

MINUTES OF THE CHESHIRE TOWN COUNCIL MEETING HELD ON TUESDAY, AUGUST 12, 2014 FOLLOWING THE 7:30 P.M. PUBLIC HEARINGS IN COUNCIL CHAMBERS, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Chairman Timothy Slocum; Vice Chairman David Schrumm; Council Members Patti Flynn-Harris, Liz Linehan, Robert J. Oris, Thomas Ruocco, James Sima, Peter Talbot.
Absent: Sylvia Nichols.

Staff: Michael A. Milone, Town Manager; Michael Markowicz Town Attorney; James Jaskot, Finance Director; Dennis Dievert, Supt. WWTP.

Guest: Sam Gold, Executive Director, Central Naugatuck Valley Council of Governments; John Purtill, PBC Chairman, and members of the PBC Pool Subcommittee, Mr. Nash, Mr. Levine, Mr. Gavin, Mr. Hill.

1. ROLL CALL

The clerk called the roll and a quorum was determined to be present

2. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

3. PUBLIC COMMUNICATIONS

A. Public Comments.

Dorf Kleist, 251 Lancaster Way, commented on the Council's consideration of new vehicles for the Police Department, and cited a 2002 analysis by New York State on yhr cost of vehicle maintenance. Mr. Kleist read a statement into the record from Cindy Kleist related to the maintenance of Cheshire Police Department vehicles.

Tim White, 1682 Orchard Hill Road, commented on the Town's performance contracting, energy efficiency plan, and eligibility for a \$10,000 grant from the Connecticut Energy Efficiency Fund. Mr. White stated that the Energy Commission wants to use this grant funding for an electric vehicle charging station. He cited the monthly cost for operating a vehicle at \$50 for electric vehicle and \$150 for a gas vehicle, and noted there are about 50 electric vehicles on the Cheshire 2013 grand list.

4. CONSENT CALENDAR

MOTION by Mr. Schrumm; seconded by Mr. Ruocco.

BE IT RESOLVED, that the Town Council approves Resolution #081214-1

RESOLUTION #081214-1
CONSENT CALENDAR FOR AUGUST 12, 2014

BE IT RESOLVED, that the Town Council approves the Consent Calendar for August 12, 2014, as follows:

- A. Acceptance and appropriation of \$120 from Operation Fuel to the Cheshire Fuel Bank.
- B. Acceptance and appropriation of a \$50 donation from Linda Maggs to the Police Gift Account for general purposes.
- C. Acceptance and appropriation of a \$1,500 donation from Mr. and Mrs. Thomas Monroe to the Police Gift Account for general purposes.
- D. Acceptance and appropriation of a \$500 donation from Bill Maturro to the Library Gift Account for the purchase of books.
- E. Acceptance and appropriation of a \$200 donation from Cheshire Lions Club To the Library Gift Account for library materials, furniture and computers.
- F. Acceptance and appropriation of a \$25 do9nation in memory of Ruth Yager From Wendy Knap to the Library Gift Account for material, furniture and Computers.
- G. Acceptance and appropriation of a \$550 donation from Cheshire Rotary Club To the Library Gift Account for materials, furniture and computers.
- H. Acceptance and appropriation of a \$40 donation in memory of Lois Bernier From Ann Goodpasture to the Library Gift Account for material, furniture and Computers.
- I. Acceptance and appropriation of an aggregate \$234 donation from The Friends Of the Library to the Library Gift Account for materials, furniture and computers.

5. ITEMS REMOVED FROM THE CONSENT CALENDAR

6. OLD BUSINESS

7. NEW BUSINESS

Agenda item A was moved to later in the meeting, pending the presence of PBC members.

- A. Approval of Arizon contract for construction of the membrane structure for the Community Pool.**
- B. Approval of ordinance re: participation in a consolidated regional Council of Governments.**

MOTION by Mr. Sima; seconded by Mr. Schrumm.

BE IT RESOLVED, that the Town Council approves Resolution #081214-3

RESOLUTION #081214-3

BE IT RESOLVED, that the Town Council approves an amendment to the Code of Ordinances as attached to these minutes:

Discussion

Chairman Slocum stated that the towns in the new COG are further north and south, and Cheshire is not joining a COG with larger cities such as New Haven, Hartford or Bridgeport.

Sam Gold stated that the new COG is a good result of negotiations, and a merger with Bridgeport was not a consideration.

Mr. Ruocco commented on not being in favor of COGs, which has the Town funding an organization which is a 3rd wheel. He noted that surveys indicate Connecticut as the 5th worst state in which to do business, and does not believe a COG can make a difference and cannot conduct business. Mr. Ruocco said he does not know why the organization must handle flow of grants to towns.

Ms. Linehan asked for examples of benefits to Cheshire as a COG member, i.e. grants.

According to Mr. Gold the efficiency of regional planning is based on the legislature. He understands the concerns about economic development which the towns and the state need. Major COG funding is through the U.S. Department of Transportation; a COG is a transportation planning organization; and COGs were created when Congress was building interstates across the country. The primary role of a COG is funding of projects such as the Farmington Canal Trail which is the first recreational trail built with federal money, and it all came through COGs.

Town Manager Milone cited the Route 42 construction project, funded through COG, and reconstruction of the north end of Mountain Road at \$350,000. He said COG plays a supporting role in state grants, and the 80% loan/20% grant goes through COG. The King Road, North Brooksvale Road, Mountain Road projects are all COG grants.

Mr. Gold stated that COG is also working and involved with the north end mall, will provide transportation from Waterbury to the mall site, and supports the New Britain/Hartford bus project.

With regard to COG visiting municipalities and keeping town government and officials informed of what is going on, Mr. Gold said COG allows officials to work together on projects and matters of common interest. COG has a CEO and elected officials on its Board. The COG office is located at 49 Leavenworth Street in Waterbury CT, and

negotiations are underway to increase the office space size. COG meetings are usually held in the office conference room, and there are meetings held in the membership towns during the year. Mr. Gold explained that COG is a quasi-non-profit; employees are not state or federal employees; and principal funding comes from state and federal grants. Membership dues do not fund salaries.

VOTE The motion passed 7-1; Ruocco opposed.

**C. Approval of the proposed transfer of five acres along Jarvis Street
From the State of Connecticut for a parking area for the Linear Trail.**

MOTION by Mr. Sima; seconded by Ms. Flynn-Harris.

BE IT RESOLVED, that the Town Council approves Resolution #081214-4

RESOLUTION #081214-4

WHEREAS, The State of Connecticut has offered the Town five (5) acres of state land on the northern side of Jarvis Street abutting the Linear Trail for a parking area for the Linear Trail, and

WHEREAS, the Planning and Zoning Commission has found that the acquisition of said property by the Town of Cheshire for open space is not in conflict with the Plan of Development,

NOW, THEREFORE, BE IT RESOLVED, that the Town Council accepts said property from the State of Connecticut, and authorizes and directs the Town Manger to execute, on behalf of the Town deeds or other instruments as may be necessary to consummate said acceptance in the form and upon the terms and conditions as presented at this meeting, and

BE IT FURTHER RESOLVED, that the deed, as executed, will be filed on the Land Records of the Town of Cheshire, and

BE IT FURTHER RESOLVED, that the Town must pay the State \$500 for administrative costs for this transfer, which will be allocated from the Capital Projects Land Acquisition account.

Discussion

Mr. Sima stated that this is five (5) acres of State land transferred to the Town of Cheshire through OPM. This land is on the northwest side of Jarvis Street, abuts the trail, and will allow for a significantly large parking lot. There will be a bridge over the wetlands. The Town must have this property before the parking lot can go out to bid.

There was a map in the packets which showed the design of the parking lot, 74 spaces, and Mr. Milone noted the map does not show the proposed bathroom facility. He has

spoken with the DHB engineer, and was told that from the point of approval to the time the land is owned is about 4 to 6 weeks. The target date for the bid is September 17th, but Mr. Milone does not think this date will be met, and would be moved out until the deed is received.

Mr. Sima thanked State Rep. Zupkus and her staff for assistance in moving this quit claim forward quickly.

Regarding the September 17th date, Mr. Schrumm asked if there is someone in Hartford who can give the Town a pass on this time frame.

There is a slight delay and Mr. Milone will check into the status of the land transfer.

VOTE The motion passed unanimously by those present.

D. Authorization to execute the Project Authorization Letter for the State of Connecticut Farmington Canal Heritage Greenway Project.

MOTION by Mr. Schrumm; seconded by Ms. Flynn-Harris.

BE IT RESOLVED, that the Town Council approves Resolution #081214-5

RESOLUTION #081214-5

BE IT RESOLVED, that the Town Council concurs with the State of Connecticut Department of Transportation's Project Authorization Letter for the Farmington Canal Heritage Greenway, State Project 25-135, Federal Project No. PEDS (081), and authorizes Town Manager Michael A. Milone to sign said Project Authorization Letter and submit it to the State of Connecticut Department of Transportation.

Discussion

The Town received the "Project Authorization Letter" (PAL) from the State DOT, and must submit concurrence with the PAL as a supplement to the Master Municipal Agreement.

Mr. Milone referred to the prepared summary, page #3, which shows the State estimated construction costs of \$3 million. Milone and MacBroom stated construction costs at \$3.549 million. The Town cannot contribute more than \$350,000 for this project, and the Council will have the opportunity to adjust the final numbers. The construction schedule is based on 9.5 months, and work can start in the winter months. The estimated time for the ribbon cutting is Fall 2015.

In reviewing the costs from Milone and MacBroom, Ms. Flynn-Harris noted things which can be adjusted or cut back. There is the question of the point when this should be done.

VOTE The motion passed unanimously by those present.

Agenda Item A was moved to current status on the agenda.

A. Approval of Arizon contract for construction of the membrane structure for the Community Pool.

MOTION by Mr. Sima; seconded by Ms. Flynn-Harris.

BE IT RESOLVED, that the Town Council approves Resolution #081214-2

RESOLUTION #081214-2

BE IT RESOLVED, that the Town Council approves the contract between the Town of Cheshire and Arizon Structures Worldwide LLC, d/b/a/ Arizon Companies for the construction, design, engineering, fabricating and construction of a Community Pool prefabricated membrane structure under the terms and conditions presented, and

BE IT FURTHER RESOLVED, that the Town Council authorizes Town Manager Michael A. Milone to execute said contract.

Discussion

Attorney Markowicz informed the Council that the PBC voted to recommend the design/build agreement with Arizon by a vote of 5 in favor, 2 opposed.

John Purtill, PBC Chairman, stated that everyone has seen the contract which took a while to produce, and it is unlike any other contract recommended to the Council. He said this is a model contract, nothing remarkable, with one exception of not using the 10% retainage. This 10% is held back until substantial completion of a project, when the Town can use the property, and retention is down to zero. With the subject contract the contractor is paid 100% of what is expected, and at the end there is a hold back of 10% of whatever remains to be paid on the contract. Mr. Purtill cited reasons for doing this – this is not a traditional contract with subcontractors, and the contractor puts money up front to purchase materials, steel, etc. The schedule of payments attempts to recognize phasing without getting overly involved in the cost accounting of the contract. According to Mr. Purtill this contract works for the Town.

Attorney Markowicz summarized the process of this contract, how we got to where we are, and what must be considered. The Town received proposals as part of the RFP process to design and construct the structure. One of the proposers was Arizon. Mr. Markowicz said the process was unique, and the project is unique. We now will use a contractor who is designing and building the structure, without a template or standard design, and it will be their own unique proprietary design. Following receipt of proposals and additional information and interviews with Arizon, the Pool Committee wanted to go forward with negotiations with Arizon with the ultimate goal of recommending the firm to the Council. As part of this process the Public Works Director and Town's owner

representative from Arcadis (Mr. Beebe) negotiated with Arizon to develop specific scope of work, time frame for that work and schedule of payment. This was done before contract negotiations began. It provides for a two phase portion of this project. First will be a three-month period during which the project will be designed. At the end of this period design documents will be submitted to the Town, reviewed and vetted by Town officials and owners representative, and independent contractor hired by the Town. The next phase is construction and erection of the building, which will not go forward unless and until the Town approves the design and orders Arizon to go forward.

This is about a \$2.1 million dollar proposal for Arizon, with \$65,000 in the first phase, the design portion. Attorney Markowicz stated the negotiated payment and project schedule provides for various milestone payments at different points in the construction, and expressly provides that in creating this payment schedule and payment amounts a retainage is built in. If different percentages are to be withheld, more money will be needed up front, or the project will cost more. It came to the Town with this caveat. The Town's general practice provides for a retainage, withholding a fixed percentage, usually 10% from each payment, pending substantial completion and the structure fit to be used. The 10% retainage was not agreeable to Arizon based on the payment amounts and schedule which was negotiated and built in. Arizon has substantial fixed costs for material and steel, and none of the project work is being sub-contracted.

In an effort to provide things in the best way possible, Attorney Markowicz explained that certain provisions of the contract require certain requisite insurance amounts, provision of performance payment bonds, final 10% payment of the construction portion of the contract, approximately \$182,000, was to be made at substantial completion. This means the project is done except for a list of items to be completed. A term and condition was negotiated to develop that list in conjunction with the Town and its owner representative. A value will be placed on the items to be done, withholding 1.5 times that amount/150% of final payment, to make sure the Town sees the project to final completion.

As time progresses, payments are made, and Arizon must communicate with the Town and its owners representative, and provide satisfactory information that they are doing what they said would be done, and they are on target to make the milestone dates in the contract.

For milestone dates, Attorney Markowicz reported there are three important dates – a certain number of days to complete design, a certain number of days to complete the manufacturing once Arizon has the go ahead, and a certain number of days to complete the actual delivery and construction once manufacturing is complete. If Arizon misses any of those deadlines through their own errors and/or omissions, there are liquidated damages of \$500 per day. This comes out to \$180,000 a year. According to Attorney Markowicz none of this is as strong as withholding 10% of each payment which was asked for, and which Arizon pushed back on very hard. Attorney Markowicz did state that the PBC concerns about retainage are legitimate.

Regarding the PBC vote with 2 dissenting votes, Mr. Talbot asked if this was the result of what is being discussed at this Council meeting, the 10% hold back, and if not, he asked for the reasons.

Mr. Purtill responded that one (1) dissenting voter said this was his only reservation, and the other dissenting voter had a listing of items as his major reservation. Mr. Purtill stated he had reservations, but voted to bring the matter to the Council, because in balance the contract is good for the Town, and the project must move forward.

A question was posed to the Town Attorney by Mr. Talbot regarding the Town having what amounts to a 10% hold back, which is not dollar for dollar. He commented on the punch list at 150% of this cost, and asked whether there are options providing a safety cushion.

Attorney Markowicz said there are a number of contract provisions which attempt to provide protections at issue. They are not dollar for dollar, and not exact equivalent. There is a legitimate business or policy here that would not in place if the 10% retainage were in place.

With the first contract Mr. Talbot noted there was much discussion, and the Town Attorney cautioned the Town about advancing based on the situation. Looking at the current situation, he asked if there are the same cautions.

Anytime there is a project of this size and scope there are always some reservations, but Attorney Markowicz believes this is a fair and thorough contract. It is a result of back and forth negotiation, which was reasonable on both sides, and he would not present it to the Council if he had negative issues.

Mr. Oris commented on this project being important to him, his support of the project, and assurances it will be done correctly. He asked about the process for signing a contract for all the work bid by Arizon, breaking it out into components of design and construction. The design component is at \$65,000. He understands once the design work is done the Town has the opportunity to terminate the contract without penalty and liabilities. He asked if this is correct...without liabilities other than the \$65,000 payment.

Attorney Markowicz said this is correct.

Mr. Oris asked about the design being done, and the Town taking it to get bids on the balance of the project, so we know whether there is enough money in the \$3 million appropriation to build this project.

In reply, Mr. Purtill said this is an accurate statement. He expanded on how the original amount was developed. The committee came up with a number of potential alternatives which the committee and user can choose from to meet the \$3.2 million appropriation. These can be added or taken away, and if there is a shortage not

making the budget, things can be taken out without substantially undermining the functionality. This would be things like doors, sliding panels, etc. which are built into the project.

Before moving forward with authorization of construction of the balance of this contract and putting taxpayers money at risk, Mr. Oris said those bids would be back and the Town would be able to determine there is enough money to complete the project.

Mr. Purtill stated this is correct. Right now there is a substantial contingency which could rise or fall.

Some areas of the contract were cited by Mr. Oris, who said there is an allowance for the contractor to terminate if the project stalls for 30 days or more.

Attorney Markowicz said the language states this would be through the fault of the owner, which is the Town. As an example, this could not be used for bad weather.

Section 11.4.1.2 Termination By the Design-Builder was cited by Mr. Oris. He asked about completion of the design work, embarking on putting the project out to bid, and the timing of this happening before going to the next step and contracting for the construction. He asked if this 30 day period poses a problem for this.

Attorney Markowicz said it does not, as the contract expressly provides for a three phase project. The first is design; the second is manufacturing; the third is construction. The manufacturing process is defined by a certain number of days, but that portion of the contract is not triggered until the Town gives a written order to proceed. It is expressly understood and provided in the contract that the design submittal will be provided to the Town. The Town will review it, request appropriate revisions, and the next phase of the contract does not go forward until the Town so orders it.

For clarification of 11.4 Mr. Oris said the Town can take as much time as it chooses to evaluate and pursue bids after the design phase, but prior to moving forward to construction. And, the 30 day clause gives the design-builder the right to terminate, but does not kick in until we effectuate the next phase, which is the construction.

Attorney Markowicz explained that if the Town takes a reasonable amount of time to review and approve the design including due diligence on the remaining project price, and that time is longer than 30 days, this section will not be triggered. If the Town took 5 years to do something that could be done in several months, this would be stalling the project.

Mr. Oris wants to insure there is enough time following the design completion to have everything set in place relative to the balance of the project costs.

According to Mr. Purtill this section/paragraph refers to work stoppage.

The bonding requirements will all be in place by Arizon, and Mr. Oris stated that before one cent is relinquished, all issues for compliance must be in place per the RFP. He said no money should be paid until all issues are complied with.

Attorney Markowicz advised the contract expressly provides for bonding and insurance requirements in the RFP, that Arizon takes no issue with them, and provides written evidence of securing bonds.

Chairman Slocum requested the Council receive copies of all budgets for the project.

Section 4.7 Owners Representative – Tom Beebe, Arcadis U.S. Inc. Mr. Oris cited 4.7.3 and read the section into the record. He expressed concerns about this binding the Town, certain matters in the contract, everything relative to what is being done, and remedies the Town has with the Arcadis contract for protection.

Attorney Markowicz advised the contract provides that Arizon should be able to reasonably rely on statements of the owners representative as having been endorsed by the Town. There is a separate contract with Arcadis which is being reviewed by the Town Attorney. If Arizon relies on something from the owners representative said in error or intentionally incorrectly, the contract says Arizon can rely on this. Also, there is a separate contractual agreement with Arcadis that would give the Town a course of action if wronged by Arcadis.

Mr. Purtill noted an internal procedure, delegating authority to the pool committee and project manager up to the \$5,000 level without PBC approval. Above that amount, it must go to PBC for approval.

Once the design work is done, Mr. Oris asked PBC members about confirmation on bidding the balance of the construction components, unknown at this time, for a firm number. The Town can then move forward on construction knowing the project can be afforded and completed with the \$3.2 million appropriation.

Ms. Flynn-Harris commented on the project design, the project options including doors, installation, lighting, lighting control and HVAC. She understands the design phase could be over and above, and asked how Arizon will do a design without knowing if the Town can pay for the doors. She noted Mr. Purtill said they were “modules” and they could be put in and taken out. Ms. Flynn-Harris asked how to authorize going through a design phase and then say we want the doors because we can afford it. This means the design would have to be two phased, one with doors and one without doors.

According to Mr. Purtill it is not unusual to design a project with alternates, adding and deducting alternatives, which the committee is able to use to level/achieve the budget. He said the Council must be aware that the committee has opened negotiations with Arizon for them to be the general contractor and give a lump sum bid for the entire job. This is not before the Council at this time because it is far from settled, requires a good deal of work, and it is speculative as to whether this would happen. He said the

committee has various alternatives for achieving the balance of this contract in a way that reduces the Town's risk, and helps with the PBC's ability to fulfill the budget of \$3.2 million.

Stating her appreciation for the comments, Ms. Flynn-Harris cannot imagine going forward with a design with vitals such as lighting and HVAC and saying "no we don't or yes we do", and have to put it in later. She said the Council will have to rely on the expertise of the committee that this is the way, and not an unusual way to do this.

Mr. Oris asked for verification from PBC that the process will be that, upon completion of the design, the Town will be going out with that design, get actual bids for the balance of the work which currently has an unknown cost. Before any additional taxpayer money is at risk, he asked if the Town will know there is enough funding to complete the project at no more than \$3.2 million.

In response, Mr. Purtill said "yes that is the process".

Section 9 Progress Payment Schedule – Ms. Flynn-Harris read an excerpt into the record. Date of Commencement, \$32,500 payment. She read 21 days, 3 weeks, for Arizon to present their design to the Town. At this point, this is the Town's trigger. If there is a problem the trigger can be pulled at that time, still owing Arizon an additional \$32,500.

At the time of provision of the design documents, Attorney Markowicz said the Town pays the remainder of the design fee. From that point, the Town's due diligence process begins, including bidding the remaining costs of the project, making decisions about options. Arizon's price structure provides various options, i.e. 17 rolling steel overhead doors, 2 or 4 exits, LED lighting, etc. with various prices for each item. Decisions are made by the Town at the time of approval of the submittal and says yes to moving forward with manufacturing.

Ms. Linehan commented on the Town's "out and ability to walk away". She pointed out the Town has spent \$80,000; we are talking about \$65,000 for another design; and she does not want to talk about "outs" but doing the project right. \$145,000 has already been spent just on design, and we must keep our eyes open, know what we are getting into, so there is no need for an out.

Page 30, Section 11-1, 30 day payment schedule, was cited by Mr. Sima, who asked about 32 day time frames due to the process between PBC and Council and problems.

Attorney Markowicz said when a contract provides payment by a certain date, if there are reservations about whether the Town can do it, then the contract should not be signed. He has discussed these issues with PW Director Noewatne and Mr. Beebe on whether this payment time frame is feasible and it is his understanding that it is feasible.

Mr. Sima asked about going a few extra days with payment.

Mr. Purtill stated there is no problem with meeting payment times. Things must get to PBC at a certain time; if received on time, it gets passed and goes to the Town; a check is cut; and there have never been complaints about delay in payments.

The Cheshire Pool Facility, Draft Conceptual Budget - The draft budget, line #43, \$1.911 million, and the \$280,000, was discussed by Mr. Sima, who asked where the \$2.1 million falls, as he tries to make sense of the numbers.

Mr. Purtill stated the \$280,000 is a separate line item, is not included, and the total construction is \$2.471 million. The \$2.095 million consists of \$1.715 million for the base bid; \$188,000 rollup doors; \$184,000 for the R-20 insulation; change from 2 emergency exits to 4 exists, \$7,000. This comes to \$2.1 million being talked about.

Mr. Sima asked if the \$2.1 million includes extras which can come out if a final number cannot be met.

According to Mr. Purtill there can be negotiations on change orders with the contractor if he agrees, and they can be plus or minus, based upon what we run into on the job site.

Line #58 – Total HVAC - \$49,498. Mr. Sima said there is an options total of \$735,000, and this is the dehumidification. He asked about dehumidification in the structure in light of the dehumidification unit for the bubble, and the subject contract does not anticipate any dehumidification in the structure.

This is to be determined based on the design and code, and Mr. Purtill said there can be reuse of existing equipment. This is one of the potential wild cards.

Mr. Sima stated the Town knew there had to be dehumidification under the bubble.

There is an option to have 100% outside air coming in, and Mr. Purtill said with re-circulated air there must be dehumidification. The committee has this option along with the designer.

With the \$3.1 million tag, Mr. Sima asked about using straight 100% air exchange, without air circulation and dehumidification, and thus paying higher winter heating bills.

Mr. Purtill noted we are already doing heating of the water in the pool which throws off heat into the air. One of the possibilities is to reuse the existing heat exchanger, but it would be speculative to state what we will end up with for HVAC.

Mr. Sima asked when the Council will know what type of system there will be, i.e. on the Arizon design, and if there is enough money to meet all State building codes with the dollar amounts in place.

Going into the second design phase, Mr. Purtill said we take the Arizon design and fit it to the entire site, including HVAC, and this is the designer who will make the recommendations to the Town. The footprint of the dome must be known, the overall capacity of the dome, and other specifics must be known before everything can be designed around the dome.

Regarding State code, Mr. Sima asked about the company meeting code for the H factor, and if not met, the vendor pays the difference if things are done wrong. If the project goes \$1 over \$3.2 million, it must be stopped, and Mr. Sima has concerns about having a building that does not meet code.

On the draft budget, Mr. Purtill pointed out column #2, which is the potential worst case financially, and that has a total of about \$360,000 worth of contingencies. If we go to full dehumidification another \$735,000 must be added to the project. If it goes over this amount that is the point when we question what to do – take money out of contingency. This cannot be stated at this time.

There is \$300,000 in contingency, and Mr. Sima said there is potential cost of \$735,000 for dehumidification, so there is a shortfall. He is not confident about this, and questioned an energy consumption analysis with 100% change over of the air.

Mr. Purtill noted there have been some informal calculations done by committee members from the Energy Commission. Life cycle decisions will have to be made. There are no official decisions until there is a firm design and dome specifications.

We have \$3.2 million for this project and Mr. Ruocco cited \$268,000 on the contingency for the committee costs. He asked about application of this money to the full project.

These are soft numbers and Mr. Purtill said the hard number is \$1.715 million plus other things committed to with Arizon.

Chairman Slocum discussed the time table, and optimism meeting the time table of opening the pool in March or April 2015.

Mr. Purtill said this date would be more definite once the design is completed.

Contract, page 21 – Mr. Sima discussed the payment schedule, the 40% payment for manufacturing and construction work, 30% payment on date of completion of manufacturing work, 10% payment on date of shipment to the building to the job site. He said this is 80% payment of the entire structure cost without the building up.

Regarding dehumidification, Mr. Oris asked about an assessment from PBC for potential add ons. He has concerns about dehumidification, if needed, and asked if it puts the budget in jeopardy.

Mr. Purtill said this must be left up to the engineers when they have the design.

Stating it is important to hear PBC thoughts on dehumidification, Mr. Oris said that without it, energy costs will be higher, and more money is spent for operations of the facility.

Mark Nash, PBC Pool Committee member, said this project must be done right, and this will be determined by having the design out to engineers/mechanical designers, and their determination. It is then up to the committee and PBC to make decisions on what to do with the HVAC system. At this point, he said we have to rely on experts to make determination. There are many proposals out there, and those present at this meeting are not qualified to make decisions on what is best for the pool structure.

It was stated by Mr. Oris that somewhere these types of projects have been built before, and someone should be able to advise whether dehumidification is required or not.

Matt Levine, Pool Committee member, stated there has been debate about this issue, and there is a substantial difference in cost between dehumidification and outside air. The bubble was 100% recycled air, dehumidification was needed, and the proposed structure would not be that situation. 100% outside air is an acceptable solution to a pool; many pools use it; there are pros and cons; dehumidification is also used in pools; with outside the air quality will not be bad. Choices will be made within the framework of the budget. Dehumidification could fit into the budget, and if so it will be done. Research has been done on outside air; numbers have been received from Arizon to use existing equipment; this is a large savings to do 100% outside air. Mr. Levine noted the structure doors will be open April to October, so the time frame for using 100% dehumidification will be small.

Dave Gavin, Pool Committee member, said it is an economic decision under a tight budget. The State code says 100% outside air does not require dehumidification. The last bubble had 70% recycled air; the 1st bubble cost \$210,000 annually for energy. Right now, Mr. Gavin would say with a similar structure, the estimate is \$165,000 annually based on running a facility closed all year round. With insulation, cost is about \$166,000; without insulation cost would be about \$210,000. Mr. Gavin's recommendation is to install insulation, if affordable. Arizon is also in the dehumidification business and may come up with a design solution. He noted that dehumidification could be added later as can cogeneration.

Ms. Linehan commented on being uneasy about this project, and the fact that voters moved the pool project forward at \$3.2 million. She has reservations about the project, but feels a duty to move the project forward, and she will be watchful over this project. We need to get to the design phase to answer all the questions raised, and Ms. Linehan said faith must be placed in those who know better than she does, and the Council will be heavily involved with this project.

VOTE The motion passed 6-2; Opposed Linehan and Sima.

E. Approval of FY 13-14 Operating Budget Transfers.

MOTION by Mr. Schrumm; seconded by Mr. Talbot.

BE IT RESOLVED, that the Town Council approves Resolution #081214-6

RESOLUTION #081214-6

BE IT RESOLVED, that the Town Council approves the FY 2013-2014 budget transfers as presented and attached.

Discussion

In a budget of +\$100 million, Mr. Schrumm noted there is rearrangement of only \$310,000 from one budget category to another. He said this is testimony to the finite work of Town Manager Milone and Finance Director Jaskot.

Mr. Jaskot stated the budget is tight, some things go over, but from a percentage point, these are minimum changes.

Regarding the Town Manager's budget, Mr. Milone brought to the attention of the Council the reasons for the overage.

Town Manager's Office – the overage is \$7,512; the Town Manager's raise last year was \$3,300 but was never put into the budget; \$2,200 is expenses for the national conference in Boston MA never put into the budget; \$1,400 is for payroll accrual; and \$700 is for overtime.

Town Attorney – the overages are a result of key legal cases (i.e. barite mine lawsuit, CPD investigation) which were the drivers of increased legal expenses; the town attorney appoints legal counsel for some Town matters.

For the Town Attorney Consultant overage, Mr. Milone explained this was the charge for the arbitrators; charges for the CPD investigation came out of the Town Attorney's budget; there were many one time expenses; and last year the Town Attorney's budget was under the appropriation.

VOTE The motion passed unanimously by those present.

F. Approval of supplemental appropriation to the WPCD FY 2013-14 Operating Budget.

MOTION by Mr. Schrumm; seconded by Mr. Ruocco.

BE IT RESOLVED, that the Town Council approves Resolution #081214-7

RESOLUTION #081214-7

BE IT RESOLVED, that the Town Council amends the FY 13-14 Water Pollution Control Department (WPCD) Operating Budget total expenditures and revenues appropriations from \$3,362,417 to \$3,387,417, and

BE IT FURTHER RESOLVED, that the revenue to support this increase will come from increasing the FY 13-14 WPCD Fund Equity appropriation by \$25,000 from (\$10,841) to \$14,159, and

BE IT FURTHER RESOLVED, that the Town Council authorizes a special appropriation of \$25,000 from FY 13-14 WPCD Fund Equity to the FY 13-14 WPCD Overtime Account.

Discussion

Because the WPCD budget is a stand alone budget, Mr. Milone stated that there cannot be a transfer made, and infusion of funding must be done through a special appropriation. There will be sufficient revenue to cover these expenses, but the budget is over and above the Council's approved budget. \$25,000 will be taken from WPCD fund balance. The overage is now down to \$16,000, from \$25,000.

Supt. Dievert stated that with the FY 13-15 operating budget there was uncertainty about the impact on overtime and construction. With the cold winter and problems cleaning the digesters more money was spent on sludge and overtime. There is a claim against Synagro for \$33,000 of costs related to the digesters being out of service, removal of sludge to a secondary tank, and overtime costs. This is being negotiated at this time.

According to Mr. Schrumm the net effect of this is spending more money but not ending up with more in the fund balance.

Chairman Slocum visited the treatment plant project site, noted it is going well, and the plant will be stream lined and operate better upon completion of the project.

It was recommended by Mr. Schrumm that the Council members plan a visit to the treatment plant, as a special meeting. This will be coordinated with Supt. Dievert.

VOTE The motion passed unanimously by those present.

G. Authorization to execute the Master Municipal Agreement for Rights of Way Projects with the State of Connecticut Department of Transportation.

MOTION by Mr. Oris; seconded by Mr. Sima.

BE IT RESOLVED, that the Town Council approves Resolution #081214-8

RESOLUTION #081214-8

BE IT RESOLVED, that the Town Council authorizes Town Manager Michael A. Milone to sign the Agreement entitled "Master Municipal Agreement for Rights of Way Projects."

Discussion

Mr. Oris stated this is a DOT document, and it is not negotiable.

The Council was told by Mr. Milone that the DOT has taken on a streamlined process, with a boiler plate master contract, and each new contract receives a Project Authorization Letter, PAL, with contract details. This process should accelerate the process.

Attorney Markowicz stated that the crux of the analysis is that some things could be changed, and being aware of the provision is valuable. The Town Attorney must insure the Town is complying with this agreement.

VOTE The motion passed unanimously by those present.

H. Approval of an Inter-municipal Sewer Agreement with the Town of Wallingford.

MOTION by Mr. Sima; seconded by Mr. Ruocco.

BE IT RESOLVED, that the Town Council approves Resolution #081214-9

RESOLUTION #081214-9

BE IT RESOLVED, that the Town Council authorizes Town Manager Michael A. Milone to execute and Inter-municipal Sewer Agreement by and between the Town of Cheshire and the Town of Wallingford for the connection of 44 Alison Avenue, Cheshire, to the Wallingford sanitary sewer system, as approved by the Town of Cheshire Water Pollution Control Authority.

Discussion

Mr. Sima noted this is one house in Cheshire which will go through Wallingford to access the sewer line due to a failing septic system.

Supt. Dievert explained that this has been ongoing for 2 years; the house frontage is in Wallingford; and the Cheshire facilities plan does not have sewer hook-up in this area of Town. Wallingford will accept the connection and the homeowner pays fees to this town.

There have been past inter-municipal agreements and Mr. Milone said they make things binding and legal. Cheshire has a similar agreement with Waterbury for properties in the northwest corner of Town.

Supt. Dievert noted there are also health and safety issues involved because the soils are not acceptable for sewer connection.

Attorney Markowicz advised there are statutes which permit municipalities to enter an agreement.

The Council was informed by Mr. Sima that there is Southington water servicing Cheshire without an agreement, and he questioned the special agreement being discussed.

Mr. Milone will check on this issue and advise the Council.

VOTE The motion passed unanimously by those present.

I. Bartlem Park parking fees for Cheshire High School students.

MOTION by Mr. Oris; seconded by Mr. Talbot

BE IT RESOLVED, that the Town Council approves Resolution #081214-10

RESOLUTION #081214-10

BE IT RESOLVED, that the Town Council approves the issuance of parking permits to up to 30 Cheshire High School students at Bartlem Park, at a fee of \$125 per school year, prorated to \$75 for permits purchased after December 1st and to \$50 for permits purchased after March 1st. Permits will be available through the Parks and Recreation Department after the Cheshire Public Schools have sold out their parking permits for the school year, and the proceeds will be deposited in the General Fund as revenue for the Parks and Recreation Department.

Discussion

Mr. Sima asked if the Parks and Rec Department is responsible for checking tags and policing the parking area.

According to Mr. Milone, there are the same student cars showing up and parking illegally. With the extra parking spaces, Parks and Rec will monitor and police this parking area. The costs are the same as those charged by the BOE. The BOE collects the fees and puts the funds in its budget as miscellaneous revenue.

VOTE The motion passed unanimously by those present.

Attorney Markowicz informed the Council that the C.G.S. statute for sewerage assessments is #7-272.

J. Authorization to bid the Community Pool Permanent Building Roof Replacement Project.

MOTION by Mr. Sima; seconded by Mr. Schrumm.

BE IT RESOLVED, that the Town Council approves Resolution #081214-11

RESOLUTION #081214-11

BE IT RESOLVED, that the Town Council authorizes the Public Building Commission to go to bid for the Community Pool Permanent Building Roof Replacement Project.

Discussion

This is the barrel roof area over the boiler room and mechanical room of the municipal pool facility. Mr. Sima said it is the last piece of the roof to be replaced. The roof has been done in sections and Mr. Sima believes it should have been done at one time as a large project. He will not support the motion on the floor.

VOTE The motion passed 7-1; Sima opposed.

K. Acceptance and appropriation of a \$500,000 Small Town Assistance Program Grant for sidewalks in the Town Center.

MOTION by Mr. Schrumm; seconded by Ms. Flynn-Harris

BE IT RESOLVED, that the Town Council approves Resolution #081214-12

RESOLUTION #081214-12

BE IT RESOLVED, that the Town Council accepts and appropriates a \$500,000 Small Town Economic Assistance Program (STEAP) grant for the design and construction of sidewalks at the Town Center, and

BE IT FURTHER RESOLVED, that the Town Council authorizes Town Manager Michael A. Milone to execute said grant agreement and all documents related to this award.

Discussion

This STEAP grant funding will be used for the sidewalks up West Main Street to Maple Avenue. There is \$350,000 in the sidewalk account, and this \$500,000 STEAP grant will bring the total funding to \$850,000. This project is in the first year of the CEP.

Mr. Schrumm commented on the slope up West Main street, and the need for the design to allow for snow storage.

VOTE The motion passed unanimously by those present.

8. TOWN MANAGER'S REPORT AND COMMUNICATIONS.

A. Monthly Status Report.

B. Department Status Reports.

C. Other

9. TOWN ATTORNEY REPORT AND COMMUNICATIONS

Monthly Financial Report, FY 2014 closeout – the surplus is larger than projected at \$800,000; expenditures are \$385,000 under budget; tax collection rate of 99.78%; Town department fees had an increase in revenue; Building Department revenue was \$110,000 over budget; real estate conveyance tax (June) was also more than expected. \$900,000 allocated from fund equity; \$800,000 +\$100,000 for tax relief; net effect is fund balance dropping by about \$100,000; fund balance will be about 9.2% of the operating budget. Medical Trust Fund Balance is \$1.5 million; and BOE balance is about \$600,000. Pool Budget will have a \$40,000 surplus.

FY 2015 – there is +\$325,000 more in State grant revenue; PILOTs and Pequot Mohican grants were adopted at \$140,000 more than estimated; and there was another \$160,000 to be received next year from the Municipal Revenue Fund.

Covanta – negotiations are under way regarding some modification to the tip fees which will affect the PW Department budget with savings. This matter will be a Solid Waste Committee agenda item at the next committee meeting.

CCM Prescription Discount Program – this was offered to Town residents without drug coverage; 181 claims have been processed; about \$10,000 in savings.

Fire Chief Casner - Cheshire's Fire Chief was sworn in as the New England Association of Fire Chiefs' 93rd President on June 21, 2014.

Public Works Projects – the summary and status of projects was in the packets.

Linear Trail, Proposed Improvements - \$190,000 authority was received to pave the Linear Trail. Experts were called in; they looked at the condition of the trail which has some serious cracks; advised repaving was not required; and 6 cracks were sealed (Cornwall Ave. going south) and will be checked to insure they are up to standards. A revised budget for this work will be submitted to the Council. Mr. Milone noted there were complaints received about trail issues, i.e. improved signage, fencing down, tree clearing, paving, and Mr. Ceccolini has put together a budget for the work. Mr. Milone will recommend using about \$30,000 for this work, including the crack sealing.

Community Pool/Seasonal Closing – The pool will be open until it is too cold to keep operational, and this is about 6 more weeks after Labor Day. The budget will be reviewed with Ms. Adams and Mr. Ceccolini, and modified accordingly.

Electronics Recycling – the last recycling program was very successful, and people had to be turned away. PW Director Noewatne is checking with a company to hold another recycling day. It may be necessary to move the venue to the transfer station in anticipation of a large turnout.

Upcoming Meetings – Budget Committee/Joint Council/CEP, August 13th, 7 p.m. August 14th, 7 p.m.; Town Council Special Meeting, August 19th, 7:30 p.m.

Town Hall Closing – Monday, September 1, 2014, Labor Day.

10. REPORTS OF COMMITTEES OF THE COUNCIL

A. Chairman's Report.

- i. **Referral of Registrars of Voters request for salary adjustment to the Personnel Committee.**
- ii. **Referral of the revisions to Covanta contract for waste-to-energy plant to the Solid Waste Committee.**
- iii. **Referral of the Juvenile Review Board to the Ordinance Review Committee.**

B. Miscellaneous

11. APPROVAL OF MINUTES

MOTION by Ms. Flynn-Harris; seconded by Mr. Schrumm

MOVED that the Town Council approves the minutes July 8, 2014; Public Hearing of July 29, 2014; Special Meetings of July 15, 16, 22, 24, 29, 31 and August 5, 2014, subject to corrections, additions, deletions.

Correction: July 29, 2014, James Sima was absent.

VOTE The motion passed unanimously by those present.

12. MISCELLANEOUS AND APPOINTMENTS

A. Liaison Reports

WWTP – Mr. Schrumm reported that property owners are receiving notices from the cell tower company.

Mr. Milone advised that this is a Siting Council matter, and the Council will hold a meeting in September in Cheshire before things proceed with the cell tower. He will check on this matter and report to the Council.

Arts Place – Ms. Flynn-Harris reported on a free class held for veterans; it was most successful; and in November another veterans class will be held. The art work will be mounted and framed for the veterans. Arts Place will host a puppet show in September; and they also participated in the recent Bovano Fest.

Ms. Linehan thanked the Fire Department for participating in her son's birthday party, and noted the department will do the same for other residents.

B. Appointments to Boards and Commissions

13. COUNCIL COMMUNICATIONS

A. Letters to Council.

Chairman Slocum read a letter from Janelle Pacini, 105 Peck Lane, regarding truck traffic on Peck Lane, recent accident(s), and other issues into the record, and noted Councilors received a copy of this letter in their packets.

Mr. Milone advised that trucks can pass through Peck Lane for deliveries and other business, but cannot use the road a cut through Cheshire into another town. He will turn Ms. Pacini's letter over to the Police Chief.

B. Miscellaneous

14. EXECUTIVE SESSION

A. Land Acquisition

B. Personnel Matters

C. Pending Claims and Litigation

MOTION by Mr. Schrumm; seconded by Mr. Ruocco.

MOVED that the Town Council enter Executive Session at 10:26 p.m. to include Town Manager Milone, Town Attorney Markowicz, to discuss pending claims and litigation and personnel matters.

VOTE The motion passed unanimously by those present.

MOTION by Ms. Linehan; seconded by Mr. Sima

MOVED that the Town Council exit Executive Session at 11:00 p.m.

VOTE The motion passed unanimously by those present.

15. ADJOURNMENT

MOTION by Ms. Linehan; seconded by Mr. Ruocco

MOVED to adjourn the Town Council meeting at 11:00 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk