

REGULAR MEETING FEBRUARY 5, 2007

The Wethersfield Town Council held a meeting on Monday, February 5, 2007 at 7:00 p.m. in the Auditorium of the Silas Deane Middle School.

Present: Councilors Drake, Forrest, Kirsche, Kotkin, Montinieri, Walsh, Deputy Mayor Fortunato and Chairperson Adil.

Also present: Bonnie Therrien, Town Manager, and Dolores G. Sassano, Town Clerk.

Absent: Councilor Cascio

All stood for the pledge of allegiance to the flag which was led by Councilor Kirsche

REPORT FROM PETER GILLESPIE - ECONOMIC DEVELOPMENT UPDATE

Peter Gillespie, Town Planner summarized the monthly Economic Development Report.

- The following are recently completed projects and new businesses: Crane America, Hartford Medial Group, Wiggles and Giggles, New England Retail, Re-Bath, and Sit and Knit.
- The three 55 and over projects are working their way through winter construction. They are Church Homes, Folly Brook Apartments, and Stillman Walk on Nott Street. The Church Homes project has requested a lessening of their 55 and older restriction because they are finding it difficult to market the existing brick buildings. The Planning and Zoning Commission will be discussing this at their March meeting.
- The following are in the Planning and Zoning stage: renovation of the rear portion of the Comstock building to accommodate the creation of a retail and residential project and Old Reservoir Road/Back Lane plans will be submitted in the next few weeks
- There is great interest this month by developers for some of the more notable properties in town; Berlin Turnpike property, Fun Zone, 1260 Silas Deane Highway, Porch and Patio building, and 1000 Silas Deane Highway.
- Over the last two years, the 2 story brick building at the north end of the Wethersfield Shopping Center on the Silas Deane Highway closed out all of its leases. The owners are interested in demolishing it to make that end of the shopping center more marketable.
- He is continuing to work on the Silas Deane Highway revitalization. Last week, plans have been submitted to the DOT for the redesign of the Church Street/Silas Deane Highway intersection.
- Keiler has completed their work on the Town's website re-imaging. Implementation is the responsibility of the Town; it will be done over the next few months by Tom Hemphill.
- At a meeting held on January 18th with the Connecticut River Valley Tourism District, the Town continues to improve its relationship with regional tourism officials.

In response to a question by Councilor Kotkin, Peter Gillespie said the Church Homes are condominiums. The Hess Oil property has not made any formal proposals for its property. Much of the excess Hess property is in a flood plain.

Councilor Kotkin asked if the demolition of the brick office building in the Wethersfield Shopping Center would be replaced.

Peter Gillespie said that it would probably be replaced by another freestanding building, office or restaurant. The current building limits the possible tenants.

Deputy Mayor Fortunato asked if the Town Planner could research any organizations or trade associations which lists all of the franchises which would allow the Town to more easily attract franchise businesses to town.

Peter Gillespie said that he does not know if such an entity exists. He said that he does work directly with some

franchises but not on a national organizational level.

Deputy Mayor Fortunato said that there are franchise organizations across the country that may find a suitable company to fit into this area and it might be researched as it could help in attracting businesses to Town.

PUBLIC COMMENTS

HEARING

\$400,000 Housing Rehabilitation Grant - Small Cities

The Town Manager read the Resolution of the Town of Wethersfield Small Cities Program for the Public Hearing. No one commented during the hearing.

GENERAL COMMENTS

Woodrow Warren, 9 Nutmeg Circle, said that it is alarming that citizens telling the truth are being censored by the school system and town leaders and that discrimination is tolerated. He said that he has informed every known source about this wrong doing.

Robert Young, 20 Coppermill Road, said that at a previous meeting he heard the Council discuss deteriorating walls on Silas Deane Highway and Nott Street that will cost the Town \$60,000 to repair. He said that he drove by the walls and they do not appear to be in bad shape. [The Mayor stated the retaining walls were on Nott Street, south side, and were on Town property.] He discussed an article in the Hartford Courant called Moving Out of Connecticut. He is concerned with the loss of productivity created by the people that are leaving the state and town. He said that it is too expensive to live in CT for the young and the old. The state and town are not helping to create jobs. He said Council should think about where the town is going in the future. It needs to reduce taxes to encourage people to stay in CT.

COUNCIL REPORTS & COMMENTS

Councilor Walsh stated on January 24th he attended the Historical Society's monthly board meeting. He noted that it is the 75th anniversary of the Historical Society this year. He said that the Redevelopment Committee met in January and things are getting underway with the committee. The Capital Improvements Advisory Council also met and is in the process of finalizing the capital projects for next year. The Infrastructure Committee met February 1st to discuss the leases between the town and Historical Society as well as Town drainage issues.

Deputy Mayor Fortunato said that the Shared Services Committee met tonight and discussed the State Advisory Board of Education's final report on funding commitments to the Town. The technology position that is shared with the Town and Board of Education is working well; the Board of Education will be onboard with the Munis system in March; Managers from three surrounding Towns and Wethersfield have been talking about violence and vandalism by our youth in the region; Dr. Proctor presented the Hanmer architectural study recently completed; the Wethersfield High School study is due next month; and at the next meeting they will be reviewing the 2007 goals for the committee.

Councilor Kotkin said he attended a meeting of the Park and Recreation Advisory Board a few weeks ago. Its Capital Improvement focus was Mill Woods Park. They are looking forward to receiving more state funds. The condition of the fields was also discussed. The youth athletic leagues wonder what work can be done on the fields by the leagues without infringing on town work forces. He suggested they have a written guideline of what jobs the volunteers may perform.

Councilor Drake attended the committee meeting on the joint project of the Keane Foundation and the Town on renovations to the Pitkin Community Center. He thought the members of the committee were all very well qualified

and he looked forward to working with them to get the Sports Center going. He said Councilor Cascio wanted him to mention that the Channel 14 Board of Directors met and re-elected Rick Garrey, Mary Beth Maluccio, and Ed Zambrello to the same offices they held previously.

Councilor Kirsche wanted to alert residents that the Advisory Committee for People with Disabilities held their annual transportation meeting for people with disabilities on Jan 17th. This year Social Services is working to provide a program to fill in the gaps of Dial-a-Ride with volunteer drivers. One area where services are needed is in transporting residents to medical appointments that are outside of the area covered by Dial-a-Ride. The Town hopes to have the program in place by the end of February. If anyone is interested in volunteering please call Christine Taylor or Nancy Stilwell. He said the Youth Advisory Board is having its 2nd Prom Dress initiative from the 13th-15th of February. It sells donated prom dresses at the high school. The program was well attended last year and is still in need of more donations for this year.

Councilor Montinieri added that the Tourism Event, previously mentioned by Planner Peter Gillespie was very well received by the Convention Center staff and other attendees. He said they were very positive about Wethersfield. He thanked Doug Shipman, Ann Kuckro, Charles Forsdick, Christine Traczyk, and Ellen Goldberg for their assistance as well as Mayor Adil and Town Manager Therrien. He stated that some people wonder about getting Wethersfield on the screen for Hartford convention events. He wants people to bring their money to shop and eat here. He feels it is the Planner's job to attract business; Economic Development wants to keep them here. He also stated that if residents want to watch basketball the varsity girls team at Wethersfield is very good. They have an 11-0 record and they went down to the wire with Windsor in a very exciting game.

Councilor Forrest said he had a busy week. He said the combined Land Boards met and had a very good dialogue and all are working to improve the Town. He attended the Memorial Day Parade committee meeting. They are looking for nominees for the parade marshal and other honorees. He also met with Town Manager Therrien and asked that she flesh out some plans for aesthetic improvements in Town including Silas Deane Highway improvement, Façade Improvement Program and Wayfare Sign Program.

Councilor Walsh attended the Silas Deane Middle School Cabaret Night it was a great show with variety, quick moving with a great turnout. Twelve teachers participated and it was good to see staff attending.

Deputy Mayor Fortunato said she was happy Cabaret Night was able to go on because a portion of Wethersfield residents were without power for many hours. She asked the Manager to find out what was happening with the power situation and wanted to be sure public safety was not affected.

Town Manager Therrien said that 362 homes were affected for three to four hours. It was due to branches falling on the wires.

Chairperson Adil announced that there will be a Public Forum for the Community on February 9, 2007 at 7:00 p.m. for the leadership qualities residents want in a new Superintendent of Schools. The Keane Foundation Snow Ball is planned for March 3rd, at the Pitkin Community Center at 7:00 p.m.

Chairperson Adil asked the outcome of the Wethersfield High School girls basketball game.

Councilor Montinieri reported that unfortunately, they lost in a very exciting, close game.

COUNCIL ACTION

TEACHER'S CONTRACT

Deputy Mayor Fortunato moved "**TO TAKE ITEM B.3.A. TEACHER'S CONTRACT OUT OF ORDER**" seconded by Councilor Forrest.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

Dr. Proctor said that overall the Board of Education likes this contract. He believes it serves the Wethersfield Federation of Teachers and the Town well. He highlighted the following contract points:

- The salary increase for teachers is a 3 percent general wage increase plus a 1.5 to 1.8 percent incremental cost. This is well within the statewide averages reported.
- This contract has made some major inroads as far as health insurance is concerned. There is a phasing in of increased employee contributions and design changes to eliminate the most expensive policy, Blue Care POE. Together these changes result in savings of \$130,495. One of the most innovative changes in the contract is the concept of a Health Savings Account. New to the public sector, it will, over time, create substantial savings for the Town.
- Another major inroad that was made was with the retiree health insurance. They negotiated that all employees hired after July 1, 2007 will not be eligible for retiree health insurance. It will substantially reduced the accrued liability of health insurance for retirees in the future.

He complimented Karen Baldwin, Director of Human Resources on her mediation of this contract, saying that she never gave up and worked hard with the Union representatives to hammer out a contract they could both approve and eliminate the need for arbitration. He added that the unions unanimously approved the contract. He also thanked Councilor Kotkin for representing the Town Council extremely well in the negotiations.

Councilor Kotkin said that he is definitely in favor of ratifying this contract. He said that:

- This contract resolves the issue of the teachers' picking up a larger percentage of their health care insurance over the next few years.
- The three percent wage increase is a fair number when you look at the total cost to the Town. The average wage of teachers is higher than other towns because the Town's teachers are experienced and at a higher steps; it is not that the steps are out of line. In the next few years, the town may have 50-60 teachers eligible for retirement and many new teachers will be hired at lower steps. It is a positive statement that the Town has so many teachers that want to stay in Town and are keeping their expertise here.
- Removing the retiree health benefits for new hires will be a benefit for the Town and will help the Town with future negotiations with other bargaining units.

He asked Dr. Proctor to briefly explain the concept of Health Savings Accounts.

Dr Proctor asked the Town's Agent of Record to discuss it.

Christopher Monroe, the Town's health, disability, and life insurance agent, said that Health Savings Accounts were introduced in January 2006. Insurance costs rise every year and to help offset some of the increased cost to employees, this contract has created health savings accounts which allow employees an increased pre tax contribution program.

Councilor Montinieri asked if the account was established and interest bearing or what it is.

Mr. Monroe said that if you look at the deductibles for 2007-2008 they are \$1,500 and \$3,000. Some of this money must be liquid the first year. Employees may invest in any amount over \$2000. They will direct any funds over \$2,000 into a host of investment vehicles, some very conservative and others a little more aggressive. As the accounts progress over the years the balances will continue to be built up. Information sessions for employees will be set up between now and July 1st. The employee will have access to these funds. This is like the 401K plans of health insurance. The hope is to build up these health funds to pay for part of a supplemental policy at retirement.

Councilor Montinieri asked if Dr. Proctor had any sense of how much participation there is likely to be.

Mr. Monroe said that there are about 320 teachers. A good first year would be 10 percent. Many people will want to take a look at the program and get a feel for it before starting it.

Councilor Drake said that he wanted to confirm that the Town is funding this plan up front and the employee is only

contributing a small amount.

Mr. Monroe said that in the first year the Board of Education will contribute \$1,250 per employee. The employees will pay a portion of the costs. Eventually the Town will not have to pay out anything as it will be self-sustaining.

Councilor Drake stated that most teachers are on the high end in salary, and asked how much the Town pays on a whole for health insurance benefits.

Karen Baldwin, Director of Human Resources said about \$3,500,000, teachers approximately \$500,000.

Councilor Drake asked if the teachers are receiving a 3 percent raise, where does the 4.8 percent come from? Is it a 1.8 percent increase in health insurance?

Ms. Baldwin said that the 1.8 percent is from the step; it takes approximately eleven years to reach the top step, after that it is just 3%.

Dr. Proctor said that in order to establish set costs they take the existing group of teachers and place them on their steps and go through the exercise of moving them all up one step during each contract year. The true wage increase cost is 4.8 percent. A lot of the teachers are at the top of their steps, about 1/3, so they would only receive the 3 percent.

Councilor Drake stated he would like to see the Board of Education come in close to the State level of inflation--2 1/2 percent cost of living for the year. Last year the Town had Webb, we had new programs, this year we do not have anything. He questioned, as a taxpayer, why the Board of Education should get double the amount. He thought most of the people were at the high level; he was surprised to hear that two thirds of them are still on steps.

Ms. Baldwin stated that teachers' salaries are right in the middle of statewide teacher salaries.

Geri Roberts, Chairperson of the Board of Education stated that state wide Wethersfield is in the middle of the pack. She stated they did not double what was out there. They looked at arbitrated settlements, mediation and thought they could do better. Labor relations is a crap shoot. There were years when we went to arbitration and paid a high price. Our teachers are contributing a high cost to medical benefits. Most arbitrations lost gains in insurance. People worked hard to get it where we are today: teacher unions, Board members Raul Rodriguez, Tristan Stanziale, Matt D'Angelo, and Geri Roberts. It gauls her to hear the statement--double the amount of inflation. She thinks that maybe you have to take what you can get and go with it.

Councilor Drake said that overall they did a good job but in the future he would like them to get it nearer to inflation.

Christopher Monroe, the Town's health, disability, and life insurance agent stated that he has personal experience with Health Savings Plans and thinks the progress made in the Insurance plan is a positive step in the right direction. He thinks it might be a good thing for the Town to use in other union negotiations.

Chairperson Adil said that it is a very positive contract in regard to health insurance reductions and salary increases. The elimination of the retiree health benefits will have an excellent long term impact to the Town. He thanked everyone for their work on the contract.

Deputy Mayor Fortunato moved **"TO ACCEPT THE AGREED UPON CONTRACT BETWEEN THE BOARD OF EDUCATION AND THE WETHERSFIELD FEDERATION OF TEACHERS"** seconded by Councilor Forrest.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

Councilor Kirsche moved **"TO ACCEPT THE RESIGNATION OF PAUL CLEMENS AND MATT DASKAL FROM THE YOUTH ADVISORY BOARD"** seconded by Councilor Forrest.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

Councilor Kirsche moved **"TO ACCEPT THE APPOINTMENT OF MICHAEL CAIN (TERM 2/05/07 - 6/30/07) AND KATHY ST.ONGE (TERM 2/05/07 - 6/30/08) TO THE YOUTH ADVISORY BOARD"** seconded by Councilor Forrest.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

Councilor Forrest moved **"TO APPROVE THE RESOLUTION - \$400,000 GRANT - HOUSING REHABILITATION PROGRAM - SMALL CITIES"** seconded by Councilor Montinieri.

Town Manager Therrien said that the grant is for \$400,000 for a program to rehabilitate homes if people are income eligible. There are 14 homes on the waiting list eligible for housing rehabilitation. The other item that funding may be used for would be the installation of an elevator at the Standish House as it has always been an issue in attracting a good restaurant. She is continuing to look into this possibility. Wagner Associates will be handling this grant for the Town again.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

UNFINISHED BUSINESS

OTHER BUSINESS

ICMA - CHANGE IN POLICY ON WITHDRAWAL OF RETIREMENT FUNDS

Deputy Mayor Fortunato motioned **"TO AUTHORIZE CHANGES TO THE TOWN'S DEFERRED COMPENSATION PLAN THAT WILL ALLOW EMPLOYEES WHO HAVE TRANSFERRED ASSETS FROM OTHER COMMUNITIES TO THE WETHERSFIELD PLAN TO WITHDRAW THE TRANSFERRED ASSESTS AS PER THE IRS RULES"** seconded by Councilor Walsh.

Town Manager Therrien stated that recent changes in Federal Law impact our employees who have rolled funds from other communities into their Wethersfield ICMA model 457 or 401 Deferred Compensation plan. The new law allows the employee to withdraw the rolled over funds only. They may not withdraw the current contributions that they are making. This essentially allows them to do what they could have done if they had not transferred the funds into the Town's program. There is a 10% IRS penalty if the person's age is under fifty nine and one half (59 1/2). Russ Salerno from ICMA is here if there are any other questions you would like answered.

Councilor Drake asked if they are required to do this because they are not required to move it to our accounts.

Chairperson Adil said he thought it provides added flexibility and supports it.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

CHANGE IN FAÇADE LOAN PROGRAM POLICIES

Councilor Montinieri moved **"TO AUTHORIZE THE TOWN MANAGER TO IMPLEMENT CHANGES TO THE FAÇADE LOAN PROGRAM AS AUTHORIZED BY THE EDIC AND AS DESCRIBED HEREIN, UTILIZING THE REMAINING GENERAL FUND DOLLARS ALLOCATED THIS PROGRAM AND, PROVIDED THE STATE APPROVES THE PROGRAM, THE \$200,000 IN STEAP GRANT FUNDS"** seconded by Councilor Forrest.

Town Manager Therrien said that originally this program was set up as a low interest loan to businesses that would be paid back over time. The Town has not really been receiving any responses. The Silas Deane grant program was approved to offer 0 percent interest loan over 10 years. Planner Peter Gillespie and the Economic Development

Improvement Commission looked at the Façade Improvement program to find out what made it uninviting for businesses to use it. They found that the program application, only for businesses not on the Silas Deane Highway, was cumbersome to complete. Newington had a program with grants and paying back the money and received no interest until it gave the merchants the money with a no interest loan. That is when they saw action of the businesses requesting funds.

Councilor Drake asked what was meant by the loan being completely forgiven after 10 years. Is it paid off at the end of 10 years?

Peter Gillespie, Town Planner said that the intent is to set it up as a loan and convert it to a grant after ten years. The town does not require any payments and every year the loan amount goes down ten percent. The loan would have to be repaid if the property was sold within three years. The program will provide money when the improvements are done. The Town must be sure the property owner will invest 50 percent. It is a two step process before issuing the check.

Deputy Mayor Fortunato asked the planner to explain how the 50 percent match works.

Peter Gillespie said the Town will provide the money when the owner spends an equal amount on the property. Three written estimates are required to guarantee that costs are not being over inflated. The Town will commit to a loan amount and inspect the project and repairs, and then complete the loan process.

Councilor Forrest asked Mr. Gillespie to explain how Design Review process works with this program.

Peter Gillespie said that the property owner will meet with him and submit the loan paperwork, then it will go to Design Review, then EDIC will endorse the project and give a letter of support. Under the existing program, one project was submitted and two others showed an interest but did not initiate the project. He hopes that those two projects may be resussesitated. There is one existing loan under the current program that would remain a loan. EDIC does not want to change it.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

CEDAR MOUNTAIN PROJECT - NEWINGTON

Town Manager Therrien said that Councilor Kotkin had questions about this area and the two development proposals for this area and at least one of them will require blasting excavation.

Peter Gillespie said that the Newington Planning and Zoning Commission recently reviewed an office park subdivision application that would require significant site work and construction of an access road to that site which is to the west of Route 75. The application was denied after months of deliberation. Further to the east at the intersection there is an application that has been partially approved consisting of a hotel, gas station and a number of other buildings. Many meetings were spent analyzing this application. It is being appealed because the gas station portion was not approved.

Councilor Kotkin stated he is not anti-development on that site. His concern is the number of truck loads to remove materials and the constant truck traffic to neighbors in the area. He would encourage very close monitoring of that situation.

Councilor Forrest asked what kind of jurisdiction the town has over development so close to the town border. Wethersfield might have a blasting ordinance different than Newington and he questioned how does that work.

Mr. Gillespie said some projects require notification to surrounding towns; our authority is limited. Technically the town does not have any authority unless it impacts traffic. Working through the Town Managers, our Town is trying to improve the communication between Newington and Rocky Hill in these situations.

Town Manager Therrien said they were concerned about possible blasting at Toll Brothers and found out that

Newington does not have any blasting regulations and that they cannot be held to ours.

Chairperson Adil wanted to have the Planner and Town Manager keep Council informed of the situation and any changes not just for this project but for any others as well.

Mr. Gillespie said there is land in Wethersfield where the easements for right of way would have to go to the Newington departments for review.

Deputy Mayor Fortunato asked that the Council be kept informed of the projects.

Town Manager Therrien said both she and the Planner are in communication with their counterparts in Newington and Rocky Hill.

BUDGET TRANSFER - \$5,683 TO REGISTRAR OF VOTERS - ELECTIONS SALARY FROM CONTINGENCY

Deputy Mayor Fortunato moved "**TO APPROVE THE TRANSFER OF \$5,683 FROM CONTINGENCY TO THE ELECTIONS DEPARTMENT PAYROLL ACCOUNT**" seconded by Councilor Walsh.

Town Manager Therrien said that when the budget was being prepared the Town did not know that it would be one of the towns to receive the new voting machines. Additional people had to be hired to work the new machines. This amount would cover the additional cost. Additional dollars will be in next year's Registrars' budget, too. These amounts will go down as the machines become more familiar to the workers.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

FINANCIAL POLICIES - REWRITE OF GRANTS POLICY

Councilor Forrest moved "**TO AMEND THE GRANTS AND GIFTS POLICIES SECTION OF THE FINANCIAL POLICIES**" seconded by Councilor Kotkin.

Town Manager Therrien said these adjustments were inadvertently left out of the revised documents.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

DISPOSAL OF VOTING MACHINES

Councilor Montinieri moved "**TO AUTHORIZE THE TOWN MANAGER TO DISPOSE OF THE TOWN'S THIRTY FOUR LEVER VOTING MACHINES THROUGH SALE OR THROUGH DONATION TO NON-PROFIT AND CIVIC GROUPS**" seconded by Councilor Forrest.

Town Manager Therrien said that the State was unable to find anyone willing to take all of the old voting machines so now it is up to the Town. The Town needs to get rid of the machines right away because of storage issues.

Councilor Kirsche asked what the amount is for the resale of these machines.

Town Manager Therrien said that the only numbers the Town can go by are \$65 for disposal. She has had calls from non profit groups but it is only for one or two machines each. It is also important to note that whoever purchases the machines has to come and remove the machines.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

BIDS

POLICE VEHICLES

Councilor Kotkin moved **"TO APPROVE THE BID FOR FOUR POLICE VEHICLES FROM WARNOCK AUTOMOTIVE, INC. DBA WARNOCK FLEET, EQUIPPED AS REQUIRED BY THE POLICE DEPARTMENT ,IN THE AMOUNT OF \$89,648"** seconded by Councilor Kirsche.

Town Manager Therrein said that as part of this year's budget the Police Department has the replacement of three patrol cars and one Ford Expedition. It had two cruisers in accidents that have been totaled. The Town is expecting to receive about \$22,000 from insurance for the vehicles and would request that 4 police cruisers be purchased to alleviate the impact on the fleet felt by the two lost cruisers. This puts the Ttown behind one vehicle going into the next budget process.

Councilor Kotkin said that there was a note from CIRMA concerning a totaled vehicle.

Town Manager Therrein said that CIRMA would not allow us to use a vehicle that they consider to be totaled and listed as salvage.

Chief Cetran said that this would pose a serious liability if a previously totaled vehicle was in another accident. The Department would like to get the car back from CIRMA and sell it at auction or use it for parts.

Town Manager Therrein said that the Town did very well with the bids for cruisers this year, but due to the collisions, the Department will be down a cruiser.

Chairperson Adil asked if the totaled vehicle could be purchased for use in another department.

Town Manager Therrein said that she has not looked into that idea.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

ORDINANCES, RESOLUTIONS, APPOINTMENTS FOR INTRODUCTION

ORDINANCE AMENDING CHAPTER 122 PROPERTY MAINTENANCE REGULATIONS OF THE TOWN OF WETHERSFIELD, CONNECTICUT

BE IT ORDAINED THAT Part II General Legislation of the Municipal Code of the Town of Wethersfield, Connecticut is hereby amended as set forth below.

CHAPTER 122

Property Maintenance

Chapter 122. PROPERTY MAINTENANCE.

§ 122-1. Title.

This chapter shall be known as the "Property Maintenance Code of the Town of Wethersfield" ("this code") and the standards established by this code shall be referred to as and constitute the minimum property standards of the Town of Wethersfield ("Town").

§122-2. Intent; authority.

- A. This code is intended to protect, preserve and promote public health, safety and welfare; to prevent and control the incidence of communicable diseases; and to reduce environmental hazards to health, safety and welfare, insofar as they are affected by the maintenance of residential and nonresidential structures, equipment and premises as provided by this code. This code is also further intended to provide minimum standards governing

the condition, occupancy and maintenance of occupied and unoccupied premises and establish reasonable safeguards for the health, safety and welfare of the occupants and users of said premises, the community and the general public. This code is further intended to maintain and preserve the beauty of the neighborhoods and to allow for control of blighted premises.

- B. This code shall establish minimum standards and responsibilities for the maintenance of all premises and delegates administrative responsibility and enforcement powers and creates enforcement procedures.
- C. This code is adopted in accordance with the provisions of Connecticut General Statutes §§ 7-148, § 7-148aa and 7-152c.

§ 122-3. Scope of provisions.

A. Applicability.

- 1. This code shall apply uniformly to the maintenance, use and occupancy of all premises now in existence or hereafter constructed, maintained or modified and shall include:
 - a. Dwellings or dwelling units, including one-family and two-family dwellings and multiple dwellings.
 - b. Lots, plots or parcels of land whether vacant or occupied.
 - c. Buildings of non-dwelling use, including commercial properties.
 - d. Accessory structures accessory to any building.
 - e. All apartments, boardinghouses, group homes, lodging houses, rooming houses, tenement houses and unrelated family units.
- 2. This code shall not apply to barns as identified in the book "Wonderful Barns of Wethersfield", copyright 1994, by Eleanor Buck Wolf, or to any other barn built before 1900, **except when the Town Manager or their designee determines that existing conditions pose a threat to the health, safety and/or welfare of the public.**

§ 122-4. Definitions.

The following definitions apply to this chapter.

Accessory Structure shall mean a structure, the use of which is customarily incidental and subordinate to that of principal building, structure or use on the same lot.

Blighted premises shall mean:

- A. any building or structure, or any part of a structure that is a separate unit, or a parcel of land, or any accessory structure, or fence, in which at least one of the following additional conditions exists:
 - 1. Town Manager or his/her designee determines that existing conditions pose a serious threat to the health, safety and welfare of the persons in Town;
 - 2. It is not being maintained, as evidenced by the existence, to a significant degree, of one or more of the following conditions:
 - a. Missing, broken or boarded windows or doors;
 - b. Collapsing or deteriorating exterior walls, roofs, stairs, porches, handrails, railings, basement hatchways, chimneys, flues, or floors;
 - c. exterior walls which contain holes, breaks, loose or rotting materials;
 - d. foundation walls which contain open cracks and breaks;
 - e. overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts, which contain rust or other decay,
 - f. rat infestations;
 - g. garbage or trash improperly stored or accumulated on the premises ;
 - h. in the case of fence, broken or rotted boards or in an otherwise dilapidated condition; or
 - i. any other exterior condition reflecting a level of maintenance which is not in keeping with community standards or which constitutes a blighting factor for adjacent property owners or occupiers or which is an element leading to the progressive deterioration of the neighborhood.
 - 3. It is attracting illegal activity as documented in Police Department records;

4. It is a fire hazard as determined by the Fire Marshal or as documented in the Fire Department records; and/or
 5. It is a factor creating a substantial and unreasonable interference with the use and enjoyment of other premises within the surrounding area as documented by neighborhood complaints, police reports, the cancellation of insurance on proximate properties; or similar circumstances.
- B. Blighted premises shall not include any such building, structure or parcel of land located on any active farm.

Community standard shall mean a judgment by a reasonable member of the community.

Connecticut General Statutes shall include any applicable amendments.

Owner/occupier shall mean any person, institution, foundation, entity or authority which owns, leases, rents, possesses, or is responsible for property within the Town.

Proximate Property shall mean any premises or parcel of land within one thousand (1,000) feet of a blighted premises.

§ 122-5. Signs; awnings and marquees.

- A. Signs. All permanent signs and billboards exposed to public view permitted by reason of other ordinances or laws shall be maintained in good repair. Any signs which have excessively weathered or faded or those upon which the paint has excessively peeled or cracked or whose supporting members have deteriorated shall be removed forthwith or put into a good state of repair by the owner of the sign.
- B. Awnings and marquees. Any awning or marquee and its accompanying structural member which extends over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event that such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event that said awnings or marquees are made of cloth, plastic or of similar materials, said cloth or plastic where exposed to public view shall be maintained in good condition and shall not show evidence of excessive weathering, ripping, tearing or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

§ 122-6. Removal of weeds and similar vegetation.

- A. ~~Beginning in May and continuing through the end of October of each year,~~ Every owner/occupier of properties upon which a building exists, or who is in possession of a vacant lot in an approved subdivision which fronts on a paved public road and to which a public water and/or public sewer lateral has been provided, shall cut, to a height of not more than eight inches, all grass, weeds and similar vegetation not planted as a crop to be harvested or for ornamental purposes within 25 feet of the street line of any paved public highway and within 25 feet of any side yard property line adjoining a property on which a building or dwelling exists.
- B. Every owner/occupier of property shall keep his property free from vegetation of any type which, in the opinion of the Town Manager or his/her designee, is injurious to public health.
- C. Any violation of § 122-6A or 122-6B shall constitute a nuisance which may be abated by the town at the expense of the owner, lessor, lessee or any other person in possession or any one or more of them to whom the Town Manager or his/her designee has given not less than 10 days written notice of intention to abate such nuisance. Such expense may be collected by the town in a civil action against any one or more of the above-named persons responsible therefor.

§ 122-7. Storage; littering.

- A. Accumulation restricted. It shall be unlawful for an owner/occupier to allow solid waste to accumulate on premises in the town in such a manner as to create an offensive, unsightly or unsanitary condition.
- B. Storage requirements. In the event that property usage would result in the stacking or piling of materials, including equipment and appliances, even if wanted and useful, they must be so arranged as to prohibit the creation of a blighting factor to their neighbors. Furthermore, all useful, wanted material, including equipment

and appliances, stored out of doors shall be stored in an orderly fashion and, to the extent reasonably feasible, shall be located in the rear yard.

- C. Throwing or depositing in town. It shall be unlawful for any person to throw or deposit solid waste, material designated recyclable or recyclables in any part of the town in such a manner as to create an offensive, unsightly or unsanitary condition. Property owners shall maintain their property litter free.
- D. Throwing or depositing on streets and public grounds. It shall be unlawful for any person to throw or deposit solid waste, material designated recyclable or recyclables upon streets or sidewalks, in any catch basin, drain or watercourse or in parks or any public grounds in the town, except that solid waste, material designated recyclable and recyclables may be deposited in proper containers.

§ 122-8. Blighted Premises; Certification List.

- A. No owner/occupier of real property within the Town of Wethersfield shall cause or allow blighted premises to be created nor shall any owner/occupier allow the continued existence of blighted premises.
- B. Blighted Premises Certification List (Certification List).
 - 1. Immediately following enactment of this ordinance, the Town Manager shall request that all Town department heads report any property of which they are aware which appears to be blighted, as defined by this ordinance. Such reports shall be submitted within thirty (30) days of the Town Manager's request.
 - 2. The Town Manager shall use this information and any other available information to complete a list of blighted properties within sixty (60) days of his original request.
 - 3. Within thirty (30) days of its completion, the Town Manager shall present the list to the Town Council which shall approve, disapprove, or modify the list. In the event that the Town Council fails to approve, disapprove or modify the list within thirty (30) days from the date it received it, then the list shall be deemed to have been approved.
 - 4. Maintenance of the Certification List. The Town Manager may request the deletion of any premises from the blighted properties list for consideration by the Town Council. In the event that the Town Council fails to approve, disapprove or modify any such request within thirty (30) days from the date it received such request, then the request shall be deemed to have been approved. On or before January 15 of each subsequent year, the Town Manager or his/her designee shall renew the process of completing a list of blighted properties as specified in this section.
 - 5. Additions to Certification List. The Town Manager or his/her designee shall investigate any and all complaints made under Section 122-9A. If the Town Manager or his/her designee has reason to believe that an owner/occupier of property has violated the provisions of this ordinance, he shall request addition of the subject property to the blighted properties list for consideration by the Town Council. In the event the Town Council fails to approve, disapprove or modify any such request within thirty (30) days from the date it received such request, then the request shall be deemed to have been approved.

§ 122-9. Complaints; Warning.

- A. Any individual, civic organization, municipal agency, or town employee affected by the action or inaction of an owner/occupier of property subject to the provisions of this ordinance, may file, ~~in writing,~~ a complaint of violation of this ordinance with the Town Manager. The Town Manager or his/her designee, upon his or her determination whether there is a violation of this ordinance, shall forward a notice letter to the owner/occupier at the time such determination has been made, and shall include the property for consideration of inclusion on the Certification List.
- B. Such a notice letter from the Town Manager or his/her designee shall be issued prior to issuing a citation.
- C. Such notice letter shall include:
 - 1. description of the real estate sufficient for identification, specifying the violation which is alleged to exist and the remedial action required;
 - 2. due date, within a reasonable time, for the performance of any act required; and
 - 3. the amount of the fines, penalties, costs or fees that may be imposed for noncompliance.
- D. The owner/occupier may not contest a warning before the Citation Hearing Board.
- E. Delivery of a notice letter or citation to the owner/occupier shall be by one of the following methods:
 - 1. By personal delivery to the owner/occupier or by leaving the citation or notice letters at the usual place of

- abode of the owner/occupier with a person of suitable age and discretion;
2. By certified or registered mail addressed to the owner/occupier at his last known address, with postage prepared thereon; or
3. By posting and keeping posted for 24 hours a copy of the citation or notice letter in placard form in a conspicuous place on the premises.

§ 122-10. Enforcement by Citation.

- A. If the corrective actions specified in the notice letter are not taken ~~and the property has been placed on the Certification List~~, the Town Manager or his/her designee shall issue a written citation to the owner/occupier. ~~A citation shall only be issued after the property has been placed on the Certification List and the blighted condition continues to exist.~~
- B. citation shall be in writing and include:
 1. description of the real estate sufficient for identification, specifying the violation which is alleged to exist and the remedial action required;
 2. Detailed information regarding the contents of the notice letter (which may be a copy of such notice letter) and the failure of the owner/occupier to take the corrective actions specified therein;
 3. The amount of the fines, penalties, costs or fees due for noncompliance; and
 4. statement that the owner/occupier may contest his liability and request a hearing before the Citation Hearing Board by delivering in person or by mail written notice of objection within ten days of the date of the citation.
- C. Delivery of the citation shall be by the manner provided in § 122-9.

§ 122-11. Hearing.

- A. An owner/occupier may request a hearing after receiving a citation. Said owner/occupier must make his/her request for a hearing within ten (10) days of his/her receipt of the citation.
- B. The Citation Hearing Board is designated to conduct hearings in accordance with Conn. Gen. Stat. Sec. 7-152c (a)-(f) when requested by an owner/occupier who has been cited under this chapter.
- C. Any cited person who wishes to admit liability without requesting a hearing may pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to the Town Manager. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the citation shall be deemed to have admitted liability, and the Town Manager or his/her designee shall certify such person's failure to respond. The Citation Hearing Board shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in Conn. Gen. Stat. Sec. 7-152c(f).
- D. Any person who requests a hearing shall be given written notice of the date, time and place for a hearing to be held not less than 15 nor more than 30 days from the date of the mailing of notice. The Citation Hearing Board may grant a postponement or continuance for good cause. An original or certified copy of the citation and notice shall be filed and retained by the Town Manager.
- E. Pending the hearing before the Citation Board no further enforcement activity as contemplated by § 122-13 (B) and (C) shall occur until either a hearing is held and the Citation Hearing Board assesses fines, penalties, costs and/or fees or until the petitioner fails to appear for a scheduled hearing and the Citation Hearing Board assesses fines, penalties, costs and/or fees. This section shall not preclude the accrual of fines during the period from the issuance of the notice until a hearing is held.

§ 122-12. Appointment of Citation Hearing Board.

The Town Manager shall appoint three Wethersfield residents to serve as a Citation Hearing Board and who shall collectively constitute the Citation Hearing Officer. Such members shall serve staggered terms of three years each. Proceedings of the Citation Hearing Board shall be conducted in accordance with the laws of the State of Connecticut and any provisions of the charter or ordinances of the Town of Wethersfield generally applicable to its boards and commissions. No zoning enforcement officer, police officer, building inspector or employee of the town may be

appointed to as a hearing officer under this ordinance.

§ 122-13. Penalties for offenses; prejudgment lien.

- A. The owner/occupier of premises where a violation of any of the provisions of this code shall exist or who shall maintain any building or premises in which such violations exist may:
 1. Be fined not more than \$100 for each violation. Each day that a violation exists after a citation as described in § 122-10 is given to the owner/occupier shall constitute a new violation, and a fine may be imposed for each such violation; and/or
 2. Be required to abate the violation at the owner/occupier's expense.
- B. A prejudgment lien on real estate may be imposed where the fine for violation of the blighted premises provisions of this ordinance is unpaid. Any unpaid fine imposed by a municipality pursuant to the provisions of an ordinance regulating blight, adopted pursuant to Conn. Gen. Stat. Sec. 7-148(c)(7)(H)(xv) shall constitute a lien upon the real estate against which the fine was imposed from the date of such fine. Each such lien may be continued, recorded and released in the manner provided by the general statutes for continuing, recording and releasing property tax liens. Each such lien shall take precedence over all other liens and encumbrances filed after July 1, 1997 except for taxes. Each such lien may be enforced in the same manner as property tax liens, including foreclosure of the real property.
- C. In addition to all other remedies and any fines imposed herein, the provisions of this code may be enforced by injunctive proceedings in Superior Court. The Town may recover from such owner/occupier or other responsible person any and all costs and fees, including reasonable attorneys' fees, expended by the Town in enforcing the provisions of this code.

§ 122-14. Appeals; Special Consideration.

- A. Any person aggrieved by any order, requirement or decision of the Citation Hearing Board may take an appeal in accordance with Conn. Gen. Stat. § 7-152c(g).
- B. Notwithstanding anything herein to the contrary, special consideration may be given to individuals who are elderly or disabled and who demonstrate that the violation results from an inability to maintain an owner-occupied residence and no person with that ability resides therein. Such special consideration shall be limited to the reduction or elimination of fines and/or an agreement that the Town or its agents may perform the necessary work and place a lien against the Premises for the cost thereof in accordance with the provisions of this code.

§ 122-15. Severability.

In the event that any part or portion of this code is declared invalid for any reason, all the other provisions of this code shall remain in full force and effect.

§ 122-16. Terms and Provisions.

- A. Where terms are specifically defined or the meaning of such terms are clearly indicated by their context, that meaning is to be used in the interpretation of this code.
- B. Where terms are not specifically defined and such terms are defined in the Charter and Municipal Code of the Town of Wethersfield, such terms shall have the same meaning for the interpretation and enforcement of this chapter.
- C. Where terms are not specifically defined in this chapter, they shall have their ordinarily accepted meaning or such meaning as the context may imply.
- D. The provisions of this code shall not be construed to prevent the enforcement of other codes, ordinances or regulations of the Town of Wethersfield.
- E. In any case where a provision of this code is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, regulation or other provision of the Charter and Municipal Code of the Town of Wethersfield or the State of Connecticut, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people of the Town of Wethersfield shall prevail.

MINUTES

Councilor Forrest moved "**TO APPROVE THE SPECIAL MEETING MINUTES OF JANUARY 16, 2007**" seconded by Deputy Mayor Fortunato.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

Councilor Forrest moved "**TO APPROVE THE REGULAR MEETING MINUTES OF JANUARY 16, 2007**" seconded by Councilor Montinieri.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

EXECUTIVE SESSION

At 9:15 p.m., Councilor Kotkin moved "**THAT THE TOWN COUNCIL GO INTO EXECUTIVE SESSION TO DISCUSS UNION NEGOTIATIONS AND REAL ESTATE NEGOTIATIONS AND PENDING LITIGATION**" seconded by Deputy Mayor Fortunato. All Council members and the Chairman voted aye. The motion passed 8-0-0.

Besides Councilors Drake, Forrest, Kirsche, Kotkin, Montinieri, Walsh, Deputy Mayor Fortunato and Chairperson Adil and Bonnie Therrien, Town Manager, the following persons were also present: Laurel Goodgion, Director of the Library; Polly Moon, Library Board. Laurel Goodgion and Polly Moon left the meeting at 9:44 p.m.

At 9:50 p.m. Councilor Forrest moved to end the Executive Session. This was seconded by Councilor Kotkin. All Council members present and the Chairman voted aye. The motion passed 8-0-0.

ADJOURNMENT

At 9:50 p.m., Councilor Kotkin moved "**TO ADJOURN THE MEETING**" seconded by Councilor Drake.

All Councilors present, including the Chairperson voted AYE. The motion passed 8-0-0.

Dolores G. Sassano
Town Clerk

APPROVED BY VOTE OF COUNCIL MARCH 5, 2007