



Pursuant to the foregoing notice a regular Representative Town Meeting of the Town of Greenwich was held on Monday December 10, 2012 at 8:00 P.M. E.D.T.) in the Moderator's Hall of Central Middle School.

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

The members pledged allegiance to the flag, led by Chairman, Robert J. McKnight, Jr.

Town Clerk, Carmella C. Budkins swore in John C. Cracraft in District 2, Tiffany F. Smario in District 8, Jerome T. Walsh in District 11, Anthony Martini, District 12.

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

Attendance cards were presented showing 194 present, 35 absent and 1 vacancy. The members who were absent in District 1 – John A. Duge, Jr., Frederick Lee, Jr., Christine M. Rossi, Elizabeth Sanders; District 2 – Jessica A. Brockington, Duncan G. Burke, Carlo F. Cantavero, Sr. District 3 – M. Michael Warner; District 4 – James M. Bonney, John J. Thompson; District 5 – Scott J. Harrington, Sr., Danyal Ozizmir, Janice B. Riddell; District 6 – Michael C. Carter; District 7 – William W. Galvin, III; District 8 – Dennis E., Arrouet, M. Irene Dietrich, Gordon A. Ennis, Stephen Ng; District 9 – John C. Caulfield, Barbara T. Darula, Anna B. Napolitano, Frank P. Petise; District 10 – Frank Denicola, Swan Grant, Lawrence E. Larson, Alan A. Small; District 11 – Marion S. Beale, A. Bruce Dixon, Ajit K. Laroia, Daniel J. Natale, Jr., Michael Spilo District 12 – Natalie R. Queen, Bernard G. Schneider, Gregory W. Schulte

The Moderator announced that as all members had received a copy of the minutes of the October 22, 2012 meeting, the reading of the minutes would be omitted. He announced a correction to the attendance of Robert T. May of District 12 to be marked present instead of absent. The minutes as amended were approved by unanimous consent.

Joan E. Caldwell, Chairman of District 10, offered the following resolution recognizing the service and contributions of the late Albert F. Varner, Jr.

WHEREAS, Albert F. Varner, Jr. was a resident of Greenwich for over forty years having moved here directly after military service in World War II and Korea, and

WHEREAS, Albert Varner became an active and vital member of this community through his associations with the Greenwich Hospital, Radio Station WGCH and many service organizations such as Community Chest and the PTA, and

WHEREAS, Albert Varner became a member of the Representative Town Meeting in 1956 and served in it for 27 years first as a member and then Chairman of District 12, then as a member of District 7 and lastly District 3, and

WHEREAS, Albert Varner was elected Moderator of the Town Meeting in 1964 – only the 4th in its history – and continued his leadership of the body for fifteen years.

NOW THEREFORE BE IT RESOLVED, that this Representative Town Meeting acknowledges with gratitude the guidance, leadership and service Albert F. Varner, Jr. gave the body, and extends to his wife and children its deepest sympathy at his passing.

The resolution passed by unanimous consent and the members stood for a moment of silence in memory of Albert F. Varner, Jr..

The Moderator announced that Item No. 1 on the call was now before the meeting.

David N. Theis, Selectman, offered the following resolution, which was duly moved and seconded, regarding Item No. 1.

RESOLVED, that the RTM affirms the five (5) year renewal of the lease of New Cingular Wireless PCS, LLC (AT&T) located at the Griffith E. Harris Golf Course, 1323 King Street for a term ending February 28, 2018.

The vote was now on Item No. 1.

In Favor	-	184
Against	-	0
Abstentions	-	4

Item Carried

The Moderator announced that Item No. 2 on the call was now before the meeting.

David Ormsby, Chairman of Nathaniel Witherell Board, offered the following resolution, which was duly moved and seconded, regarding Item No. 2.

WHEREAS, the Representative Town Meeting at its meeting on May 14, 2007, appropriated \$3,600,000 for construction manager and architect's fees and other preliminary costs for the planning and design of a major physical renovation of the Nathaniel Witherell Nursing Facility in order to achieve the remediation of its most serious deficiencies, bring it into compliance with certain Health Code requirements and improve its competitive position among similar healthcare providers ("Project Renew");

WHEREAS, Project Renew has been approved by the various agencies of the State and the Town having jurisdiction over the matter including (i) the Department of Social Services of the State, (ii) the Board of Selectmen, (iii) the Commission on Aging, (iv) the Planning & Zoning Commission, (v) the Architectural Review Committee, (vi) the Historic District Commission and (vii) the Board of Estimate and Taxation;

WHEREAS, based upon construction cost estimates by the construction manager and the Town's Nathaniel Witherell Building Committee the Representative Town Meeting at its meeting on December 12, 2011 appropriated \$20,205,000 for construction of Project Renew and authorized the issuance of an identical amount of Bonds of the Town to meet that appropriation;

WHEREAS, the Town has now received firm bids from subcontractors which show that total construction costs of Project Renew will aggregate \$25,961,000 which, together with capitalized financing costs of \$355,000, require the issuance of an additional \$2,426,000 of Bonds of the Town;

NOW, THEREFORE BE IT RESOLVED, that the sum of \$2,426,000 is hereby appropriated for additional construction and financing costs of Project Renew and the issuance of \$2,426,000 of Bonds of the Town is authorized to meet said appropriation, all pursuant to the following resolution prepared by Robinson & Cole LLP, Bond Counsel to the Town:

**RESOLUTION AMENDING A RESOLUTION
APPROPRIATING \$20,205,000 FOR THE
CONSTRUCTION OF IMPROVEMENTS TO THE
NATHANIEL WITHERELL NURSING FACILITY
AND AUTHORIZING THE ISSUANCE OF
\$20,205,000 BONDS OF THE TOWN TO MEET SAID
APPROPRIATION AND PENDING THE ISSUE
THEREOF THE MAKING OF TEMPORARY
BORROWINGS FOR SUCH PURPOSE**

BE IT RESOLVED BY THE REPRESENTATIVE TOWN MEETING:

Section 1. Section 1 of the resolution entitled "Resolution Appropriating \$20,205,000 For The Construction Of Improvements To The Nathaniel Witherell Nursing Facility And Authorizing The Issuance Of \$20,205,000 Bonds Of The Town To Meet Said Appropriation And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose" adopted by a Representative Town Meeting on December 12, 2011 (the "Resolution"), is hereby amended by increasing the amount of the appropriation and bond authorization therein by \$2,426,000 from \$20,205,000 to \$22,631,000, thereby making said Section read as follows:

"Section 1. The sum of \$22,631,000 is appropriated for the renovation, construction and equipping of the Nathaniel Witherell Nursing Facility as more fully described in the Application for a Certificate of Need filed by the Board of Directors of Nathaniel Witherell with the Department of Social Services of the State of Connecticut, and for administrative, printing, legal and financing costs related thereto (the "Project"). The Project shall be supervised and administered by the Nathaniel Witherell Building Committee established under the provisions of Section 57.1 of the Town Charter

and such Committee shall supervise construction of the Project in accordance with said Section and this Resolution.”

Section 2. The first sentence of Section 2 of the Resolution is hereby amended by substituting the figure \$22,631,000 therein for the figure \$20,205,000, thereby making said sentence read as follows:

“Section 2. To meet said appropriation \$22,631,000 bonds of the Town or so much thereof as shall be necessary for such purpose, shall be issued in one or more series, each maturing not later than the twentieth year after their date, as determined by the Comptroller, provided that the total amount of bonds to be issued by the Comptroller shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds.”

Section 3 The remaining provisions of the Resolution shall be applicable to this resolution as of the date of the adoption of this resolution.

Section 4. The remaining provisions of the Resolution are hereby ratified and confirmed.

The vote was now on Item No. 2.

In Favor	-	166
Against	-	15
Abstentions	-	10

Item Carried

The Moderator announced that Item No. 3 on the call was now before the meeting.

Michael Chambers, Director of Inland & Wetland Watercourses Agency, offered the following substitute resolution, which was duly moved and seconded, regarding Item No. 3.

RESOLVED that the ordinance establishing a municipal fine for Inland Wetlands violations, which was adopted by the Representative Town Meeting on December 10, 2007, be amended to remove the one-day "grace period" afforded to violators.

RESOLVED that Article 3, Subsections 6-238(3), 6-238(4)(a), and 6-238(4)(c) of the Municipal Code are amended to read as follows.

Article 3, Section 6-238 - Municipal fine for Inland Wetlands violations

§ (1) Purpose

This article establishes a means by which the Town of Greenwich may more effectively enforce the Inland Wetlands and Watercourses Regulations of the Town of Greenwich, with the implementation of fines for violations of the regulations. This article shall not be construed to limit or alter the authority, duty and responsibility of the Greenwich Inland Wetlands and Watercourses Agency as granted and established under Connecticut's Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, Chapter 2, Article 6, Sections 2-19 through 2-23 of the Greenwich Municipal Code and any other federal, state, or local legislation that may apply.

§ (2) Authority

This article is adopted pursuant to Connecticut General Statutes, Section 22a-42g. In accordance with this statute, the Inland Wetlands and Watercourses Agency, acting on behalf of the Town of Greenwich, is hereby authorized to promulgate regulations in accordance with the provisions of this article setting forth procedures for the issuance of citations and for the setting of fines for violations of the Agency's regulations.

§ (3) Definitions

The following words, terms and phrases used in this article shall have the following meanings:

“Agency” – The Town of Greenwich Inland Wetlands and Watercourses Agency, acting as the inland wetlands agency under Section 22a-42 of the Connecticut General Statutes.

“Director” – The employee of the Town of Greenwich responsible for the supervision of the Agency staff.

“Director's Designated Agent” – With respect to any duty to be performed by the Director, an employee of the Agency to whom the Director has expressly delegated the performance of such duty.

“Continuing Violation” – Ongoing work, which has not ceased to the satisfaction of the Director within ~~two~~ **[one]** calendar days of receipt of a Notice of Violation.

“Person” – Any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

“Notice of Violation” – A written notice issued by the Director to a person committing a Violation, stating the nature of the Violation, the jurisdiction of the Agency, and

prescribing the necessary immediate and long-term actions and steps to correct the Violation including, without limitation, halting work in wetlands or watercourses.

“Regulations” – The Inland Wetlands and Watercourses Regulations of the Town of Greenwich as may be amended from time to time.

“Violation” – Any activity that requires the prior permit or approval of the Agency but that is conducted without prior permit or approval of the Agency.

§ (4) Issuance of Citations

(a) The First Selectman of the Town of Greenwich hereby authorizes the Director, with the prior consent of the Chair of the Agency, to issue a citation to any person who has received a Notice of Violation ~~and has failed to comply with the necessary immediate actions and steps to correct the Violation that are specified in the Notice of Violation within one (1) calendar day after receipt of the Notice of Violation or who commits [or has committed]~~ a Continuing Violation. Any such citation may be issued either by hand delivery or by certified mail to the person named in such citation. In such instances, each citation will apply jointly and severally to the owner of the property in question and his/her agents, contractors and subcontractors. An original or certified copy of the initial citation issued by the issuing official shall be filed and retained by the Town of Greenwich and shall be deemed to be a business record within the scope of Section 52-180 of the Connecticut General Statutes and evidence of the facts contained therein.

(b) The citation shall inform such person:

1. Of the allegations against him or her for which the citation is issued pursuant to this Article and the amount of the fines and costs due;
2. That the person has a period of thirty (30) days from the date of the citation (i.e., the date of hand delivery or the date the citation was mailed) to make an uncontested payment of the fines;
3. That payments shall be submitted to the Agency by check made payable to the Town of Greenwich;
4. The citation notice shall also inform the person cited that he/she may contest his liability before a citation hearing officer by delivering in person or by mail written notice within twenty (20) days of the date thereof. The notice shall also inform the person cited that if he/she does not demand such a hearing, he/she shall be deemed to have waived contesting liability, such fines and costs shall be assessed against him/her, an assessment and judgment

shall be entered against him/her and that such judgment may issue without further notice.

(c) Each Violation shall be a separate and distinct offense. In the case of a Continuing Violation, at the discretion of the Director and with the prior consent of the Chair of the Agency, daily citations may be issued commencing ~~two~~ [one] calendar days from receipt by the person of the Notice of Violation.

(d) This article shall only apply to Violations that occur after this article's effective date.

§ (5) Establishment of Fine

(a) No fine shall exceed the maximum permitted under state law. Fines for Violations will be determined by the Agency at a public meeting and published in the Regulations. Fines imposed will not exceed the maximum permitted by Connecticut General Statute, Section 22a-42g at the time the Violation occurred.

(b) No such fine may be levied against the State of Connecticut or any employee of the state acting within the scope of her/his employment.

(c) Any fine collected by the Town of Greenwich pursuant to this article shall be deposited into the Town of Greenwich's general fund account.

§ (6) Hearing procedure for citations

(a) In accordance with Section 7-152c of the Connecticut General Statutes, as the same may be amended from time to time, there is hereby established a wetland citation hearing procedure.

(b) The First Selectman shall appoint one or more citation hearing officers, other than police officers or employees or persons who issue citations, members or alternates of the Agency, employees, past employees, members or alternates of the agency, to conduct the hearings authorized by this article.

(c) Admission of liability by payment of fine.

1. If any person who is sent notice pursuant to subsections (a) and (b) of this section (6) wishes not to contest liability for any alleged violation, he/she may, without requesting a hearing, pay the full amount of the fines and costs admitted to in person or by mail to the Greenwich Inland Wetlands and Watercourses Agency. Checks shall be made payable to the Town of Greenwich.

2. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment.

(d) Any person may demand a hearing by delivering a written request for the same to the Director within twenty (20) days of the date of the first notice provided for in subsections (a) and (b) of this section (6). Any person who does not deliver such written request within twenty (20) days shall be deemed to have waived contesting liability, and the Director shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines and costs provided for by this article and shall follow the procedures set forth in section (5).

(e) Any person who requests a hearing shall be given written notice by certified mail of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of notice, provided that the hearing officer shall grant upon good cause shown a postponement or continuance for any reasonable request by any interested party. Once a hearing has been requested, no additional citations shall be issued.

(f) The presence of the issuing official shall be required at the hearing if the person issued the citation so requests. A person wishing to contest his/her liability shall appear at the hearing in person or by representative and may present evidence in his/her behalf.

(g) If the person that demanded a hearing fails to appear, the hearing officer may enter an assessment by default against him/her upon finding of proper notice and liability under this article.

(h) A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality.

(i) The hearing officer may accept from the designated municipal official copies of police reports, investigatory and citation reports and other official documents by mail and may determine thereby that the appearance of such person is not necessary.

(j) The hearing officer shall conduct the hearing in the order and form, and with such methods of proof, as he/she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing office shall take into account the nature of the violation and the history of the site including previous violations.

(k) The hearing officer shall announce his/her decision at the end of the hearing.

1. If the hearing officer determines that the person is not liable, he/she shall dismiss the matter and enter his/her determination, in writing, accordingly.

2. If the hearing officer determines that the person is liable for the violation, he/she shall then enter and assess the fines and costs against such person as provided by this article.

§ (7) Failure to Pay Fine

If the fines and costs assessed by the hearing officer are not paid on the date of entry, the hearing officer shall send by first class mail a notice of such assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court facility designated by the Chief Court Administrator together with the applicable entry fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve (12) month period, assessments against the same person may be accrued and filed as one record of assessment. The Clerk of the Superior Court shall enter a judgment, in the amount of the assessment plus court costs against such person in favor of the Town of Greenwich. Notwithstanding any other provisions of the Connecticut General Statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment, and a levy of execution on such judgment may be issued without further notice to such person.

§ (8) Appeals

A person against whom an assessment has been entered pursuant to this article is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Section 52-259 of the Connecticut General Statutes, in the Superior Court, which shall then entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

§ (9) Public Notification

Notice of payment of a fine pursuant to this article shall be published by the Director at least once in a newspaper having a general circulation in the Town of Greenwich.

Deleted text shown bold with strikethrough

Added text shown bold in brackets

The vote was now on Item No. 3.

In Favor	-	173
Against	-	13
Abstentions	-	5

Item Carried

The Moderator announced that Item No. 4 on the call was now before the meeting.

Peter J. Tesei, First Selectman, offered the following substitute resolution, which was duly moved and seconded, regarding Item No. 4.

WHEREAS, the Greenwich Representative Town Meeting, previously issued the following resolution at its June 9, 2008 meeting:

*RESOLVED, that the following named persons, nominated by the Board of Selectmen, be appointed members of the Greenwich High School Musical Instructional Space and Auditorium Building Committee.
Genevieve (Genny) Krob, Leslie Cooper, Robert Brady, Joseph Ross, Steven Loparco, Frank Napolitano, Aris Crist*

WHEREAS, in order to comply with State school construction grant requirements and clarify the authority granted the School Building Committee and the Board of Education by the Town of Greenwich Municipal Code, the Representative Town Meeting wishes to amend their June 9, 2008 resolution to include additional language as follows:

FURTHER RESOLVED, that the Greenwich Representative Town Meeting recognizes the establishment of the Greenwich High School Musical Instructional Space and Auditorium Building Committee at its June 9, 2008 meeting,

FURTHER RESOLVED, that the Representative Town Meeting authorizes Greenwich Board of Education to apply to the Commission of Education and to accept or reject a grant for the Musical Instructional Space and Auditorium at the Greenwich High School,

FURTHER RESOLVED, that the Representative Town Meeting hereby authorizes at least the preparation of schematic drawings and outline specifications for the Musical Instructional Space and Auditorium at the Greenwich High School.

The vote was now on Item No. 4.

In Favor	-	179
Against	-	5
Abstentions	-	6

Item Carried

There being no further business, the meeting was adjourned, upon unanimous consent, at 9:15 P.M.

ATTEST:
CARMELLA C. BUDKINS
TOWN CLERK