

## MINUTES (APPROVED)

The Board of Selectmen held a public hearing on Wednesday, May 16, 2012, at 4 p.m. in Room 309/307 of the Westport Town Hall. Present at the meeting were: Gordon F. Joseloff, Shelly A. Kassen, Charles W.K. Haberstroh, Ira Bloom, Gary Conrad, Police Captain John Calka, Richard Kotchko, Stephen Edwards, Stephen Smith, Stephen Nevas, Vernon Beck, Glenn Majors, and Patricia Scully recording secretary.

### MINUTES

1. The minutes of the Board of Selectmen's public hearing of April 11, 2012 and the minutes of the Board of Selectmen's special public hearing of May 4, 2012 were presented by the recording secretary. There were no additions/deletions/revisions to the minutes. Upon motion by Shelly A. Kassen, seconded by Charles W. K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the minutes of the Board of Selectmen's public hearing of April 11, 2012 as presented are hereby APPROVED.

RESOLVED: That the minutes of the Board of Selectmen's special public hearing of May 4, 2012 as presented are hereby APPROVED.

### APPROVAL OF ACCEPTANCE OF MONETARY GIFT TO TOWN OF WESTPORT FROM KATZ FAMILY FOUNDATION, INC. IN ACCORDANCE WITH POLICY FOR GIFTS TO TOWN, AS AMENDED OCT. 28, 1998 AND AS RECOMMENDED BY WESTPORT POLICE DEPARTMENT

2. Item #2 was presented by Police Captain John Calka. Board members expressed the town's appreciation to the Katz family for their generous contribution. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the request for acceptance of a monetary gift in the amount of \$13,000 to the Town of Westport from the Katz Family Foundation, Inc., in accordance with the Policy for Gifts to the Town, as amended Oct. 28, 1998, and as recommended by the Westport Police Department, is hereby APPROVED.

### APPROVAL OF TOWN-OWNED PROPERTY KNOWN AS JESUP GREEN BY JAPAN SOCIETY OF FAIRFIELD COUNTY FOR BON ORDORI FESTIVAL TO BE HELD ON SATURDAY, JULY 7, 2012, WITH RAIN DATE OF SUNDAY, JULY 8, 2012, CONTINGENT UPON COMPLIANCE WITH COMMENTS FROM TOWN DEPARTMENTS INCLUDING WESTPORT/WESTON HEALTH DISTRICT AND IN ACCORDANCE WITH PROCEDURES FOR USE OF TOWN-OWNED PROPERTY, FACILITIES AND/OR PUBLIC ROADWAYS, AS AMENDED SEPT. 15, 2010

3. Item #3 was presented by Vernon Beck, representing the Japan Society of Fairfield County. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the request for use of town-owned property known as Jesup Green by the Japan Society of Fairfield County for the Bon Ordori Festival to be held on Saturday, July 7, 2012, with a rain date of Sunday, July 8, 2012, contingent upon compliance with comments from town departments including the Westport/Weston Health District and in accordance with the Procedures for Use of Town-owned Property, Facilities and/or Public Roadways as amended Sept. 15, 2010, is hereby APPROVED.

APPROVAL OF USE OF TOWN-OWNED PROPERTY KNOWN AS IMPERIAL AVENUE PARKING LOT BY THE CONSERVATIVE SYNAGOGUE FOR OVERFLOW PARKING DURING HIGH HOLY DAYS OF SEPT. 16, 17, 18, 25 AND 26, 2012, CONTINGENT UPON COMPLIANCE WITH COMMENTS FROM TOWN DEPARTMENTS

4. Item #4 was presented by the recording secretary. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the request for use of the town-owned property known as Imperial Avenue parking lot by The Conservative Synagogue for overflow parking during the High Holy Days of Sept. 16, 17, 18, 25, and 26, 2012, contingent upon compliance with comments from town departments, is hereby APPROVED.

REVIEW AND APPROVAL OF STIPULATED SETTLEMENT IN CASE OF TOWN OF WESTPORT V. ALBERT AND SUSAN HANCOCK, D.N. FST-CV-10-50132855, SUPERIOR COURT, JUDICIAL DISTRICT OF STAMFORD/NORWALK AT STAMFORD

APPROVAL OF WAIVER OF POLICY ON ENCROACHMENTS FOR A STONE WALL LOCATED ON TOWN'S RIGHT-OF-WAY ON NORTH AVENUE ADJACENT TO PROPERTY AT 2 NORTHSIDE AVENUE, SUCH WAIVER TO BE SUBJECT TO CONDITIONS SET FORTH IN POLICY AND SUCH OTHER CONDITIONS AS MAY BE RECOMMENDED BY TOWN ATTORNEY

5./6. Attorney Ira Bloom suggested that the Board of Selectmen consider both Items #5 and #6 at the same time. Selectwoman Kassen read the call for both items into the record. Motions for both items were made by Shelly A. Kassen and seconded by Charles W. K. Haberstroh.

Letters from Westport residents Elizabeth and Jeffrey Lillien had been sent to First Selectman Joseloff and Selectman Haberstroh requesting that they recuse themselves from Items #5 and #6. Mr. Haberstroh and Mr. Joseloff read statements into the record (attached to minutes). Mr. Haberstroh and Mr. Joseloff stated they would not recuse themselves from sitting/voting on Items #5 and #6.

Attorney Bloom gave a synopsis of the history of this case. The three departments primarily involved in the settlement included Engineering, Planning & Zoning and Building. All town concerns have been resolved – including safety, sight lines and structure integrity. Engineering was mainly concerned with safety issues; Planning & Zoning had a zoning violation based on traffic visibility, and Building was concerned with the structural integrity of the stone wall. It

should be noted that there were still certain structural improvements that need to be done within 30 days of the Board of Selectmen's approval. Westport residents Mr. & Mrs. Lillien had a pending appeal regarding the wetlands issue.

In addition to approving the Stipulated Settlement, the Board of Selectmen was also being requested to approve a waiver of the Town's Encroachment Policy. Such waiver was also part of the Stipulated Settlement. Attorney Bloom requested that the Board approve and adopt the following resolution which Selectwoman Kassen read into the record.

Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, the following was APPROVED:

WHEREAS, on May 8, 2006, the owners of property located at 2 Northside Avenue, Westport (hereinafter the "Hancocks") requested a waiver from the Board of Selectmen of the Town's policy on encroachments for a wall that was constructed, in part, on town-owned property located along North Avenue; and

WHEREAS, based upon concerns expressed by Town officials, the Board of Selectmen denied the Hancock's request; and

WHEREAS, on November 17, 2009, the Town initiated a civil lawsuit against the Hancocks seeking injunctive relief compelling the Hancocks to remove that portion of the wall which encroaches on town property, which interferes with the line of vision, which is unsafe and which violates the zoning regulations; and

WHEREAS, a significant portion of the wall has been removed and another portion has been modified, removing violations and addressing the concerns of Town officials; and

WHEREAS, on April 30, 2012, the town and the Hancocks submitted to the court a Stipulated Settlement, pursuant to which the Hancocks agree to undertake some final necessary remedial work and which sets forth the conditions under which the Town will approve the encroachment of the wall onto Town property

NOW THEREFORE, in view of the foregoing and in addition to testimony provided during the Board of Selectmen hearing in support of a waiver, the following resolutions are hereby adopted:

RESOLVED, that the Stipulated Settlement in the case of Town of Westport v. Albert E. Hancock III and Susan Hancock dated April 30, 2012, Docket Number FST-CV-10-5013285-S ("Stipulated Settlement"), is hereby approved and the Town Attorney is authorized to sign on behalf of the Town; and be it further

RESOLVED, that a waiver of the Town's policy on encroachments with respect to the wall located on Town-owned property along North Avenue, as shown on a General Location Survey depicting #2 Northside Lane, prepared for Albert E. Hancock III and

Susan Hancock, dated January 17, 2012, is hereby approved, subject to the following conditions:

- a. Completion of the structural improvements set forth in Paragraph 10 of the Stipulated Settlement within thirty (30) days from the date of this resolution; and
- b. Compliance with all Town of Westport requirements for encroachment waivers, including, but not limited to, the execution of an Encroachment Easement Agreement, the maintenance by the Hancocks of insurance satisfactory to the Town, an indemnification by the Hancocks for the benefit of the Town of Westport, the filing of a class A-2 survey depicting the encroachment, and on-going maintenance and repairs of the remaining wall. The Easement Agreement shall be filed on the land records and all obligations therein shall run with the land.

APPROVAL OF AGREEMENT BETWEEN TOWN OF WESTPORT AND PBIRx FOR BROKER/CONSULTING SERVICES AS RELATES TO PHARMACY/DRUG BENEFITS FOR EMPLOYEES AND RETIREES, AS RECOMMENDED BY FINANCE DIRECTOR

7. Item #7 was presented by Finance Director Gary Conrad. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the request for an agreement between the Town of Westport and PBIRx for broker/consulting services as relates to pharmacy/drug benefits for employees and retirees, as recommended by the Finance Director, is hereby APPROVED.

APPROVAL OF SEALED BID, REVERSE AUCTION PROGRAM PARTICIPATION AGREEMENT BETWEEN THE TOWN OF WESTPORT AND CCM SERVICES, LLC AND ORBIS ONLINE, INC. AS RECOMMENDED BY THE FINANCE DEPARTMENT

8. Item #8 was presented by Purchasing Agent Richard Kotchko. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the request for the Sealed Bid, Reverse Auction Program Participation Agreement between the Town of Westport and CCM Services, LLC and Orbis Online, Inc., as recommended by the Finance Department, is hereby APPROVED.

APPROVAL TO AUTHORIZE FINANCE DIRECTOR TO EXECUTE AND DELIVER AGREEMENTS WITH FINANCIAL INSTITUTIONS FOR PURPOSE OF ISSUING BUSINESS CREDIT CARDS FOR USE BY CERTAIN TOWN PERSONNEL

9. Item #9 was presented by Finance Director Gary Conrad. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, the following was APPROVED:

WHEREAS, The Town of Westport desires financial accommodations from financial institutions through the use of credit cards by designated persons for and in connection with the business of the Town,

It is therefore RESOLVED by the Board of Selectmen:

1. That the Finance Director of the Town of Westport be, and hereby is, authorized and empowered to execute and deliver, for and in the name of and with binding effect upon the Town, agreements with financial institutions for business credit care accounts (“Credit Card Account Agreements”); and
2. That financial institutions may rely and act upon directions given, from time to time, by the Finance Director in all matters relating to the issuance of business credit cards for the account of the Town of Westport and the use thereof by its personnel including, but not limited to, the number of cards to be issued, the persons designated to receive and use same, and any changes of personnel among those thus designated.

APPROVAL OF AGREEMENT BETWEEN TOWN OF WESTPORT AND ENCON SOLAR ENERGY DIVISION AS RELATES TO PURCHASE AND INSTALLATION OF SOLAR ENERGY SYSTEM ON EASTBOUND SAUGATUCK TRAIN STATION, AS RECOMMENDED BY BUILDING OFFICIAL

10. Item #10 was presented by Building Official Stephen Smith. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the request for an agreement between the Town of Westport and ENCON Solar Energy Division, as relates to the purchase and installation of a solar energy system on the eastbound Saugatuck train station, and as recommended by the Building Official, is hereby APPROVED.

APPROVAL OF GRANTING EASEMENT TO SOUTHERN CONNECTICUT GAS COMPANY FOR PURPOSE OF INSTALLING GAS DISTRIBUTION FACILITIES AND EQUIPMENT ACROSS PORTION OF TOWN-OWNED PROPERTY LOCATED AT 45 JESUP ROAD FOR BENEFIT OF PROPERTY LOCATED AT 90 POST ROAD EAST AND 100 POST ROAD EAST, CURRENTLY OWNED BY OLD WESTPORT TOWN HALL, LLC

APPROVAL OF AGREEMENT BETWEEN TOWN OF WESTPORT AND OLD WESTPORT TOWN HALL, LLC PURSUANT TO WHICH OLD WESTPORT TOWN HALL LLC IS RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH GAS DISTRIBUTION FACILITIES AND EQUIPMENT BEING INSTALLED OVER PORTION OF TOWN-OWNED PROPERTY

11./12. Attorney Glenn Mayors, representing the applicant, suggested Items #11 and #12 be discussed together. Upon motion by Shelly A. Kassen, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, it was:

RESOLVED: That the request to grant an easement to Southern Connecticut Gas Company for the purpose of installing gas distribution facilities and equipment across a portion of town-owned property located at 45 Jesup Road for the benefit of property

located at 90 Post Road East and 100 Post Road East, currently owned by Old Westport Town Hall, LLC, is hereby APPROVED.

RESOLVED: That the request for an agreement between the Town of Westport and Old Westport Town Hall, LLC, pursuant to which Old Westport Town Hall, LLC is responsible for all costs associated with the gas distribution facilities and equipment being installed over a portion of town-owned property is hereby APPROVED.

Upon motion by Gordon F. Joseloff, seconded by Charles W.K. Haberstroh and passed by a vote of 3-0, the public hearing was adjourned at 5:30 p.m.

Patricia Scully  
Recording Secretary