



Pursuant to the foregoing notice a regular Representative Town Meeting of the Town of Greenwich was held on Monday September 20, 2004 at 8:00 P.M. (E.D.T.).

The meeting was called to order by the Moderator Thomas J. Byrne.

The Moderator announced that as all members had received a copy of the call of the meeting, the reading of the call would be omitted.

The members pledged allegiance to the flag, led by Cameron Bell, one of the delegates to the Boys and Girls State program.

The Moderator then introduced the 2004 delegates to the Boys and Girls State program, a week long "learn by doing program" in civics and government held in Hartford. The co-chairman for Greenwich are Erf Porter and Livvy Floren, State Representative. The students are all seniors at Greenwich High School and Brunswick School: Sofia Abbasi, Julia DeWahl, Elizabeth Dickey, Leah Stechler, Emily Weissler, Kate Wilfert, Josh Allen, Cameron Ball, Will Jeffrey, Dan Shanks, Michael Stillman, Tom Stroll and Ian Yarett.

Town Clerk Carmella C. Budkins swore in 4 new members: Paul Settlemeyer and Meredith E Relyea in District 2, Frances Avery in District 4 and Joseph J. Pellegrino in District 11.

Attendance cards were presented showing 192 present, 29 absent and 2 vacancies. The Moderator announced that as all members had received a copy of the minutes of the June 14, 2004 meeting, the reading of the minutes would be omitted.

He announced that there were a few corrections. Coline Jenkins, chairman of the Appointments Committee, stated that action taken at the June meeting was reflected wrong in the June minutes and should be as follows:

Page 9 – Item No. 12, Frank Farricker was appointed an alternate member of the Planning and Zoning Commission for a term expiring 3/31/05.

Page 9 – Item No. 15 – Frank Napolitano was appointed a member of the Planning and Zoning Commission for a term expiring 3/31/07.

Page 13 – Item No. 12 – Frank Farricker was appointed an alternate member of the Planning and Zoning Commission for a term expiring 3/31/05.

Page 14 - Item No. 15 – Frank Napolitano was appointed a member of the Planning and Zoning Commission for a term expiring 3/31/07.

Page 14 – Item No. 43 – Paul S. Marchese was appointed an alternate member of the Planning & Zoning Commission for a term expiring 3/31/05.

Page 17 – Item No. 22- Richard Mackool was appointed an alternate member of the Inland Wetlands Agency for a term expiring 3/31/05.

William Clark of District 7 noted a typo on page 8 of the minutes, in the paragraph recognizing the service of Malcolm Laing, second sentence should read --- contributions of the **late** Malcolm “Bud” Laing.

The Moderator asked if there were any more corrections or comments, there being none, the minutes as amended, were adopted by unanimous consent.  
The Moderator announced that Item No. 3 had been withdrawn.  
The Moderator suggested a motion, which was duly moved and seconded, to place the following items on the consent calendar – 1,7 & 8.

**1. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a member of the Planning and Zoning Board of Appeals for a term expiring 3/31/08.**

**DONALD R. KIEFER**

**7. RESOLVED, that the Town of Greenwich hereby accepts a grant in the amount of \$467,561 from the Connecticut Department of Homeland Security. Said grant to be appropriated to the following accounts; \$222,085 to F105 51490 Professional fees, \$165,476 to F105 53950 Supplies, \$40,000 to F105 59250 and \$40,000 to F105 59560.**

**8. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a member of the Commission on Aging for a term expiring 3/31/05.**

**MARY K. BAUSCH**

Motion Carried

The vote was now on the consent calendar.

In Favor	-	183
Against	-	0
Abstentions	-	0

Items Carried

Douglas Wells, chairman of the Legislative & Rules Committee, offered the following motion, on behalf of the committee.

The Legislative and Rules Committee moves that Item 5 be taken up as the final item of the meeting.

That there be a debate wherein a proponent representing those persons in favor of maintaining Nathaniel Witherell as a town facility be given 10 minutes to speak, a second proponent representing those persons in favor of closing Nathaniel Witherell also be given 10 minutes to speak and a proponent in favor of the Sense of the Meeting

resolution also be given 10 minutes, said proponents to be determined and selected by the Moderator. All additional speakers to be limited to 3 minutes per motion The total initial time for debate on Item 5 shall not be greater than 90 minutes and the Moderator shall not consider any subsidiary motions concerning Item 5 during this 90-minute period.

Motion Carried

The Moderator suggested a motion, which was duly moved and seconded, to suspend the rules and combine items 4-10-11 & 12 for voting purposes and consider items 2-5-6 & 9 separately.

Motion Carried

Merry Ferry of District 5 noted a typo in Item No. 4 in Section 6-322 of the resolution, third paragraph, last sentence – should read ---- a distance of 52 feet **to** the northerly---

The Moderator announced that the combined items were now before the meeting.

He announced that Item No. 4, postponed from the June meeting, was now before the meeting.

**RESOLVED**, that pursuant to section 7-147q (f) of the General Statutes, the RTM receives the report from the Historic District Commission acting as the Historic Property Study Committee submitted herewith, and

**FURTHER RESOLVED**, that the RTM, by majority vote, accepts the report of the Committee as to the proposed historic property and that the following ordinances are hereby enacted to designate the historic property and provide for its regulation in accordance with section 7-147q of the General Statutes:

**Article 5. Historic Properties**

**Sec. 6-320. Historic Properties Commission.**

The Historic District Commission established pursuant to the provisions of Section 6-309 of the Greenwich Municipal Code is hereby designated as the Historic Properties Commission to administer the provisions of General Statutes Sections 7-147p through 7-147y, relative to all historic properties now or hereafter designated by the Town of Greenwich.

**Sec 6-321. Powers and duties.**

This Historic District Commission, in its capacity as the Historic Properties Commission, shall administer the property established hereby, and shall have such powers and duties as are provided for in Sections 7-147p through 7-147y of the General

Statutes. The Commission shall cause the preparation of a map depicting the boundaries of all Historic Properties as described herein. Said map shall be filed in the office of the Town Clerk, and a copy thereof shall be maintained by the Commission.

### **Section 6-322. Property owned by Sandra Hillman**

The following property is hereby designated as an historic property pursuant to the provisions of the General Statutes, Sections 7-147p through 7-147y:

All that certain piece or parcel of land, with the buildings thereon in the Town of Greenwich, County of Fairfield and more particularly bounded and described as follows:

Beginning at a point on said Taconic Road at the north-easterly edge of said premises and thence northerly S53°33'40" E for a distance of 178.75 feet, thence westerly W57° 48' 50" E for a distance of 22.0 feet, thence northerly again S86°43'10" E for a distance of 63.41 feet, thence southwesterly N21°05'E for a distance of 61.52 feet, thence westerly N57°48'50" E for a distance of 258.6 feet, thence northerly S 44°50' E for a distance of 119.97 feet, thence southerly N9°38'W for a distance of 125.60 feet, thence westerly N9°14' E for a distance of 19.1 feet, thence westerly again N22°33'E for distance of 28.9 feet, thence southerly again N 0°01'E for a distance of 22.9 feet, thence southerly again N 9°50'W for a distance of 35.6 feet, thence southerly again N 6°33'W for a distance of 27.5 feet, thence southerly again N 31°36'W for a distance of 45.6 feet, thence southerly again N 40°46'W for a distance of 28.6 feet, thence southerly again N 34°58'W for a distance of 11.2 feet, thence southerly again N 32°34'W for a distance of 29.6 feet, thence southerly again N12°33'W for a distance of 16.2 feet, thence southerly again N 17°18'W for a distance of 15.5 feet, thence southerly again N 27°00'W for a distance of 52 .4 feet,

Thence westerly N 69°10' E for a distance of 13.5 feet, thence south for a distance of 219.1 feet, thence easterly N89°14'W for a distance of 210.9 feet, thence easterly again S 82°32' W for a distance of 51 feet tot the northerly edge of said Taconic Road.

Thence northerly S 27°47' E for a distance of 41.85 feet, thence northerly along a curve in said Taconic Road having a radius of 200.58 feet for a linear distance of 148.76 feet, thence northerly along the northern edge of said Taconic Road S 14°43' W for a distance of 81.2 feet, thence northerly S 46°30' W for a distance of 7 feet, thence northerly again S29°12' W for a distance of 24 feet, thence northerly again S 21°39'W for a distance of 20.2 feet, thence northerly again S9°22" W for a distance of 53.5 feet, thence northerly again S 14°48' W for a distance of 83.0 feet, northeasterly S 36°13' W for a distance of 203.1 feet, thence northerly S 28°17'W for a distance of 65.2 feet to the point of beginning.

Subject property is located on Taconic Road in Greenwich, Connecticut and is owned by Sandra Hillman

Town Administrator Edward Gomeau offered the following resolutions, which were duly moved and seconded, regarding Items No. 10, 11, & 12.

10. **RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a member of the Board of Ethics for a term expiring 3/31/07.**

**JEFFREY S. RAMER**

11. **RESOLVED, that the following named persons, nominated by the Board of Selectmen, be appointed members of the Hamilton Avenue Building Committee.**

**JOSEPH L. ROSS  
JAY SCHONDORF  
SYLVESTER PECORA  
TOM HEAGNEY, ESQ.  
TOM SMARIO  
FRANK MAZZA  
PAUL TORETTA**

12. **RESOLVED, that the lease between the Town of Greenwich and Greenwich Adult Day Care, Inc., be approved, and the terms and conditions of said lease to be the same as those contained in the lease agreement attached to the explanatory comments for this item.**

**FURTHER, RESOLVED, that the First Selectman be and is hereby authorized to execute said lease for and on behalf of the Town.**

The vote was now on the combined items.

In Favor	-	191
Against	-	0
Abstentions	-	1

Items Carried

The Moderator announced that Item No. 2, postponed from the June meeting was now before the meeting.

**RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a member of the Board of Ethics for a term expiring 3/31/07.**

**VICTOR R. COUDERT**

Robert Tuthill of District 3 made a motion, which was moved and seconded, to limit debate, on Item No. 2, to three minutes per speaker.

Motion Carried

The vote was now on Item No. 2.

In Favor	-	134
Against	-	49
Abstentions	-	1

Item Carried

The Moderator announced that Item No. 6 on the call was now before meeting.

Town Administrator Edward Gomeau offered the following resolution, which was duly moved and seconded, regarding Item No. 6.

**RESOLVED,**

**That the appropriation of ONE MILLION THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$1,325,000) for the purchase and sale of property at 1327 King Street (Lot No. 31, King Street E 71) consisting of approximately 2.5 acres owned now or formerly by Richard L. Belanger (the “King Street Property”) approved by the Board of Estimate and Taxation is approved. \$350,000 of the appropriation may be funded from the Reserve Fund for Capital and Nonrecurring Expenditures.**

**That the First Selectman is authorized to execute on behalf of the Town any contract documents necessary to effectuate the purchase of the King Street Property.**

**That the issuance of bonds or notes in an amount not exceeding NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000) is authorized; such bonds or notes shall be issued pursuant to the provisions of the Town’s Charter and the General Statutes of Connecticut, as amended.**

**That the issuance and renewal of temporary notes in anticipation of the receipt of the proceeds from the sale of the bonds or notes in an amount not exceeding NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000) is authorized; such temporary notes shall be issued in accordance with, and subject to, the provisions of the Town's Charter and the General Statutes of Connecticut, as amended.**

**Such bonds, notes and temporary notes shall be secured by the irrevocable pledge of the full faith and credit of the Town of Greenwich. All details of the bonds, notes and temporary notes shall be determined by the Board of Estimate and Taxation or those persons to whom the Board delegates such powers, including but not limited to any declarations of official intent pursuant to Federal Income Tax Regulations, tax regulatory agreements and any continuing disclosure agreements.**

**That the time for issuing any such bonds or notes or temporary notes hereunder shall not be limited and this resolution shall not lapse, but shall remain in full force and effect until the project is completed, all payments made and all borrowings completed.**

The vote was now on Item No. 6.

In Favor	-	173
Against	-	8
Abstentions	-	1

The Moderator announced that Item No. 9 on the call was now before the meeting.

Town Administrator Edward Gomeau offered the following resolution, which was duly moved and seconded, regarding Item No. 9.

**RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed an alternate member of the Planning and Zoning Commission for a term expiring 3/31/05.**

**DONALD HELLER**

The vote was now on Item No. 9.

In Favor	-	173
Against	-	16

Item Carried

The Moderator announced that Item No. 5 on the call was now before the meeting.

Robert Richardson, chairman of the Special Committee on the Nathaniel Witherell, offered the following sense of the meeting resolution.

WHEREAS, The Nathaniel Witherell has been a valued institution in the Greenwich community for more than 50 years and should, as a matter of good public and social policy, continue to provide skilled nursing services to benefit the citizens of Greenwich under the conditions specified below; and

WHEREAS, The Nathaniel Witherell Board has proposed to construct a new skilled nursing facility at 70 Parsonage Road, Greenwich, and upon its completion to demolish all buildings which currently comprise The Nathaniel Witherell Skilled Nursing Facility on the same site at a cost of \$45.2 million (hereinafter referred to as the "Project") as set forth in a certain Certificate of Need Application dated December 20, 2002 (the "CON"); and

WHEREAS, the Connecticut Department of Social Services has approved the Project subject to certain qualifications, conditions, and performance criteria to be observed by The Nathaniel Witherell Board and the Town of Greenwich (the "Town") as specified in an Agreed Settlement (Docket Number 02-732) dated February 4, 2004, (the "Agreed Settlement"); and

WHEREAS, the Moderator on July 14, 2003 appointed the Special Committee on The Nathaniel Witherell (the "Special Committee") to make a study of all relevant factors related to the Project, the CON, the Agreed Settlement, and the Town's role as owner/operator of a skilled nursing facility, which study has been completed and has resulted in a report dated July 30, 2004, fulfilling the charge given by the Moderator to the Special Committee; and

WHEREAS, the Special Committee has made the following primary recommendations:

- I. That the Project, which the Special Committee currently estimates will cost approximately \$46.6 million, should be approved and implemented in accordance with Town procedures and performance criteria specified in the Agreed Settlement;
- II. That the Project should be financed in part by the Town through the issuance of its own short-term bond anticipation notes and/or 20-year general obligation bonds and in part from its own resources to be reimbursed by a new entity in the manner set forth below;



III. That a Connecticut not-for-profit corporation (“NFP”) should be established immediately to raise \$15 million or more in charitable contributions for the new facility and, when a certificate of occupancy is issued, to purchase the new facility from the Town and assume responsibility for its operation;

IV. That NFP’s board of directors should consist of 15 - 21 members with staggered terms of three years each (preferably with a limit of two consecutive full terms), at least 80% of whom should be residents of the Town, including two members each to be nominated by the First Selectman, the Chairman of the Board of Estimate and Taxation, and the Moderator of the Representative Town Meeting up to the time when 50% of the debt owed to the Town has been repaid and thereafter one member each, all of whom shall have the same powers and duties as directors nominated by NFP’s nominating committee;

V. That the relationship between the Town and NFP should be reflected in, or governed by, as the case may be, the following:

- a. NFP’s bylaws, which shall be acceptable to the Town, should provide for Town representation on its board of directors, restrict bylaw changes while NFP is indebted to the Town, and provide preference to Greenwich residents in the admission process to the extent permitted by law;
- b. A lease agreement under which the Town should lease to NFP the land at 70 Parsonage Road for a period of 100 years at a nominal annual rent, subject to the deed restrictions currently applicable to this property and to the requirement that any skilled nursing facility located on this property shall give preference to Greenwich residents in the admissions process as is currently the practice;
- c. A financing agreement under which the Town should undertake to construct the new facility and, upon completion, to sell the facility and related assets to NFP in exchange for a promissory note and other consideration in an amount equal to the total cost of the Project, net of demolition and remediation costs, secured by a first mortgage on the building and a security interest in other assets, with appropriate covenants and default provisions;
- d. An operating agreement under which NFP should undertake, upon issuance of a certificate of occupancy, to staff and operate the facility for at least 30 years, to do so in accordance with Federal, State of Connecticut, and industry standards, and to assure continuation of the high quality of care currently existent for the residents of the facility; and

- e. A mutual understanding that NFP should be expected to be a solvent going-concern and to operate at a positive net cash flow after debt service and capital expenditures, evidenced by its own quarterly and independently audited annual financial statements submitted to Town entities and that NFP should otherwise be financially independent of the Town, retaining its own cash and earned surplus and maintaining its own banking relationships; and

VI. That, until the residents have been transferred to the new facility, the existing nursing facility under the supervision of The Nathaniel Witherell Board should continue operating as a Town department, furnishing the high quality of care for which The Nathaniel Witherell is noted, and that following the transfer of all residents, the existing facility should be demolished and the affairs of the department wound up; and

WHEREAS, the Special Committee has also recommended that the following conditions precedent should be fulfilled before the above recommendations are implemented:

1. Prompt action by the Law Department to resolve any issues relating to title to the land at 70 Parsonage Road;
2. Prompt action by the Town bodies concerned to form a building committee as required by Section 57.1 of the Town Charter and to propose charter changes deemed necessary or desirable to facilitate the recommendations in paragraphs I through VI inclusive; \_\_\_\_\_
3. Prompt action by the First Selectman to see that NFP be incorporated as the future owner/operator of the new facility and to see that application is made to the Internal Revenue Service for 501(c)(3) tax-exempt status for the corporation;
4. Delivery to the BET and RTM of an independently performed fund-raising feasibility study, to be commissioned and financed promptly by the Town, showing the level of private donations achievable within three years;
5. Delivery to the BET and RTM of a business plan showing how the new facility will be net cash flow positive after debt service and capital expenditures through a combination of revenue enhancements, operating efficiencies, and private donations; and
6. Timely reporting to the Connecticut Department of Social Services by the First Selectman and/or the Chairman of The Nathaniel Witherell Board of any change in scope, cost, or timing of the Project as required by the Agreed Settlement.

NOW, THEREFORE, BE IT RESOLVED, that it is the Sense of the Meeting that the foregoing recommendations and conditions precedent be, and they hereby are, approved by the Representative Town Meeting to provide policy guidance to the constituent parts of Town government in carrying out the Project and the Agreed Settlement with the Connecticut Department of Social Services.

After 90 minutes of debate, James Boutelle made a motion, which was seconded, to suspend the rules to continue debate with the persons signed up to speak.

Motion Lost

Carl G.R. Carlson, Jr. of District 1 made a motion, which was seconded, to postpone Item No. 5 until the October meeting.

Roger Lourie of District 7 moved the previous question, which was seconded, to cut off debate on the motion to postpone.

Motion Carried

The vote was now on Mr. Carlson's motion to postpone.

Motion Lost

Kevin Brogan moved the previous question, which was seconded.

Motion Carried

The vote was now on Item No. 5.

In Favor	-	119
Against	-	57
Abstentions	-	4

Item Carried

There being no further business, the Moderator adjourned the meeting, upon unanimous consent, at 11:55 P.M.

ATTEST:  
CARMELLA C. BUDKINS  
TOWN CLERK