

MINUTES

WATERTOWN TOWN COUNCIL SPECIAL TOWN MEETING

WATERTOWN HIGH SCHOOL TECHNOLOGY ROOM MONDAY, MARCH 16, 2009, 7:00 P.M.

PRESENT: Elaine Adams, Chairman
Gary Bernier
David Demirs
Richard DiFederico (arrived at 7:08 p.m.)
Richard Fusco
Carl Mancini
Raymond Primini, Vice Chairman
Paul Rinaldi

ABSENT: Scott Marotta

OTHERS PRESENT: Charles Frigon, Town Manager
Paul Jessell, Town Attorney
Frank Nardelli, Assistant Town Manager/Finance Director

1. Convene Special Town Meeting

Ms. Adams, Chairman, Called the Special Town Meeting to Order at 7:00 p.m.

MOTION: (Mr. Primini, sec. Mr. Bernier) to nominate Elaine Adams for Moderator of the Special Town Meeting.

Discussion: **Ms. Adams:** Are there any other nominations? Are there any other nominations? Are there any other nominations?

MOTION PASSED UNANIMOUSLY

MOTION: (Mr. Primini, sec. Mr. Bernier) to nominate Lynn LaForme for Secretary of the Special Town Meeting.

Discussion: **Ms. Adams:** Are there any other nominations? Are there any other nominations? Are there any other nominations?

MOTION PASSED UNANIMOUSLY

Ms. Adams, Moderator, read aloud the Call of the Meeting as follows:

WARNING AND NOTICE
TOWN OF WATERTOWN, CONNECTICUT
SPECIAL TOWN MEETING
March 16, 2009

The legal voters of the Town of Watertown and those entitled to vote in Town Meetings are hereby WARNED AND NOTIFIED of a Special Town Meeting to be held on Monday, March 16, 2009 at 7:00 p.m. at the Watertown High School Technology Room, 324 French Street, Watertown, Connecticut to consider an appropriation of \$70,000 from the General Fund for legal fees.

Dated in Watertown, Connecticut this 5th day of March, 2009.

Charles Frigon, Town Manager

RETURN OF
WARNING AND NOTICE
TOWN OF WATERTOWN, CONNECTICUT
SPECIAL TOWN MEETING
March 16, 2009

I hereby certify that on March 5, 2009, I left a duplicate copy of the attached WARNING AND NOTICE of a Special Town Meeting of the Town of Watertown, Connecticut, to be held on March 16, 2009 with Virginia Russo, Assistant Town Clerk.

I further certify that on March 5, 2009 I caused a copy of said Warning and Notice to be published in the TOWN TIMES Newspaper, which has a substantial circulation in said Town.

I further certify that on March 5, 2009, I caused to be set upon the signpost nearest the office of the Town Clerk and all other places with signposts designated by the Town, a written copy of said Warning and Notice signed by me as Town Manager.

I further certify that all the above acts were done at least five (5) days before the holding of the Special Town Meeting on March 16 2009.

Charles Frigon, Town Manager

**TOWN CLERK'S CERTIFICATION
AS TO WARNING AND RETURN OF WARNING**

I hereby certify that the attached WARNING AND NOTICE of the foregoing RETURN OF WARNING are duly recorded in the records of the Town of Watertown, Connecticut and that Charles Frigon. was the Town Manager of the Town of Watertown on the date the WARNING and RETURN OF WARNING were signed.

Dated at Watertown, Connecticut this 5th day of March, 2009.

Virginia Russo, Assistant Town Clerk

Ms. Adams: Just an overview, we do have Frank Nardelli here, our Finance Director. Basically legal fees this year have extended our budget, hence the purpose of this Town Meeting to spend the dollars that we need to continue on through the end of this fiscal year. Frank is here if you have any questions fiscally on just what has happened (inaudible).

MOTION: (Ms. Judy Wick, sec. Mr. Alan Mickel) that the \$70,000 in fees be separated into individual items so that they can be discussed and voted on separately.

Discussion: **Atty. Jessell:** I don't know that there is any provision for separating, the additional funds were not for any particular items, the additional funds were for all of the legal fees that may be expended between now and the end of the year, from a variety of sources, so it's really impossible to separate them into individual expenditures.

Ms. Wick: Well aren't there bills that have been submitted for, that comprise this \$70,000?

Atty. Jessell: Any of them could or should be paid at any time. The fact of the matter is that the total amount that we have in pending bills and what we expect to expend, and I'm really taking Frank's thought here between now and June 30th exceeds the appropriation, so again it's not individual bills that are at issue, but rather the fact that (inaudible) bills that have been submitted and bills that we anticipate for a variety of items are going to exceed the appropriation.

Ms. Wick: Would it be possible to know the bills that have been submitted so that those can be, people can be made aware of those?

Atty. Jessell: We have the bills that have been paid to date, I believe.

Ms. Wick: I guess the concern is more the bills that have been submitted but have not been paid.

Atty. Jessell: There are a number of them, I don't have, for example there are bills from my office that have been submitted and not paid at this point. I would not be able, I don't have for you a list of all the bills that have been submitted and not paid.

Ms. Wick: I guess my question is how can we be expected to intelligently vote on this without knowing basically what we're voting for?

Atty. Jessell: I have already explained that as best I can. Some of that money will be billed from my office, I'm sure, some of that money will be billed from other attorneys, among them Warren Hess, Joe Summa, Ned Fitzpatrick.

Ms. Adams: We do, I don't know if we have an (inaudible) what we do have, I think maybe Chuck or Frank what they know, we know what we've paid already (inaudible). What is our expectation to be paid?

Mr. Frigon: The \$70,000 that we are voting on this evening was budgeted \$40,000 for one of the larger and this is anticipated for one of the larger lawsuits that we are going to trial on at the end of April. There was \$20,000 for Planning and Zoning issues and there is \$10,000 for general matters.

Ms. Adams: Any more questions?

Ms. Rosalie Loughran: I suggest we move the question.

Ms. Adams: Well we don't have a motion on the floor yet.

Ms. LaForme: We do have a motion and a second on the floor.

Ms. Adams: Thank you, Lynn. According to our Attorney, he doesn't believe we can do this or . . . we're not voting on individual items here.

Ms. Adams: There's nothing to separate so that is the motion then.

Unidentified Voice: Separate (inaudible) moot motion.

Ms. Adams: (Inaudible) motion then?

Atty. Jessell: No.

Many people talking at once (inaudible).

Ms. Adams: It's only fiscal matters?

Atty. Jeseell: It's an appropriation from the General Fund into a line item of the budget.

Ms. Adams: So as far as separating them that would not be done.

Atty. Jessell: No, the bottom line is that there is still money in that line item at this point in time, not to say it will pay all the bills that are pending but there will be other bills coming for March, April, May, and June that also will not be covered. We have no idea what those bills will be, our anticipation is based on history that \$70,000 will cover all of those bills.

Ms. Adams: So the motion and second on the floor then is not

Atty. Jessell: There's nothing to separate.

MOTION: (Ms. Rosalie Loughran, sec. Ms. Denise Russ) that we approve \$70,000 to be transferred into that line item for legal fees for the rest of the fiscal year.

Discussion: **Mr. Rinaldi:** What was the first motion?

Ms. Adams: The first motion was to separate out

Mr. Rinaldi: I didn't hear two words after Judy spoke, she speaks quietly.

Ms. LaForme: The first motion was that the \$70,000 be separated into individual items to be voted on.

Ms. Adams: Then there was a second.

Mr. Rinaldi: (Inaudible).

Unidentified Voice: Then it was withdrawn.

Ms. LaForme: No, it wasn't withdrawn.

Mr. Bernier: It's a moot motion.

Ms. Adams: Yes. So we have a motion and a second. Any discussion on this motion?

Erich Weihrauch, 360 Straits Turnpike, Watertown, CT 06795

Mr. Weihrauch: I personally believe when we decide on our budget for the Town, when we vote on the budget, we have to live within the means of the budget. It's very simple with this item here, the snow removal account, there's plenty of overtime money there, take it from somewhere else, end of story.

Judy Wick, Northfield Road, Watertown, CT 06795

Ms. Wick: I understand that some of these funds are to be for legal fees that were incurred without following the basic requirement that has been the policy of the Town as long as certainly the 20 something odd years that I have been involved in things, and one of those bills based upon an article that I read in the local paper has to do with attorney's fees for the Chairman of the Planning and Zoning Commission as a result of some requests that were made of the Town Council to investigate his actions. And my understanding is that the issue that was raised was that the Town had to pay these fees as a result of Connecticut General Statute 7-101a and the Superior Court decision in the case of Spitola versus New Milford. Now I've spent some time and I looked up that State Statute and it requires protection from financial losses or expenses if any arising out of any claims, demands, suits, or judgments by reason of alleged negligence or for alleged infringement of any person's civil rights. Now was the Chairman of Planning and Zoning accused of any of those things? What I thought we had had was an incident in which two applicants before Planning and Zoning who believed they were not being treated in an unbiased manner, went to the Town Council and asked for an investigation. An investigation. How did this become a field day for lawyers? If this was such a case, why was the entire thing held in executive session? And did Mr. Minnich, the Chairman of Planning and Zoning, ask the Town to provide him legal representation, or did he take it upon himself to do so without regard to what it would cost?

The New Milford case was pursued under New Milford's Ethics Ordinance which I read, which set out procedures particularly providing for legal representation as does the Watertown Ethics Ordinance. However we have been told this was not an ethics complaint and therefore not subject to the requirements and protections of the Ethics Ordinance. It seems to me that there are still unanswered questions as to whether Watertown should be responsible for all or part of this bill. An article in last Friday's Litchfield County Times indicated that the Town of New Milford finally settled its suit for less than half of the amount of the fees that were originally requested. I think we need an outside party to look at these issues before we move forward and I would therefore suggest at the very least we Table this item and authorize the Council to seek an outside opinion.

Unidentified Man: Maybe we can hire another attorney . . .

Ms. Adams: Paul, can we Table and if the Town Meeting so desires, Table to another date to seek an outside opinion? Is that in the form of a motion?

MOTION: (Ms. Judy Wick, sec. Mr. Alan Mickel) to Table this issue to seek an outside opinion.

Many people talking at once; (inaudible).

Mr. Gary Martin: Can you repeat what's going on, we're missing what's happening here?

Atty. Jessell: There's been a motion to Table and a Second.

Many people talking at once (inaudible).

Unidentified Voice: You have a Motion on the floor, you can't do that.

Ms. Adams: After consulting with the Town Attorney, he said if there is a Motion on the floor, that that would need to be addressed first, and then we can (inaudible). No, we can't accept the Motion to Table because we have another Motion we have to deal with first.

Discussion: **Doreen Desorbo, 73 Franklin Avenue,
Oakville, CT 06779**

Ms. Desorbo: I don't know if anything or everything I'm going to say is totally in place at this point in time, but it really bothers me that we are removing 1,400 street lights, most of which came off of our street, thank you, I now have to worry about going home and is a skunk going to be in the yard when I walk out, the people who stole the neighbor's car 2 doors down a month ago, are they lurking? I now have to go out and buy some motion lights and a lot of other stuff because that little bit of street light was enough to keep me from jacking up my electrical bill, and how does this all relate? This all relates to from a lot of people's point of view that quite frankly your Planning and Zoning Commission is out of control. If you want to put it kindly, they are just simply not listening, they're not looking, they're not thinking, if you want to put it other ways, I might even agree with that too. The legal fees right now are jacked up ridiculously because of Planning and Zoning. There are some problems there. I don't know, I was not here when this Hearing was held, Executive Session, whatever, but my understanding is that it was culled short a bit. And it was culled short by a majority vote including some people on the Town Council who should not have been voting because it was in their best interest to have it all go away, so if we're sitting with more bills from Planning and Zoning while we're taking out street lights, shame on everybody.

**Denise Russ, 135 Porter Street, Watertown,
CT 06795**

Ms. Russ: I don't have a problem with Tabling this as Judy would like, but as this lady who spoke in front of me said it's more legal fees, and if we Table this to have an outside attorney investigate this to see if it's legal to pay and move the money, aren't we spending more money that is needed? Shouldn't we just take this Motion, approve it, pay it? Everybody that is on a board or a commission, they volunteer their time, and I commend everybody for that because without them you'd have no boards or commissions, and I know there's been a lot of controversy with Planning and Zoning, but in my opinion I think right now what's good for Watertown is that we all work together and try to get a better tax base in this Town, and if everybody could maybe just work together and come up with an idea or a solution instead of individual people coming out and saying we don't want this and we don't want that, because we're not getting anywhere. We need to work together as a whole in this Town to get somewhere and like I said, to pick on Planning and Zoning, there are other boards and commission that have their problems also and we volunteer and if this goes on you're not going to get people to volunteer anymore, and what's going to happen to Watertown? We are not moving forward in the best interests, and like I said, to approve this tonight would be in our best interest, move on, and then you can resolve the problems by working together. Thank you.

**Duane George, 184 Platt Road, Watertown,
CT 06795**

Mr. George: I'd like to know if we got a legal opinion whether this was a due bill from our Town Attorney and what was that opinion if we got that? Could we get that opinion Paul? Would you please come up and give us that opinion?

Atty. Jessell: Again, after reviewing the Statutes and the cases, including the New Milford case, but also other cases directly on point, it was my opinion that this bill should be paid.

Ms. Wick: You said there was no separation of bills (inaudible).

Atty. Jessell: The bill that was at issue was a bill for the defense of the Chairman of the Planning and Zoning Commission (inaudible).

Ms. Adams: Did you want to come up and address that?

**Dick Wick, Northfield Road, Watertown,
CT 06795**

Mr. Wick: First of all I think the Motion to Table takes precedence, if I remember Robert's Rules from way back when when I was doing things like you're doing, I think the Motion to Table takes precedence, it has to be voted on yes or no, debate cannot be conducted after a Motion to Table, but since we're doing it, let's keep going.

Ms. Adams: I did consult with Paul Jessell and he said no, the Motion took precedence.

Mr. Wick: I'll look it up in my book when I get home and I guess we all will, we'll find out. My comment (inaudible) by David Minnich of about \$40,000 in legal expense, and frankly I don't even want to be here tonight, and we shouldn't have to be here tonight, and we are here because unnecessary legal costs were run up by lawyers (inaudible) what started out as a Town Council investigation. Lawyers are needed when a dispute gets to court. The complaints about David Minnich's performance were not in a form of a lawsuit. The complaints did not ask for monetary compensation. The complaints should have been, could have been handled by the Council alone. I'll say that again. The complaints could have been and should have been handled by the Town Council alone. Given that Mr. Minnich chose otherwise and did it without first confirming who would pay the legal bills, the Town should take the position that it was not required to reimburse. Keep in mind these expenses were not a result of a lawsuit. These expenses were not approved in advance. That's a violation of Town policy. Much has been said about the New Milford case. In Watertown this individual was the subject of a request to the Town Council to exercise its responsibility "to regulate the internal operations of boards, commissions, and offices which it fills by appointment". That's from Section 306 of the Town Charter. Many of us have learned over the years that there is only one way to handle a bully. That is to push back. If you don't the bully will just get stronger and more annoying and more expensive. Our Town is being bullied. If we neatly agree to pay the unnecessary and unauthorized legal bills, could we be inviting more of the same? Until we take a stand it might never end. Let's end it now. The risk of an actual lawsuit where lawyers will be properly employed is real. Please consider that it is a risk worth taking given the alternative that bullying and intimidation tactics could be never ending.

**Ms. Duplissie, 250 Morro Street, Oakville,
CT 06770**

Ms. Duplissie: I'd like to know if the Town Council (inaudible) the Town Attorney for any information regarding this investigation (inaudible)?

Ms. Adams: That would not be, for tonight it's the appropriation.

Ms. Duplissie: Well if Mr. Wick is right, he's saying that Mr. Minnich should not have had an attorney and we should not pay for that, but if the Town Council has legal counsel then the person they're investigating certainly should have legal counsel.

Ms. Adams: And he did.

Ms. Duplissie: Rightly so, right?

Mr. Mancini: To answer Mr. Wick, I received something from, that was addressed to Ms. Elaine Adams, dated October 6, 2008 from Mr. Jessell's Office and it was relating to removal of a public official, and it's Hearing requirements. In the event that the Town Council determines that it should proceed with a Hearing, the following are the procedures that must be complied with in order to proceed, the Chairman of the Planning and Zoning Commission, the respondent, with his due process rights. I will skip the first couple, then it says "at the Hearing the respondent has the right to be represented by counsel and has the right to cross examine a witness against him". I think Paul, I think you told me that you sent this information also to the respondent, Dave Minnich?

Atty. Jessell: Yes.

Mr. Mancini: Mr. Wick, I think that's your answer, that he was told he could have counsel, he had a right to counsel, and everybody should know that. Dave Minnich didn't go out and get an attorney on his own because he wanted an attorney. He was told that he could have counsel, so that's all. If there are any questions on that, I'll respond.

MOTION: (Mr. Gary Martin, sec. Mr. Duane George) to Move the Question.

Discussion: None

MOTION CARRIED

Ms. Adams: Now for the main Motion to appropriate the \$70,000 for legal fees. I'm going to ask to divide the house. Those who are in favor of the appropriation move to my left, those opposed to the appropriation move to my right. I am going to appoint Lynn LaForme and Frank Nardelli as tellers to count. This is where you vote.

In Favor: 25 People

Opposed: 26 People

Abstained: 0 People

MOTION FAILED (25-26-0)

Ms. Adams, Moderator, Adjourned the Special Town Meeting at 7:35 p.m.

Respectfully submitted,

Elaine H. Adams, Moderator

Approved: _____
Lynn M. LaForme, Clerk