

RTM Special Meeting
June 15, 2021

The call

3. To take such action as the meeting may determine, upon a request by the Finance Director and the Personnel/Human Resources Director, to revise the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport to include current management of the Police and Fire Departments.

The meeting

Moderator Velma Heller:

Good evening. This meeting of Westport's Representative Town Meeting is now called to order and we welcome those who are joining us the evening. My name is Velma Heller and I'm the RTM Moderator. Will RTM members please share their screens and keep muted until you are speaking. Pursuant to the Governor's Executive Order No. 7B, this meeting is being held electronically. It will be live streamed on westportct.gov, and shown on Optimum Government Access Channel 79 or Frontier Channel 6020. Meeting materials will be available at westportct.gov along with the meeting notice posted on the Meeting List & Calendar page.

Instructions To Attend Zoom Meeting: Members of the electorate may attend the meeting by video by sending an email at any time before or during the meeting stating your name and address, and meeting participation details will be emailed to you to enable you to participate by video. You will be called upon to speak by the Deputy Moderator.

Public Comments: Members of the electorate attending the meeting by video may comment on any agenda item. Comments will be limited to three minutes.

Emails may be sent before the meeting to RTMmailinglist@westportct.gov, which goes to all RTM members. These emails will not be read aloud during the meeting.

Tonight's invocation will be by Nicole Klein, district 5.

Invocation, Nicole Klein, district 5:

Thank you Velma and Jeff for inviting me to deliver tonight's invocation at the special meeting of the RTM. My name is Nicole Klein and I am a member of the RTM from District 5. Today, I wanted to talk about "You Be You Spirit Day". Today was the inaugural "You Be You Spirit Day" across all the five elementary schools in our town of Westport. "You Be You" originated in 2019 at Coleytown Elementary. As a continuation of the celebration of Westport Pride, in the month of June, Pride Month, I am so proud of our community to be celebrating "You Be You" at the elementary school level, just two years later. What is "You Be You Spirit Day"? Well, it is very simple. You be you is about identifying all the things that make you shine. It means living life as your authentic self. It means that whatever you love to do, enjoy creating, enjoy playing, enjoy studying, enjoy loving, you should do. Because it is these things that you are passionate about and derive meaning from, that make you, you! For example, you might come from a family that tells you what path you should be embarking on. But what if that path is not your passion? What if you want to be an accountant not a farmer? What if you would prefer to play in the philharmonic rather than be an NFL Quarter Back? Perhaps you would rather be a make-

up artist instead of an astronaut, whatever it is, you be you! Only you know what fulfills you! Perhaps there is a hairstyle that you feel suits you, why not! Go for it! You love a certain color and wish to wear that color, go ahead! You would rather play with dolls than play a game of kick ball, go for it! You be you! Whether it is what you choose to wear, what hobbies you choose to explore and enjoy, you be you! If we don't explore all the beautiful outlets that we have in life, than how can we find out about all the things that might give us the fulfillment and enjoyment to live our best lives? So, don't be shy, you be you! As a former child, nothing made me feel more secure than having parents who fully supported me and my passions. You see, I studied Zoology, as I loved animals (and still do) and when I learned how fur coats were made, I was incensed. Nothing could stop me from educating those around me and of marching in local anti-fur protests. I even had the opportunity to talk to my fur wearing mother, who never condemned me for my beliefs, and finally gave up wearing fur herself. It is an incredibly affirming feeling to be a child who has their parents support, even if they initially did not see things the same way I did. In conclusion, I hope that we can all continue to support our children, our god-children, our neighbors children, our nieces/ nephews, etc. in their path to determining what it is that gives them passion and to ultimately live their lives as their authentic selves. As I have told my child, from a very young age, if we were all the same, with the same interests, with the same looks, with the same clothes, this would be a very boring world! So be yourself, everyone else is already taken. Thank you!

Dr. Heller:

Thank you so much Nicole. It is so important for all of us to feel comfortable in our own skin. And now, the pledge of allegiance. This is a montage of RTM members. [No sound.] You may have had difficulty hearing the pledge of allegiance but you could see people saying the pledge of allegiance. We all know the words.

There were 29 members present. Ms. Banks, Mr. Braunstein, Ms. Newman, Ms. Rea and Mr. Shackelford notified the Moderator that they would be absent. Mr. Klinge was also absent. Ms. Purcell, Mr. Tait and Mr. Izzo notified the Moderator that they would be late.

Announcements

Dr. Heller:

I would like to start with an announcement. As many of you know, Amy Kaplan has resigned for personal reasons and I know how much we will all miss her. We wish her all the very best in her new adventures. While she wasn't able to speak to us all in person, she has sent a wonderful memo which I will share with the body. Expect to see it in your email over the next day or so. It's one of those pieces of writing that makes you feel good about being on the RTM and gives you the sense of how she felt about the RTM. So, enjoy.

RTM Announcements

Andrew Colabella, district 4:

For those who are unaware today, I am requesting the RTM for a moment of silence. Paul Lane, also known as "The Coach", you couldn't miss him on Soundview Drive. He was outside every day surrounded by his four children, 10 grandchildren and seven great-

grandchildren. He passed away today surrounded by loved ones. Those who are unaware of who he was exactly, between 1962 and 1987, Paul Lane led the Wreckers to four FCIAC Eastern Division Championships, two FCIAC crowns and 122 victories. He still holds the record for a perfect season, 11 and 0, in 1975. It was the last single State Champion. In '67, FCIAC title game, Staples snapped Stamford Catholic's 30 game winning streak. Paul Lane had lived in Westport the majority of his life. He was born and raised in Bethel and later moved to Westport. A lot of us would know, new to Westport and old timers, he was considered the father of Wrecker athletes and Wrecker sports. He even coached Laddie Lawrence who we just dedicated the track to about a month ago. It's just shocking to hear it. I didn't expect it. Every day, I drive home through the beach, for the last 10 or 15 years, it's like Groundhog Day. I see the same people in the same spot every day, people walking, the same faces and Paul Lane was one of them. He was either tending to his garden in his front yard, walking the streets of Soundview telling stories, speaking to everyone he ran into. He knew thousands of people. Everyone knew who he was. Or, if you were lucky enough, he would be walking by and you would catch him telling a story on the stone wall about his past. He even played for Notre Dame when he went to college. He even taught football in Europe as well as serving in the Korean War. If there's anything that we could ever amount to, if there's anything we could ever see, it's to see our kids have grandkids. I would define Paul Lane as the true American dream. He's definitely one of the few role models in my life. He was someone I definitely looked up to. Thank you Velma.

Dr. Heller:

Thank you Andrew. If we could now have a moment of silence to recognize somebody who was a very important part of life in Westport for a long time.

Sal Liccione, district 9:

We had an incident late Thursday into Friday morning on the bridge in downtown Westport. Some flags were taken down and Pride signs were taken down and I'm just going to say that hate has no place in our town here and, hopefully, it doesn't happen again. I hope the Chief of Police and the First Selectman concur with me that this stuff shouldn't happen. Thank you everybody.

Jessica Bram, district 6, Chair, Health and Human Services Committee:

I just wanted to let everybody know that next Thursday, June 24, we will have our Health and Human Service Committee meeting to discuss gas powered leaf blowers and just to let you know that Kristin Schneeman, who is our lead petitioner on this, will be circulating a very comprehensive reading list with background materials on the effects of gas powered leaf blowers and what's happening in other towns, as well. So, please be aware of it and it will be very helpful if you educate yourselves and read these.

Jimmy Izzo, district 5:

I know it's tough. He actually coached my dad, coached my mom, was my mother's driving coach, was my gym coach, football coach, great man. Loved the man, loved the family. Thank you for the moment of silence, Velma. We will be having a Public Protection

meeting on the 23rd via zoom on the ordinance for a Civilian Review Board. Any questions, please feel free to give me a call.

Jeff Wieser, district 4:

Jimmy, also, there will be a joint Finance/Public Protection meeting next Tuesday, the 22nd, busy week for Public Protection next week, to talk about the appropriations from the Fire Department for our July meeting. That's Tuesday, June 22 at 7:30.

Matthew Mandell, district 1:

I drive by Soundview all the time and it was just a few days ago, there he was, Coach, fiddling around in his garden. "Hey, Coach!" and he'd look up and wave. It was sort of a tradition but sad to see him go. He seemed so vibrant, even then, at a great age. It's sad to see him go. On to the announcements...It's not often we get a hat trick here in the RTM; three announcements in the same month. Sometimes during our budget time we get to three but not often any other time but here we are, three in a row. Congratulations to all of us who are here again representing the town and doing what's best. Quickly, Thursday night, the Chamber of Commerce will be holding its first in-person networking meeting. It will be at Gilbertie's. We now have over 50 people coming, so a lot of pent up aggression to come out and meet people. Again, everybody is invited. There is a small fee. If you want to learn from people who are doing business in town, come on out. Quickly, Slice of Saugatuck is coming back on September 25; Dog Festival on October 10 and Restaurant Week on the 26th of September. So, there is going to be a lot going on in that period of time. Hopefully, I'll see all of you before that, in person.

Dr. Heller:

The next regularly scheduled meeting of the RTM will be on July 6 at 7:30 p.m. It's not in June everybody!

Our meeting this evening, which is a continuation of the June 8th Special Meeting, has been reconvened to deal with an agenda item that was not disposed of at the adjournment of the June 8th meeting.

The secretary read item #3 of the call - To revise the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport to include current management of the Police and Fire Departments.

Presentation

Ralph Chetcuti, Human Resources Director:

I just want to simplify this issue as much as possible because I believe there is a lot of confusion as to what we're planning to do here. Simply, we are looking to amend the Non-Union Supervisor Pension Plan to include the management of the Police and Fire Departments. Those are the only two departments where the managers are in the same pension plan as the rank and file people, the people who they supervise. That is one thing that we want to accomplish. The other is that we want to grandfather those individuals in those two groups who are not currently grandfathered under the old plan before the

revisions were made in 2017. There are a number of reasons to want to do this. One is obviously for the morale of these individuals. Secondly, we feel that they are non-union, non-dues paying individuals who are bound by a negotiated pension that they have absolutely no input into nor are they able to vote whether or not to accept any changes that get negotiated between the various unions of the town. They just have to accept what happens. Our position is it shouldn't be that way. They should be in the same, treated the same as other department heads and managers of the town and be a part of the non-union supervisor plan. We have had our actuary look at the cost of doing this and it would be roughly \$215,000/year. That would potentially be balanced off if these individuals would be eligible for overtime. I'll explain that. There has been no indication that anyone in the Police Department is considering joining a union so it's not like we were interfering in some protected activity. We don't want to repeat a situation that occurred, unfortunately for the town, in the Fire Department, where we had non-union Assistant Chiefs tried to vote to join the union that represents the rank and file and this was primarily due to a situation regarding comp time that they were receiving in lieu of overtime and there was a problem with them being able to take the comp time that they had accrued. So their decision to join the union, basically, after negotiations, made them eligible for overtime pay. That has cost the town roughly \$150,000/year since that happened. More importantly, it has lessened the management of the Fire Department and I cast no aspersions on the Assistant Chiefs who were there. But it becomes much more difficult to be a manager when you are managing people in the same union that you are a part of and also, in one case, we have an officer in the union who is one of the Assistant Chiefs. So, we wanted to maintain a strong management force in the Police Department. We currently have nine non-union managers and we'd like to keep it that way. Right now, in the Fire Department, we have three non-union managers and the rest of the force is unionized. That's pretty much all I have at the moment.

Floyd Dugas, Labor Counsel:

During this process, a number of questions and concerns have been raised from a legal standpoint, particularly from a labor law standpoint. I thought I would take a moment to codify and address and, hopefully, clarify some of the issues that have been raised and some of the concerns. The first one I want to address: Can these supervisors unionize? Hopefully, it is clear to everybody at this point, the answer is yes. Ms. Peters Hamlin had raised some concerns around that issue. I shared with her a Connecticut statute which is on point. When you look at the statute, what it says, basically, is supervisors and non-supervisors can't be in the same union except for police and fire.

Point of order, Kristan Hamlin, district 4:

Mr. Dugas, that was Peter Gold. I actually supported your position.

Mr. Dugas:

In any event, the case law is clear that they can unionize. Federal law doesn't come into this issue. The case law is that, in addition to the Chief, you are entitled to a second in command that can be multiple people; for example, we have a Chief and a Deputy Chief but, certainly, below that, folks are entitled to organize and they could join their respective police and fire unions. The next question is: Does the mere fact of unionizing make the

supervisors eligible for overtime? There's been a little bit of back and forth on that. To be clear, the answer to that question is no. They don't automatically become eligible for overtime. The somewhat longer answer to that question is that would be a subject of bargaining and because the union that they are going into already has overtime provided in the contract, it would be a bit of an uphill battle to fight that argument were we to fight that argument. It doesn't mean it's impossible but we would certainly have some challenges around that issue. Incidentally, any agreement that is reached would come before you on the RTM to approve and if we were not able to reach an agreement, it would go to a panel of binding arbitration and they would ultimately decide that issue. Let me get to the core of what the concerns are, certainly, that have been raised by the police and fire unions. That is the question of whether there is an obligation to bargain over removing these non-union supervisors from the pension plan. Let me say clearly and unequivocally that I do not believe, as a matter of law, that there is an obligation to bargain over the removal. The union has the right to bargain over the terms and conditions of employment of its members but these folks are not in the union and they cannot bargain the terms and conditions of employment including pension for the folks that we are talking about. The only way that they can even get in the door and have the conversation and I think this is a stretch when you are talking about non-union folks, the only way they get there is what is known as material impact on the bargaining unit members and they would have the burden to prove that. We've seen the financial information provided by Becky Sielman. Becky is a well-respected actuary and, frankly, in doing this for 35 years, one thing I have found is that the actuaries rarely disagree on the numbers. I think it would be a shock to me in my experience to find that the actuary appointed by somebody else had a very different play on the numbers but let me put it into a more concrete context. When we talk about a defined benefit plan which is what we are talking about here, what are the rights in terms of responsibilities? For the bargaining unit members, they've got a right to get a pension, so many years of service times such and such a percent and they have to put in a certain amount of money into their pension. And that's the end of their obligation. Then the question becomes, what is the town's obligation? Through the pension fund, the town has to give them the pension benefit that they bargained for. If there's not enough money in the pension, then the town has an obligation for the unfunded liability. So, in other words, there is no conceivable impact, material or otherwise, because the only impact would be on the town and we've seen the information regarding that and there isn't any. So, in my judgment, do we not have a duty to bargain with the unions on the decision to move the supervisors, but there is no material impact nor could there be, the way the pensions work. So, I think the concerns that have been thrown out, the eleventh hour grievances under labor practices that are filed are, in my opinion, going absolutely nowhere and can only be construed as dilatory meaning they are trying to, for whatever reason, drag this process out. I don't think, at the end of the day, there is any impediment to moving forward. Let me also say that months ago those unions were alerted to the change. Substantial time ago, they were provided with an actuarial study showing there was no impact from the town's actuary. They had ample time to reach out to actuaries and get cost information until the proverbial eleventh hour and so, despite the fact that we have to bargain with them about the decisions and there is no material impact here, they were put on notice, they were given the actuarial information, they were given the opportunity with my advice to Mr. Chetcuti to say, 'What is the material impact here?' And

we've received nothing showing that there's material impact, only, belatedly, that we want to further study this issue. I think there's no downside from a legal standpoint and, hopefully, that addresses most of the questions and concerns around the legal issues.

Gary Conrad, Finance Director:

I think Ralph and Floyd have covered most of the items that were in question. From a financial standpoint, the cost to the town, as Ralph mentioned is about \$215,000/year. He mentioned that it has already cost the town about \$150,000 on the overtime since the change at the Fire Department when the members went into the union. Looking at that, I discussed this with Chief Foti Koskinas and the numbers we came up with were in excess of \$300,000. So, \$215,000, from a financial standpoint, is almost \$100,000 in savings annually to the town. So, it actually works favorably for the town and given these employees the grandfathering that the Chiefs have and everything else, this is well worth it. I think it's a good solid investment. I think it's good for the employees and I think it's good for the taxpayers.

Jim Marpe, First Selectman:

Thank you Madam Moderator and members of the RTM. I am here to take a little different perspective on this but still a respectful ask for your support on this request to amend the Non-Union Supervisor Pension Plan to include the Police and the Fire Department. The primary reason is to acknowledge the great contribution made to the town by these men and women and to maintain a strong management team. This is our leadership team. To start confusing this with union issues and challenges, I think, does harm to the structure of our management team and our leadership. We've been concerned with the discussion about whether or not management team of the Police Department joining a union or not. Certainly, if that came to them, they would decide but, in the meantime, I think it's important that we demonstrate that they are a part of the same leadership team, grandfathered to a defined benefit plan that acknowledges their leadership and their dedication and their longevity with the town. I think maintaining this strong management team in both departments is imperative to the safety of Westport. The men and women who will be impacted by this change constantly display professionalism and leadership that demonstrates their commitment to the safety and security of all Westporters and visitors. So, please show them our community's appreciation for their dedication. This is a decision that we are making, not others who might claim to represent them. This is an action they want us to take and this is an action we can take. Thank you and, with Velma's permission, I would like to ask Chief Koskinas to comment on this action.

Foti Koskinas, Police Chief:

I just want to make it clear early on that a couple of things we need to clear up. As we navigate through this tonight and questions and answers, this does not have impact on Deputy Chief Arciola or me. So, I feel much more comfortable presenting what these officers, supervisors, were proposing. It would make it very difficult for me to sit here in front of you if it were self-serving. I just want to make it very clear that it's not. I also, when this started back in 2017 with discussions with the First Selectman, there were early discussions with Ralph Chetcuti, H.R. Director, Mr. Conrad, Finance Director, Mr. Dugas and I wanted to make it understood that this could not have a negative impact on the

union membership. I felt very strongly about that in the sense that I represent the entire Police Department, even though there's a management team, a workforce union team, I represent the entire department so I would not be sitting in front of you if, for a split second, if I thought we were taking something away from union members by giving something to the management team. I feel very strongly about that and I have been reassured time and time again that that is not the case. I also do not speak at any point this evening for the Fire Department and their management teams and management styles, strictly for the Police Department. At the same time, last year, around this time, I sat in front of you with the same group of people on the town side and my management team completely supported giving the union membership a raise, not knowing if they would be getting anything because they felt very strongly in representing the union membership even if it was at their detriment if they did not get a raise. So, I was sort of hoping that would work both ways even though they are not giving anything up on the union side. I also want to make it clear, it's not only overtime that these non-union supervisors are not entitled to. They are not entitled to differentials which is six percent if you work after 3 p.m. and it's eight percent if you work after 11 p.m. into the 7 a.m. shift. Those are not calculated in the dollar amounts; we talked about overtime even if there was overtime and they were entitled to differentials. They also do not have choice of shifts. They cannot take time off the way union members can because they are required to be here to cover certain shifts and they are required to work over their eight hour shifts whether they want to or not depending on the needs of service; certainly during storms and tragedies and things like that. Lastly, what's the most frustrating, and I've sat on both sides and I was the union Vice-President and Deputy Chief Arciola was the President for an extended period of time and negotiations for the pension were very long gaps in between. I remember the last one was over 10 years ago. Repeatedly, as a union member, when we had non-union supervisors approach us, our direction was 'we do not represent you. We can't represent you. You don't have a vote and you need to do what you need to do.' That was the same language used by our union at the current administration but that has changed, to their credit, but during these negotiations, the senior management did not have a seat at the table. They could not express their concerns as senior management. They did not have a vote in whether they would approve something to proceed to the RTM, with arbitration and things like that. That is not a good place to be. I don't know of a single organization that you don't have a say in your benefits package, whether it's a contract employee or a situation like this. So, that's disheartening to be part of a unit that you have no say. Lastly, from Pete Biagotti a police officer here, who I have the utmost respect for his service in the military and his service to the town of Westport, I normally try to keep the military service out of this. I did not serve in the military but my entire family has. My older brother retired at the highest of ranks from the U.S. Air Force. And I just want to make it very clear, if we are a para-military organization and we are going to reference the military, there is a clear division between officers and enlisted and they serve two very different paths and I almost look at that as the management team and the union on this. Some may disagree but enlisted personnel have specialties within the military. That would be our police officers in the union. They perform specific job functions with the knowledge, skills and ability to insure the success of their unit's mission. That is our patrol officers and sergeants who perform their duties with pride every single day. My management team, which would be the officers' side, they manage the enlisted personnel, they plan

missions, they provide the orders and assign tasks. Their role is in leadership, problem solvers, influencers and planners. There's a reason there's a distinct difference if you're enlisted or you're an officer. I ask you to maintain the same level of path or service as we proceed through this this evening. Thank you.

Robert Yost, Fire Chief:

I, too, would like to support this and like Chief Koskinas and Deputy Chief Arciola, this does not really affect myself or Fire Marshall Gibbons. This does, however, affect Deputy Chief Kronick who was made a promise by the town and they are basically trying to solidify that promise so I think this should be done. I've never felt comfortable being beholden to a group for my pension, to a group that has been actively trying to remove me from employment for the last two years. So, having them negotiate my pension without any say was rather troubling for myself so, I think, going forward this should be supported.

Committees report

Employee Compensation, Finance, and Public Protection Committees, Rick Jaffee, district 1:

The RTM Employee Compensation, Finance, and Public Protection Committees met jointly on May 19 to consider this issue to revise the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport to include current management of the Police and Fire Departments. I think I must have tied a record by being at this meeting three times simultaneously and I thank all three Committee Chairpersons for electing me to write this report. The meeting was duly noticed and members of the public were invited to attend. If comments from any of the three groups, the RTM, our guest speakers or anyone else in attendance had risen in relevance to the point where they should have been in this report, then they would be in this report. We are near the culmination of a process that has been in planning and development for several years.

We are asked to approve a proposed revision to the above-named Retirement Plan to allow certain of our Fire and Police Department management to be covered by the Retirement Plan, and to receive benefits under the plan. These members will no longer have future benefits accrue under other Westport pension plans. The impetus for the proposed revision is a perceived need to acknowledge the contribution of these individuals to their departments, and to the town, thereby helping Westport to maintain a strong level of management in our Fire and Police Departments. Without the proposed revision, management personnel in our Fire and Police Departments, classified as "exempt" employees, are not eligible for compensation for overtime. In the recent past, also excluded from the Retirement Plan, some of our formerly "exempt" Fire Department management personnel elected to join the union in order to qualify for overtime pay and other benefits. It is considered by Police Chief Koskinas, Human Resources Director Chetcuti, and Finance Director Conrad that approving the proposed Retirement Plan revisions, thereby including our remaining Fire and Police management personnel in the Retirement Plan, will be:

- Substantially less costly to the Town than paying overtime and other union benefits, should those non-union Police management personnel elect to join the union;

- A strong and definite benefit in the Town's effort, not only to hire the best Public Protection people, but also to retain them.

In short, approval of the proposed Retirement Plan revisions is one of the steps our Town must take to encourage qualified Public Protection personnel to join Westport's workforce, and to remain with Westport. The annual cost of extending the Retirement Plan to the seven Police and one Fire Department personnel who would qualify is expected to be approximately \$215,000 in fiscal year 2022. Also as noted, Chief Koskinas, one of the guest speakers who discussed the plan, is not among the Police Department management personnel who could be impacted by the proposed revisions.

Questions that were asked of our guest speakers:

- Do our three presenting Town employee guests recommend approval? Answer: All three Town employee guest speakers with knowledge and expertise in this matter, Chief Koskinas, Human Resources Director Chetcuti, and Finance Director Conrad, expressed strong recommendations in favor.
- Would the Fire Department management personnel who joined the union be able to leave the union and elect to join the revised Retirement Plan? If so, would it be cost effective for the Town of Westport? Answer: Once the union is involved, it's not that simple.

Reservations expressed by Committee members included the following:

- The text of the proposed revisions was not delivered timely to the members of the three RTM committees. Several members from all three committees expressed reservations at not having been given adequate time to review the details of the proposed revisions. Other committee members put trust in the strong and unanimous recommendations of our experts in this complex and sensitive matter.

Motions for all three committees in favor of recommending approval of the proposed revisions made by, well, me and duly seconded passed as follows: Employee Compensation – 6-0-1. Mr. Gold abstained with his stated purpose that he wanted to read the documents more carefully; Finance – 5-0-1. Mr. Braunstein abstained with his stated purpose that he wanted to read through and study the documents in detail; Public Protection Committee – 5-0-3. Abstentions were Braunstein, Hamlin and Lowenstein, one of which was for the stated purpose of reading through the documents in detail.

Dr. Heller:

I just want to confirm that we now have 29 members present. Mr. Tait, Mr. Izzo and Ms. Purcell have arrived.

Members of the Westport electorate

Nick Marsan, President, Westport Firefighters Local 1081:

This is a follow up to a few letters that I have sent to you over the past few weeks. A few things on point of clarification. Number one: The five Assistant Chiefs who voted to unionize in the Fire Department back in 2015 or 2016, had nothing to do with the desire to get time and a half overtime. They unionized because of the mismanagement of their accrued comp time which, ironically, was supposed to be covered when they were off by

the person who was the Training Officer at the time who is now the Chief of our department. That's number one. The number two reason for choosing to unionize was ongoing payroll issues that were not being fixed because the Human Resources Department was unwilling or unable to do so. Another point of clarification, and as I am used to Mr. Dugas eloquently insulting members of the union, we were not put on notice about these changes to the pension. We were in no way, shape or form coming out into the public in the eleventh hour to ask for these changes. The first time we saw it on the agenda for the Public Protection Committee was the first time I reached out to Ralph Chetcuti. If you recall, if you're on that committee, it was cancelled that evening after my discussion with him. Only after coming back saying there was no impact did they decide to move forward. Why is this important? This is important because the town is going to tell you that because non-union supervisors are not in the union, they deserve some type of pension other than what we would negotiate in the pension contract. Currently, we have 30 percent of our living retired members of the Fire Department who get payouts from the fire pension. Thirty percent of them were non-union supervisors. It's only after there was a significant change in our pension plan to be more in line with the town's fiscal goals did this become an issue. It has been mentioned on several occasions that this was promised to non-union supervisors back in 2017. If that's the case, it should have been brought up during pension negotiations going on at the same time. We talk about no impact. There is an impact. The impact numbers were used against us as to why there should be changes to our pension. That is bad faith bargaining. If you make these changes tonight, you are voting for a unilateral change which is a violation of the Municipal Employees Relations Act. If you vote on this in favor tonight, I believe you are going to be involved in contract repudiation. The town has an obligation to carry out the terms of the contract in good faith. It has been the fact that the pension plan that we negotiate is for all employees of the Fire Department. I cannot speak for the Police Department nor am I speaking as an employee of the town, right now. I am speaking as the union representative. So, I'm asking you please to reconsider the vote at this time.

Mr. Wieser read the resolution and it was seconded.

RESOLVED: That upon a request of the Finance Director and the Personnel/Human Resources Director, the Retirement Plan for Non-Union Supervisory Employees of the Town of Westport is hereby revised to include current management of the Police and Fire Departments.

Seconded by Mr. Jaffe.

Members of the RTM

Peter Gold, district 5:

Thank you Gary and Ralph, Mr. Marpe, Chief Koskinas, Chief Yost and everyone else for your explanations. I basically agree with everything Floyd said as to the legal consequences and I am certainly second to no one in my admiration of the hard work and dedication of the town's Police and Fire Department; however, there is a threshold question, I believe, that Mr. Dugas did not address tonight and I would like some clarification on it. A little bit about me is I spent 40 years as a pension attorney. I worked with two major Wall Street law firms. I was pension counsel to a Fortune 50 company and, for the last 20 years of my career, I worked for a large international benefits

consulting firm where I represented dozens of police and fire plans both from the plan side and from the employers' side. So, I have a little bit of expertise in this, just a little bit. The plan documents have a provision in them that say that under no circumstance can changes be made unilaterally. They say all changes to the plan document have to be mutually agreed upon. Pension plans are generally considered to be contracts which have to be honored. There is no exception to the no modification clause for minor amendments or amendments that have no impact. It's just a blank statement that changes can't be made without mutual consent. When I was a pension attorney and we did transactions like this, when we moved liabilities, which is what we are essentially doing, moving eight or nine people from the union plan to the non-union plan, moving liabilities from one plan to another, we always amended the plan that the benefits were coming out of to cease participation from the employees leaving the plan, to cease the accruals, to document the fact that the liabilities were moving from that plan to another plan. And we would make reciprocal amendments to the plans that the benefits were going into. I don't understand why you're telling me we can do this without amending the plan. In 40 years, I would never have done it that way.

Attorney Dugas:

First of all, I defer on the pension questions themselves, as opposed to the labor law questions, to the town's pension counsel. I try to stay in my silo, if you will. Having said that, the only obligation that I can imagine on the part of the town, when it comes to amending the plan document, is to the extent it would have to bargain with the fire union or the police union in this case and, as we've noted, I don't believe we have to bargain with them. As to the question of whether a formal amendment to the plan needs to affect what you're going to approve tonight, I would think that's the case; although I would defer to pension counsel and I'd want to look at the document to see exactly what the change is. I'm not sure, just looking at the pension plan as I do know it, I haven't looked at it carefully, recently, I'm not sure a plan amendment would be required but if that's the opinion of pension counsel, that's clean up, follow up, if you will, to whatever action is taken tonight as opposed to something that would have to be bargained.

Mr. Gold:

I understand that it doesn't have to be bargained. That's not the question I'm asking. The plan says it can't be amended without mutual consent. If it can't be amended without mutual consent, it can't be amended after we take this vote or before we take this vote without mutual consent. I've asked Mr. Chetcuti about this and he said pension counsel has opined that it could be amended unilaterally but he has not given me a letter from pension counsel to that effect; he has not given me the reasons behind the pension counsel's ability or reasoning for saying this and, again, in my 40 years of experience in working with plans like this of all types, I would have always amended the plan. By the way, who is the town's pension counsel?

Mr. Dugas: Her name is Sharon Frolick from Pullman and Comley.

Mr. Gold: Do you know her reasoning?

Mr. Dugas:

Yes. Her reasoning is the fact that we are not amending the plan. These are non-union employees that the town can have a pension or not have a pension for them if they choose. It was her opinion that there was no reason for us to amend the plan. We did have to amend the non-union supervisor plan in order to put these people into it but her opinion was we didn't have to amend the police and fire plans.

Mr. Gold:

I would respectfully disagree with that opinion. Without having talked to her about it, based on 40 years, I would always amend both plans, one to remove the liability and one to accept the liability.

Ms. Hamlin:

I have a couple of brief questions for people before I share some of my views. Just so everybody knows, generally, for labor and employment attorneys like myself who give advice to corporations about how to stay out of trouble with unions and how to not violate the NLRA, the law that is called the National Labor Relations Act, the law that applies to private organizations. The law that applies here is known as MERA which is the Municipal Employee Relations Act. Like a lot of usually State laws, they piggy back off of Federal laws that were passed first. In the employment discrimination field, we have State laws that make employment discrimination illegal and they oftentimes mirror the language of the Federal law. Because states are only one out of the 50 of the Federal states, oftentimes state judges and administrative law judges, etc. reason, by analogy, to the precedent at the Federal level because there is 50 times more of it. When I looked at MERA, the language of MERA has certain differences from the National Labor Relations Act which is my typical area of practice. There is something which is akin to section 7 rights which is a duty to bargain. In the NLRA, it's section 7. It's a different section in MERA. There is a separate area called section 8 obligations. What section 8 says, under the NLRA, is that you can't grant unilateral rights for the purpose of deterring or disincentivizing unionization. So, I think a lot of the conversation tonight has been focused on section 7 problems, that's what Peter focused on, and I'm a little bit focused on section 8 issues because I had a case in recent years where my client, a small corporation in upstate Connecticut, granted an increase in wages to non-unionized employees, unilaterally. There was no union. They had planned to do it for six months and just about a week before these increases went into effect, someone posted a union poster on a door and started to unionize and, despite the fact there was not causal connection between my client's desire to grant wage increases and the union efforts, the ALJ for the NLRB found that it was a violation because they granted benefits unilaterally in an effort to deter unionization. That's called a section 8 violation. So, I'm going to ask, Mr. Dugas, do you confirm that MERA has something akin to section 8 rights, as well.

Mr. Dugas:

I'm going to say yes although those arise in the context of a union organizing campaign. That is the only context and I'm not aware that there is a union organizing campaign around the folks that we are talking about.

Ms. Hamlin:

So, the case law would say, under section 8, which is similar to MERA section as Mr. Dugas just confirmed, even if you don't have a union, you are trying to deter a union or there is an effort for unionization or you are concerned that people are trying to join a union and you grant certain price increases to deter that unionization, it can be problematic. One of the things that was a real red flag for me was that I found that someone, this was a very untutored gesture on behalf of someone in the administration, I don't know if it was Mr. Chetcuti or Foti or whoever, but I forwarded it to everybody last week. They filed something last week saying their purpose in granting these benefits to these eight employees was to disincentivize unionization. In the case that I was telling you about, we lost at the administrative law judge level and I had to appeal it to Washington DC to the board and finally was able to show that there was no causal connection. Here, there's not a snowball's chance that we'd be able to prove that there was no disconnect between the motive to deter or disincentivize unionization or the effort to have certain employees join a union because we put it in black and white and somebody had the great idea to put on the public record that the purpose in granting these benefits to these eight employees was to deter unionization. The word was *disincentivize unionization*. That's not something that you can walk back. You can't get that toothpaste, it's now gook all over the bathroom counter, back into the tube. I have a question for Mr. Marsan. We've been told this has already been done for police but they are going to do the same sort of thing for the fire managers. Have you all filed a ULP, Unfair Labor Practice?

Mr. Marsan:

Yes. We filed an MPP with the State last Tuesday morning. That was after multiple attempts to discuss this at the face to face level with Mr. Chetcuti as well as an attempt to reach out to members of the RTM to explain our position on the issue.

Ms. Hamlin:

Have you ever filed unfair labor practices against the town before? Have you ever been personally involved in those?

Mr. Marsan:

I have personally been involved in them as well as the union, in general, prior to my service on the board have filed them before, yes.

Ms. Hamlin:

When you have filed the unfair labor practices, was Berchem and Moses on the other side?

Mr. Marsan:

Yes. The ones that I have been involved in, absolutely. I believe there were ones that were specifically related to pension issues that I believe that firm was, yes.

Ms. Hamlin:

You said you were personally involved in two and Berchem and Moses was the counsel. Who prevailed in those?

Mr. Marsan:

The union prevailed in both in my memory and we were awarded legal fees paid by the town, as well.

Ms. Hamlin:

So, Berchem and Moses got their legal fees paid by the town and the taxpayers of Westport were ordered to pay your legal fees. So, Berchem and Moses got paid, you prevailed and the only losers in this scenario were the taxpayers of the town of Westport who paid for everybody's fees. Is that what you're saying?

Mr. Marsan: Yes. Not in so many words but yes.

Ms. Hamlin:

Are you concerned that one of the issues is that the town has said that their purpose for granting these unilateral rights to these managers is to disincentivize unionization or interest in joining a union? Is that one of your concerns?

Mr. Marsan:

No. By and large, my concern, and well before the beginning of this, well before the 11th hour, I have kept my personal opinion behind the purpose or intent of the change aside. I've just tried to stick with the process. It is my contention, on behalf of the union members, that the process is such that we need to be involved in discussions in order to make the changes to the pension. We have 40 or more years of past practice of who is covered under our pension fund. It is separate from our collective bargaining agreement for a reason. This has been this way long before you were a member of the RTM or I was a member of the department.

Mr. Wieser: You're at 10 minutes Ms. Hamlin.

Ms. Hamlin: Could I just have a couple of minutes.

Dr. Heller: No. Come back again. I will certainly call on you.

Dick Lowenstein, district 5:

In the beginning of the presentation, Mr. Dugas used the words "material impact". My question is the members that are not part of the union but are being paid by the union pension plan, are they dues paying members of the union?

Mr. Dugas:

Is your question whether the folks who are being removed from the pension and moved to the other pension union dues-paying folks?

Mr. Lowenstein: Yes. That is my question.

Mr. Dugas: The answer is no.

Mr. Lowenstein:

So, there is no material financial impact on the union as a result of people being moved to a different pension plan, right?

Mr. Dugas: That is correct.

Mr. Lowenstein:

Are the pension benefits of the existing members of the union being affected by the changes that are being proposed?

Mr. Dugas: Not so ever.

Mr. Lowenstein:

So, nothing is changed for them. In my opinion, there is no impact on them. It is really a financial maneuver more than anything else that the town wants to follow and the union has not lost any of its dues, financially; it's not losing any of its members; it's not losing any votes. Is that a correct assumption on my part?

Mr. Dugas: Yes sir.

Mr. Lowenstein: Thank you very much.

Wendy Batteau, district 8:

I have a feeling that Jimmy's comments may answer some of my questions. Could I go after him?

Mr. Izzo:

Number one, guys, the key word here is non-union. These gentlemen are not in the union. This is not really a union issue. I respect the Fire Department. I'll do anything for them as Chair of Public Protection but we're talking about non-union supervisors. This is about maintaining management without breaking any rules. These guys were not in the union. The union is the union. As Mr. Lowenstein said, we're not changing anything. They're doing nothing to affect the union. So, consequently, all we are doing here is giving non-union supervisors a different package. This is not affecting the union. This is to help management maintain our management in the Police Department where we separate it. I don't see any problem for the town. I don't think we're going to lose on this one. That is my humble opinion, a simplistic point of view here. I could be wrong but I don't think so. These gentlemen are non-union. They are not in the union. It doesn't affect the union votes. It doesn't affect the union pension. It does not affect them.

Ms. Batteau:

Some of the conversation before was rather inside baseball and I was confused by some of it. So, I'll try and catch up. What is the difference in the pension benefits from the one

they want to disengage from and the one they want to gain? I'm asking Mr. Chetcuti or Mr. Dugas.

Mr. Chetcuti:

What we're doing is maintaining the pension plan that was in place prior to the changes as a result of the negotiations for the Fire Department and the arbitration for the Police Department where several changes were made regarding things such as cost of living increases and basically maintaining the multipliers that were in the plan before.

Ms. Batteau:

So what are the actual differences between the union plan and the current non-union supervisor plan?

Mr. Chetcuti:

Off the top of my head, we lowered the cost of living increase for existing fire fighters. For new fire fighters hired after 2017, we gave them a totally different plan. We gave them a plan that is half defined contribution and half defined benefit. In that case, we've made changes to the retiree health insurance. Those are the major things that are different.

Ms. Batteau:

It really is, to the town, only a difference of \$215,000/year? [Yes.] Not per employee but for the whole group? [Yes.] I was unclear whether the non-union supervisors get overtime now or will be able to get overtime once they change plans.

Mr. Chetcuti:

They do not get overtime now nor will they be able to get overtime in the future.

Ms. Batteau:

Why is this being renegotiated now? It was agreed to several years ago and everybody seemed to think it was the right thing to do and the plans are due to be renegotiated in a couple of years. Why is this needing to be done now?

Mr. Chetcuti:

It was our decision to take the management out of the union-represented pension plans and put them in a plan that covers every other manager in every other department.

Ms. Batteau:

Why now when you made the decision not to do that when you renegotiated.

Mr. Chetcuti:

That was not a decision we made. This discussion came after that.

Ms. Batteau:

Yes, but why is this being done now rather than in two years or why was it not done as part of the last renegotiation?

Mr. Chetcuti:

Our position is these are not members of the union so we don't have to bargain to get them out of the pension plan and wait for another two years to do this. We wanted to do this now.

Mr. Dugas: That's correct.

Ms. Batteau: But why now?

Mr. Chetcuti: Because we felt it was the right thing to do for these individuals.

Ms. Batteau:

When we and everybody else are trying to take people off defined benefit plans and putting them into defined contribution plans, why are we now trying to put more people onto a defined benefit plan?

Mr. Chetcuti:

They are already in the defined benefit plan and most of them have been there for several years. We're not putting them into a pension plan. They've been there already.

Ms. Batteau:

So we're putting them into a different defined benefit, not moving them from defined contribution to defined benefit.

Mr. Chetcuti: That is correct.

Ms. Batteau: Got it. Thank you very much.

Chief Koskinas:

If I can just add there is nothing that has come out of my office that this is taking anything away from our membership as far as not joining the union. The reason you are seeing the numbers that have been put out today is to show you what the difference would be in what the costs would be. All of the people, aside from one, six out of the seven are on the call here. At no point had any of them considered going into the union. This is not to keep them out of the union. People on this panel of the RTM have FOI'd several documents over the last few years. Feel welcome to FOI any documents or emails amongst us and the people involved and you will see that this is not; there has never been an approach. You can talk to the former Union President. There is no process right now for anybody to join the union. This is something we looked at early on as a way to keep the management team with having a little bit of separation especially since they cannot participate or have a vote when the time comes for their pension.

Kristin Schneeman, district 9:

My questions are similar to Wendy's so I apologize but I found myself a little more confused from the responses to her questions so I might try to reframe them. Before I ask my questions, I think I can speak on behalf of the RTM to say that we all have an

enormous appreciation for both the fire and police and the leadership. My concerns have a lot to do with precedent and not so much to do with the specifics of this case.

Just a question about the terms of the pension into which these people would be moved. I assume that the terms are more favorable. I believe I heard Mr. Marpe state clearly that we wanted to show our appreciation by putting them back into a defined benefit plan. That seems to indicate they are in a defined contribution and a defined benefit plan. Who else among town employees is in a totally defined benefit plan?

Mr. Chetcuti:

They are currently in a defined benefit plan and have been since the beginning of their careers. We are keeping them with the same pension benefits that they had or would have had if they retired prior to the changes. We are amending the non-union supervisory plan to replicate what the terms of that pension plan was prior to the current changes. A large number of our police and fire fighters are still in the defined benefit plan. We did not move everyone to a defined contribution plan. It was only the new hires since 2017 and they are now in a hybrid plan which is part defined benefit and part defined contribution. Again, yes, it'll be better but that's not unusual because we also have a non-union, non-supervisor plan that covers non-management non-union employees and it doesn't have the same benefits as the non-union supervisor plan. It is better because of the people who they cover and the responsibilities they have as managers...Not an unusual thing to be doing.

Ms. Schneeman:

Do you know how many employees of the town are in a 100 percent defined benefit plan still?

Mr. Chetcuti:

Of the entire town, still the majority. I couldn't give you a number because I haven't looked at it but the vast majority are in a defined benefit plan.

Ms. Schneeman:

This question may be for Mr. Dugas. Is there a precedent for making a change like this to a contract or agreement in the middle of the term in Westport? Is that something that you've seen?

Mr. Dugas:

Not that I can recall off the top of my head but, again, in most situations we are dealing with union folks and it's effectively a pension agreement with the union with a lockout provision. In the last case, the pensions were locked out for 10 years so in terms of the non-union plan, is it possible that there have been changes made mid-stream. It's certainly possible but I can't recall anything specific.

Ms. Schneeman:

One other question: I think I heard Chief Yost say, he was specifically referring to Deputy Chief Kronick. He said that Deputy Chief Kronick was "made a promise" and I just wanted

to understand what promise was made and just to Deputy Chief Kronick or to this group of employees?

Mr. Chetcuti:

We did commit to these individuals that we were going to make this change. Unfortunately, it has taken quite some time due to a number of things, primarily the fact that our pension attorney who had been doing the town's pensions for many, many years retired. And then we did an RFP. It took a while to get the firm we currently have and all of the pension plans and defined contribution plans had to be revised for a number of reasons. That took a considerable amount of time which is why it took so long to get to this point. It took a while to revise the documents.

Ms. Schneeman:

I'll just make one quick comment to close. I harken back to Mr. Marpe's comment that we'd all like to show our appreciation to these individuals but there are probably a lot of other individuals in town government that we'd want to show our appreciation for, giving them more generous pension benefits. I just feel like this whole move and I am someone who would love to live in a world where everybody could have a defined benefit pension plan, honestly, I would like for everyone to have access to that but the world that we live in has been moving steadily away from them and the town of Westport has been moving steadily away from them for the last number of years. This feels like... and this feels like one and those decisions are ones that the Board of Finance plays a prominent role or at least has a role and they have certainly not been involved in this conversation that I'm aware of. In terms of the precedent that it sets going forward, I don't know if it potentially opens the door for other employees to make similar requests to move back in the opposite direction but that is the terrain on which my concerns lie.

Louis Mall, district 2:

First of all, I'd like to thank Rick Jaffe for his excellent report. Rick did hit the trifecta of being on all three committees and I think I can speak for the other Committee Chairs as well who appreciate the hard work that you did so thank you very much. What I'd like to comment on is that we are just formalizing revisions or amendments to a non-union plan. There aren't any changes being made to the union plan. I'd like to make it perfectly clear that these plans are the town of Westport plans. They aren't fire plans and police plans and so forth. Those are liabilities and the people who are covered under those plans but it is the Town of Westport who is ultimately responsible for funding and paying those benefits. You don't have your own account in a defined benefit plan. Defined contribution plan, you do. Defined benefit plan is all a barrel of assets and liabilities. The actuary determines how much money the town has to contribute to each plan, the interest rates assumptions that are used to determine funding. It is the same for all Westport pension plans. The particulars of where you charge for a plan is where the benefit comes out of. So, we are formalizing where these people are going to be covered. By their description, they are non-union. By their description, they are supervisory. So, we're formalizing putting them into the proper plan of non-union supervisory employees of the town of Westport. So, I would like to make it perfectly clear that we are not taking anything away from anyone. We are grandfathering the management of the Fire Department and of the

Police Department who are non-union. We're grandfathering those provisions that they had in 2017 in the non-union supervisory plan. So, nothing is being taken away from the unions. Nothing. Nobody's bargaining. I'd also like to point out that as members of the RTM, we aren't part of a collective bargaining agreement. We sit in as observers but we don't negotiate. We can't go out and start negotiating on behalf of the town of Westport with the police or fire unions because they don't like it. That's not how it works. We're observers. Our function becomes to accept or to reject so that's what we're here tonight to do, to accept or reject the revisions to the non-union supervisory plan and I intend to vote in support of making those revisions and covering the management of the Police and Fire Department in the right plan.

Mark Friedman, district 3:

I came into tonight's discussion anticipating that it would be complex and nuanced. It is even more complex and nuanced than I had imagined. I'm hearing some legal concerns. I'm hearing some policy concerns. I'm starting to wonder if we need a little bit more time to flush this out. So, I'm not at this moment making a motion to postpone to a date certain but I'm thinking of it because there is a lot to unpack here. I want to continue to listen but I did want to float that possibility as something I am thinking of.

Jeff Wieser, district 4:

In the Finance Committee, I too had this sorted out but I am a little confused on a couple of things. I just want to confirm that right now the pension assets that are covering these eight or nine, I'd like that question first, is in the union supervisory employee fund. Is that correct? [No.] So, where are there pension assets right now?

Mr. Chetcuti:

They are allocated to the two union plans where they have been accruing all their credit up until now.

Mr. Wieser: The supervisory and the non-supervisory plans.

Mr. Chetcuti: No. No. Their assets are allocated to those plans.

Mr. Wieser: Police and fire.

Mr. Chetcuti: Correct.

Mr. Wieser:

So they would come from those allocations to this new allocation as Peter Gold suggested.

Mr. Chetcuti: Correct.

Mr. Wieser:

I understand that is to no detriment to the participants in those union plans and that's a good thing. Could I just ask Mr. Marsan again, I assume he is still here, I understand the

legal objections. Maybe you said it and I just didn't get it but I just want to get a feel for the actual objection of the union of this movement from one plan to another.

Mr. Marsan:

Let me just make it clear that I understand that the RTM is not a bargaining unit that we bargain with. I presented with you my position and my position is this: It says very clearly in our pension contract which, up until today, has always been one fire pension fund, all the members of the pension fire fund were allocated the same benefits that were negotiated. I am not arguing at this point that non-union supervisors need anything similar to us or that we are responsible for negotiating their wages, benefits and working conditions. I'm not saying that. We have a pension agreement which is separate from our collective bargaining agreement called the Fire Pension Fund and it encompasses all members of the Fire Department. It always has. It specifically states in our Fire Pension Fund that if you are part of the Fire Department, you are part of this fund until you retire or are disabled. It also says in there, any modifications of this plan must be by mutual agreement by both parties or negotiated at the end of the term of the contract. As a side note, there is no such thing as a lockout clause in any of our contracts. It's called the expiration date of our agreement. Our collective bargaining agreement, specific to union members, states specifically any disagreements regarding the interpretation of the pension fund or the pension plan as written and drafted is subject to arbitration. So, this has nothing to do with my opinion. I've heard the non-union supervisors in this town constantly display commitment and dedication as if they do something other than the union liabilities. That's not the point. I'm holding my opinion because it doesn't matter. There is a process, sir, that I think needs to be followed because as we file this complaint and it goes to the State and the State Arbitration Panel says yes, the union is right; that's the interpretation that the panel comes up with, now it's going to get awfully awkward. If the town had just come up to us and said, 'Let's have a talk about this. Let's have a relationship by objective and this is what our plan is. This is what's going to happen. What are your thoughts on it?' It would be a totally different discussion tonight. We were left out of the conversation when, historically, up to this point and past practice does have some impact on an arbitrator's decision, it has always been all employees are in one fund. This is only an issue now because the town and the two unions settled on defined benefits that are less than what we had prior. At the time, the town said 20 year and up members were going to be locked into the old plan. They had every opportunity at that point to do the same for people that they felt were non-union supervisors. As another matter of point, it keeps getting said today that these guys want to get out of this fund because they can't negotiate their own fund. I would ask anyone who could answer me, are non-union supervisors entitled to negotiate their pension contract? Because, if not, that argument holds no water, as well.

Mr. Wieser: I guess that's all. Thank you.

Mr. Conrad:

I just want to say a couple of things. The changes in the plan, back on Sept. 28, 2017, the RTM Employee Compensation along with Public Protection and the Finance Committee accepted the contract and recommended to the RTM the changes to this plan.

The changes were three major items. There was no change to the defined benefit plan which all the employees had at that time. What did change was some of the benefits they got out of the plan. A lot of the employees that were in this group that we're considering except for Foti and Sam Arciola, the Police Chief and a couple of other people, they already had over 20 years of benefits so they were grandfathered under what would have been that union contract. So, the number of people affected is one, over at the Fire Department, Assistant Chief Kronick, the lieutenants and captains over at the Police Department. The changes were, they increased the years of service, going from 49 years with 20 years of service going to 52 years with 20 years of service. That was one of the major changes. It also adjusted the COLA. The COLA which maximum was four percent was reduced to 2.75 percent. The final one, the benefit they were entitled to, if the individual was married, it used to be if the employee got X percent, the spouse would get the same percent. I'm sure Peter Gold could comment on this too; that was unrealistic. You could have a spouse much younger than you are entitled to the same benefit. So, what we did was a Single Life Annuity which adjusts for the age. Those are the major changes that we had to the contract. In addition to that, for anyone hired after July 1, 2017, we went into what we call a hybrid plan which is a combination of a 401K and a defined benefit plan. So, it gives you the best of both worlds basically. It's not as good as a full defined benefit plan that you saw before 2017 but, it's still a very good plan. One of the issues that has come up here is the actuaries taking a look at this. If you take a look at our benefit plan for pensions, it's one plan. It's invested. We have three people that actually look over it in addition to Mr. Marpe. We have investment advisors that recommend what type of investments we should look at. But it is ultimately our decision as to how these monies are invested. That comes down to the Chairman of the Board of Finance, myself and one elector. We don't look at it as different funds, each pension, we have a fire pension, a police pension, a municipal pension, non-union supervisor, non-union non-supervisor. We don't look at it that way. It is a consolidated plan. It's in a pool and what comes back to us, the actuaries come back to us and say what are the liabilities and what are the assets that should be attributed to each one of the plans? That's done on paper. If you shift someone from one plan to another, which we do constantly, we have people who get promoted. In the WMEU which is municipal employees, when they become a supervisor, we switch them into the non-union supervisor plan, however they fit in. It's a common practice. We have employees there that are similar to the Police and Fire Department, Pete Ratkiewich and some of his supervisors there, they are all in the supervisors plan. It's not uncommon for people to shift around like that as they change jobs. This is sort of a unique experience where the fire and police were always considered to be in one particular plan and Foti and the Police Chiefs, they followed those plans because there was no change for 15 years. Prior to our change in 2017, it was back before 2000 I believe. It is a unique circumstance and what we're looking at now is how do we take our supervisors and put them in the correct plan. That would be putting them into the non-union supervisor's plan. That's basically what it comes down to.

Sal Liccione, district 9:

Is Daniel Paz on the line? [Yes.] I would like to hear the Police Union's perspective on the conversation tonight.

John Miller, Staff Representative, AFSME Council 4. We represent the Police Department:

You heard what everyone had to say. It keeps going back. There is one key factor. The agreements say they will not be modified or amended upon mutual agreement or at the expiration which is two years from today or 2024. That's when they open up. We are in the process of having our actuaries looking at that to see if there is an impact. We have not had results back from that yet. We have the same argument as the Fire Department. This cannot be done unless there are mutually agreed upon changes. We did send a demand to bargain. The town has not responded to us. We are holding off on grievances and MPP filing to see how this goes. Assuming this vote is in favor, those complaints will become a lawsuit. Does that answer your question sir?

Mr. Liccione: Thank you Mr. Miller.

Mr. Mandell:

I would like to speak but I would like to hear what Mr. Gold has to say and Ms. Hamlin. I would like to speak after them even though it is my first.

Dr. Heller: Okay.

Mr. Gold:

A couple of quick things. First, just to clarify about some things that were said, Gary Conrad is absolutely right about the changes in the pension plan. He is absolutely right about the way they work in the corporate world. An age 52 retirement age is ridiculous in the corporate world. It's at least 65, if not higher. The joint survivor annuity benefit, it is 50 percent; it is actuarially reduced. People were talking about the differences between defined benefit and defined contribution plans. In many cases, depending on the age of the employee, the investment performance under the defined contribution plan, you can get a better benefit under the defined contribution plan. Consider a 20 year old who works for 20 years, under a defined contribution plan which has investment performance like we've had these past couple of years, he's going to have a tremendous account which will be bigger than the present value of his pension benefit. It's not always worse to be in a defined contribution plan. Gary's point of the hybrid plan being the best of both worlds is probably correct on that, as well. The cost of these changes is \$215,000/year. That's for many years. We were told that the total present value of the cost of the change is about \$2.2 million which is amortized over a long period of time, 10 or 15 years. The most important point is that this is not a union issue. It is not a bargaining issue. It's not about getting a benefit that is better or worse or the same. As the union people have been saying, it is a process issue. Pension plans are contracts. They have specific terms. Those terms have to be abided by. One of the terms in the police and fire plan is the provision that it can't be amended without mutual consent. It doesn't matter if the unions are affected or not affected or anything like that. As far as the bargaining agreements go, as Mr. Marsan pointed out in the fire agreement and I assume there is a similar provision in the police agreement, any dispute on the terms of the plan, I believe he said is sent to arbitration or bargained. This is a dispute over the terms of the plan, over the meaning of the section on amendment of the plan. Can you do it unilaterally or not? The town says

you can. The union says you can't. You have a dispute over a provision of the plan. The bargaining agreement says that dispute has to be bargained. It's a very legal issue. It has nothing to do with putting people in a union, not putting people in a union or anything like that. Last, there's an organization called the National Conference of Public Employee Retirement Systems. They are a trade group for municipal plans. They compile a lot of information. I used to be a member of it when I was working. They have a chart which I'm going to read from which summarizes the State laws for all the different States regarding pension protections. For Connecticut it says;

Courts have recognized that the State statutory pension schemes establishes a property interest entitled to protection from arbitrary legislative action under the due process provisions of the State Constitution.

This isn't a State statutory pension. It is a municipal pension but I don't imagine that they would interpret it any differently. It cites a case which I have not read, Pineman vs. Eshlin. Then it goes on to say that

Pensions are protected by Connecticut statute 7-148 which provides that the "rights or benefits granted to any individual under any municipal retirement or pension system shall not be diminished or eliminated."

The right to amend a plan could be a right which is granted under the plan. You can't take away my right to consent to an amendment. By doing it unilaterally, it could be argued you are diminishing or eliminating that right. You are not changing a benefit. You are changing a benefit. There is a difference between a right and a benefit. So, again, I don't understand how we can do this unilaterally. I will probably abstain on this. If we table this, that's great. But, if it goes forward, I'm probably going to abstain.

Dr. Heller: I see a "Paz". Mr. Paz, could you please tell me who you are.

Corporal Daniel Paz:

Sure. I'm Corporal Paz, Westport Police Department. Union Board Member.

Dr. Heller:

We are now at a point where we have the RTM members speaking and, unless somebody asks you a question, I'm afraid I can't recognize you. Your time to speak was during the public speaking but perhaps someone will have a question for you so that you will have an opportunity.

Ellen Lautenberg, district 7:

I'm not sure who to direct this question to but it's really to the town. It goes back to something Wendy Batteau started to ask and there was no real answer. If, what the union members are saying is that this is something that they should be involved with according to the rules of the process, which would occur, it sounds like two years from now, why is the town pursuing this now outside of that process?

Mr. Dugas:

I defer to Mr. Chetcuti on this. He has the deeper background on this. As he's explained, this is something that has been in process since 2017 and, unfortunately, due to the termination or retirement of the town's long standing pension attorney and the RFP

process to get a new one and then amending various plans, it's just taken a long time to do. Because these folks are not in the unions, we don't feel we are bound by the constructs around when we can negotiate with the unions. That is, I think, the short answer to that question.

Dr. Heller: Okay Ms. Lautenberg?

Ms. Lautenberg: Yes, unless somebody else from the town wants to weigh in on that.

Mr. Colabella:

I would like to defer to Officer Daniel Paz. I would like to hear what he has to say considering he is a town employee and given that, I would like to hear from members of the union who have a mutual agreement that there is a process problem here. I completely understand where they are coming from because I was a member of AFSME 2405 for about seven years. I do want to hear from Officer Daniel Paz if that's possible.

Dr. Heller: Do you have a specific question that you are asking?

Mr. Colabella:

My specific question is what his professional and formal opinion is given what has taken place at this current time.

Dr. Heller: Sir, will you please respond to Mr. Colabella's question.

Corporal Paz:

I think it is the union's perspective that this needs to be negotiated. If someone could answer, what will happen to sergeants who then become lieutenants and are considered supervisors? Would they be moved over to the non-supervisor plan and given the same pensions given to the current lieutenants? Do you think Mr. Chetcuti could answer that?

Mr. Chetcuti:

That decision has not been finalized. We anticipate taking a look at it so I really can't answer that question right now.

Corporal Paz:

That's something that would have to be changed in our pension contract and language changed within our contract whenever that was decided.

Mr. Chetcuti:

No it doesn't. We continue with the same argument we're making here. If they become management, they are no longer represented by you.

Corporal Paz:

There would have to be language somewhere that says 'the new lieutenants get 'X'.' When you leave the union, you are moved somewhere. Where would that language be?

Mr. Chetcuti: Floyd, correct me, but you can't negotiate for lieutenants.

Corporal Paz:

I'm not saying we negotiate for lieutenants. I'm saying there should be language stating where the future lieutenants will go. So, sergeants who become lieutenants, they would then be moved somewhere. Where would that language go when you decided that?

Mr. Chetcuti:

I don't know where that would go. Maybe we would have to amend the pension plan, the non-union supervisor pension plan again.

Corporal Paz:

So, each time someone gets promoted, you have got to amend the pension plan.

Mr. Chetcuti: I'm not saying that. We'd have to decide how we would handle that.

Corporal Paz:

Okay. So, in my opinion, that would have to be put into our pension plan. It would have to be written somewhere. It would have to be talked about. It is something that is in the air for the current union members, what would happen to them. Furthermore, the actuarial study that you guys are talking about was only a letter. The only study done was for the actual pension. I took a look at it today. There is no actuarial study showing the difference of what would happen. All they did was look at it. Mr. Conrad, you stated that we were put on notice. Do you know when that letter was dated, Mr. Conrad?

Mr. Conrad:

I don't have that letter right in front of me but I think it was a couple of months ago. It was sent to all the unions. Ralph can probably...

Corporal Paz:

It was April 16 so saying that it was given several months ago is misleading. I don't think that's ample time for the union to...

Mr. Conrad:

I'm looking here. It's June 16. That seems to be ample time to me.

Corporal Paz: For a full actuarial study?

Mr. Conrad:

Our actuaries did the study based on the people who were involved. I don't know what you're looking at – a full actuarial study. It doesn't concern all the union membership or all the people who are involved in the pension plan. It targeted the people who are affected by this change.

Corporal Paz:

Can I see that study that targeted the difference because all we have is a letter?

Mr. Conrad:

The letter was a compilation of that. If your actuaries would like to look at it, we'd be happy to hook you up with our actuaries and they'll give you all their information and all their bases and calculations. It's not a problem but that has not been asked for.

Corporal Paz:

Mr. Chetcuti, we had a conversation this afternoon and you told me that no study was done other than for the overall pension. Is that correct?

Mr. Chetcuti:

I think you're misconstruing what Mr. Conrad has said. There was a separate valuation done to come up with this number. The actuaries used the information that they have on the plan and they calculated what this would cost for these seven individuals. They did not do a full blown actuarial valuation.

Dr. Heller:

Excuse me Mr. Paz. You were called on to answer a question. This is the time for the RTM members so thank you very much for your response. We appreciate it. At this point, we really need to go back to RTM members and give them the opportunity to speak.

Corporal Paz: Yes. Thank you for the opportunity to speak.

Dr. Heller: Mr. Mandell wanted to speak after Ms. Hamlin. Ms. Hamlin, please go ahead.

Ms. Hamlin:

First, I agree with Mr. Gold that there is a serious breach of contract problem. One of the other problems here is what is called section 8. Jimmy Izzo is wrong and so is Mr. Chetcuti. They are both wrong when they say, if you're not part of the union, you can grant benefits to people not part of the union at any time. That is wrong if the purpose is to disincentivize unionization when there is a present union, you think there is danger of some of your members going to that union and you grant these benefits to those individuals. That's absolutely a violation of the law. So, Jimmy Izzo is wrong and so is Mr. Chetcuti.

Mr. Izzo: I'm not wrong Ms. Hamlin. They're not part of the union.

Dr. Heller: Please don't interrupt. Let her finish what she has to say.

Mr. Izzo: Yes Madam Moderator. I apologize for interrupting Ms. Hamlin.

Ms. Hamlin:

I want another minute back. Also, thank you Chief Foti for clarifying that memo in which there was a clear black and white statement that said that the purpose of granting these benefits is to disincentivize these employees from joining the union. That is an effort to deter unionization and is illegal. You didn't write it. Apparently, Mr. Chetcuti wrote it. It is

on our Westport website. It was filed. It is an admission of liability. If the union raises that issue, we will have an unfair labor practice filed against us and we will end up paying the union fees. Somebody mentioned that there was a promise made four years ago. I don't know why Mr. Marpe's administration is making promises that he has no right to make. Only the RTM can make those kind of promises. Only the RTM can grant to decide to do this or not and we were never consulted about this alleged promise. If you deter people from joining a union, then the union will lose those people's dues so there is a potential impact. Also, let's remember that this was not the town that took away these pension benefits. It was an arbitrator. One of the biggest issues was before, all the officers could retire at age 49 and what was changed was people who were already vested with 20 years could still retire at 49; people; people currently employed could retire at 52 and people not hired yet could retire at 55. The reason the arbitrator found that this, amongst some of the other changes, was reasonable is because that was what all the other towns were doing. That's what our competitors were doing. That was what was current practice because people are living 10 years more today than they were 30 or 40 years ago. Nobody is retiring at age 49 in common practice. It was completely unreasonable. So, for us to now grant, for these eight individuals, the right to retire at age 49 is something that is taking away from someone. You know who it is taking away from? Taxpayers. Because taxpayers shouldn't be paying for someone to retire at age 49. My uncle who retired at 49 from the police force lived to be 90. The people of New York paid for 41 years for him to be retired. So, it's unreasonable. That was an unreasonable provision. All the other provisions mentioned that were unreasonable were, indeed, unreasonable. The reason the arbitrator changed it was because across the State, everybody was changing it. The arbitrator made the decision that it was appropriate to change and for us to now put eight people back into the old system is completely inappropriate. You know what, Mr. Perez Paz asked the right question. He said, 'What happens when you give these eight people the right to retire early and they do retire?' Then, you have to add somebody else from the union to promote them to lieutenant or to promote them to captain. So now you've got, it's not just the \$215,000 that people are talking about because that \$215,000 is what we are talking about for these particular eight people in one year. It's a couple of million dollars over a 10 year period. If these people retire early and we give them these benefits, then the people that come from behind them, what are we going to do? Are we only going to give it to these eight people by name? No. We're going to give this benefit to anybody who is a lieutenant and anybody who is a captain. Guess what. As soon as they leave because we made it easy to retire early, age 49, there is going to be someone right behind them. So, it's not just \$215,000. That's smoke and mirrors. This is going to cost a lot more than that. The other thing is both Ellen and Wendy made the appropriate insight that this could be done in two years without any of these problems. It could be done, there is no reason to do it right now when we have a pension agreement that presently includes all of these individuals. The pension agreement says you can't change it. That means you can't change the status of the people who are inside the pension agreement without negotiating. So you have a section 7 problem with not negotiating; that's one of the allegations that was made by the police and fire union. The better argument is the section 8 argument which is you are not allowed to give unilateral benefits to someone to deter unionization. There is no mistake that that is the purpose because Mr. Chetcuti put that on the Westport Government filing system saying that was his purpose, to deter

unionization. He said point blank, to disincentivize those people from joining the union. Game over. ULP found. Unfair labor practice found and we violated it. So that's one of the problems. The problem that Peter identified which is the breach of contract problem is another problem. Mr. Marsan chooses carefully when he's brought unfair labor practices. He's won twice before. He'll win this one again. I am not putting my name on this. I am not going to be part of any decision where we said point blank that the reason we are doing this is to deter unionization. That's not what our town is about. Those aren't our values. I share a lot of the concerns that Foti articulated. I understand some of the concerns that they are talking about. There are good aspects and bad aspects of unionization but that doesn't mean we don't follow the law. We are not allowed to grant benefits to individuals to deter unionization. So, whether you like unions or not, you follow the law. I'm voting against this.

Mr. Lowenstein:

It sounds like we have two things to decide tonight. The first one requires a vote. That is to approve or not approve the motion on the floor. That will be a vote up, down or abstain. The second one which has been raised in most of the discussion this evening is whether this is an Unfair Labor Practice, whether it affects the union or not in a material way. That is a matter of opinion. My suggestion is to vote on the first item the way you want it to turn and then let the cards fall where they may on the second thing. We'll win the case or, if the town is wrong, we'll lose the case. You have to have an opinion on this more than anything else.

Mr. Mandell:

I'm sort of leaning where Dick was going. Mr. Dugas, you're there? [Yes.] Ms. Hamlin is making some pretty strong arguments that this is an Unfair Labor Practice. Can you opine on the specific argument she is making.

Mr. Dugas:

First of all, she keeps citing the National Labor Relations Act which I have repeatedly noted does not apply here. I've already articulated why there is no duty to bargain over this issue because these folks are not in the union and there's no impact. Her argument about section 8 I think is off base. Section 8 is something that happens when there is a union organizing campaign going on and you promise benefits to members to dissuade them from joining the union. That's not the case here. I think it's a little troubling that she is publically seemingly planting discontent and foment in the union to file a charge of that nature but I don't see that that's going to prevail. Let me just say, for the record, that I am not aware of two cases where the Fire Union prevailed before the Board of Labor Relations so any sense that she's trying to suggest and he's trying to suggest that they've got some kind of winning record on these issues, I think, is gravely misplaced. The only case that I'm aware of was not before the Labor Board, didn't involve section 7 or 8. Ironically, it involved when somebody was trying to keep somebody or place somebody in the fire union and the fire union fought it and said he shouldn't be in the fire union; a very different case than what we're dealing with at these issues. So, I think she's off base. I disagree with her. And I continue to be confident that neither of those legal theories would prevail.

Mr. Mandell:

Chief Koskinas, the employees in this will not be able to get overtime from the town. Is that correct?

Chief Koskinas:

They don't currently get overtime and they will not get overtime under the current plan.

Mr. Mandell:

But they are still allowed to do extra-duty overtime that is not town money?

Chief Koskinas: Correct.

Mr. Mandell:

Is there any possibility that this will change the pricing of the extra-duty costs for businesses and non-profits because of this change?

Chief Koskinas:

There's not, Mr. Mandell. Currently they are working and their rates are set in such a way. We have more junior employees that work for less money and that makes up the difference. It's actually quite beneficial for the town at the end of the year.

Mr. Mandell:

They can't get overtime for the town but they still can make some extra money as police officers so that's a benefit to them and I think that's a strong part of what our town offers our employees, their ability to earn more. As we've seen, many of our police officers do make a substantial amount and a lot of that is not through the town money but through other people's money, businesses that hire.

Chief Koskinas:

Can I add something to that? [Sure.] I just want to make it clear and add something, this was put together to incentivize and take these positions and keep these positions, not to not unionize. I don't think we've made that clear. The advantage is a sergeant makes very close in pay to what a lieutenant currently; certainly when you add all the extra benefits. We sat down with the department heads and said how do you keep the highest qualified people wanting to take these jobs and keep these jobs? I don't want to overstep my bounds in what Mr. Chetcuti said earlier. One of the considerations that has taken place when we're looking to navigate this, future lieutenants, great question Corporal Paz in the way it was introduced, future lieutenants would be given the chance to stay in the plan that they were currently in. But if the plan changed in the future, the motivation would be they could just stay in their existing plan. This is maybe a little bit that shouldn't be discussed but we've had discussions of it and it is not to put them in this exact plan but, if things change in the next negotiation, the incentive would be for that employee. There's got to be something because it's certainly not the financial. You can see patrolmen and sergeants making far more money than any lieutenant or captain. I want the best qualified people to take this job and keep this job. We need to incentivize this somehow. It is not

to bait and disincentivize by joining the union. That has never been the conversation. This is employee retainment, enrichment and enlargement.

Mr. Mandell:

Where I was going is that this town must be offering greater opportunity for people to come. There are towns around us where people make more money than they do in Westport and we certainly do want to have good employees to come to Westport and not go to the surrounding municipalities. So, in terms of this decision, we're going into this decision with our eyes wide open. We have a town attorney advising us to do so. If we make this decision, we're making the decision based on that. And, as Dick said, let the chips fall where they may. If they go to arbitration and they find the union has been aggrieved, whether it's on principal or on right, whether it's financial, that they find out through the actuary that there is some kind of un-benefit to this for the union, then that's going to be the case. The one thing that I want out of this is Pullman and Comley and Berchem and Moses, if it should go that far, it should not come out of our pocket to cover the costs of that representation because we're taking their advice to move this forward. We are the financial body. We are the ones who hold the purse strings in the end. So, Mr. Marpe, this is my suggestion here. If we move forward and we find that this is a problem, that the groups that we hire help us out financially if they are wrong in their analysis. My view is this: I do not see any aggrieved situation by the unions. I think they're following what they are supposed to do as unions. They are following the rules that they see. They think they are being aggrieved and they're bringing light to it on their behalf but these are not union employees and I think that we could move forward with our eyes wide open that we may well end up in arbitration over this issue. If that's the case, then that's the case. But if the town feels that we should be doing this now, I don't see that we should wait two years. There is some reason we should be moving forward. We heard this from Mr. Dugas and Mr. Chetcuti that we should be doing this now, then why not? Again, all of us when we vote, knowing that in six months or a year, we may have issues with the unions in arbitration. I, for one, feel comfortable moving forward based on the information and if you want to follow where I'm going, that's fine. I think what Dick said is about right. There are two votes here: Is this the right thing to do?

The other is what's going to happen and we deal with it then.

Christine Meiers Schatz, district 2:

This has been a lot. The only thing I'm concerned about tonight and concerned about a little bit is the contract issue that Peter identified because I am not a pension attorney with the experience that he has. I'm not as concerned about the other issues that have been identified. So, Mr. Dugas, with respect to that issue, I'm just wondering can you tell me why I should not be concerned; even though you've covered this before, just one more time for my benefit and everybody Else. Can you just explain that please.

Mr. Dugas:

The claim that the union would file before the Labor Board is essentially that there has been a repudiation of an agreement with the union and/or a unilateral change in terms or conditions of employment. The fact of the matter is their pension plan is not being changed; their benefits are not being changed and, therefore, they cannot prevail,

ultimately, on a claim of a unilateral change in their terms and conditions of employment. They will not prevail on that issue. I'm not going to go down the road of section 8.

Ms. Meiers Schatz: I'm not asking about section 8. I'm speaking to this contract issue.

Mr. Dugas:

What's going on here is the fire pension plan is not being changed. There are no changes to it. The only change is to the non-union supervisory contract and for that reason and the fact that there is no harm, no impact on the fire fighters or the fire union, for all the reasons that were expressed, I do not see the union will prevail in any such claim.

Ms. Meiers Schatz:

Do you think if we got an opinion from a colleague at another firm that that would be the general consensus of somebody giving us advice?

Mr. Dugas: Yes.

Ms. Meiers Schatz:

So, RTM colleagues, law firms are not generally in the business of indemnifying their clients' decisions that they make based on their advice. It would be very unusual for us to get some sort of payment from Mr. Dugas' firm if he is wrong. That being said, attorneys are in the business of giving the best advice they can because if they don't, they won't get our business. With that being said, I'm interested to hear what Peter has to say about this and I see his hand is up. I am leaning toward voting in favor of this.

Dr. Heller:

I have a number of people who want to speak for a second time. Ms. Batteau.

Ms. Batteau:

So, I think we've gotten a little carried away when looking at the flash over here when there's a point over there. I asked several times and other people asked several times, why now? And never really got an answer other than because we want to. We heard that a promise had been made to somebody that the terms of the agreement that had just been signed, it wasn't negotiated but was an agreement made by arbitration that would be walked back. At least, that's what we heard. We heard a version of what Jim Marpe said and I have to agree with it. He said that we want to recognize the contribution that these good employees have made and we want to support our supervisory staff. Sure we do. They're great. They're all great. However, what I've heard from Peter and from the union representatives and some others, it's not an issue of actual benefits that are being messed around with; rather, if they allow us to unilaterally change that agreement, that sets a precedent and precedents matter when they're going forward in other cases and this would potentially disadvantage them in other negotiations that the union might be having. So, no disadvantage in waiting a couple of years in changing the pension plan for non-union supervisory personnel. They agreed to it. It was negotiated. I don't see that we have to walk it back for these few people and there is a potential disadvantage for the union. We appreciate our union employees just as much as we appreciate our

supervisors. They are all terrific. We have a terrific police force. By the way, apart from pension and salaries, there are probably other advantages to working in Westport than there are to working in Stamford or Norwalk or Bridgeport.

Unless I'm missing something in this particular analysis and I'm aware that it's quite simplified, I don't really see how I can vote for this. I may have to abstain or I may have to vote no.

Ms. Schneeman:

First of all, I appreciated Foti's comments about the need to create an appropriate environment to get people to take and keep these jobs. But I do feel we need to approach that issue through the front door and not the back door and if that's to increase salaries, we need to talk about that in salary negotiations. If we need to change their benefit structure or put them in the appropriate benefit plan where they have more to say about how their pensions are negotiated, then we should do that when it's time to do that. I don't want to beat a dead horse on the section 8 issue or the unionization issue except to say that it was the administration that brought that into the equation in the first place in Mr. Chetcuti's memo where he said this was intended to disincentivize these employees from joining a union from the very beginning it was said and they brought that into the equation in the first place, not just Mr. Chetcuti's memo where he said that the intent was to disincentivize these employees from joining a union but in the very beginning it was said in every letter we received from the administration that the example of the Fire Department employees who did unionize was raised as a significant reason why we were doing this was to prevent that from happening and on the police side as well, potentially. I am not saying this is a major concern for me, I'm just saying that the administration was the one that brought it up. I have two quick questions. For Mr. Dugas, who just made the point which I'm not sure I'm persuaded by because I see Peter's point as well but that there were no changes needed to the pension and fire plans we're removing the employees from. If that were, in fact, the case, you did say that there were changes required to the non-union supervisory plan. [Correct.] Is it not also the case that changes to that plan require the agreement of all parties?

Mr. Dugas:

No, because, again, I would defer to pension counsel who has been advising the town on that but there are no collective bargaining units involved in that agreement. In fact, what is proposed for your approval is an amendment to the plan.

Ms. Schneeman:

Isn't any plan or agreement, doesn't it have parties on both sides. That's not a unilateral...

Mr. Chetcuti:

No. That's a management plan. We don't have to bargain that with anyone. It's up to the town to determine what the terms of that plan are.

Ms. Schneeman:

My second quick question is for Mr. Conrad. By the way, thank you, Gary, for reminding us what the changes to the previous plan were. That was helpful for me to get distilled

again. You mentioned that we switch people to different plans all the time; for example, when they are promoted. If they are promoted to a supervisory position, they get switched to a different plan. So, why do you need our approval for this particular change?

Mr. Conrad:

The way this amendment works is the people who are in the non-union supervisory plan are different than what the police and fire have as a current benefit. We had to do an amendment to that plan to acknowledge what their benefits are. If you look at police and fire, they are not covered by Social Security so their contributions and their benefits are a little bit different than what a non-union supervisor would get that was hired prior to 2012 when he went to a defined contribution plan. Because of that, their benefits on one side look greater. They get a 2 ½ percent per year credited service whereas the non-union supervisors get two percent some years and 2 ¼ percent and that is because they contribute to Social Security and also the town contributes to Social Security. So, it's a different complex of benefits and all we're acknowledging is what those benefits were prior to July 1, 2017. That's why we have to amend the plan on the non-union supervisor's side.

Ms. Schneeman:

I see Mr. Gold has his hand up and I wonder if he has any other comments. That's all I have. Thank you.

Dr. Heller:

I will call on him. Sal, I will call on you. There are others waiting. Mr. Gold, it's you.

Mr. Mall: That's three times for Peter.

Dr. Heller: Oh, that's three. No. I'm sorry.

Mr. Gold: I'll wait until everybody else is done.

Dr. Heller:

No. You can't have a third time but somebody can ask you a question. Kristin, did you want to go back and ask your question?

Ms. Schneeman:

As I said, I was interested in hearing what Peter's opinion about what I just raised.

Dr. Heller:

I'm going to go on to somebody else because it's only fair. If someone has a specific question, they can ask it.

Mr. Mall:

The question keeps coming up of why are we doing this and why are we doing this now? We're doing this because a promise was made to these individuals: Police Captain David Farrell, Police Captain Ryan Paulson, Police Lieutenant Jillian Cabana, Police Lieutenant

Matthew Gouveia, Police Lieutenant Anthony Prezioso, Police Lieutenant David Wolf, Police Lieutenant Eric Woods, Fire Deputy Chief Michael Kronick. These individuals have been sitting in at these meetings listening to what is going to happen to their pension benefit. So, it's real people, real time and they would like to know. A commitment was made years ago. It hasn't been formalized. That's what we're doing. We're formalizing this by putting them in the appropriate plan. If we don't take any action, there's no grievance because nothing's been done. So, we do have to take action tonight. If you don't have anything to grieve, there's no grievance. So, let's vote up or down to determine whether we're going to live up to commitments that were made by the Police Chief, the First Selectman, Human Resource Director and the Director of Finance. They made a commitment to these individuals that I just named. On a national basis where people are saying the unions have too much power. The unions are running the police. Not in Westport. We have civilian review of what goes on with our Police Department. It's our Police Chief and our First Selectman who are making policy. They're asking us to either accept or reject. So, I hope we don't postpone, try to defer this to another date. We have legal counsel. Floyd Dugas is an excellent attorney. I've sat through negotiations with Floyd. If Floyd is making a commitment to us that they don't have a basis for a grievance, I'm going to take Floyd's word for it. So, I would like us to move on. I just want to say I'm going to vote in favor of this tonight and if we have a grievance, we have a grievance and we deal with it there.

Karen Kramer, district 5: I would really like to hear what Peter has to say.

Dr. Heller: You need to ask a question.

Ms. Kramer:

Peter, can you give me your best view of this since you spent so many years in this field?

Dr. Heller:

I'm really concerned. We have people speaking twice and I think if it is for a specific question it's one thing but we don't want him to repeat what he has already said. If you have a question, please ask it.

Ms. Kramer: Are there any alternatives, Peter?

Mr. Gold:

One thing that might be considered is to give a benefit under the non-union plan that says, we're going to give you the non-union plan benefits offset by what you got in the union plan. Let them accruing under both and one is an offset against the other. We don't have to move them out of the union plan. We can leave them there. We don't have to amend the union plan. They can keep doing what they're doing and just get a benefit equal to the benefit they got under the non-union plan offset by the benefit they got under the union plan. They end up in the same spot without worrying about the amendment issue; without worrying about the contract issue. Gary is shaking his head no but I don't see why.

Dr. Heller: I don't think we are going to do negotiations at this point.

Mr. Conrad:

Just the way the plans are set up, you can't do offsets between the plans. Floyd can weigh in on that but in my experience, you never have two tiers of plans. You separate yourself from one plan. You put the person into the next plan and they get the benefits from there. You transfer the liabilities and assets over that are equivalent to that individual employee and that's what would be done. The other alternative, we got the recommendation from some of the actuaries, you can freeze their benefits under one plan and start them in a new plan but it makes it very confused and they recommend you transfer the assets and the liabilities over to the current plan that the person is in.

Mr. Gold: We have done offsets of union plans many times.

Dr. Heller:

Peter, I think we have to stop there. Mr. Dugas, do you want to comment on this?

Mr. Dugas: I haven't really looked at that issue so I'd rather not comment.

Dr. Heller: Mr. Lowenstein, you have already spoken twice.

Mr. Izzo:

I will be very brief. I just want to reiterate again, I am voting for this. I am with Mr. Mall 100 percent. I think we are lawyering this to death. I think we have town counsel that the town pays for. I think we should use our counsel. Do the question. We have discussed it 100 times over and take it from there.

Mr. Friedman:

Earlier I did allude to some concerns about the legal issues involved and it's still sort of unresolved in my mind. I do have some questions about this from a legal standpoint. I also have ongoing questions about some of the policy issues. As we've been talking, I've also gotten increasingly concerned about the process issues which involves both legal aspects and policy aspects from what I can tell. I don't want anybody to have to shoot from the hip tonight. It's getting late. There's a lot of nuance here. I think I am going to make a motion to postpone to a date certain, that date being July 6, our next meeting. I would add that I have the hope that there could potentially be some dialog between the parties here. Right now, we're not at a point where I can say that I support this but I can't say I wouldn't after some dialog and more process where I would feel more comfortable voting for this. That is my **motion: To postpone to a date certain, July 6.**

Seconded by Mr. Gold.

Mr. Wieser:

I'd like to call the question. I'm calling the question on the postponement so we don't debate the postponement for an hour.

Dr. Heller:

To call the question, we need a 2/3 majority to close debate, 19 members. Mr. Friedman made a motion to postpone. Mr. Wieser made a motion to call the question so there would be no debate on whether to postpone.

Roll call vote on calling the question on whether to postpone passes 20-8.

Those in favor: Jaffe, Purcell, Tait, Keenan, Mall, Meiers Schatz, Friedman, Izzo, Hamlin, Hammond, Wieser, Lowenstein, Klein, Kramer, Talmadge, Briggs, Karpf, Schneeman, Soloff. Opposed: Mandell, Falk, Colabella, Gold, Bram, Lautenberg, Batteau, Liccione.

Roll call vote on a motion to postpone the vote to a date certain, July 6: Fails 8-20- 1.

Those in favor: Friedman, Gertzoff, Colabella, Hamlin, Gold, Klein, Lautenberg, Liccione. Opposed: Jaffe, Mandell, Purcell, Tait, Falk, Keenan, Mall, Meiers Schatz, Izzo, Hammond, Wieser, Lowenstein, Bram, Talmadge, Briggs, Karpf, Batteau, Schneeman, Soloff, Heller. Abstaining: Kramer.

Dr. Heller:

No one wishes to speak who has not spoken twice. So, I think we have exhausted the debate and the debaters. We have had a resolution and it has been seconded. We have had comment and questions from the RTM and questions of our presenters. I believe we are ready to vote.

Roll call vote on the motion passes 20-4-5.

Those in favor: Jaffe, Mandell, Purcell, Tait, Falk, Keenan, Mall, Meiers Schatz, Izzo, Hammond, Wieser, Lowenstein, Klein, Bram, Talmadge, Briggs, Karpf, Lautenberg, Soloff, Heller. Opposed: Gertzoff, Hamlin Liccione, Schneeman; Abstaining: Friedman, Colabella, Gold, Kramer, Batteau.

Dr. Heller:

The motion passes. I thank you all for your commitment and dedication this evening and to everything else that we do. And thank you so much to our presenters for spending all this time with us and your patience in answering the many questions that have come up. We really appreciate that and we appreciate all of you. And I'm about to lose my voice! Thank you again. The meeting is adjourned. You will be hearing more from me about upcoming stuff about when we are meeting, where and how. As information comes to us, I will get it to you as quickly as possible. Enjoy the rest of June. The meeting is adjourned. Thank you all for being with us.

The meeting adjourned at 10:40 p.m.

Respectfully submitted,
Jeffrey M. Dunkerton
Town Clerk

Jacquelyn Fuchs

by Jacquelyn Fuchs

ATTENDANCE: June 15, 2021

DIST.	NAME	PRESENT	ABSENT	NOTIFIED MODERATOR	LATE/ LEFT EARLY
1	Richard Jaffe	X			
	Matthew Mandell	X			
	Kristin M. Purcell	X		X	Arr. 7:50
	Chris Tait	X		X	Arr. 7:50
2	Harris Falk	X			
	Jay Keenan	X			
	Louis M. Mall	X			
	Christine Meiers Schatz	X			
3	Mark Friedman	X			
	Arline Gertzoff	X			
	Jimmy Izzo	X		X	Arr. 7:45
	Amy Kaplan				
4	Andrew J. Colabella	X			
	Kristan Hamlin	X			
	Noah Hammond	X			
	Jeff Wieser	X			
5	Peter Gold	X			
	Dick Lowenstein	X			
	Nicole Klein	X			
	Karen Kramer	X			
6	Candace Banks		X	X	
	Jessica Bram	X			
	Seth Braunstein		X	X	
	Cathy Talmadge	X			
7	Brandi Briggs	X			
	Lauren Karpf	X			
	Jack Klinge		X		
	Ellen Lautenberg	X			
8	Wendy Batteau	X			
	Lisa Newman		X	X	
	Carla Rea		X	X	
	Stephen Shackelford		X	X	
9	Velma Heller	X			
	Sal Liccione	X			
	Kristin Schneeman	X			
	Lauren Soloff	X			
Total		29	6		