

RTM Meeting  
February 7, 2012

**The Call**

1. To take such action as the meeting may determine, upon the recommendation of the Board of Finance, to approve a request by the Public Works Director, for an appropriation of \$320,750 from the Capital & Nonrecurring Expenditure Fund Unassigned Fund Balance to the Capital & Nonrecurring Expenditure Fund (C&NEF) Account (Repairs: Hurricane Irene) to fund various repair projects resulting from Hurricane Irene damages (75 percent reimbursable by FEMA).
2. To take such action as the meeting may determine, upon the pending approval of the Board of Finance, to approve a request from the Town Attorney for an appropriation of \$34,908 from the Heart & Hypertension Reserve Fund for the settlement of the Workers' Compensation claim brought by Michael Gudzik.
3. To take such action as the meeting may determine, upon the recommendation of the First Selectman and the approval of the Non-Union Supervisory Pension Board, to approve an amendment to the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport, Connecticut (the "Plan"), such that the entire Plan, including pension and retiree health insurance benefits, shall not be available to employees hired on or after January 1, 2012.
4. To take such action as the meeting may determine, upon the recommendation of the First Selectman and the approval of the Non-Union Non-Supervisory Pension Board, to approve an amendment to the Retirement Plan for Non-Union Non-Supervisory Employees of the Town of Westport, Connecticut (the "Plan"), such that the entire Plan, including pension and retiree health insurance benefits, shall not be available to employees hired on or after January 1, 2012.
5. To take such action as the meeting may determine, upon the recommendation of the First Selectman to approve an ordinance adopting Connecticut General Statutes, Sections 4-124i through 4-124p as amended, providing for the formation of a regional Council of Governments, authorizing the Town to join such Council when duly established, designating the First Selectman as the representative of the Town of Westport on such Council and authorizing the Representative Town Meeting to designate an alternate representative from its members for a two-year term or until the next election of the RTM. (First reading, full text available in the Town Clerk office.)

**Minutes**

Moderator Hadley Rose:

This meeting of Westport's Representative Town Meeting is now called to order. We welcome those who join us tonight in the Town Hall auditorium as well as those watching us streaming live on [www.westportct.gov](http://www.westportct.gov), watching on cable channel 79 or ATT channel 99. My name is Hadley Rose and I am the RTM

Moderator. On my right is our RTM secretary, Jackie Fuchs. Tonight's invocation will be Reverend Ed Horne.

Invocation, Reverend Ed Horne:

God of all people, fountain of mercy, source of love, we give you thanks for this world in which you have placed us and this community that we call home. We are grateful for all that makes Westport the Town that we love, its beauty and its pleasures; it's long and rich history and its vibrant present. But most of all, loving One, we thank you for the people who make us what we are, those of differing ages and interests and backgrounds, joined together as citizens of this place. We thank you for the privilege of serving as elected leaders, for the opportunity to improve lives and produce sound policy. As we turn now to the business before us, give us the wisdom to make good decisions and hearts that are ready to hear the concerns of one another. Make our conversation this evening both civil and productive, principled yet open to the concerns of each other. Enable us to listen before we speak, to understand before seeking to be understood, and to respond with the good of one another in mind. And when we differ, help to see one another as your children, neighbors pursuing not partisan advantage but the common good. We are here, Lord. We are ready. Speak now, for your servants are listening. Amen.

There were 30 members present. Mr. Keenan, Mr. Timmins, Mr. Floyd, Mr. Rossi and Ms. Batteau notified the Moderator that they would be absent. Mr. Mandell notified the Moderator that he would be late. Ms. Feller was also late.

There were no corrections to the minutes of January 3. If anyone finds anything please let Jackie Fuchs, Patty Strauss or the Moderator know.

### **Announcements**

Mr. Rose:

We have a few birthday greetings this month: Dr. Ashman, Mr. Izzo, Mr. Mandell, who we will hopefully be greeting in a few minutes, and Jackie Fuchs. Happy birthday to you.

Our next RTM meeting is March 6, right here.

Upcoming RTM meetings:

- We have long-range planning on February 21 at 8 PM, room 309, I believe.
- Jeff, on the 13th, Finance Committee in room 309 at 7:30 for the finance committee. Correction, the finance committee is meeting on February 28. I'm sure Mr. Wieser will send out an announcement to make sure you all have the accurate information.
- Feb. 15, Education Committee, room 201, 8 p.m.

As I was saying, we are getting into our favorite time of the year, the budget season. The Board of Finance has initial budget meetings coming up. As those of you who have been here know and those new people should know, each night for three nights, they interview various committees. They get a projection as to what's coming on. They have a little interplay back and forth. Nothing is decided at that point but it is the basic passing along of information to the Board of Finance. It starts on February 13 up in room 309. It starts at 6:30 PM. It will be on the 13th, the 14th, and the 15th. Anybody who wants to attend, feel free to attend, particularly, if it is a department that you are on a committee overseeing that department, it's not a bad idea to be there.

### **RTM announcements**

Bill Meyer, district 3:

I didn't want to disappoint anybody so I got up here. Norwalk Hour, Monday, headline: 210 Senior Center tailgate party. Jack Klinge, our president, led this. It was just dynamite. Steve Rubin, here's a football for him, great volunteer. And one to Jack, our president. Number two: "1,000 Oaks", Westport Community Theater. Who has season tickets? Stand up and give a testimonial.

Dewey Loselle, district 1:

It's great. My wife and I have had subscriptions for years. Wonderful shows..."A Few Good Men", "Driving Miss Daisy", "Barefoot in the Park".

Mr. Meyer:

Anybody who comes, I have announced this for years, nobody has tried it, there are five plays a year. "1000 Oaks". I will give anybody one ticket free if they come and I am the head usher there and I won't take a tip when I take you to your seat.

**The secretary read item #1 of the call – An appropriation of \$320,750 to fund various repairs projects resulting from hurricane Irene damages, 75 percent reimbursable by FEMA. By show of hands, the motion passes unanimously.**

### **Presentation**

Steve Edwards, Director of Public Works:

I always hate to follow Bill Meyer. I can't quite bring that amount of enthusiasm.

Mr. Rose: Steve, you always like to get out early so I put you first.

Mr. Edwards:

My request tonight is a little bit long in coming. This is the repairs from Hurricane Irene back in September, the first storm not the second storm. FEMA came in right after Irene and we've got approval for reimbursement on these four projects. They include the Hillspoint Road revetment and sidewalks. The work now has been put back on a temporary mode to get us through the winter time but that will

be totally reconstructed vis-à-vis the sidewalk and the sloped pavement. That has been estimated at \$90,000. Longshore sea wall is estimated at \$150,000. That is replacing the entire seawall which was a timber crib wall in front of the sailing school and the pool. That seawall presently is up in the parking lot in pieces. I've got it mostly cleaned up. We'll go back with a concrete block, retaining wall on that and, again, that was estimated at \$150,000 and approved as such. The Harbor Road revetment is a mass stone wall along Harbor Road. We will go and re-stack that wall. Again, that is not a pretty wall. It's not intended to be a pretty wall. The intent is to keep debris and boats off of Harbor Road. Again, what we will do is re-stack that wall and replace the gutter line. That is estimated at \$62,000. The last item that was approved by FEMA at an estimated cost of \$18,750 is a replacement of a timber sea wall and some washed out stone revetment at the Burying Hill Beach. Those all add up to the requested \$320,750. The request on this is going through the capital nonrecurring account. What we do is borrow from that account. When the FEMA money comes in, it goes back into that account. It assists us in the paperwork that is necessary for FEMA plus part of these projects were estimated in the capital and nonrecurring over the past five years, anyway. The timber wall out at the sailing school, I think Stu McCarthy had that in his long-term forecast a couple of years ago. Irene just elevated that to a top priority. Again, these monies will be reimbursed at a 75 percent rate through the state and we will probably get that money back sometime in the summer. It won't be in this fiscal year. By the time we get the money back, it should be in the next fiscal year but again it will be returned back to the capital and nonrecurring.

### **Committees Report**

Finance and Public Works Committees, Jeff Wieser, district 4:

This joint report of the Finance and Public Works Committee was prepared by Jay Keenan who is not here tonight so I am reading it. I am not going to read it. I like following Steve Edwards because he usually is so complete and clear in talking about the matter at hand. As presented, we are looking for \$320,000 from the capital and nonrecurring fund for the four projects. We spent a lot of time talking about, as much time as anything, talking about the reimbursement to the Town so this is really only 25 percent maximum. It might be even less than that. We passed it unanimously.

### **Members of the Westport electorate**

First Selectman Gordon Joseloff:

Good evening Mr. Moderator. Good evening members of the RTM. Before I address the matter at hand, I'd like to introduce to you Gary Conrad, who you may not have met. He is the new Finance Director. Gary, why don't you stand up so people can see you and give a wave and they will wave back, maybe. Gary, as you may know, comes to us from New Canaan, 17 years there and a number of years in the private sector. So, he has deep experience. He's a good guy, fun to work with and very knowledgeable. I think you'll find him very useful and helpful in responding to your needs.

This request, as Steve explained, it sounds fairly simple but I would like to pay complements to Andy Kingsbury who is our Town Emergency Manager who put together a lot of the details involved in applying for this request. It's not just something you fill out a blank. It's a lot of man-hours determining the costs involved, estimates; we walked through with some FEMA people immediately after the storm, Steve Edwards' department, Parks and Rec. Department. So, there's a lot of effort that goes into this. We weren't sure, of course, if we qualified because FEMA, obviously, has some standards so the county had to reach a certain level. It's a lot of hard work and it will pay off. I think this will, hopefully, go a little way to replenishing some money that Steve had set aside for storms including snow storms so let's hope that we have a continued mild winter and that we don't have to dip into reserves for future storms.

Ms. Flug read the resolution and it was seconded by Mr. Rubin.

**RESOLVED:** That upon the recommendation of the Board of Finance, and a request by the Public Works Director, the sum of \$320,750 from the Capital & Nonrecurring Expenditure Fund Unassigned Fund Balance to the Capital & Nonrecurring Expenditure Fund (C&NEF) Account (Repairs: Hurricane Irene) to fund various repair projects resulting from Hurricane Irene damages is hereby appropriated (75 percent reimbursable by FEMA).

Mr. Rose:

It has been moved and seconded by Mr. Rubin to approve the resolution just read.

**Members of the RTM – no comments**

**By show of hands, the motion passes unanimously.**

**The secretary read item #2 of the call – An appropriation of \$34,908 from the Heart and Hypertension Reserve Fund for the settlement of a Workers Compensation claim brought by Michael Gudzik. By show of hands, the motion passes 25-4-1. Opposed: Bomes, Loselle, Mandell, McCarthy; Abstains: Ashman**

### **Presentation**

Brian LeClerc, Berchem Moses and Devlin:

This is regarding the workers compensation claim of Michael Gudzik. It is a heart and hypertension claim. We are seeking \$34,908 to resolve an outstanding issue regarding this claim. That is based on a compromised permanency rating. I know in committee there were some questions raised regarding the procedures followed by one of the Town departments in connection with this claim. I assure you that there are standard procedures that have been in effect for many years regarding workers comp, heart and hypertension, freedom of information and

general lawsuit and liability claims here in Westport. We have been assured by the department that it was an inadvertent mistake that was made on their part regarding the processing and the submission of this claim, that it will not happen again and we are confident that it will not happen again with that department or any department regarding the submission of a claim to the legal department in a timely manner.

### **Committees Report**

Finance and Employee Compensation Committees, Louis Mall, district 2:

Before I get started, I want to confess that, as rookie, I was singled out to do the report and bear with me. If I have made any mistakes or any oversight, it's just a rookie error.

Present from the RTM Finance Committee: Jeff Wieser, Chair; Lee Arthurs, Allen Bomes, Richard Lowenstein, John McCarthy, and Lois Schine. Late: Gil Nathan. He did not vote or participate in the discussion. For the RTM Public Protection Committee: Sean Timmins, Chair; Jimmy Izzo, Melissa Kane, Richard Lowenstein, Louis Mall, Stephen Rubin. George Underhill was late and did not participate or vote. The joint committees met on Thursday, February 2, 2012 at Town Hall in Room 309 at 7:30 p.m. Also in attendance were Ryan Driscoll, attorney for the Town of Westport and Gary Conrad, Finance Director. The sum was \$34,908 from the Heart and Hypertension Reserve Fund for settlement of the Workers' Compensation claim brought by Michael Gudzik. There are three criteria for receiving a benefit here. I'm going to go over them because, especially if you are new to the RTM, you might not have ever heard about this. So, I think it's important that you know. You had to be hired prior to July 1, 1996. Mr. Gudzik had been. He had passed a pre-employment physical which was the second criteria and, three, he had become partially disabled due to hypertension. The attorney went into the particulars. We also went into executive session to talk about this because of privacy issues so we didn't want to get too far into anything that would be publicly disclosed. The committees voted to go into executive session to discuss the specifics of the claim and came out of executive session to vote on the request. There were two points that I think were really important to bring before the RTM: 1) What options did the Town have to challenge the claim? and 2) Should future claims require a claimant to seek a separate second opinion by a Town-mandated physician? I will allow members, if they feel they want to get into it, to talk about it. Here's something that I think I might need to be corrected on: The vote taken was 4-2 to approve by the Finance Committee: Mr. Wieser, Lowenstein. I have John McCarthy but he said he didn't vote for it. I should change Arthurs to voting yes and McCarthy to voting no. Schine voted yes. Bomes also voted no. Public Protection Committee also voted 4-2 to approve (Timmins, Izzo, Lowenstein, Rubin voting yes and Kane and Mall voting no.)

**Members of the Westport electorate - No comments**

Ms. Flug read the resolution and it was seconded by Mr. Rubin.

**RESOLVED:** That upon the recommendation of the Board of Finance, and a request from the Town Attorney, the sum of \$34,908 from the Heart & Hypertension Reserve Fund for the settlement of the Workers' Compensation claim brought by Michael Gudzik is hereby appropriated

### **Members of the RTM**

Melissa Kane, district 3:

I am going to be voting in favor of the appropriation of funds for Officer Gudzik tonight but I did vote against the appropriation in committee because I am concerned with the process by which we handled this settlement and we are handling workers comp. settlements. I think that the RTM is here to insure the financial health of the Town as well as the health of its employees. I think that, to that end, it is very important that at least a paper review second opinion by an independent medical practitioner be standard no matter what size the requested claim is. I'm not sure what the exact process is but I do hope that we'll make a formal recommendation to the appropriate Town department to that effect.

Don Bergmann, district 1:

I would like to concur with Melissa's observation and comment about the desirability of our own medical doctor looking at every claim even though it may be seen as a bit of a waste of money. I don't think it is. I think it's well to do. I do hope there is a process that will follow up that this is actually done or for any reason, if it is rejected. I would also note that, frankly, it's a good thing for a Town be viewed as tough when it comes to some of these claims and, just as a general matter, I would like to see Westport be seen as a tough town, not unfair town but a demanding town. The second point relates to this issue of the fact that the matter was not passed on to the Town Attorney on a timely basis. Apparently there is a policy in effect? A written policy?

Mr. LeClerc:

I don't know that it's written but department heads and all members of the departments are aware of how to handle claims that come in to the Town. If they are submitted to the various departments, they know, heart and hypertension, workman's comp., freedom of information, litigation claims and lawsuits that they are all to be turned over to Gail Kelly's Office here in at Town Hall, the Town Attorney's Office, immediately. We have reviewed that with the Police Department, in this case, and they assured us that it was inadvertent. They are well aware of the policy, as are all the other Town departments. They will comply with that in the future at all times.

Mr. Bergmann:

Understood. I know when I was General Counsel of a public corporation, there were certain things we had in writing and one of the most important was immediately let the General Counsel know of any litigation, whatsoever. So, I think it should be in writing, as well.

Jack Klinge, district 7:

This could be a senior moment. Why do I think we have seen Mr. Gudzik's name before in a similar complaint like this? Does no one else have that recollection? Within the last six months? No. Okay. I have a funny feeling it's out there someplace.

Mr. Rose: Jack, maybe we are all having senior moments and don't remember.:

Allen Bomes, district 7:

Maybe I can address what Jack just said. Mr. Gudzik happens to be, last year, he was the eighth highest paid employee in the Town including Board of Ed. people. Maybe you saw that. Even if he has got a disability, it was not enough for him to stop from racking up overtime. I have been on the RTM long enough to know that with the heart and hypertension cases, you basically hold your nose and vote yes because we don't like them but there is nothing we can do about them. I was certainly prepared to approve this, as well; however, during the committee meeting after we heard the presentation, I voted no in the committee and I'm going to vote no tonight because I think we definitely need a policy in place, as Ms. Kane mentioned, a policy in place to assure that all hypertension cases regardless of the dollar amount be reviewed by a medical professional representing the Town. I am uncomfortable that the decision whether to accept this hypertension case claim was made unilaterally by the Town Attorney without a medical opinion. Again, that bothers me. I hope we get a policy, no matter the size of the claim that gets reviewed. I understand that a medical review can get expensive; however, it doesn't have to be a full blown physical. I would just say that it does not have to be expensive, looking at the paperwork. Then, if the professional decides it deserves more scrutiny, then fine. I am willing to spend the money for it. Again, initially, it does not require a lot of money to review the paperwork.

Jonathan Cunitz, district 4:

Having not attended the Finance Committee meeting, this is my first crack at this particular case and the situation regarding the fact that it didn't go to the Town Attorney in time. It occurs to me that there is an inherent conflict of interest if claims are submitted to a department head first in that there are relationships built up between a department head and individual employees. I'm not trying to disparage anyone in particular. I am just looking ahead to the future. I'm not sure where our procedures or regulations are regarding the processing of these claims but I would suggest, if at all possible, that a claim be submitted simultaneously to the Town Attorney's office at the same time that is submitted to the department. In this way, we would prevent this lapse from ever happening again. Is there anyone here that can explain the procedures and how we might go about changing it?

Mr. LeClerc:

One of the issues in trying to change the procedures is State Statutes that we have to deal with that allow for certain types, whether it is to serve a process on a municipality or the filing of a claim against the municipality. We, as a Town, cannot mandate that you sent a second copy to the Town Attorney's office or to file it at a certain location. As if you look at some of the cases and decisions of the Commissioners, they have allowed in other cases, the filing, for instance, of a workers comp. claim with the Police Department, the department you work out of, the building you may work out of. That's a little bit of what we are up against. This is the first time in our memory for over a decade that anything like this has happened; that the department has not submitted the claim to the Town Attorney's office promptly to give us enough time. The Town routinely gets FOI claims and various claims and they are turned over to the Town Attorney's office immediately so we can handle them in the time required by the statutes. But we cannot mandate that the people file a duplicative copy in our office as well as with whether it is with the Town Clerk or a department for their filing.

Dr. Cunitz:

With that understanding, is it possible to suggest that your office or maybe the First Selectman's office or some appropriate body send a reminder note to each department head to be aware of the requirement to forward the claims to the Town Attorney's office when they are submitted, just a reminder to refresh the memory of department heads.

John McCarthy, district 9:

I voted against this in committee and I'm going to vote against it again tonight. I'll explain why. First, I agree with Mr. Bomes that we should never set the precedent that we are doing tonight of settling a claim without our own doctor looking at this. If nothing else, we have leverage in reminding people that we are looking at this. We are basically taking the word of the employee's doctor without our doctor having a say at it. The second has to do with, quite frankly, I am, I heard an aside in the Finance Committee that the 30 day limit had passed prior to the complaint having been sent to the Town Attorney's office. At that point I realized, why are we even discussing this? Our hands are tied. We can't go back and say we disagree with this. We basically just have to accept it. If we get to that point, why are we even sitting here talking about this? I would actually go further than Dr. Cunitz. I would actually like a written letter to the Board of Finance which wasn't told about this when they voted on this. I would like a letter to the RTM from the administration outlining what happened and what steps are being put in place to make sure it doesn't happen again. One of the reasons we are here is to make sure that things are done in a transparent manner that anyone watching this tonight hearing that somebody in the Police Department sat on a letter or didn't forward on a letter, a complaint and then didn't even get a second opinion by a doctor. We look like a bunch of fools, quite frankly. This is not the way that I would hope Town government would operate. This is a black eye, I believe, for the Town of Westport. Quite frankly, these things usually pass. Quite frankly, we usually have our doctors looking at these types of things. Why

wasn't it done this time? This is not a proud moment for the Town of Westport, for anyone here. Any taxpayer looking, wondering where their \$34,000 went, in this case, I can't quite frankly tell you why you shouldn't be upset. It's a black mark for the Town, I believe.

Mr. LeClerc:

If I could address just one point regarding the comment that the Board of Finance was not aware. I would just remind you that the Board of Finance did go into executive session to discuss this claim. Discussions that occurred in executive session, if you looked at the minutes of the Board of Finance, would not be reflected in the minutes

Arthur Ashman, district 7:

We live in a time where, if we don't get a second opinion on something that's ailing us, it's almost individual malpractice. We really should always. I would just like to add on what Allen said and Melissa said. They think, and rightly so, that a second opinion should be had but they mentioned only in hypertension. In anything that comes in malpractice or injury, anything, we should always, the Town, get a second opinion.

Dick Lowenstein, district 5:

I have been on the Public Protection Committee long enough to see quite a few of these heart and hypertension cases come forward. To my knowledge, this is the first one in which a physical was not required, either paper or personal examination. You should be aware that the proposals of the claimant for a disability and the proposals of the Town for a disability are often quite divergent. The physical is the only way to convince either side that there should be some kind of meeting of the minds. I think it is important that we not take the exception and think that it's the rule. This is a glitch. It's not a black mark on the Town of Westport. Something happened and it won't happen again. I'm confident of that. I think the idea of having a paper review is worthwhile. I think it might even interesting to ask our physician, the one who does most of these, if he can establish a per patient paper review fee that would then be the amount that he would get, minimum, which I suggest would be a very small amount.

Mr. Wieser:

A couple of comments also from the committee meeting because there was some agreement but I think maybe disagreement on how it affects this case. I think the one point that was made very clearly was that, as the committee report more clearly pointed out, this is a very compensable claim. There aren't too many uncertainties about it in that Mr. Gudzik reached all three for some amount of compensation under the way this crazy statute, contract or statute, whatever it is, is phrased and it is something that the Town is going to have to live with until the people who were hired before 1996 retire. So, we will have one or two of these a year. It's just going to keep on coming, maybe with increasing regularity but they are going to keep on coming. It's a very compensable claim. Any claim becomes

a claim once you get to at least five percent of disability. That is the lowest amount that you can get to a claim. This was deemed to be between five and nine percent so that it ended up at seven percent. This is almost the lowest claim that you can get under a heart and hypertension award. As I understand it, for that reason, in this instance, a second opinion wasn't sought. Going back for a second opinion, who knows what happens? It was an unusual thing that they didn't get a second opinion. I think we all pretty much agree that going forward it would be a very good rule to say every one of these, even for \$34,000, which is still a fair amount of money, is worth going back and getting a second opinion. So then, looking at that, we realized that there was this other little glitch that came up which was very unusual and supposedly was uncharacteristic. The Police Chief has said this will not happen again. That's a good thing to know from a brand-new Police Chief. I think it's a good idea to send out a reminder letter to all these people, all the department heads and make sure that service gets processed very quickly. I don't really hear a smoking gun here which is why I'm going to support this tonight and hopefully this one goes away and we don't hear about another heart and hypertension for a long time. It's not a horrible black mark. It's the contract that was signed many years ago that is governed by state statute that looks out for our service providers. It is doing what it is supposed to do. It could do it better going forward and I would like to see that we have physicals in every instance going forward, as a matter of course, but this one, I think, is just an ongoing matter as they have been pretty much running.

Mr. Loselle:

I'm going to be voting against this on general principals. In particular, I would like to recommend, we have an Internal Auditor in Town now whose job is to look at internal controls and procedures. I would want to make the recommendation, I will recommend to the Board of Finance who, I believe gives the assignments to the Internal Auditor, that the particulars of this case be reviewed to understand exactly where the failure point was. If you don't understand where the controls failed, you will continue to have them fail again. Secondly, I think the whole topic of how claims are handled, what the processing procedures are, is a good one for our Internal Auditor to take a look at. I think that would be a great upcoming assignment in the future.

Mr. Mall:

I, like Melissa, voted no on this but more to the fact that I didn't want to feel that we were just a rubber stamp and wanted to get this dialog going. I will vote for this tonight because the claimant did meet the three criteria. The other thing is the attorney did say it was a compensable claim. I agree that we need to require a second opinion so that the Town assets are watched over. I don't think we need to change the rules in the middle of the stream. I think that we can make it effective Feb. 8 that from now on, a second opinion is required of all workers comp. claims.

Gil Nathan, district 9:

I just have a real quick question. I'd like you to explain the process for the benefit of everyone of what it takes to file a claim. Everyone is talking about the mishap. We know it's in the Police Department. We know they didn't submit it to the Town Attorney's office. Is it 28 days? Is it 30 days? What exactly happens? Everyone should be aware of the process here, not just what happened.

Mr. LeClerc:

In this matter, form 30 C, which is a Notice of Claim for Compensation, was filed sometime this spring with the Town. It was filed with the Police Department in this case. It was turned in to the department. If the Town is going to contest the compensability of a claim, it has to do so by filing a form 43 within 28 days. As a routine matter, we file form 43's on any claim pending a minimum further investigation. Twenty-eight days isn't much time by the time you get the claim and have to do some investigation to determine the facts of what happened and whether it truly is a compensable claim. You have to look at dates of hire. You have to look at the pre-employment physicals on a heart and hypertension claim. We normally would file that form 43 within the 28 day period. In this case the form was filed with the Town but was never turned into the Town Attorney's office so there was no opportunity to file within that 28 days. You're therefore, by law, precluded from challenging the compensability of the claim because of that. That is by law in Connecticut. Heart and hypertension is a creature of statute. It is the Workers Compensation Commission. There are certain dates for filing claims. You have to file your claim within one year of the date of injury. In the Town is then given 28 days to file its contest of that claim. In that case, because the 28 days lapsed prior to the Town Attorney's office knowing the claim was even filed. The Town is deemed to be precluded and will lose in a formal hearing on that issue, if you try to challenge on the compensability, at that time.

Mr. Nathan:

If the RTM were to vote against this measure, what would that happen?

Mr. LeClerc:

If the RTM were to vote against this, the claimant would proceed to a formal hearing which is an evidentiary hearing before the Worker's Compensation Commission. Testimony would be put on. The Town would present its case. We would then have an opportunity to prepare and file briefs with the Commissioner. The Commissioner would issue his or her decision and the commissioner would find against the Town on this claim. We would be obligated to pay this claim, to accept this claim, to pay an award and, while the rating was between five and nine percent, the commissioner could go to the higher number and award nine percent in this case. The claimant could also proceed with a claim for unreasonable delay on the part of the Town and seek certain penalties or attorneys fees and because there are provisions in the comp. statutes, if you unreasonably delay a claim or unreasonably deny a claim, you can be penalized at the commission level. In this case, the commission could very well do that knowing that no contest was filed within the 28 days. The commissioner could

penalize the Town for going all the way to a formal hearing on that issue without having a viable defense.

Mr. Nathan:

If this person is awarded seven percent for 520 weeks, what does that mean going forward for them? Are they paid at 93 percent or is this a one time that they get seven percent and six months later they can file another heart and hypertension? How does this restrict that employee? Is there anything in the statute that allows that allows us to not dismiss but retire an employee who falls under heart and hypertension claims?

Mr. LeClerc:

This is a settlement of the disability the claimant has at this time. The claim for heart and hypertension is accepted because he did file a claim and regardless of the 28 days, it would appear to be a viable claim. The permanency is paid based upon the permanency he has today. He may continue to work for the Town as long as he is able to do that and he has not reached the level where he is unable to perform the duties of a police officer in this case. Attorney Dugas is here from my office. He is going to be discussing a contract in a few minutes and you may address questions to him regarding specifics of the police contract. For as long as he is able to perform those duties, he could remain as a police officer. If he has an increased disability in the future because of his heart and hypertension, he could come back at that time. At that time we could have our medical opinion on the increased permanency claim. No, you do not have any increased permanency. This is it. At that time, we could have our medical opinion challenge any increased permanency.

Mr. Nathan:

The seven percent is a permanency. He cannot file for the initial seven percent again.

Mr. LeClerc

The seven percent is a permanent partial disability. You can't come back for the same seven percent.

Mr. Nathan:

Based on the information that we have just received, I am going to be voting in favor of this. It will cost the Town a lot more money if we don't vote for it. I am totally against the way it was handled. I am against the procedure that we have in place. I think it's too fallible. I think it needs to be in writing. I think that there needs to be repercussions for people who fail to report things to the Town Attorney's office. As the RTM, we are in charge of spending money for this Town. We need to be more careful about how it goes. If this is a valid claim, so be it, but there needs to be the proper process in place. But I will be voting in favor of it because I think it will cost us more in the long run and I don't think we are setting a precedent as long as we don't repeat the same problems.

Lee Arthurs, district 8:

Just to finish what was just started, was the reason there was no physical done here because the 28 days had elapsed and there was really nothing we could do with it even if we had done that?

Mr. LeClerc:

That was one of the reasons, that the 28 day period had gone by. The second reason was, given the nature of the permanency, the extent of the disability, in our experience, number one, with that level of disability and, number two, our review of the medical records in this file, the pre-employment physical and all the yearly physical reports we had the doctor's notes in this case regarding the hypertension, the decision was made that it would be unnecessary for an independent medical exam (IME). That's not normal, though. In most cases, we have at least an independent medical exam. An examination for those of you who have been out for a while know will come with other settlements we have had over the years where you have a number from the treating physician; you have an IME done by a physician on behalf of the Town with a different number, typically, a lower number. On occasion, you'll have what is called a Commissioner's exam where the Commissioner will order an exam by a third physician to look and come up with a disability rating or, in some cases, report regarding whether it is a compensable injury in the first place.

Mr. Arthurs:

I do think, as others have said before me, that all these situations should have independent medical reviews. I am concerned if the claimants and the doctors that they are using know we're not going to review certain kinds of claims with doctors, that they could take advantage of us. I will, though, vote for this claim for a lot of the reasons that have already been said.

**By show of hands, the motion passes 25-4-1. Opposed: Bomes, Loselle, Mandell, McCarthy; Abstains: Ashman**

**The secretary read item #3 of the call - To approve an amendment to the Retirement Plan for Non-Union Supervisory Employees. By show of hands, the revised motion passes unanimously.**

### **Presentation**

Floyd Dugas, Berchem, Moses and Devlin:

For approximately a year and a half, I took over about two years ago as labor counsel, it has been a priority, as communicated to me by both subcommittees of the Board of Finance and the RTM to move forward with implementing a defined contribution plan as opposed to a defined benefit plan for new hires to the Town. As those of you who are not new to the RTM know from prior contracts, we have

been making efforts with the unionized employees but what I am here to talk to you about tonight involves the non-union employees, to some degree a little bit of an afterthought on the part of those of us involved in the process in the sense that most employees in the Town are unionized and we focus primarily on Public Works, on Fire, and the WMEU bargaining group in our efforts to try to move forward with the defined contribution plans. In the fall, there were a number of conversations about the need to move forward with the non-union folks and, consistent with that, there were a number of conversations and meetings and, of course, we decided that we were moving forward in that direction. As a result, you have before you an effort to amend both the non-union supervisory and the non-union non-supervisory pension plans to provide that, on a going forward basis, as of Jan. 1, 2012, new hires would not be permitted in the defined benefit plan. Effectively, we are closing the defined benefit plan and we are moving forward in the process of offering a defined contribution plan. You don't have. before you tonight. the issue of the defined contribution plan. That is something that will come before you at a later point. We have to finalize that process but the first step in that process is to terminate the defined benefit plan for new hires. The language in the defined contribution plan is a little bit ambiguous in terms of who has that authority and who has that power but, suffice it to say, that it is my opinion, it is the opinion of Gail Kelly, it is also the opinion of Larry Goldstein, the pension attorney who has consulted with the Town and works with the pension plans, that RTM action is appropriate on that. What we have done is the process started with the First Selectman giving a directive to the pension board directing them that there should be an amendment of the plan but, because of the pension agreement talks in terms of "the Town", we were concerned that just having on the direction of the First Selectman, just having the pension board make the amendment, was not appropriate because the statute that essentially vests in the legislative body here, the RTM, the legislative authority to adopt a pension but also because it's been a long-standing practice in Westport where there's an amendment to any of the pension plans that they come before the RTM. So, essentially, the First Selectman has directed the pension boards to amend the plans. The pension boards have acted on his directive and we are bringing that to you, as a legislative body, as sort of the final step in that process to adopt or bless, if you will, the amendment to the plans to close them to new hires going forward. Again, we will bring back to you, at a later date, a defined contribution plan for your consideration. At this point, again, we're just closing those two pension plans, defined benefit plans, to new hires.

### **Committee Report**

Employee Compensation Committee, Mr. Lowenstein:

Mr. Dugas has outlined almost all the facts stated in my report. A question had come up and I think it's important as to why we're doing this as an RTM and as I indicated in my report, we did on November 1, 2004, vote to amend the same two plans. So, the precedent is there and our right and our ability to do it is there in the record, as well. As you have heard, there will be a defined contribution plan coming forth from the administration. We have no other details at this time.

People have talked about it. In fact, a lot of our meeting was talking about possibilities. The committee has expressed its desire, which I concur with, that we be involved with the development process because this will come to the RTM for approval at some point. We want to make sure that we are not on a short string so to speak so we have little time to do it. So, I am confident that we will be involved as a committee and that the RTM will be involved as well. It's important to also realize that no current employee of the Town of Westport covered under these two contracts is affected by this amendment. None. That is a fact that came out during our discussions and it's important that you understand that. Anyway, seven of the eight members present voted to recommend that the RTM approve both resolutions that you will hear tonight so this is a report on both of them thank you.

**Members of the Westport electorate - No comments**

Ms. Flug read the revised resolution and it was seconded.

RESOLVED: That upon the recommendation of the First Selectman and the approval of the Non-Union Supervisory Pension Board, an amendment to the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport, Connecticut (the "Plan"), such that the entire Plan, including *but not limited to* pension and retiree health insurance benefits, shall not be available to employees hired on or after January 1, 2012 is hereby approved.

Mr. Rose: Seconded by Mr. Rubin.

**Members of the RTM**

George Underhill, district 4:

Just an aside for a moment: I attended a CCM meeting with about a half-dozen RTMers last Saturday and Gary's name was brought up. There were people from New Canaan there. They speak very, very highly of him. So, welcome aboard.

On this report here, I was at the meeting. I did make the motion that we accept it. I have no problem with that; however, I don't think that it is complete. I went back and checked the pension plans that we have and I found that part of the pension plans is life insurance, term life insurance. I am just wondering, at this point, if that should be considered part of this because I noticed that when the Board of Finance addressed the subject, they amended it to include the health plan. My question is, do we include the term insurance because it is optional, whether or not you want to continue it after you retire? Floyd, perhaps you can address this.

Mr. Dugas:

To be candid with you, that never came up at any time during any of the discussions and I think that the effect of the amendment is broad enough to cover that essentially saying the entire defined benefit plan including but not limited to the health insurance component would be terminated for new hires. So, I want to go back and double check that but I believe that the answer is, if it's

included in the defined benefit plan, that would certainly apply to life insurance, as well.

Mr. Underhill:

Like I say, when somebody is retiring, they have the option to carry on their term life insurance policy so that means they have been on it from day one. So, if this is going to be effective and you say included, it would also be included. It should be included, I think, as an amendment to be defined, should be addressed and amended by this body.

Mr. Dugas:

I don't know that I have anything to add to what I indicated before. I'll just reiterate that, given the motion, to the extent that the life insurance provision Mr. Underhill that you are referring to is in the pension plan document, I believe it would be picked up in the current resolution.

Matthew Mandell, district 1:

First Selectman Joseloff, thanks for bringing this forward. This is something that we have been looking for a long time to see, a change in how we are dealing with pensions. As Mr. Dugas said, this has been something that has been going on for a year and a half that he has been working on it. The person that also needs to be thanked is Helen Garten who was Chair of the Board of Finance at that time who pushed for this, brought it forward and made this a possibility for us. Hopefully, we are going to continue to move forward in changing our pension so that we can get a hold of this problem.

Mr. Bergmann:

This pension plan, both pension plans, they have, of course, a retirement benefit. They also have a disability benefit. They also have a death benefit and they, of course, have a medical benefit. Those are basically the four benefits that are covered by this plan. I believe, while it probably would have been nicer, to have not only referenced the medical benefit, to have referenced also the life and the disability, I happen to agree with Mr. Dugas that what we are doing here is we are eliminating all benefits under this plan as it relates to anyone who was hired as of after January 1, 2012. Those three plans though do highlight, frankly, the importance of knowing what we're doing going ahead because it's not just a matter of 401(k) plan that we, I gather, are going to be considering but there may, in fact, be other aspects that are in this plan that might be considered for new employees. So, it's a little awkward that we are doing this piecemeal but that's the way it has come to us and, as Dick pointed out, we all were prepared to vote in favor of it, notwithstanding the fact that we had some concerns as to what happens to our employees, our new employees, going ahead.

Mr. Nathan:

I just wanted to make one quick correction for Dick's benefit. Gary, here, is our first hire after January 1 so he will be affected by this. According to Gordon,

going forward, as we have other positions to fill, people will be affected by it. Let me first state, I'll be voting in favor of this. I think this is a very good start. I think the administration put forth something. I think this is low hanging fruit that we needed to address. These are our non-union employees and we have some control over that. We need to start there. One of the things that we did discuss in committee is the RTM wants to be part of the process going forward of what we do for our new employees. We want to know how we are going to compensate them and what we are providing as benefits. What is fair and equitable for them? So, we have made the administration aware of that and we hope to be seeing what those plans are going forward. I would just like the whole RTM to know that because our committee, especially, wants to see that. We think that we can put forward a lot of good input and help whether it be the attorneys or the First Selectman's office in putting forward what we can offer to our new employees. I think this is an excellent start and I think we should all vote in favor of it and I will be.

Hope Feller, district 6:

I was not at the meeting. I'm concerned that there is some health insurance for these new hires. I think it is very important that they should have something to hold onto in this turbulent time, this bad economic time, especially healthcare is important. So, I would like to know when we decide what to give them what it is and I hope that it is equitable and fair.

Lois Schine, district 8:

Like George, I am a little bit concerned. Lloyd, I don't know if your copy says what my copy says. Because it does say "the entire plan including pension and retiree health insurance benefits", this might be a legal question. I don't want it to come back later and haunt us, since you are specifically including the pension and health insurance benefits and you are not mentioning the other benefits. Do you think the words "entire plan" are sufficient? I know you said, "not only including" or something like that. My motion doesn't say that. Should this be amended and have the others added to it?

Mr. Dugas:

It does, in fact, indicate that the entire plan shall be terminated including, and we specifically identify two items. I suppose, for the absolute purist, if we wanted to really be thorough we could say "including but not limited to". As it is written, I think it is adequate but, to your point, if that were an amendment somebody wanted to make I would certainly be fine with that amendment.

Ms. Schine:

In that case, I would like if you would give me the words again to amend this resolution:

Such that the entire plan including but *not limited to* pension and retiree health insurance benefits.

I would like to make that amendment just so we are really sure we are online.

Ms. Flug seconds.

Mr. Rose:

I'm going to ask for unanimous consent to make this because I don't know that anybody will have a problem with this. There is not unanimous consent if anyone will indicate an objection...

Mr. Lowenstein:

It's a puzzlement. The resolution that was presented to the pension board struck out the words *but not limited to*. So, why are we putting them back in again? I was present at the meeting but I wasn't present at the vote. I'm not sure what is achieved by putting these words back in. It sounds like you are trying to avoid excluding anything. If you look at the plan, I think it would be sufficient to say "the entire plan" shall not be available. The plan is a piece of paper, pages one to whatever. That's adequate. But for some reason, which I cannot discern from the minutes, they decided to strike the words *but not limited to*. So, you're asking to put it back in. The pension board specifically took them out. I don't know if anybody can add some elucidation on that one.

Mr. Dugas:

When I read this, I said to myself I'm surprised I did not put *including but not limited to* in there and thank you for reminding me I did put it in there. I can't recall the rationale. I believe it was Mr. Kaner who had some concerns with that language. He had suggested it and I didn't see a huge problem. I didn't think it would change the intent. So, I don't know if that answers the question or shed any light. I don't think it's going to make a huge difference one way or the other. It certainly says "the entire plan including...". If you want to be as careful and accurate as possible, you would include the words *but not limited to* but I don't think it's critical.

**Members of the Westport electorate - No comments**

Dr. Cunitz:

As the attorneys would say, I think this whole issue is moot because we are eliminating this plan for new employees when a new employee comes on they are going to be signing on to a new plan. They are not going to be objecting to the fact that the old plan was eliminated. So, there's no relevance. So, I would say forget any amendment and just pass it as proposed.

**A vote on the proposed amendment: ....including *but not limited to*  
Opposed: Loselle, Bergmann, Rubin, Lowenstein, Athurs, McCarthy;  
Abstains: Olsen. The amendment passes 23-6-1**

**A vote on the amended resolution: RESOLVED: That upon the recommendation of the First Selectman and the approval of the Non-Union**

**Supervisory Pension Board, an amendment to the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport, Connecticut (the “Plan”), such that the entire Plan, including *[but not limited to]* pension and retiree health insurance benefits, shall not be available to employees hired on or after January 1, 2012 is hereby approved.**

**By show of hands, the motion passes unanimously.**

**The secretary read item #4 of the call – To approve an amendment to the Retirement Plan for Non-Union Non-Supervisory Employees. By show of hands, the revised motion passes unanimously.**

Mr. Rose:

I don't think it is necessary for Mr. Dugas to repeat what he said for the first amendment nor do I feel we need Mr. Lowenstein to read the committee report.

**Members of the Westport electorate - No comments**

Ms. Flug read the resolution and it was seconded by Mr. Rubin.

RESOLVED: That upon the recommendation of the First Selectman and the approval of the Non-Union Non-Supervisory Pension Board, an amendment to the Retirement plan for Non-Union Non-Supervisory Employees of the Town of Westport, Connecticut (the “Plan”), such that the entire Plan, including *[but not limited to]* pension and retiree health insurance benefits, shall not be available to employees hired on or after January 1, 2012 is hereby approved.

**Members of the RTM**

Ms. Schine:

I would again like to amend this. If it hadn't even mentioned the pension and health insurance plans, I wouldn't be amending it. If it had simply said, the entire plan. Since it selects two items, we might as well include everything. I amend that to say:...

the entire plan including *but not limited to* pension and health insurance benefits.....

Seconded by Ms. Flug.

**Members of the Westport electorate - No comments**

Mr. Rose asks for unanimous consent. No objections.

**Members of the RTM**

Mr. Mall:

I just have one comment. As I sit here, I think that it's important that we have a say so in the benefit design going forward as the RTM. But, I think it would be

really important to have a discussion as a Town, because we are the employer, of what we want to provide our employees. So, I hate to see benefits become something so haphazard that it's just splattered on the wall; some things done here and some things done there. I think it would be really fruitful and I don't know when the time or the place would be, whether it's the budget process or what, to have a discussion on what our Town benefits should look like going forward in the future.

Mr. Wieser

I was thinking about this point. We have now taken away the benefit from people that we presumably want to hire going forward and that is an important part of recruiting new employees. I just wonder what the time frame might be to do that if we are all going to get involved and talk about retiree benefits, 401(k)'s, or how that's all structured. That could take a while. How do we recruit employees in the time being when there is that void in talking to people about what we are providing. How does that happen going forward? Is that something that has been talked about in the administration?

Mr. Joseloff:

That's a good question. We hope to get in place fairly quickly. This would be consistent with the plans of other municipalities. We have, as you know, a new actuarial firm which we've asked to help draft it. We already actually had a draft which we ran by Larry Goldstein, the attorney who drew up the original pension plans last spring. So, it's a matter of just deciding what it is we're going to offer but we want to make sure that what we are offering we know what the costs will be, as best we can determine, through the new actuarial firm. I don't want to put a specific date on it but anybody who is going to be hired in the non-union area is going to be told that it is going to be consistent with similar plans and we can even show them a draft. It's not going to be outlandish and we certainly do welcome RTM input. Mike Guthman has offered, who as you know is a former RTM member, to help us, who has some expertise in this area. I want to caution at the same time though, that defined contribution plans are not the Holy Grail. In fact, the defined contribution plan could cost the Town more in the initial stages. The reason is very simple because new hires are going into a different plan. As we continue to pay for current retirees with the current plan we will not have funding going into that plan. We could find ourselves, initially, paying out more than we might have if we had stuck to simply a defined benefit plan. In the long run, I'm talking of people retiring at 50 who have been in for 20 years, we are setting the stage for improved financial stability in this regard. We need to know how much we are paying and I've said repeatedly that this Town, this state and this nation cannot afford to pay some of the promises that it has made. We need to reform pension costs. We have seen too many private sector entities go down. We've seen municipalities, Rhode Island and Pennsylvania, for instance, that have been sunk and going into bankruptcy because of pensions. We need to improve financial stability in that regard. It's really incumbent on us to put a plan

into place that is going to serve Westport although we may not see the benefits of it for quite a number of years. Thanks, Jeff, for asking.

Mr. Bergmann:

I'd just like to pick up on the suggestion I think it was by Jonathan and others as to the role of the RTM. Frankly, Michael Guthman is a fine person and he is apparently very knowledgeable. He's not a member of the RTM at this point. I would very much like to see a member of the RTM be part of that team.

Mr. Underhill:

I just want to point out that time of is of the essence in keeping this plan moving along as quickly as possible. You're talking about roughly 100 positions here. They could become vacant at any time. I didn't know if you knew what the headcount was but that's what we're looking at. Any of those positions could come up so we should keep moving along.

Mr. Nathan:

I just wanted to address something that Mr. Joseloff just said. The cost of a defined contribution versus a defined benefit plan is going to differ, not necessarily be more expensive or cheaper. It depends on what side you're on. But one of the things we discussed in committee, and I wanted to be absolutely clear to people, is the difference between an accrual and a cash cost. On the basis of the budget, there is cash that comes in and cash that goes out. That's factual. On an accrual basis, we are accruing for pension costs. Those pensions don't start paying out until that person retires. So, while that might not cost us cash today, that accrual might be exorbitantly larger than a cash cost for making...pick a number, whatever you want it to be, if people are in the private or public sector where they have 401(k)s, what ever that match is to their salary. That is a cash cost that you will put into a 401(k) plan for that person in a 401(k) scenario. I just wanted to be absolutely clear to people that it doesn't mean it's cheaper or one is more expensive. Let's not confuse the fact that giving someone cash today in their own account and accruing for that liability in the future is more expensive. That was said in committee. I completely disagree with it because it's absolutely incorrect. That needs to be crystal clear to people because my concern for this Town regarding every financial decision that we make is, what is the ongoing liability in the future? We are worried about what this does for our children and, in some cases, grandchildren, or great-grandchildren. We want to know what Westport has in store in the future, not what we have in our budget today. So, I think that needs to be crystal clear to everyone. Then, the other issue is we were saying we wanted to have this in a timely fashion. We discuss this in committee. We expect to see something soon from the administration, especially, at least to our committee, about what is outlined here. We've been told they have been working on it for a while and a while being close to a year; correct me if I'm wrong. We would like to see that because we do think it's important for our, so far, one new hire to know exactly what he is getting because I think it's fair. I think that it's something we need to see and it needs to be done quickly because we

have a responsibility to our constituents and I think the administration has a responsibility to the entire Town to deliver this to be RTM so we can see it in a very timely fashion. It's been going long enough so that we could at least see a draft at this point in time. It doesn't matter if an RTM committee member or former RTM member has been in those meetings, everyone on the RTM, especially the committee that deals with this should be able to see this and see it quickly.

**By show of hands, the revised motion passes unanimously.**

**The secretary read item #5 of the call - To approve an ordinance providing for the formation of a regional Council of Governments, authorizing the Town to join such Council when duly established, designating the First Selectman as the representative of the Town of Westport on such Council and authorizing the Representative Town Meeting to designate an alternate representative from its members for a two-year term or until the next election of the RTM. (First reading, full text available in the Town Clerk office.)**

Mr. Rose:

This is a first reading. Just so you know, there will be no action taken this evening.

### **Presentation**

Mr. Joseloff:

A little bit of background for those of you who are new to the RTM and I mean new to this issue, as you know or as you may not know, ordinances require two meetings. This is a first reading. Generally, the administration or whoever is moving the ordinance, proposes, explains generally what it's about. The committees will meet during the next month and come back and, hopefully, vote on it. The RTM took up this issue, I believe, last June. This is something transforming the regional planning agency known as the Southwest Regional Planning Agency. Initially there were 15 regional planning agencies in the State of Connecticut. Regional planning agencies supplanted county government back in the 1960s. Some Councils of Government or variations, there are councils of chief executives have actually existed in the State of Connecticut going back 20 or 30 years. Only recently, have a number of those, who have not converted to that form of government, done so. Most recently the Bridgeport Region converted to a Bridgeport Regional Council without a whole lot of hubbub or discussion because they have seen that it works in the rest of the state. Twelve of the 14 regional planning agencies have now converted to this form of government. It doesn't essentially change anything except the name and it streamlines government. You and I, as elected officials of the Town of Westport, have been, I think, very clearly told by the taxpayers: streamline government. Be more efficient. Make sure what you do, that every dollar spent is well spent. We are not

spending dollars well with the regional planning agency as it exists. We have, in effect, I won't call it a two headed monster, but a two headed entity where we have a Metropolitan Planning Organization, of which I was elected Chair in December, which is made up of the eight CEOs of the communities in SWRPA. Then we have the SWRPA Board which is made up of 22 members appointed by the CEOs and by the Planning and Zoning Commissions. There are certain things that are mandated by the Federal Government that the Metropolitan Planning Organization must do. There's a lot of detail in this that you are going to learn about in committee. There is going to be a team of people from SWRPA, who will come to our March meeting and fill you in a little bit more. I think there is a danger here of overanalyzing and micromanaging this issue. I'm surprised, in fact, that it has created such controversy, if you will, in southwest Connecticut. There was one newspaper editorial comparing this to county government. The editorial said something to the effect of 'If it walks like a duck, quacks like a duck and sounds like a duck, it must be like a duck.' Frankly, I'm ashamed of my colleagues in journalism who would resort to that infantile way of describing what we're doing here. We're trying to streamline government. There have been issues in the past, federal dollars coming into the State of Connecticut that we haven't gotten our share of. Would we have gotten our share of more dollars for the New Haven line had we been a COG? I can't absolutely say we would have but I do know that we were not on equal footing. We now have a New Haven/New Britain to Hartford bus way being built, a high speed rail being talked about going from New Haven to Springfield, millions of federal dollars will go into that. I think we can be more effective as a region if we had a Council of Government, if the CEOs were more responsive. Let me just read quickly some of the questions that have been asked about this:

- Would a COG foreshadow returning to county government? No. A COG is not a government. It does not have any authority to form any governmental functions. It has no more authority than the regional planning agency has at the moment.
- Will the COG be a taxing authority? No. Connecticut State Statute does not provide COG any authority to levy taxes.
- Will there be a way for current SWRPA representatives to participate? Yes. The Regional Planning Commission which will be a subset of the Council of Government may create any subcommittee it deems appropriate. Volunteer members may be appointed by the Regional Planning Commission to such committees.
- Will the voting procedures be different for a COG? No. Simple majorities of voting memberships will constitute quorums similar to SWRPA and the MPO. Simple majorities of members present at meetings will be required to approve voting measures similar to the SWRPA and MPO.
- Will the state be able to use the proposed structural change to force consolidations of regions? No. Regional boundaries are currently determined by the Office of Policy and Management. State Government can mandate consolidations, by that, State Government is your legislature. Our legislative representatives can do that. Of course, we would object to

that. I was in Weston, parenthetically, a couple weeks ago, when there was a discussion about this. Somebody said, 'Oh my goodness, if we convert to a COG, they can take our tax dollars and send them to Bridgeport.' I said, 'Guess what, when you pay state taxes, some of your state taxes go to Bridgeport.' This is not a taxing authority. Somebody else said, 'They might merge us with a Bridgeport region and the Towns around Bridgeport. That would be terrible to do that.' I sat and listened and said, 'You know what, actually, the State Department of Homeland Security merged Connecticut into five regions. In fact, SWRPA, the southwest region is merged already with the Bridgeport region as far as homeland security and it works wonderfully. We are pointed to as the model of how to integrate first responder and emergency responses in Southwest Connecticut because we do such a good job at it. There is no fear of finding efficiencies. So that's what I find hard to believe.

- Will COG appoint members to our Regional Planning Commission? No. State Statutes require that the RPC be comprised of local P&Z members. This is an issue that came up, I think, at our Westport P&Z which, parenthetically, has yet to take a stand on this. They have discussed it but have not made any recommendation. In Weston, this also came up. The statute, as currently worded, does require that a member of the Planning and Zoning Commission serve on a Regional Planning Commission that will be part of this. Currently, the P&Z can appoint a representative who does not have to be a member of their body to represent them on the SWRPA Board. I have said to them that I will lobby our legislative representatives, if this is an issue, because some people have said, 'We already worked so hard. To go to Stamford for another night of meetings would be a terrible burden. It might be a reason to reject this.' With due respect, I'd say, 'Your personal convenience should not be a reason why we are rejecting what obviously is something that works in the rest of the State of Connecticut and that is going to make us more efficient.'
- Will the workload for COG members and RPC members increase? Maybe. Certain COG members may have additional work, especially, if they are in a leadership role; however COG members in other regions have not reported increased workloads.
- Will a proposed COG impact home rule? Definitely not. No. The COG does not and will not have any authority over local decision-making processes. I'll repeat that because it's important. The COG does not and will not have any authority over local decision-making processes. On a regional basis, a COG has the same referral responsibilities as a regional planning organizations such as SWRPA. The Southwest Regional Planning Agency has a staff of 10 and a budget mostly paid for by federal dollars of \$1.2 million. We contribute, I forget the amount, I think it's \$14,000 or \$18,000 per year. I don't expect that we would pay in any more. We want them to be more efficient. We have studies that should be done about transportation, about housing, about parking, actually, SWRPA is overseeing a parking study for Westport and Green's Farms.

They are about to approve that at their next meeting. But there's a lot of work that can be done in achieving efficiencies of doing those things that would be less costly for municipalities if we did it together. Regionalize--- think first responders, Police Departments, Fire Departments, so you're not duplicating purchases of apparatus. Maybe we don't all need to have a ladder truck. Maybe we could consolidate. Maybe we could be responding to fires in Norwalk or Wilton and not have to hire as many firefighters or police officers or not have so many chiefs. The 911 centers... There was just a study released a couple of weeks ago. The state had a consultant come in who said instead of almost 165, not every Town has a 911 center, there are 160 or so 911 centers in the State of Connecticut. This consultant came in and said, you could have three. Actually, there is a map and a study that shows three 911 centers dividing Connecticut into thirds. They say this is perfectly doable at less cost certainly than the 911 centers. So, we've reached a point, I think, in Town government in the State of Connecticut, certainly, where home rule has got to give way to efficiencies. We don't lose anything. We gain something by this. I just caution, as we go through this, to not overanalyze. I was on the team of SWRPA officials who went last summer to four of these regional planning groups who had changed over to Councils of Government or variations of that theme and, to the one, they said that they were glad they did it, that they are more efficient that they don't have to do a lot of the things that they were doing. As a regional planning agency, they concentrate on those areas that they think are going to provide the most bang for the buck for their taxpayers. So, I think we need to have vision on this. Everybody says that we need to have leaders with vision. I'm 'visioning', if you will. Let's not put blinders on the vision. It's something I think that will be very efficient. It may be an uphill battle because I think people still have these fears but everybody else has done it. I know some people say, 'Just because everybody else has done it, we should do it.' But the thing is I think it is the right thing. I would not be suggesting and recommending to you something that I feel is going to be detrimental to Westport and to the way we live our lives. I think it is going to be beneficial. It could bring benefits. I can't articulate what those benefits are but I would like to be on the same footing with my fellow regional planning groups to have the same voice that they have. Somebody asked a question and said, 'As a regional planning agency you're not out allowed to hire a lobbyist.' Somebody said, 'As a Council of Governments, you can hire a lobbyist.' I don't know whether we are going to hire lobbyists. That is one issue that is outstanding to clarify but, again, I say look at the bigger picture of achieving efficiencies. The staff of the Southwest Regional Planning Agency, at the moment, prepares 22 monthly meetings. They do 12 for the MPO and they do 10 for the Southwest Regional Planning Agency. So you have staff that has to attend 22 meetings, nighttime meetings, just for the meetings of the board's. That's just inefficient when a lot of the work can be done by the CEOs and I'm not afraid of taking on more work. I think

some of the my fellow CEOs might be a little bit shy of attending another nighttime meeting. They like to make these meetings at night so the people can see what is being done. Interestingly enough, we have an MPO agenda and we have a non-MPO agenda. A non-MPO agenda very often discusses issues that are not transportation-related but our region-related. It's kind of an ad hoc group because we don't have the mechanism to be able to discuss non-MPO matters in a format that we are operating under. This would give us, the Council of Government, the ability to address a whole lot of issues and, hopefully, bring a lot of expertise and take advantage of the expertise we have on staff and, also, the volunteers. Some volunteers expressed the opinion that, by going to this format, that they will, in effect, lose their jobs or they won't be called upon. I can tell you that a lot of the work that is being done will continue to be done by those very same volunteers. It will just be called a Planning Council as opposed to a SWRPA Board.

So, I commend you to study the committees that take this up and look forward to the presentation by the SWRPA members, the March meeting.

Mr. Rose:

Before we turn to the public, there are no committee reports because we have not met on it yet. There are going to be two committees who are going to be assigned to this. One is going to be the Ordinance Committee because it is an ordinance. Second is going to be the P&Z Committee. Our P&Z committee, as I understand it, is going to schedule meetings. They're going to meet with some of the SWRPA people, essentially some of the same people who appear before the P & Z itself and, obviously, everybody is invited to attend those meetings and see what's going on. Typically, at a first reading, we have no comments from either the public or the RTM; however by charter, the public is entitled to speak at all meetings. So, are there any members of the Westport electorate who would like to address this issue?

**Members of the Westport electorate - No comments**

**Members of the RTM - No comments**

The meeting adjourned at 9:48 p.m.

Respectfully submitted,  
Patricia H. Strauss  
Town Clerk



by Jacquelyn Fuchs  
Secretary

**ATTENDANCE: February 7, 2012**

<b>DIST.</b>	<b>NAME</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>NOTIFIED MODERATOR</b>	<b>LATE/ LEFT EARLY</b>
1	Don Bergmann	X			
	Diane Cady	X			
	Matthew Mandell	X		X	8:25 p.m.
	Cornelia Olsen	X			
2	Catherine Calise	X			
	Jay Keenan		X	X	
	Louis Mall	X			
	Sean Timmins		X	X	
3	Jimmy Izzo	X			
	Melissa Kane	X			
	Bill Meyer	X			
	Hadley Rose	X			
4	Jonathan Cunitz, DBA	X			
	David Floyd		X	X	
	George Underhill	X			
	Jeffrey Wieser	X			
5	Dewey Loselle	X			
	Richard Lowenstein	X			
	Paul Rossi		X	X	
	John Suggs	X			
6	Hope Feller	X			8:15 p.m.
	Paul Lebowitz	X			
	Catherine Talmadge	X			
	Christopher Urist	X			
7	Arthur Ashman, D.D.S.	X			
	Allen Bomes	X			
	Jack Klinge	X			
	Stephen Rubin	X			
8	Lee Arthurs	X			
	Wendy Batteau		X	X	
	Heather Cherry	X			
	Lois Schine	X			
9	Eileen Flug	X			
	Velma Heller, Ed. D.	X			
	John McCarthy	X			
	Gilbert Nathan	X			
<b>Total</b>		<b>30</b>	<b>6</b>		