with a situation without the funds to do the sidewalk. If the backfilling occurs and the work isn't done, we will be tearing it up again, in order to correct the sidewalks at a future time. At that point it was felt that it was time to make this part of the project and move forward but it was missed. We had a meeting and reviewed the whole thing and there is just going to have to be more careful attention to what the blueprints show and work those details out before we get to the last minute.

Mr. Vumbaco stated, I hope that the communication gap gets closed in the future on projects like this.

Mr. Thompson answered, we are trying to do everything possible to avoid a recurrence. It is not a desirable situation.

Mr. Rys asked, as far as the sidewalks that are under our normal yearly maintenance or repair that Bee-Mac is doing, this isn't going to affect that, is it?

Mr. Thompson answered, absolutely not. That's the premise going into this whole process, that we don't want to do anything that is going to adversely affect our sidewalk repair schedule, our annual sidewalk repair program.

Robert Sheehan, 11 Cooper Avenue comment on what a nice job that is being done with Constitution Street. It is the first time in about three years that he traveled the road without his car violently shaking due to the poor condition of the road. With the replacement of sidewalks on the west side of the street, he noticed that a wall and some stairs on the east side of the road was taken down. Is there a plan to install a retaining wall or dry wall of some sort in that area? If so, are you going to have to come back for more funds for that?

Mr. Thompson accepted the compliment on behalf of Public Works stating, the compliment more appropriately should be directed to Public Works. We just designed it; they built it. To answer your question, the east side of Constitution, we worked

extensively with the Bolt family who own both of the properties. There is an agreement reached concerning the removal of the wall which was included as part of the project cost. What is going to be done is part of the agreement with the Bolts; the front lawn is going to be heavily landscaped. It is part of the project. There is no anticipation at this time that any additional funds not already budgeted are going to be required for that.

Mr. Sheehan asked, will the front stairwells leading up to each house be replaced?

Mr. Thompson answered, I honestly don't know whether they are going to get stairs. I do know there are going to be no walls installed on their properties...

Mr. Sheehan asked, what ever is going to be done is part of your overall plan that you budgeted for?

Mr. Thompson answered, yes.

VOTE: Doherty & Parisi were absent; all others, aye; motion duly carried.

ITEM #9 Consider and Approve a Request for a Waiver of Bid to Select a State-Certified Construction Inspection Firm to Provide Inspection Services Associated with the Wall Street Bridge Project - Town Engineer

Correspondence from Town Engineer, John Thompson, (Appendix I) explains how the Town, if it wishes to be reimbursed 100% for inspection costs associated with the Wall Street Bridge project, must use the State's qualification-based selection process for determining the firm who will perform the construction inspection services for said project. The estimated cost for inspection on this project could range from \$115,000 - \$170,000 based on a pre-bid Engineer's estimate of probable construction costs of \$775,000., hence the request for a waiver of bid

Motion was made by Mr. Farrell, seconded by Mr. Brodinsky.

Mr. Brodinsky asked, are we guaranteed reimbursement of 100% of the cost?

Mr. Thompson answered, yes, it is guaranteed.

Mr. Brodinsky asked, when would we spend the money and when would we get it back?

Mr. Thompson answered, as with most of the programs we are involved in, it is spend it first and then get it back as a reimbursement.

Mr. Brodinsky asked, what would trigger the reimbursements and when would we spend the money? The approximate dates are what I am looking for.

Mr. Thompson answered, at the present time we are looking to advertise this project December/January time frame and go into construction probably right after Memorial Day. We would begin to incur both construction and inspection costs sometime in Spring, '04 and it would probably be a one year project, taking us to the Fall of 2004. The project close out would probably be the Spring of 2005 at which point we would make a request for reimbursement.

Mr. Brodinsky asked, is this money already in place or might there be some legislation in the future that would cut us back?

Mr. Thompson answered, I honestly don't know what legislation. This is a pre-funded program. The state has made a commitment for this. Could legislation be adopted that could change it...

Mr. Brodinsky answered, it is pre-funded, that'll do it. Thank you.

Mr. Vumbaco asked for an explanation once again of the project. We are reconstructing the Wall Street Bridge?

Mr. Thompson answered, yes.

Mr. Vumbaco asked, in order to get reimbursement for the bridge, we need the inspection? I know this request is because we are going to get 100% reimbursement of the inspection costs. Why would we need the inspection costs...I am confused on the process.

Mr. Thompson explained, the Wall Street Bridge is one of those projects that has been around for 8-9 years. We finally got to the process by a right-of-way acquisition plan several years ago. The Town Council authorized the Mayor to turn over the right-of-way acquisition to the State. That was completed several months ago. We have been finalizing the design and the design is ready to go out to bid as I indicated to Mr. Brodinsky. The actual construction of the bridge will be reimbursed 100% of the construction cost predicated on the Town doing the inspection in conformance with the State requirements. You have a higher level of bookkeeping, a higher level of materials testing and associated work with that. There's three options on how we would go about doing the inspection; one, we could do it with in-house resources and that would consume my one inspector full-time for the duration of the project; second, we could go through a conventional consultant selection or inspection selection process whereby we do it by a bid that would not satisfy the state in terms of their process and we would not be reimbursed; or we go through a qualification-based selection process, engage a qualified consultant firm to do the inspection and get 100% reimbursement for their costs.

Mr. Vumbaco asked, so there would be additional materials testing and other expenses that you indicated that is all reimbursable to meet the standard?

Mr. Thompson answered, yes.

Mr. Vumbaco asked, is there more than one of these firms out there that do this?

Mr. Thompson answered, absolutely.

Mr. Vumbaco asked, why are we requesting a waiver of bid? Why don't we just go out to bid specifically for that type of firm? That is where I am confused. If we are going to be bidding the job for the bridge, you said, and if there are multiple firms available out there that could do this testing and meet this QBS State standard, why aren't we bidding the firm job, too? Why are we requesting a waiver between \$115,000 and \$170,000?

Mayor Dickinson answered, our public bidding process does not meet the State's standards. Our public bidding process uses two envelopes; one is a qualification disclosure and the other is a disclosure of price. The State does not use that kind of approach. The State has a QBS approach which, as best as I can explain it, it is an interview with various firms. The firm you want to do business with is chosen based upon their qualifications alone. After the firm is chosen based upon qualifications, then a price is negotiated. That process does not meet our public bidding requirements as set forth in the Charter, hence the need for a bid waiver to use the state process.

Mr. Thompson added, I am not suggesting that we don't follow a previously-established procurement process for the inspection firm, it is just that, as the Mayor indicated, a different process than our two-envelope system. We are basically using a one-envelope system and I suspect that we will probably get 15-20 firms that are interested in providing the services and then the competitive review process begins for those firms.

Mr. Vumbaco asked, will the State be involved in the review of the...

Mr. Thompson answered, not necessarily but if the Council, for any reason, felt that they wanted State oversight participation, I am certain they would do it. They played a very active role in the design review to this point. They are there to help, basically, on these kind of projects.

Mr. Knight asked, I am a little confused on what kind of certification process; my understanding, in talking to a few people about this, is that there is no real State certification for this inspection. There is a list of pre-qualified firms.

Mr. Thompson answered, exactly.

Mr. Knight continued, it is not really a certification. The inspectors are certified but the firms aren't.

Mr. Thompson answered, they are pre-qualified, that's correct.

Mr. Knight asked, is that what this QBS is?

Mr. Thompson explained, every year the State of CT. sends out a letter or a legal notice in the paper to anybody interested in providing engineering services to the Department of Transportation. It could be in bridge design, highway design, airports, mass transit; it could be twenty-five or thirty categories. If your firm wants to do business in any one of those categories, what you do is submit a pre-qualification package for each of those categories. Construction inspection services is one of those categories. A firm will go through this pre-qualification process and "be certified" by the State to provide those services to the State. What we are doing is saying, if they are qualified to do the work for the State and this is, essentially, a State-funded project, we want to take advantage of having those pre-qualified firms providing those same services to the Town of Wallingford.

Mr. Knight asked, by using this list you have narrowed down the number of potential contractors or firms that will conduct this inspection services which is good. You don't want someone who is not qualified. The State has done some whittling of the firms that potentially could do this work and for that they will pay 100% of the inspection costs if you are willing to use this list? Is that what you are saying?

Mr. Thompson answered, yes. This qualification-based selection process is, very simply, we, the Department of Engineering, through the Purchasing Department, will send out a legal notice saying that the Town of Wallingford is interested in securing the services of a professional consulting firm that is pre-qualified by the State of CT. to provide construction inspection services. Firms interested in providing those services to the Town should submit a pre-qualification package to the Town for this project. We will then, when the packages come in, will have a team of reviewers, myself, the Assistant Town Engineer, maybe someone from Water & Sewer, maybe someone from Inland Wetlands Commission, maybe another Town Engineer, will sit and rank those firms. There may be 15-20 firms. We will get a short list of perhaps 3-5 firms, call them in for interviews and ask questions such as what kind of experience they have on this particular type of bridges in residential areas with the type of development we have and, based on their responses, rank the firms 1-3 or 1-5. Once we come up with a composite ranking, we will then say to the highest-ranked firm, we would like to engage you to provide your services on this. Here's the project, let's develop a scope of services and a price to go along with it. That is basically the process, and we have to follow that process in order to be eligible for this 100% reimbursement.

Mr. Knight asked, if we were hold to our own bidding process, what percentage would we be reimbursed by the State?

Mr. Thompson answered, zero.

Mr. Knight asked, so that's the carrot and the stick?

Mr. Thompson answered, absolutely.

Mr. Toman stated, they are forcing us away from a bidding process that we have chosen. Do you foresee this sort of thing happening more and more? By pre-qualifying a list they seem to be somewhat subjectively interviewing people and then putting them on a list which takes away our ability to have cost-saving measure of the bidding process.

Mr. Toman answered, this qualification-based selection process where the firm's picked on their qualifications rather than price is something that is used by the State, the Federal government; it is used by a lot of municipalities other than Wallingford. Some municipalities do it purely on price. All they do is ask a firm to give them a price to provide the services and then they do it just as a construction project. I think the system that was adopted in Wallingford is a reasonable compromise of both qualification assessment and price assessment. As the Mayor indicated, that's the process that we followed. To answer your question, are we going to get away from that system? The answer is, only under those situations where, as Mr. Knight indicated, why would we do anything other than go for the opportunity where we would get 100% reimbursement? I would be hard-pressed to sit before this Town Council and say, "let's spend \$100,000 of our money" when by following a state process, we can get the money back?

Mr. Toman replied, it seems there is a larger issue here; the State can now bring up these categories...interviews, and force us to get away from the bidding process. It just seems to me, sitting up here for two years, that there are a lot of pressures that are pulling us away from a bidding process and I am concerned that the ability for the Town to save money through this kind of a bidding process, is being eroded and this is just another example of it.

Mr. Thompson replied, you are absolutely right. The State is essentially saying, if you want to use our money, you have to play by our rules. We can say we don't want to do it. That's why I am here before you tonight; to give you six or seven members the opportunity to say the money is more important than the process or the process is more important than the money. I don't make that decision. I am here to give you the explanation of why we are trying to do something. Thankfully, you have to vote on it.

Pasquale Melillo, 15 Haller Place, Yalesville asked for an explanation as to why a bid waiver is being requested.

Mr. Thompson repeated the explanation given earlier for requesting the bid waiver for Mr. Melillo's benefit.

Mr. Knight asked, can we be assured that if we waive the bid there will still be competition for this work?

Mr. Thompson answered, absolutely.

Mr. Knight asked, among how many firms do you anticipate the competition to be?

Mr. Thompson answered, I suspect...it would attract some 15-20 inspection firms.

Mr. Knight asked, and you will entertain proposals from anyone coming out of that list that tenders a proposal?

Mr. Thompson answered, absolutely. Knowing how uncomfortable the Council is with these waivers, I would be happy to come back and report to the Council or through the Chair report on the process we followed, how many proposals we actually received, the members of the selection committee and the process followed. I don't want anyone to think that anything that we are doing is bypassing a fair selection process. Our goal is to get a firm that is qualified to do this; someone we can work with. I am certain that if we go through this process we will ultimately achieve that. I would be happy to provide you with a report on what we do.

Mr. Knight answered, we will probably take you up on that offer, just because, as you suspect and you are right, we are not content to just waive the bidding process. I think Mr. Toman made a good point; the State is setting it out so it certainly is attractive, but it does deviate from accepted practice here, in Wallingford. We would hope that there will continue to be competition among firms for the work that is available.

VOTE: Doherty & Parisi were absent; all others, aye; motion duly carried.

Mr. Knight noted that the Council was ahead of schedule for its public hearings and solicited opinions from those Councilors present as to whether or not to enter into executive sessions listed below. He did not want to delay the public hearings any longer than was absolutely necessary and wondered if the Council should take up only one executive session at this time. He did not want to inconvenience the public any longer than was absolutely necessary.

Mayor Dickinson suggested that the Council enter all the executive sessions and see how quickly they move through them. At the point that the Council and Mayor have to exit, they will, and take up the remaining sessions at a later time this evening.

ITEM #10 Executive Session Pursuant to Section 1-200(6)(E) of the CT. General Statutes to Discuss Collective Bargaining Matters Regarding AFSCME Council 4, Local 1183 Contract Agreement -Personnel

ITEM #11 Executive Session Pursuant to Section 1-200(6)(B) of the CT. General Statutes to Discuss Pending Litigation in the Matter of the Town of Wallingford v. RAC Construction Corporation – Town Attorney

ITEM #12 Executive Session Pursuant to Section 1-200(6)(D) of the CT. General Statutes Pertaining to the Purchase, Sale and/or Leasing of Property – Mayor

Motion was made by Mr. Farrell to Enter Into Executive Sessions 1-200(6)(B),(D) & (E), seconded by Mr. Toman.

VOTE: Doherty & Parisi were absent; all others, aye; motion duly carried.

The Council entered executive session at 7:32 P.M.

Present in executive session pertaining to Item #10 were all Councilors (with the exception of Councilors Doherty & Parisi), Mayor Dickinson, Atty. Mantzaris, Personnel Director Terence Sullivan and Asst. Personnel Director James Hutt.

Present in executive session pertaining to Item #11 were all Councilors (with the exception of Councilors Doherty & Parisi), Mayor Dickinson, and Atty. Mantzaris.

Present in executive session pertaining to Item #12 were all Councilors (with the exception of Councilors Doherty & Parisi), Mayor Dickinson and Atty. Mantzaris.

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

Councilor Papale left the meeting at the exiting of executive session.

VOTE: Doherty, Papale & Parisi were absent; all others, aye; motion duly carried.

The Council exited executive session at 7:53 P.M.

ITEM #6 PUBLIC HEARING to Amend Chapter 62 of the Code of the Town of Wallingford Entitled, "Alcoholic Beverages" – 7:45 P.M. – Stephen W. Knight, Co-Chairman of the Ordinance Committee

Atty. Norman Fishbein, 100 S. Main Street stated that he made an initial proposal to the Council Chairman on behalf of his clients who run Gaetano's Restaurant in the Simpson Court area. They would like to have this kind of a facility available and are both here to present some thoughts to the Council, as well as a letter that they brought with them. My comment with respect to it is, as a member of the Community and having run a business in Wallingford for a long time, I have seen the downtown area come and go as far as the nature of business which is there. There are a lot of restaurants in downtown Wallingford now and I think it would probably add a different kind of feeling to the neighborhood to

have this kind of an ability to serve this type of beverage on the sidewalk in the warm weather months. My other comment would be is that if the Council is willing to give this a trial period and if they feel that, in working out of the problem, there are issues that come up, you would always have the ability to either amend it, change it or repeal it. On behalf of my clients, we are asking that you favorably address this issue tonight.

Cheryl Mailot and Debbie Pacileo, Owners/Operators of Gaetano's Tavern on Main, 38-40 North Main Street approached the microphone.

Ms. Mailot stated, we are asking for this provision because we have numerous customers that would enjoy sitting in the center of town dining and would like a cocktail while they are doing so and we have had to refuse many people. They are very amazed by the fact that they are not able to do this and nine times out of ten when we tell them they are not allowed to drink, they will either leave or come inside. I just think we have such a pretty downtown that, for people to be able to sit outside and have a cocktail when they have something to eat, is an asset and it would bring people who would want to explore the Town more by being able to sit outside and enjoy it. We have the Choate students and their parents. If it doesn't work out we have the ability to repeal it and you will get no argument from us. I have a letter from the Minority Leader of the West Hartford Town Council who faced the exact same situation two years back and it has been very successful. They had opposition to it; they had a sunset provision which was never used and because of the overall results, they don't think they will ever have to exercise it. I do think it is a positive thing and I hope you vote in favor of it.

At this time Ms. Mailot presented the letter to Mr. Knight.

Ms. Pacileo agreed with Ms. Mailot and asked that the Council give it a chance. She stated, I think the people in town would appreciate it and would enjoy it. We have a lot of people walking in town. It is a very pretty section. I understand everyone's concerns but I believe that when I talked to Bob Parisi that everybody is going to be watched. We are responsible for our own customers and I know that we will take that in hand. However, if people do cause a problem, there should be a fine, I agree with that immensely. On a whole, if we have it with food; people like to have a glass of wine when having their dinner, or a beer with a sandwich, I think it would be a really nice asset for the Town of Wallingford.

Harry Najarian, 19 Sylvan Road stated, I was confused when this ordinance was first posted because I was hoping that it was another ordinance that many communities across the state have been passing to prevent youth underage drinking parties. Apparently, this is a different ordinance. The reason I bring that up is because I am also the Project Director of the CT. Coalition to Stop Underage Drinking so I do have some expertise in young people and their access to alcohol in our state. This ordinance does concern me for a couple of reasons. With all due respect to the owners of the fine establishment downtown, the issue of dining outside the walls of an establishment that does or does not have a liquor

permit causes significant problems when it comes to individuals under the age of 21. Although you may be offering the opportunity for adult patrons to consume alcohol outside, you are simultaneously and you should acknowledge the reality that you are offering patrons under the age of 21 the opportunity to consume alcohol outside the establishment as well. How do I know that? Young people are able to obtain alcohol, at establishments, in this community. We have been part of compliance checks which have been conducted with package stores and other establishments in this community which assure us 100% that they will not sell or serve alcohol to minors and a significant number of those establishments fail when young people under 21 supervised by liquor control agents and police officers are sent into establishments in this community and they sell alcohol often without even asking for identification to these young people. Dining outside offers, as the owners of the restaurant said, an option for their adult diners. It offers the younger diners and those who wish to obtain alcohol would love this ordinance because it offers them yet another opportunity to skirt the system and try to obtain alcohol from establishments in our community. I think that we need to be doing as much as possible to prevent that. I don't think that a few diners that would be eating outside in the summer time who would prefer to consume alcohol with that meal, couldn't do so inside, safely, knowing that they were keeping alcohol out of the hands of kids. Especially concerning, is the section in here which says that, "for establishments that don't have an alcohol permit" in the definition under outdoor sidewalk dining which is part of "C" it says, "for establishments that don't have an alcohol permit or are not licensed to sell alcohol in this community, patrons can bring in their own alcohol and still consume it in this outdoor setting." Again, it allows even more opportunity for young people to get their hands on alcohol because the staff of those establishments that don't sell and serve alcohol are not trained often to recognize that this can be occurring and that young people are obtaining alcohol. With all of these concerns, especially as the owners of the restaurant said, being in the Choate area, and other areas where young people congregate, I think it would be wise for the community not to consider this ordinance and not have alcohol available outside of the walls of establishments, downtown or anywhere else.

Craig Turner, Director of Youth and Social Services for the Town of Wallingford stated, in my capacity I serve as the Chairman of the Mayor's Council on Substance Abuse Prevention. I also am the Vice Chairman of the CT. Coalition to Stop Underage Drinking. My concerns are similar to the ones that Mr. Najarian voiced but I want to approach it from a slightly different angle. That is the angle of there being a different kind of feeling in the community or in that area with the presence of alcohol which is what was described by the owners of this establishment. There really is nothing about this particular establishment that concerns me, it is the nature of this amendment that will be applied to the entire Town and I think that we need to look at it globally and not in the perspective of one or two establishments that happen to be in the center of town. My concern is, that kind of feeling and the appearance that alcohol would have in a public setting, I think it is very easy for adults to kind of grasp that and, for the most part, be responsible in their behavior. I am definitely convinced that that's not true for the majority of students, whether they are Choate teenagers that are in town or out of town, coming to visit, may see

that as an opportunity to consider; gee, there's a certain section in Wallingford that public drinking is now permitted. So what's the difference between drinking on that sidewalk in front of that restaurant versus walking down the sidewalk with a cup in my hand or to sit in my car in that same parking lot. There's really that much of a critical analysis in the mind of a child or even in a young adult who is under age. The other issue is a collective responsibility. There's been a lot of work done in the last five years within the community by the police department, fire department, our office, the Mayor's Council on Substance Abuse Prevention, the S.A.D.D. Club from both Lyman Hall and Sheehan High Schools and certainly there are hundreds of thousands of dollars, if not millions of dollars, spent in a five to ten year period on educating children and on trying to set up an appropriate role model in the community for what are healthy standards and what is healthy behavior with alcohol and what isn't. This tends to fly in the face a little bit about what we have been teaching kids through D.A.R.E., through their health class, to try to avoid alcohol, make responsible decisions and throw it in their face. For people who may be acutely sensitive to the issue of alcoholism, whether it is historical in their family or they are dealing with it personally, it may kind of get in their way to see this happening on public property. If this sidewalk is a private space, we are not having this conversation. There are restaurants that have private spaces outside, they are totally enclosed, they are completely separate and apart from any other potential access by any patron except the ones that walk into the building. In fact, no one else can really see it and that's an appropriate design. This design is not an appropriate design because of the weaknesses associated with the visible access. People may not want to see that when they walk downtown. They may enjoy the feeling of that community center right now and love it for the way it is and not have any interest in having alcohol be a part of the feeling that is currently there.

Karen Segal, 12 Rolling Meadow Drive stated, I am a Choate parent and I also have friends that have children at Moses Y. Beach School. They also have friends that have children at Holy Trinity School. It is our downtown section. We walk around there constantly. I see children running, playing, in areas with their parents as they walk with carriages; there are babies in carriages. I think the restaurant is an awesome restaurant. Do we really need to have drinking outside? I really don't think so. It is not going to change parents coming for a parent weekend at Choate or anybody visiting the center of town, whether they can or can't drink outside. Most of us will drink inside. We set the example for most of our young people. I think the area that this restaurant is located in and any other restaurants that are located in that particular section of town, in our main downtown area down on Center Street, I wouldn't want my son, who comes from Choate, he does a lot of eating at Tavern on Main and Archie Moore and Half Moon and Michael Trattoria, they try them all, I see them all walking around. I think that sometimes having people sitting outside during the afternoon having a cocktail or a beer sets a precedence for young people; when you eat, you drink and you drink outside as children pass. I think it is just a very difficult area. If it was in an area that was contained as Craig Turner said, I wouldn't have a problem. It is just that it is a very, very busy center and as a Choate parent I would be very concerned about what goes on in the center of town and I am sure I speak for many of the other parents at Choate, even our boarding students. We all seem to take care of each

other, we seem to take care of everyone in our town and having our elementary schools located in that area, I just don't think it is such a great idea to having drinking outside.

Atty. Fishbein stated, I think the ordinance addresses the issues in some ways because, but not allowing you to have labeled bottles, having plain glasses on the table, it seemed to me that it's going to be very difficult to determine whether somebody has a glass of ginger ale or someone has a beer on the table. If there is no wine bottle there or no hard liquor bottle there, I am not sure that anybody going by is really going to know what is being consumed. Secondly, if you bring your children into a restaurant, and I am sure most people that have already spoken bring their children into restaurants, they see people sitting there and drinking cocktails or beer or what ever it is and perhaps even have a wine bottle on the table which shows exactly what is being consumed and they don't seem to have any problem bringing their children into a restaurant of that nature and it doesn't seem to create any problems. The third issue about underage drinking, I don't think that is an issue that the ordinance creates any problems over because if there is a violation of underage drinking, there are remedies for that. If any restaurant serves underage people inside is spotted, they are going to be appropriately taken care of by the liquor control authorities or the police. If it happens outside, the same remedies are available out there. I don't know that it is going to increase the accessibility to anybody under the age of 21 because the owners of the restaurant are going to have the same liabilities whether it is inside or outside. Those are the comments I would like to make with respect to the issues that were taken up.

Gary Najarian, 19 Sylvan Rd. stated, the only remedies that are available for someone who sells or serves alcohol is a suspension of sale of their liquor permit. If they are an establishment that does not have a liquor permit, that is no punishment at all, with all due respect to Mr. Fishbein. The second point is, the issue of service and unlabeled bottles and glasses actually increases the probability that there will be opportunity for minors to obtain alcohol because, you're right, you wouldn't be able to tell if that 18 year old had a glass of ginger ale in their hand or if, indeed, it was a beer. I think on a local, state and national level, the issue of underage drinking has been made really clear and our own Senator Dodd who just had public hearings on this issue based on a report released by the Institute of Medicine, clearly identified that there are two problems when it comes to underage drinking and neither one of them is about kids; they are both about adults. Number 1; no kid in this state would have alcohol in their possession if some adult did not sell it to them, provide it to them, or allow the opportunity for them to obtain it. Therefore, to solve the problem, we all need to make sure that, as adults, we assume our collective responsibility to ensure that alcohol is kept out of the hands of kids by not providing them, on a regular basis, with more opportunities to obtain it. Based on the way that this ordinance is currently written, I don't see how this is doing our collective responsibility in this community. It is great to have businesses do well in this town; we all benefit from that. But none of us benefit from kids obtaining alcohol or drinking.

Wes Lube, 15 Montowese Trail stated, Mr. Turner opened this up to the thought that we ought to be examining on a town-wide basis. I agree with that. In thinking about the various restaurants around town who might take advantage of it as it is written, the definition of sidewalks says, "it includes any space beyond the property line devoted and intended for the use of pedestrians." All one has to do as a restaurant owner is to earmark or designate areas for pedestrians which may not have been previously and then, once it is so designated, he then can call it sidewalk area and qualify under this ordinance. In thinking about the various restaurants around town, take Brothers for example, the next thing we want to do is be careful that we are not favoring one establishment over another and what do we do if they come in and say that they want to have it on the north side of their building between the building and the street line if they so designate it to be a pedestrian area? It has all kinds of opportunities for people to take advantage of this ordinance beyond the intent of the originators and I would ask you to give it some further thought. Did the Ordinance Committee research other towns in Connecticut to determine which ones have had the experience with this and for how long and what the experience has been and get samples of their ordinances?

Mr. Knight replied, we modeled much of ours after West Hartford and we have a letter from the Minority Leader of the West Hartford Town Council that they passed such an ordinance a couple of years ago and it has met their expectations and has not been a problem. The answer is yes.

Mr. Lube asked, I gather the other 168 (towns) do not?

Mr. Knight answered, we did not go to 169 towns.

Mr. Lube asked, how many did you go to?

Mr. Knight answered, we got most of our information from a town that has successfully instituted such an ordinance and that was West Hartford.

Mr. Lube stated, I suggest that the town reach out further, not to the towns that are doing it, but to all the towns. Some of them may have done it and stopped doing it. We would like to know why. I think more research would be very valuable.

Ms. Pacileo replied, I understand everyone's concerns and these two gentlemen as far as children being subject to alcohol but, unfortunately, that happens all the time and I don't think that someone sitting out on the sidewalk having a glass of wine with their dinner is going to turn a child into an alcoholic. We are responsible as far as them having alcohol just as we are on the inside (of the restaurant). As far as children being exposed to it, I don't think that would happen. Another thing too is, we said we were going to give it a trial. Try it out. If it doesn't work, then we take it back but I don't think it is going to hurt. Like I said earlier, a lot of people have come into town, they have wanted to sit outside. They come in and ask if they can sit outside because it is such a beautiful night, it

is such a beautiful town; can we sit outside? We answer, you can, but you can't have alcohol out there. They say, "never mind, we want to sit inside." A lot of people enjoy having a glass of wine with their meal and a beer with their sandwich. I don't think it is going to hurt anything and if it does, if an establishment is abusing it, then you revoke it; you take it away from them. As far as giving it a chance, I don't see anything wrong with it. Try it for one year; try it for two years. If you have a problem, we take it away.

John Letourneau, 3 Regent Court stated, as a business owner downtown, I am for this. I think it is good for the town. Again, we had people come to town, open a restaurant, spend thousands of dollars rehabbing a building that was empty. I just feel that it is good for downtown. There are many issues. I am listening tonight to issues concerning children, close proximity to the schools, kids walk by. As it is now, some of the restaurants have larger windows and these kids are going to walk by and they are going to see people sitting there, in the window. I know that when my wife and I go out we like to sit near the window to watch the activity. We are not hiding the fact that we are drinking. When kids come by, I don't hide my drink. If we have a bottle of wine, on occasion, I don't hide the bottle of wine if kids walk by and look in the window. I really can't see what the difference is when you have large windows and people sitting in the window consuming alcohol or they are sitting on the sidewalk. There are many towns that do have sidewalk cafes. This is not a new idea. This goes back a long time and, in fact, it is very common throughout Europe. This summer my wife and I had a chance to spend some time in Rhode Island. We were at Watch Hill. They had sidewalks much smaller than what we have here, in town, and it was not a problem. They had tables for four where they fit and tables for two where they fit. They had roped off, there wasn't any fence, it was just roped off and we sat out there. As a matter of fact, we waited an hour to get a table outside so we could sit outside. It worked. Right next door to this restaurant was an ice cream parlor. It worked. We can put together programs for youth, for drug awareness, alcohol awareness, but I still think it comes down to the parents and the responsibility of the parents to take care of their own children and to solidify the fact that they shouldn't be drinking or drink responsibly. I have raised three children and am raising a granddaughter and we haven't had that problem with alcohol abuse. One question I would have is, in towns that have done it, has there been an increase in teenage alcohol abuse? Is there any statistics to that fact? I don't know. I have never heard of any and I don't know if there is but I can't see where this is a huge problem. I think it is good for downtown.

Robert Sheehan, 11 Cooper Avenue stated, if I am not mistaken, there's an ordinance against public drinking now, isn't there?

Mr. Knight answered, certainly.

Mr. Sheehan stated, we just had Celebrate Wallingford. I used to have a business on Center Street, a package store, and I have nothing against drinking, and I don't like the idea that teenagers drink and high school kids get access to it but that's a fact of life that has been around a long time before I have been here and it will be here after I am gone. I

am not condoning it. During the time I was open, one year on a Saturday when Celebrate Wallingford was conducted between Orchard Street and Colony Street and if I had a nickel for everybody who came in asked me for a can of beer to take outside and drink, I wouldn't be here today, I would probably be on a nice beach somewhere. I warned people that the beer they wanted to buy from me would probably end up costing them a \$25.00 fine for public drinking. Mr. Turner makes a good point; everyone is concerned about Simpson Court and downtown. Unfortunately, that is not the only place where there is restaurants and bars in this town. What is good for one is good for everybody. My question with this is, does it apply to just wine or beer or is it any drink?

Mr. Knight responded, yes.

Mr. Sheehan asked, how are you going to tell someone who comes to town for Celebrate Wallingford that if they go to such and such restaurant and drink out on the sidewalk but if they walk down the street with a beer in their hand they are going to be arrested and fined. It doesn't seem fair.

Mr. Knight asked, that is the whole point of the restrictions. The Liquor Control Commission of the State of CT. has laid out most of those.

Mr. Sheehan stated, with regards to the Liquor Control Commission, it comes down to what you can do is published in a book about 1" thick and what you can't do is published in a book about 8" thick. To say that it is o.k. by Liquor Control because you've got a permit and want to pay a little more to have that luxury outside, that's fine. I don't deny anyone that but you have to realize that you are going to have to do this all over town, not just on Center Street or North Main Street; it's all over town. Most of the places that have a patio area, it has been on the establishment's property. Brother's had it for years; there used to be a place on North Colony Street where the 99 House is now. They built a patio on the side of the building and in the summertime everyone went out there and drank. That was fine because it was on their property. I don't know if the majority of this will take place during the night time because after 5:00 p.m. in town, nothing is open but a restaurant or a bar. Pedestrian traffic isn't that heavy. I don't know what kind of restrictions you are going to put on this, whether there will be specific hours or not. There are a million and one things you can do and a million and one things you can't do. If you want to try, try, but if you're in the restaurant or bar business, if the viability of your business depends on whether people can drink outside or not, you had better get into another kind of business, you don't belong in the liquor business.

Ms. Mailot commented, Ms. Sega brought up a good point about people walking downtown on the sidewalks and the children and how they would determine the difference between people drinking on the sidewalk, that it's o.k. to drink on the sidewalk and that's the message we are sending. There is a clause in the ordinance which states that there has to be a divider 30" in height. The area would be sectioned off therefore indicating that it is now a part of that establishment. I think children can determine when they see borders,

they are going to know that this is part of public property and this is now not someplace that they can run around in; they understand that. When all is said in done, I hope that everyone will adapt to it. I don't think it is going to be an issue where it is really going to show a lot of difference in town as far as people seeing the alcohol on the streets. It is going to be an enclosed area, sectioned off. We are not looking at keg parties on the sidewalk. It is just somebody to have a drink here or there with food. That's another provision, it has to be with food. They are not just going to sit out there and have some drinks. I just wanted to address that it will be sectioned off which would determine the difference between public space and now a section of the restaurant for that time being.

Mr. Turner replied, with all due respect to those last few comments, it is not all said and done and we have to keep a perspective that this isn't about downtown. This is about the community of Wallingford, in general. I think that that's where the decision needs to be focused on when you make this decision. Children certainly understand barriers and one of the greatest barriers that children seem to be very successful at breaking is access to alcohol so the idea that there is a barrier that is going to prevent kids or turn them away from the challenges sitting there and attempting to do that seems somewhat naïve at best. It probably is not going to happen in this setting because it is so visible and I think you have responsible owners and I have eaten there and certainly enjoyed it, but I do take issue with every owner or even some owners who won't be as responsible nor as visible and that raises the issue of the role of law enforcement and what strain, if any of this, would be placed on the police department because they are the ones who are eventually going to have to enforce any encounters that happen as a result of violations. We certainly know what happened with the breach of peace and the issues confronting a recent establishment of this town on Center Street and the kind of commotion that that created. While this ordinance is designed to set a limit and minimize that type of confusion, it will not eradicate it because, unfortunately, there are people who just take advantage of circumstances that afford them the opportunity to make a buck at the expense of individuals and that may very well happen in this case. I urge you to sincerely consider the global impact on the community.

The public portion of the public hearing was closed at this time.

Mr. Farrell stated, I have had the opportunity to be involved with this ordinance, having served on the Ordinance Committee and seen what is before the Council tonight evolve from an initial draft to a finished version. I have expressed my opposition to it. I guess I had a couple of comments to make. First of all, I actually commend the two young ladies from Gaetano's for suggesting the idea that they have a wonderful establishment there. They have done a lot to contribute to the downtown and they are putting forward an idea that they think enhances the downtown. I actually think, to some degree, it is public-spirited of them to put their foot into the fire and suggest that it is something that is not only applicable to their business but other very good businesses downtown. There is no issue in my mind that if the ordinance were passed they would conduct themselves absolutely properly, I have seen that go on in their establishment; it is absolutely above-

board. Where I do have a problem with this and where I have had a problem all along is that, in effect, the ordinance takes a chunk, we are not quite sure since there is no survey we have had done as of yet, but a chunk of the public sidewalk and says that, in effect, a private business can come along and take part of that public sidewalk and convert it to a private use. Specifically a private use that may or may not involve alcohol. I have a problem with that for a number of reasons. First of all, I really do think that the ordinance is unworkable in that if you read through it and you think the logistics of it, that there's first of all the front of the establishment, the window, let's say. In front of that window are tables and chairs. In front of the tables and chairs will be a passageway for the wait staff to get back and forward to those tables and then in front of that passageway is going to have to be this divider. It is not going to work that in the end, when John Thompson and his crew go out and measures this and tries to see how accommodating that and accommodating the Americans with Disabilities Act that basically says that we need to give a public portion of the sidewalk to something that is as wide as a wheelchair, there's not going to be enough room. There's just not going to be enough room left and the Council's going to be put in a position of saying, "well, we're sorry, it was a great idea but when we went out and took the measurements, it didn't work in the end." So I think, in the end, unfortunately, much as there has been a lot effort to get this passed, in the end, it's not going to be applicable because it is not going to work with the measurements. The other thing that I have a problem with is that it is the public's sidewalk. The Council took a fair amount of controversy a number of years ago when we said to the children of the community that, "we are not going to allow you to ride your bikes, use your skateboards, use your roller blades in that particular area." We specified out a good chunk of the public sidewalk of the downtown. We said, "hey, you can't do it, the public sidewalk is important to everyone. We can't have you consuming the public sidewalk with this." I thought that was a good decision at the time and I still do. But now we are adding sort of a layer upon that. We are saying, yeah, we took the kids off of the sidewalks so that, in effect, we can allow private use of the sidewalk and a private use that involves alcohol. I give Craig Turner a lot of credit for getting up here and pointing out that it is a mixed message because it is a mixed message and it is particularly a message that if you want to look in the long term of what the Council has done, that if you take what we did a couple of years ago with the public sidewalk issue and what we are about to do here with the public sidewalk issue, that it does come across as very mixed and very hypocritical. For those reasons and really for those reasons alone that I don't want to send a mixed message and, again, I want to say that any of the establishments, particularly Gaetano's or Half Moon, I have no issue whatsoever that if this passed, they would handle themselves correctly. But I do oppose it for the reasons that I have stated.

Mr. Rys stated that he had a question pertaining to Section 1c. of the ordinance. Particularly the fourth line down which reads that the State's Liquor Control Commission has jurisdiction over allowing the retail sale of alcoholic liquor "or dining" on a public sidewalk... He asked, is the "or dining" from State Statute? Or is it the Ordinance Committee's writing?

Atty. Mantzaris replied, that's your Town Council approval of their application. That is what is meant there.

Mr. Rys asked, shouldn't that read, "while dining"? It's a technicality, because that would give me the indication that you can go out on the patio and have a shot and a beer if you want. It should be "while dining", no?

Atty. Mantzaris did not follow the point Mr. Rys was making.

Mr. Rys continued, what I am saying is, it says, "...Liquor Control Commission, allowing the retail sale of alcoholic liquor or dining on a public sidewalk after Town Council approval." That's State Statute then, right?

Atty. Mantzaris explained, the "or" is intended to differentiate between restaurants that have a liquor permit and those that don't have a liquor permit.

Mr. Rys continued, but I notice later on that it indicates that...

Atty. Mantzaris interrupted to say, I suggested an amendment to make that more clear in the second version.

Mr. Rys stated, what I am trying to say here is, if you are not eating, you are not going to be served out there. In other words, if you are going to be dining, you can get a beverage?

Atty. Mantzaris replied, that is one of the regulations, it requires that it be served with a meal.

Mr. Rys replied, I was probably confusing State Statute or their identification of what they were trying to say there. One of the problems that I have...is the Town ordinance on drinking in public. Does that need to be looked at now if this is allowed? The Town Ordinance on drinking in public doesn't allow an individual to drink on his own sidewalks in front of his house?

Atty. Mantzaris answered, no. The prohibition against drinking on a public sidewalk or a park would remain in effect. If this ordinance were adopted, Section 6 reads that it will override any contrary provision in the alcohol or any other ordinance. Only this ordinance will allow drinking on a sidewalk by a restaurant. The ordinances which prohibits drinking of alcohol on a public sidewalk would still be affected.

Mr. Rys asked, has the Police Chief been...?

Atty. Mantzaris answered, I sent a copy to the Police Chief and he met with me and his issues were the ADA requirement and I checked with our ADA Coordinator and the ADA presently requires three feet of public sidewalk to be available for people walking.

pedestrian traffic. He had a change as to what if there is a change of ownership of the restaurant? If the ordinance were adopted and a particular restaurant had such a facility, I answered him that the change of ownership would not affect the restaurant's ability to serve alcohol on the sidewalk if it were doing it already. There was a question of food purchase and I told him it was in the ordinance.

Mr. Rys stated, my question is with the barriers.

Atty. Mantzaris answered, one specific requirement is the type of barrier. It is just that it has to be separated by some divider from the rest of the sidewalk.

Mr. Rys stated, some of the communities that I have seen that have this, they don't have a rope on a stanchion or anything that is set up in front. They generally have a wrought iron-type gate that they put out there or set up out there which would restrict anybody from leaving that area. Some are permanent and some are movable, it depends on what community you go to.

Atty. Mantzaris replied, I suppose that it would be up to your body (Town Council) to decide what kind of barrier was acceptable if you were to consider the ordinance.

Mr. Rys answered, I just wanted to make sure that the Police Chief was consulted on that because we do have a couple of places that I am aware of that do have the dining outside; one is on the west side of town and one is in the center, I think it is off of Quinnipiac Street, if I am not mistaken. But they have an enclosure and I was always under the interpretation that an enclosure would not allow anybody to come in or leave. They have to enter through a door and then through another door in order to get to this enclosed area.

Atty. Mantzaris answered, that is required by this ordinance.

Mr. Rys continued, I have a problem with barriers. Now, is it up to the Town Council to decide what type of barriers are going to go up?

Atty. Mantzaris answered, the application comes before your body. I have prepared some general forms for the application. You consider whether what the particular restaurant is suggesting is acceptable. There's a hold harmless agreement that has to be signed. The Town has to be named as the initial insured on the policy of insurance. They have to diagram the area of the sidewalk which they will use for this dining. They have to tell you from which part of the restaurant the patrons will enter and exit. They cannot enter and exit through the barrier, they have to enter and exit through the restaurant. Every application comes before your body and you have a chance to recommend a change or not accept a particular recommendation but you're the say because under our Charter, your body has control of our public properties.

Mr. Rys asked, does this have to be identified in this ordinance as to what type of barriers that we need for passage?

Atty. Mantzaris answered, it doesn't. I suppose it could be written that it would define the type of barrier but, presently, it just requires a divider of some kind.

Mr. Rys stated, I truthfully have some concerns about that. As far as enforcement, I don't have any concerns with the Police Department enforcing things because I am sure that if there's a violation, there's going to be somebody that is going to either report it or they are going to observe it themselves. As far as the owners, with new laws out there; I know with the liquor what they have to go through and I know how often restaurants are inspected either by police, state, because I have been involved with them in my past, in the late '80s when I worked as an auxiliary police officer. We used to go into bars and check I.D.s; whatever it may be. As far as children seeing the actual alcohol consumption, a lot of it takes place in the home; weddings, what ever it may be, it is there. I think that it starts at home and, hopefully, responsible parents can take care of any problems that they may have or make sure their children are educated. I know what they've done in the schools with the M.A.D.D., S.A.D.D. and D.A.R.E. programs and I certainly do respect Mr. Turner's comments on this and everyone else's comments but I really don't think that if this takes place here, on Main Street, with our approval that this is going to encourage the children to drink anymore. It starts in the home. As a parent, myself, most of the time; and I will say it's most of the time; I can't remember bringing my children into an establishment that served liquor. We generally went to McDonald's or one of the little restaurants on the side that didn't have liquor and they got it. They got their fake I.D.s just like everybody else. So as much as you try to be as good of a parent as you can, they have the ability out there and I do concur with one of our speakers prior to that. I like the idea of this, it is just that I am concerned about the barriers. I don't want to see a rope set up out front on stanchions. I would like to see something that would be a little more eye pleasing and also restrict anyone from walking under the rope, "hey, how are you doing, Joe?", they walk out there with a beer and guess who's in trouble? The restaurant owner. It is protection for them, too.

Mr. Toman asked Atty. Mantzaris, because this is a public sidewalk and this ordinance allows the consumption of alcohol on a public sidewalk, if someone injures another person because of actions due to alcohol-related conditions on that public sidewalk, whether they drop a glass and someone steps on the glass, or pushes someone or takes a swing at the air and hits someone, or whatever, and he is under the influence, do we assume responsibility because we are in partnership with the restaurant now allowing this public space to be used to consume alcohol?

Atty. Mantzaris answered, I don't think we assume any responsibility for the actions of individuals and under the ordinance they have to sign an agreement that they will hold the Town harmless. The Town would probably get sued if there were an incident requiring a (law)suit because it happened on a public sidewalk but we require that the restaurant sign

an agreement holding the Town harmless of any injuries that occur as a result of this outdoor sidewalk dining operation. As much as the Town can be protected...as much as it can be, yes.

Mr. Toman asked, that would protect us from damage?

Atty. Mantzaris answered, as much as it can be, yes.

Mr. Toman asked, does court precedence favor our protection with this clause?

Atty. Mantzaris answered, I don't know any with regards to outdoor sidewalk dining establishments but I know that these hold harmless agreements are upheld by courts.

Mr. Toman responded, but also you described approval that we would have to give which really takes in Section 3, subsection c, about the configured entrance and exit to these areas and about the height or materials used for construction. All of these things we would have to approve. We are sort of acting like a Planning & Zoning Commission now and I can see where we can have a number of these individual cases coming before us as time goes on. I can also see that there's going to be a lack of consistency. One restaurant will come in and give us this configuration and we are going to have to look at it and say, "yeah, that seems to work under this ordinance."; another one will come in, unless we get more specific with Section 3,c. and really put more meat into it. For example, a few weeks ago after Michigan crushed Notre Dame on the football field, I spent a very pleasant evening having dinner with a son of mine along South Main Street in Ann Arbor, a very lovely town. Ann Arbor is a town of 60,000 people with 40,000 graduate and undergraduate students on top of that. They are very concerned about the consumption of alcohol as you can well imagine because the students almost outnumber the town residents. What you immediately notice along the street is a very well-protected areas with different materials, but they are all strong materials, where people sit in front of these half a dozen, ten, or maybe as many as ten restaurants where people consume alcohol with their meals. The entrance is restricted, one small way in or out. You really have to be a hurdler to be able to jump over these barriers which are very strong and look to me as though they were permanently bolted into the sidewalk. They were usually pipe features. However, you could still see the consumption of alcohol from these but there was good restriction in and out of these places. I don't think that as it is written, Section 3c., offers the Town enough of both the entrance and access to these places; it doesn't offer a high enough barrier and heavier materials should be required, not just portable materials. When you add that all together, in listening to Councilman Farrell, it does seem very unworkable in many areas of Town, especially in downtown to provide the kind of configuration that I would like to see. I, personally, would like to see the sight of the consumption of alcohol eliminated by barriers that were high enough to prevent children walking by or other people from seeing the alcohol being consumed. I think that would go far in allowing me to approve this ordinance. But, as it is written right now, because of the porous nature of Section 3c, I don't think I could support this. I was also struck by the irony of something Mr. Farrell

said. A few years ago we passed an ordinance to allow the Town's sidewalks and environment a quieter, more convenient place to allow entrepreneurs like those we have seen tonight to invest their money. Now we have a town which is the envy of other towns as we have several very good restaurants convenient to the people of Wallingford and to their relaxation. I would like to approve something like this but I don't think this Section 3c, is appropriate. It doesn't contain enough of the restrictions, configuration, details that I would like to see.

Atty. Mantzaris replied, there aren't many details in the regulations. I worked with Stamford's ordinance, West Hartford's ordinance and I believe one other community and none of them had the kind of restrictions you are talking about, Hank. Maybe something like that ought to be written in but that's up to the committee or your Council. The standards are rather loose and were in these other communities as well.

Mr. Vumbaco commented, I guess not to completely counteract the experts, but I still, in my own mind, don't see the difference between inside and outside serving of liquor as far as children or underage people being able to obtain liquor. Laws are laws and they need to be enforced no matter whether it is inside or outside. I haven't seen or heard of any statistics other than what is being quoted this evening and I am not sure they were statistics, they were more of a general feeling that having an establishment outside is going to cause a problem. Be that as it may, I would like to see some more research into that matter to see if, in fact, statistics or someone can come up with some sort of data to tell the Council or inform the Council that having three or four tables outside of a restaurant is going to dramatically increase the alcohol consumption of underage children. To address a few of the other comments, I think the barriers that Ray (Rys) was talking about in Wallingford are what one of the speakers was saying was on private property; those tall enclosed barriers where you can't see in or on private property. They are not on public sidewalks currently. That was not the intent of the ordinance, to force a business to have to put up barriers high enough that you can't see what is going on. I think that would be detrimental the business to begin with because then you would not be able to see the business if you have to build barriers high enough for it. The issue of not seeing someone drinking while they are sitting on the sidewalk, if I think we are going to try and enforce that, then we ought to tell everybody to close all their windows because, as was stated earlier, there's many restaurants in town where people can walk right by and they are sitting in the front table and someone is consuming. So if our intent is to restrict the site line from children under 21 from seeing someone consume alcohol, then we ought to make sure that we put barriers on all of the windows. I don't really believe that that's the business that we are in as a Council. To address the issue of public sidewalks being used, if, in fact, we do not want our public sidewalks used, then we should eliminate all the sidewalk sales that are going on in the Town of Wallingford because sidewalks are used. The coffee shops that set up booths and tables outside for people to enjoy a cup of java, especially downtown and in Simpson Court and I believe right next door to Gaetano's, you had better inform them that they had better take their tables down because they are using public sidewalks and abusing that privilege. There are arguments that are being made that

I can understand, but I don't think that they are arguments strictly to not approve this type of ordinance. What I would like to see, and I will put this in the form of a motion at some point, we are not really looking until next May so it is not like we have to push this through this evening. I believe it is the third page which states that outdoor sidewalk dining is effective May 1 to October 15 so we have seven months to discuss this. I would like to see if we can poll some of the other communities, Adam, that have this ordinance in place, similar to what we got from West Hartford and see if, in fact, they have had some problems with a similar type ordinance. Whether it is their Police Department gets polled or their Town Manager or their Mayor or what ever their form of government, I think that would be good information for us. John LeTourneau brought up a very good point when he asked if town's with this (ordinance) has experienced an increase in alcohol use or abuse by underage children. If that's the case, which I think is being presented by some individuals this evening, I would like to see those statistics presented to this Council, or at least to the Ordinance Committee so that we can take that into consideration. It is nice to stand up here and say that we think it is going to happen but, let's see if it is happening. I would like us to research those communities and maybe if you can get a few more of the other ordinances that have been written by the town's that have enacted this and see if, in fact, there are stronger barriers or different types of restrictions or limitations on it. We can take it back and take a look at it and then present it again and if we need to revise or amend what we might think is wrong depending upon, and maybe as a Council we should solicit some input from some other organizations besides the Police Department. Unfortunately, I think that most people didn't realize this was coming in front of the Council this evening until they read the paper a few days ago so maybe there are some comments from some other organizations that might like to send them into us that did not show up or have the ability to show up tonight. I would like to make a motion that we table this....

Mr. Knight stated, please forgive me but I would like to make some comments. I would like the opportunity to, I understand where you are coming from, but I would like to give the Council the opportunity to comment before you make your motion. You will get that opportunity.

Mr. Vumbaco replied, oh, I'm sorry. That's o.k.; that's fine; that's fine. No problem.

Mr. Rys stated, when I was identifying those other establishments I wasn't suggesting that we do that in the center of town because, obviously, if someone is sitting at a table, they don't want to be looking at a wall. What I was basically suggesting was a different type of barrier other than a rope. Something that is a little more restrictive from being able to leave the area. Again, not only for protection of someone leaving the area, but also for the protection of the restaurant owner who could become liable if they are caught. They will end up with a state violation and have to go through all of that.

Mr. Vumbaco replied, I have no problem with that, Ray.

Mr. Knight commented, we did draft this ordinance and we have spent a lot of time on it. We did compare other towns and we did a fair amount of work on it. I got from the sense of the Council that certainly this is the point of public hearings. Questions that perhaps we had not considered enough and comments that came to us from the public which is what this is all about, make it a pretty good idea for us to return for a little more work. I lean in favor of it and I think that I have seen so much of it in other communities where it has been successful and lent an air of sophistication to downtown areas that I have found it an improvement on the environment. I have spent time in Montreal this Spring, in Ottawa and in Saratoga Springs, N.Y. and in every case, I had the opportunity to sit outside which is a wonderful experience and, as the ladies indicated, many people want to have and while they are out there enjoy a beer or a glass of wine or whatever. I am a parent; I am a Choate parent. I understand where you are coming from as a parent and all of us do. The alcohol abuse problem in this country is significant and we need to get our arms around it as a community and as a nation. Having said that, it does seem that possibly seeing adults consume a glass of wine with their meal might present a demonstration of the responsible use of alcohol to children rather than treat it as if the stuff was hemlock. I especially think of Gaetano's because of the kind of ambience that they are trying to create in Simpson Court. I believe that rather than encourage children to the kind of abuse that we see too much on college campuses nowadays, if they've got some illustrations of more honest and sensible consumption of alcoholic beverages, then that might be a better example than what they are going to find when they get to college. There is one more question that needs to be answered and it is the question about the public use of the sidewalks. Yes, a few years ago, 8-10 years ago, we passed an ordinance with regard to the use of skateboards and roller blades in the downtown areas on the sidewalks and I don't find that our allowing the use of putting tables out and serving meals and alcoholic beverages to be quite the same thing. We did this for a public safety reason. To suggest that we did it in order to improve the ambience of downtown is not quite accurate. We did it because kids were racing up and down the street with these skateboards and bumping into people and injuring them. That's why we did it, because that particular activity was being abused. As the Chairman of the Ordinance Committee I would say that I would be very happy to invest more time and effort into doing the kind of research that Jim (Vumbaco) suggests and perhaps look at the kind of barriers that Ray (Rys) is talking about and Hank (Toman). Certainly, I think there is always room for improvement but I would hope that we could get right on it and come back with another version of this ordinance and with as much publicity as this is sure to get, we will have many opportunities for public comment.

Mr. Vumbaco stated, I agree with many of the comments that Steve (Knight) has made. I am leaning towards this also. I have been around, too, and I think it might be a good thing for the community. Just to stress the fact that, the way the ordinance was written, it was a one year experiment to be effective until July 15, 2005 unless extended by action of the Town Council. If, in fact, the Council did see that there was problems with this one year experiment, we would not renew it.

Motion was made by Mr. Vumbaco to Table the Ordinance, sending it back to the Ordinance Committee for additional review, seconded by Mr. Rys.

VOTE: Doherty, Papale & Parisi were absent; all others, aye; motion duly carried.

ITEM #7 PUBLIC HEARING to Amend Chapter 139 of the Code of the Town of Wallingford Entitled, "Littering" – 8:00 P.M. – Stephen W. Knight, Co-Chairman of the Ordinance Committee

Atty. Mantzaris explained that one change to the Chapter was to attempt to control where an owner of property who uses it for commercial or recreational purposes and invites people onto his property for recreation or business purposes and that activity engenders litter, then one provision in the ordinance, if that litter moves off onto adjoining properties, presumes that activity caused that litter to go on to other property so that would be a violation. It is something that is new that the Ordinance Committee worked on with myself. There are some properties in town that have activities which create movement of what you describe as litter onto adjoining properties and unless somebody sees right now anyway somebody actually throwing or pushing the litter onto the property, there's no violation. This particular provision presumes that it happened from that property. It is an attempt to try and control that kind of activity. Another change was to take people who put their garbage or waste out in plastic bags without tying them and they get ripped open by animals or by wind, that that litter has to be gathered up by the people who put the waste out or its their violation. The same with persons who haul trash or waste. If it blows off of their truck onto the street, if someone sees it of course, they have to stop and pick it up or they are in violation. It removes what originally controlled the dumping which is very seldom used. I've never seen it happen before, in the ordinance by our Sanitary Inspector. It is covered by state statute, if someone causes dumping, by a substantial fine of up to \$10,000. I didn't think that was appropriate for our litter ordinance. It improves the hearing procedure from the existing litter ordinance and also simplifies the fine situation. In the present one there was a first offense, a second offense, a third offense and I have heard from the Health Department... (at this time the tape malfunctioned briefly while changing over)... it was an attempt to simplify the existing ordinance and to expand its coverage hopefully in a way that it will work. We don't know if it will, but that's the idea.

There were no comments forthcoming from the public at this time, therefore the public portion of the public hearing was closed.

Motion was made by Mr. Farrell to Adopt the Amended Chapter, seconded by Mr. Rys.

Mr. Brodinsky asked Atty. Mantzaris to review the enforcement provision for the benefit of all listening so the public would understand how it would work; the steps and stages one would go through if someone in the future had a complaint; what would they do; where would they go; what they can expect.

Atty. Mantzaris stated, the Health Department should be called since they are the enforcement agency under the ordinance. A representative will go out and inspect the area and, up until now, the Town has always gotten voluntary compliance. It has never been necessary to even issue a ticket.

Mr. Brodinsky stated, from the perspective of the alleged litter, the person who allegedly scattered trash or litter, how would the process work from their perspective if they wanted to try and say that it wasn't so?

Atty. Mantzaris replied, they would probably tell that to the Health Official who issued them a citation which advises them that they have ten days from the date of the service of that form in which to appeal that process and that there are appeal forms explaining how they are to go to the Town Clerk's Office to fill out the necessary forms so that they will be assigned a hearing date.

Mr. Toman asked, the fine of \$90 per day for violators, how was that figure arrived at? I thought perhaps it might be a little bit higher and perhaps more frightening.

Atty. Mantzaris answered, the original was \$100. I am going through most of the ordinances and reducing the fine from \$100 in most cases, making them infractions. The reason being is that a \$100 fine is an arrest situation. It is a booking, fingerprinting, a tremendous work effort on the part of the Police Department and in many cases, these things don't go very far. With an infraction you simply give the person a ticket and then it is between them and the court. There is no involvement by the (police) department as in an arrest situation. In this case there is a citation form so there is a hearing process. That was the reason for making it less than \$100. A \$100 fine is an arrest situation.

Mr. Toman stated, I was concerned about the deterrence factor. When I am driving around and I see a sign that there is a \$250 fine for littering, which is a \$50 fine for littering now, just makes a bigger impact on you. But you are saying that you are doing this because of the police paperwork?

Atty. Mantzaris answered, presently, the signs say it is a \$500 fine and I see plenty of litter around, even by the signs sometimes. I am not sure it operates as a deterrent, to have a substantial fine.

Mayor Dickinson added, if we consider what may be a typical circumstance here, say it's a business and the people leaving the business throw candy wrappers or what ever other paper in the yard, it blows over to a neighboring property, do we want the police going out and arresting that person an making it that kind of an offense? Or should the health department be giving them a citation? At \$90 a day, I think that is a deterrence. That adds up very quickly and not too many people would want to pay the first \$90, let alone four or five days later. Under most practical circumstances, to have the Police Department arrest

someone as if they are a criminal is questionable given the purpose of what I think we are trying to address.

Mr. Toman replied, litter may not be a criminal offense, but it turns my stomach when you realize that it is an offense against everybody. Even though it may be on one property, it is not just confined to it. It is usually an attitude. If it is by mistake or an accident, then this won't apply and it will be removed quickly, but we are talking about people who have an attitude, a disregard for everybody when they litter.

Mayor Dickinson replied, I think I would agree with you with regard to the attitude but we could have a circumstance where the business owner doesn't realize what is happening and I think that's what Adam (Mantzaris) indicated typically when they are notified, they clean it up immediately and there isn't a problem. But at the larger number, we could have circumstances where someone, there's no choice. The police take their action and it gets to be a bigger issue than what it really has to be. You are correct, where people just don't care, that is unfortunate. If we find out that this isn't enough, we can always change it again.

VOTE: Doherty, Papale & Parisi were absent; all others aye; motion duly carried.

ITEM #13 Consider and Approve an Agreement Between the Town of Wallingford and Local 1183 - Council No. 4, American Federation of State, County and Municipal Employees (AFSCME) - AFL-CIO Effective 7/1/03 - 6/30/08 - Personnel - (Appendix II)

Motion was made by Mr. Farrell to Adopt the Agreement with the Attached Job Descriptions, seconded by Mr. Rys.

Larry Warner, 19 Hillside Lane, President, Local 1183 stated, this agreement represents a lot of long and hard work from both sides and we would appreciate it if you would pass it.

Mr. Knight stated, congratulations from both sides, if you will, that you came to this agreement. It looks like it is a good one for both parties which is the way it is supposed to be.

VOTE: Doherty, Papale & Parisi were absent; all others, aye; motion duly carried.

ITEM #14 Consider and Approve a Transfer of Funds in the Amount of \$151,323 from Contingency - Accrued Expenses Acct. #001-7060-800-3230 to Various Wage Accounts within the General Fund Budget of the Town - Personnel

Motion was made by Mr. Farrell to Approve the Transfer, seconded by Mr. Rys.

This transfer is being requested to fund Item #13, the Agreement with AFSCME, Local 1183.

Mr. Rys asked Personnel Director, Terence Sullivan, to give an overview of the agreement.

Mr. Sullivan explained, in summary, this is a five year agreement that would expire 6/30/08. The raises are 3% cost of living adjustments across the board for the first four years and 3.25% in the fifth year. Including this package is a rather significant giveback from the union which shows the willingness of the parties to bargain hard. We jointly addressed the issues of insurance, which are out of line and rapidly increasing in cost and the union was good enough to work with us to recognize those costs and they have agreed to essentially double the co-pay, increase their home and office co-pay, go to a new prescription drug plan which will save the town a significant sum of money. As Mr. Warner indicated, and I didn't know he was going to be here tonight, but both sides did give to get this agreement and I think it is good for both the town and the employees.

Mr. Brodinsky asked, the accrued expenses line item, am I correct in assuming that this was money that was appropriated or put in to this line item account just to fund a contract if one was signed?

Mr. Sullivan answered, that's correct.

Mr. Brodinsky asked, is there anything left over in that account that is dedicated to other contracts?

Mr. Sullivan answered, yes there is.

Mr. Brodinsky asked, and what other contracts are left that would rely upon this line item to fund?

Mr. Sullivan answered, for this line item, we would rely on the funding for the fire contract which we have reached a tentative agreement on as well and I hope to be back here next month with that contract. There are three other contracts in arbitration but those are in the utilities which don't rely on this account.

Mr. Brodinsky asked, so just the fire contract would come from this line item?

Mr. Sullivan answered, yes, and if anything else happens from the police arbitration case that is still not awarded. If there is still any other financial that is not wage-related that we already transferred, would have to come out of this account as well.

Mayor Dickinson added, there may be other sums in there as well. I don't want to give the impression, someone can just do a mathematical calculation and arrive at what money has been put aside for any given contract.

VOTE: Doherty, Papale & Parisi were absent; all others, aye; motion duly carried.

ITEM #15 Consider and Approve an Appropriation of Funds in the Amount of \$2,238 to Revenue – Local Match Acct. #207-1041-060-6000 and to Regular Salary and Wages Acct. #207-3070-101-1000 in the Budget of the Youth and Social Services Dept.

Motion was made by Mr. Farrell, seconded by Mr. Brodinsky.

VOTE: Doherty, Papale & Parisi were absent; all others, aye; motion duly carried.

ITEM #16 Consider and Approve Settlement of Pending Litigation in the Matter of the Town of Wallingford v. RAC Corporation as Discussed in Executive Session – Town Attorney

Motion was made by Mr. Farrell to Approve the Settlement of the Town of Wallingford v. RAC Corporation as Discussed in Executive Session, seconded by Mr. Rys.

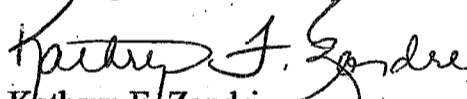
VOTE: Doherty, Papale & Parisi were absent; all others, aye; motion duly carried.

Motion was made by Mr. Farrell to Adjourn the Meeting, seconded by Mr. Toman.

VOTE: Doherty, Papale & Parisi were absent; all others, aye; motion duly carried.

There being no further business, the meeting adjourned at 9:32 P.M.

Meeting recorded and transcribed by:


Kathryn F. Zandri
Town Council Secretary

Approved by:


Stephen W. Knight, Vice Chairman

Date

11-12-03

Rosemary A. Rascati
Rosemary A. Rascati, Town Clerk

11-12-03
Date

RECEIVED FOR RECORD 11-3-03
AT 4 H. 50 M. 0 M. AND RECORDED BY
Rosemary A. Rascati TOWN CLERK