

**MINUTES OF THE CHESHIRE TOWN COUNCIL MEETING HELD ON TUESDAY,  
MAY 13, 2014 AT 7:30 P.M. 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, Sylvia Nichols, Robert J. Oris, Thomas Ruocco, James Sima, Peter Talbot.

Staff: Michael A. Milone, Town Manager; Town Attorney Alfred Smith; James Jaskot, Finance Director; Walter Gancarz, Town Engineer.

Dept. of Education – Vincent Masciana, Director of Management Services;

BOE Chairman Gerry Brittingham

Guest: Jim Daylor, Ameresco

**2. PLEDGE OF ALLEGIANCE**

The group Pledged Allegiance to the Flag.

**3. PUBLIC COMMUNICATIONS**

**A. Recognition of Older Americans Month**

Chairman Slocum read the proclamation which recognizes MAY as Older Americans Month in Cheshire.

**B. Public Comments.**

Ray Squier thanked the Council for the rear covered entrance of the Library, and advised he and his wife use the Library during the winter months and appreciate the covered entrance. Mr. Squier stated the Council should use the word “borrowing” rather than “bonding” as “bonding” indicates a special fund somewhere. He also stated that his children received a good education in the Cheshire public schools and they are all successful today. According to Mr. Squier children are graduating from college today in debt and this is ludicrous, and this weighs heavily on Town Councils members.

Tim White, 1682 Orchard Hill Road, informed the Council that the solar program in Cheshire has 90 homes with solar electricity, and this has an economic and energy impact. The total value is \$1.7 million, with a typical cost to a homeowner of \$37,000, with the lease program, locked in rates for 20 years, and savings on electric bills. He also said that in the next few decades energy plants will be off-line and moving towards more recycling.

**4. CONSENT CALENDAR**

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

BE IT RESOLVED, that the Town Council approves Resolution #051314-1

RESOLUTION #051314-1

CONSENT CALENDAR FOR MAY 13, 2014

BE IT RESOLVED, that the Town Council approves the Consent Calendar for May 13, 2014 as follows:

- A. Annual adoption of Fair Housing Resolution. Annual Adoption of Fair Housing Resolution as follows:

WHEREAS, all American citizens are afforded a right to full and equal housing opportunities in the neighborhood of their choice; and

WHEREAS, State and Federal Fair Housing Laws require that all individuals, regardless of race, color, religion, sex, national origin, ancestry, marital status, age, mental or physical disability, lawful source of income, sexual orientation, familial status, be given equal access to rental and homeownership opportunities, and be allowed to make free choices regarding housing location; and

WHEREAS, the Town of Cheshire is committed to upholding these laws, and realizes that these laws must be supplemented by an Affirmative Statement publicly endorsing the right of all people to full and equal housing opportunities in the neighborhood of their choice.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Cheshire hereby endorses a Fair Housing Policy to ensure equal opportunity for all persons to rent, purchase and obtain financing for adequate housing of their choice on a non-discriminatory basis; and BE IT FURTHER RESOLVED, that the Town Manager of the Town of Cheshire or his/her designated representative is responsible for responding to and assisting any person who alleges to be the victim of an illegal discriminatory housing practice in the Town of Cheshire.

- B. Acceptance and appropriation of a \$1,500 donation from Shaun McQuade for a memorial bench in memory of Brendan McQuade.
- C. Acceptance and appropriation of a \$1,500 donation from Karen Conrad and Carole West for a memorial bench in memory of Dick Conrad.
- D. Acceptance and appropriation of a \$5,000 donation from Alexion Pharmaceuticals to the Fire Department Gift Account for equipment.
- E. Acceptance and appropriation of a \$200 donation from Barry and Claudia Spaulding to the Library Gift Account for Library materials, furniture and Computers.
- F. Acceptance and appropriation of a \$40 donation from Robert O'Hara in honor of Jean O'Hara to the Library Gift Account for Library materials, furniture and computers.
- G. Acceptance and appropriation of a \$18 donation from Mark and Deb Thomas In memory of Mabel Constantino to the Library Gift Account for Library materials, furniture and computers.

- H. Acceptance and appropriation of a \$20 donation from Shira Herald to the Library Gift Account for Library materials, furniture and computers.
- I. Acceptance and appropriation of a \$30 donation from Jerry and Adoria Corcoran In memory of Charles Hague to the Library Gift Account for Library materials, furniture and computers.
- J. Acceptance and appropriation of a \$200 donation from Kathy Kirby to the Library Gift Account for new wooden blocks for the Children's Room.
- K. Acceptance and appropriation of a \$1,239 grant from the Library State Aid Account for Library materials, furniture and computers.
- L. Acceptance and appropriation of a \$20,997 Connecticut State Library Connecticard reimbursement for the purchase of Library materials, furniture and computers.
- M. RESOLVED: That Michael A. Milone, Town Manager of the Town of Cheshire, Is empowered to execute and deliver in the name and on behalf of this Municipality a contract with the Connecticut State Library for an Historic Documents Preservation Grant, and be it further resolved that the Council accepts and appropriates said \$7,500 grant.
- N. Acceptance and appropriation of an aggregate \$750 from Artsday door donations and concession stand proceeds and a \$50 donation from Friends Of CPFA/Artsplace to the Cheshire Performing and Fine Arts Gift Account For Scholarships.

VOTE           The motion passed unanimously by those present.

**5. ITEMS REMOVED FROM THE CONSENT CALENDAR**

**6. OLD BUSINESS**

**7. NEW BUSINESS**

**A. Call for Public Hearing for the 2014 Neighborhood Assistance Act.**

MOTION by Ms. Nichols; seconded by Mr. Sima.

BE IT RESOLVED, that the Town Council approves Resolution #051314-2.

RESOLUTION #051314-2

BE IT RESOLVED, That the Town Council shall hold a public hearing to consider submission for the 2014 Neighborhood Assistance Act Program, and

BE IT FURTHER RESOLVED, that the Town Manager shall cause a notice of said public hearing to be posted and published according to law, and

BE IT FURTHER RESOLVED, that the date, time, and place or any postponements thereof shall be determined by the Town Manager with the approval of the Chairman of the Council.

VOTE           The motion passed unanimously by those present.

**B.     Appointment of Auditors for FY 13-14**

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

BE IT RESOLVED, that the Town Council approves Resolution #051314-3

RESOLUTION #051314-3

BE IT RESOLVED, that the Town Council appoints McGladrey & Pullen LLP as the auditors for the FY 2013-2014 annual audit.

Discussion

Ms. Flynn-Harris explained that the agreement with McGladrey is in the final 5<sup>th</sup> year. The Audit Committee voted unanimously to continue with McGladrey as the auditor, and next year the service will go out to bid.

In response to a question on when the bid process would start, Mr. Jaskot advised this would begin after the audit is completed next year, probably in March or April. He said that the auditors begin their work on or about June 30<sup>th</sup>.

VOTE           The motion passed unanimously by those present.

**C.     Acceptance and appropriation of a \$150,000 donation from Elim Park to the Police Gift Account.**

**D.     Acceptance and appropriation of a \$150,000 donation from Elim Park to the Fire Department Gift Account.**

Agenda items 7C and 7D will be on the Council meeting agenda of June 10<sup>th</sup>.

**E.     Amendment to Energy Performance Contract Lease Financing Agreement Resolution**

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

BE IT RESOLVED, that the Town Council approves Resolution #051314-6

RESOLUTION #051314-6

**RESOLUTION AMENDING RESOLUTION #040814-15, APPROVING A LEASE FINANCING AGREEMENT WITH BANK OF AMERICA**

(A copy of Resolution #051314-6 is attached to the minutes of the May 13, 2014 meeting)

Discussion

Town Manager Milone apologized to the Council for the late receipt of this resolution. To date, as part of the performance contract initiative, the Council approved the projects and the ESCO, the agreement with Ameresco, so the operational side is locked in place. What was needed was the actual financing approval. At the last meeting the Council approved the notice to proceed so Ameresco could go ahead with the project, and gave authority to go ahead with the financing based on the resolution (040814-15) attached to the Town Manager's memo. The loan amount was \$9.795 million, at a loan rate of 2.81%, with PURA buy down, a repayment period of 16 years, and authority to go forward and execute the agreement. This meant bond counsel and counsel of Bank of America would come up with an agreement consistent with what the Council had agreed to.

Mr. Milone advised that Bank of America was uncomfortable with the wording of the resolution because, in reality, they bid 3.17% with the understanding/expectation that \$6.6 million of the projects would be eligible for the PURA buy down. Bank of America feels that until PURA identifies how much of the projects are eligible and how much this would reduce the interest rate, the bank preferred the language before the Council tonight. This language is the Bank bidding 3.17%, understanding it could go to 2.81% or even lower if more projects are accepted by PURA. The Bank did not want the 2.81% rate as the one acceptable. The Town said the rate was qualified by the PURA buy down, and the Bank was uncomfortable with this, and the resolution had to be redone. In re-doing the resolution the Bank wanted inclusion of language that was part of the contract, or additionally language in the Charter which gives Mr. Jaskot as Treasurer and Mr. Milone as CEO and Town Manager, authority to sign documents by virtue of the power vested in them by the Council by Town Charter. The Bank wanted this language in the resolution. Additionally, because of tax implications written into the agreement (attached), the Bank wanted this in the body of the resolution which is where they reference the federal income tax regulation.

What started out as a simple change to allay the Bank's concerns about the interest rate identified, morphed into 5 or 6 more paragraphs, which is in the Charter, implicit in the way the Town does business. The Bank wanted all of this written into this document, and to satisfy them there are now 7 more paragraphs. Mr. Milone stated that a normal agreement would have been hashed out by the attorneys and signed under Council

authority. Bank of America wanted to make sure that everything was attached to the resolution.

Mr. Jaskot informed the Council that they were given detailed lease and escrow agreements, and exhibit B shows the amortization of the proposed financing. The gross interest rate here is 3.17%. With the PURA buy down it was to be 2.81%, and that was based on assumed \$6.6 million of projects. The Bank was not comfortable that \$6.6 million of projects would qualify. Mr. Jaskot said that right now there is no reason to believe that they won't qualify, but \$3.8 million of the projects will qualify.

Jim Daylor, Ameresco representative, stated that the statute which allows for the rate buy down was established by PURA through a competitive process. Bank of America was the successful entity in Connecticut to manage and implement the program on behalf of PURA. Mr. Daylor explained eligible projects apply for the energy conservation program; Cheshire's projects qualify; they are in a utility district; and the gray area is "drives electric conservation". There are two components of electric conservation – power/kw/equipment that reduces the kw demand. Taking things solely on that limited definition, you come up with the smaller number. There is kwh...if you turn off your lights you are not using electricity anymore, reducing the total demand of electricity once again. If that definition (kwh) is applied there is a larger number that applies. Somewhere between the \$3.8 million and \$6.6 million is the answer.

According to Mr. Daylor there is no jeopardy of the project not working. It works at 3.17% interest rate; Ameresco guarantees are in place; the variable becomes that dollar amount discussed of what is left over of the utility incentive to fund additional projects today. That variable, when originally presented, was about \$800,000. if no buy down qualifies there will be about \$400,000 left for additional projects today. If additional projects qualify in the buy down program there will be more dollars to be used to fund additional projects.

Regarding the discussions between Cheshire, Ameresco and CL&P, Mr. Daylor reported that CL&P must review all the utility data, equipment, calculations, name plate data, and this process plays out this summer. The qualifying amount is net of rebate. CL&P will give a rebate number or beginning incentive number. The result will be cost eligible for the PURA program, and this number will be known in the Fall of 2014. The number is not pertinent until next summer when repayment begins. This is the normal process to get to the end net finance amount.

Mr. Oris commented on the interest rate, with no PURA buy down dollars at 3.17% and a minimum of \$3.8 million...and asked about the interest rate based on the \$3.8 million.

Mr. Daylor said the rate is 2.96% and this is the worst estimate at this point.

In that regard, Mr. Oris said it is hoped the number will be more than \$3.8 million from PURA, and he asked if this was accurate.

Mr. Daylor said this was correct.

Mr. Oris asked about the prior resolution, paragraph #4, the \$792,000 being the same number referenced as \$400,000. He read this paragraph into the record.

For clarification, Mr. Daylor said the \$400,000 amount is with the 0% qualification, and should nothing qualify the rate remains at 3.17%.

Mr. Milone advised that this number came from Bank of America; they recognized \$3.8 million PURA buy down; and also gave the incentive of \$792,124, and interest rate.

It was stated by Oris that it is very unlikely the Town will see \$400,000 based on what Mr. Daylor has referenced...that \$3.8 million is the minimum, and he questioned PURA not signing off on the \$3.8 million.

Mr. Daylor replied that by the strictest definition outlined within the documents it has been suggested to Ameresco by the review authorities that this would be the minimum that could, potentially, qualify under the PURA buy down. Discussions are ongoing with the utility right now. \$3.8 million is the floor for projects which will qualify under the State's PURA program. Until the process is vetted this is not a given.

Mr. Jaskot said the \$3.8 million that will, likely, qualify for the PURA buy down program is not money given to the Town. That is \$3.8 million which will qualify for the interest subsidy program, and reduce the rate from 3.17% to 2.96%. Mr. Jaskot and the Town administration are comfortable that Cheshire will qualify for that program. If \$6.6 million of the project were to qualify, the interest rate would be 2.81%. The lease is substantially the same as the lease seen one month ago based on 3.17% which was the low bid, and takes the PURA piece out of the lease agreement, except for \$3.8 million which will qualify.

Stating his understanding of all this, Mr. Oris noted that when the Council voted on the direction to go, he was looking at what the Town would be getting for additional proceeds available to be used for other projects. This played into his decision on the vote. Now, the number could be materially different, and had he known what is known now he is not sure what his decision would have been. From his perspective, Mr. Oris said that things are changing.

Mr. Milone told the Council if he had known then what he knows now, the Council would have been so informed. There was no full disclosure on the part of people the Town was dealing with, and the administration would not have misrepresented anything. The matter was before Bank of America, Ameresco, bond counsel and no one took exception to what the Town did, especially since there was a qualifier and the interest rate. It was only after documents were looked at further, splitting hairs, that the matter was brought back to the Town staff and made them aware of the issues. Mr. Milone commented on his annoyance with Bank of America forcing the Town to a level of detail that is not required for bond sales of up to \$15 million. Bank of America has been uncomfortable with the way things were arranged. The Town provided a preliminary

agreement to the Bank, with no exception taken. Then, someone went through the documents with a fine tooth comb, questions were raised which were never raised before, and Mr. Milone is not pleased with the situation.

It was made clear by Mr. Oris that his concerns or criticisms are not with Town Manager Milone or his staff, but he must protect tax payer dollars. The facts are that there is different information on the table now, and had it been there for the first vote, Mr. Oris may have looked at things differently. The document before the Council is 40 pages without the opportunity to read it.

Mr. Jaskot agreed things have changed in the document. \$6.6 million was brought forward as qualifying for this program, and now \$3.8 million will only be the qualifier for the agreement. Getting the \$6.6 million is not yet ruled out to qualify, and Mr. Jaskot said this is a more conservative approach. It will take time to know for sure.

Regarding this issue, Mr. Talbot commented on Cheshire not being the first community in this situation. He asked for the precedent with PURA and others, and are they looking at the kw as well as shutting of the lights example.

According to Mr. Daylor Cheshire is not the first community out of the gate but is among the first communities to take advantage of this program. In different utility territories and across different utility representatives this would be interpreted differently.

Mr. Talbot asked if PURA has looked at any of these before. He also asked if there a precedent of what qualifies, what does not qualify, and has PURA done any of these previously so Cheshire can know what is reasonable and what it can get.

Mr. Daylor can reference examples where it has been interpreted as overall electric reduction and cases where it is demand reduction.

With regard to the document itself, Mr. Talbot asked if the Town Attorney has reviewed it and has any concerns about what is before the Town Council.

Attorney Smith informed the Council that he has not had a change to review the document, but understands it was reviewed by bond counsel.

Ms. Linehan asked what qualifies for the PURA buy down and if there is an appeal process if some projects do not qualify. If there is a gray area, there could be an argument that some of these projects would qualify.

Ameresco is having discussions on a daily basis with the utility, and Mr. Daylor cited specific points of the legislation, such as switching heating does not qualify. Therefore, the electric to gas conversions at the high school and Highland School would not qualify. The EMS part of the projects, through scheduling, specific variable speed drives, motors, things that can be ratcheted down and measurements of the EMS system are reducing peak kw demand, the power is going down...but they are not



considered because they are under a fuel switching program. Mr. Daylor said there is several million dollars up for discussion, and there is a process of evaluation of the total project incentive with qualifying measures.

If Cheshire is one of the first towns doing this, Ms. Linehan stated that Ameresco knows the projects being done, those in the gray area, and asked if another town is going through the same thing to qualify.

Mr. Daylor reported that CL&P representatives have pointed this out, and after discussion has retreated to their attorneys.

Ms. Flynn-Harris noted that the comments made by Mr. Oris are “so right on” about how upsetting this is, and she has been a strong proponent of the program and served on the subcommittee. There are no last minute concerns that the Town Attorney has not seen nor has he read the document. Ms. Flynn-Harris said the Town needs this project but she is not sure how she will go forward with her decision before Town Attorney review.

Clarification on the issues before the Council was requested by Mr. Sima. He said PURA may or may not extend their agreements for energy conservation or electrical conservation. This is not putting the project at risk...but putting the extra funds for future projects or add-ons at risk.

Stating that was correct, Mr. Daylor said the \$10,2 million is not in jeopardy. The 0% buy down does leave an extra additional capital of \$400,000. Without PURA or buy downs, everything works as presented to the Council. There are two discussions going on – one around the leasing document and the second is qualifying value or projects. He is present to speak to the qualifying value of the projects.

By way of explanation, Mr. Sima stated that, originally, there was a higher assumption of interest rate, and the Town reached the lower rate with Bank of America. This is when the extra money showed up through the ESCO. He commented on the energy performance contract removing a huge amount of electrical demand from the grid (high school and Highland) and PURA’s goal is to reduce the amount on the grid. At the same time they are saying it will not be counted.

According to Mr. Daylor the funds for the program/buy down come for the federally mandated charges, and by offsetting them, those offsets fund the PURA program. It is that discussion around qualifying measures where the interest rate plays out.

Mr. Sima commented on the goal of reducing the country’s terrible energy distribution system, and now someone wants to pull the rug out under Cheshire. The Town can still go forward but not do as many projects in the future as hoped. If things are pushed off another month the Town may, or may not, get some of the projects done under the summer work schedule.

Ameresco is full speed ahead and Mr. Daylor said they are in implementation mode. The risk in holding off is whether the rate will be held at 3.17%. It is this flux that will speak to any delay.

Mr. Schrumm pointed out that the Town is still getting a list of projects done, \$8 million+, without bonding, and will get the benefit in the future from energy saving. The worse case is not going forward as expected, and losing the opportunity for additional projects. He said the projects should just get done.

Chairman Slocum questioned when Ameresco would be evaluating what PURA would qualify based on their experience.

There is an understanding on Ameresco's part where the energy savings are coming from, and Mr. Daylor said the firm has applied its best experience and guidance in the project. There will be technical discussions with CL&P twice a week specifically about the subject issue and utility incentives.

VOTE            The motion passed unanimously by those present.

**F.     Re-Allocation of existing Capital Non-Recurring appropriation balances  
For the purchase of equipment and materials for full day kindergarten.**

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

BE IT RESOLVED, that the Town Council approves Resolution #051314-7

RESOLUTION #051314-7

BE IT RESOLVED, that the Town Council, per the request of the Board of Education, approves the following revised allocations to the Capital Non-Recurring (CNR) Accounts:

	<u>Original Appropriation</u>	<u>Revised Appropriation</u>
Cheshire High School Infrastructure Improvements	\$250,000	\$70,916
Board of Education Various Building Improvements	\$150,000	\$74,084

BE IT FURTHER RESOLVED, that the Town Council re-allocates the \$255,000 previously appropriated to these two CNR accounts to a new CNR account entitled "Education – Full Day Kindergarten" for the purchase of supplies, materials, and equipment associated with the implementation of the Full Day Kindergarten Program for the 2014-2015 school year.

Discussion

Mr. Talbot noted that this was an item from budget discussions on the possibility of taking some of the expenses out of the operating budget, and moving some money into the capital budget process. Subsequent to that, Mr. Masciana identified some completed project allocations to the BOE, totaling \$255,000, which were available to be moved to the BOE full day kindergarten start-up costs.

In the motion there is a comment about “supplies, materials and equipment”, and Mr. Sima asked about using capital account money for supplies. The capital account pays for items with prolonged life, and Mr. Sima thought this funding would pay for the infrastructure improvements at Darcey School.

The Council was informed by Mr. Masciana that the main components for the use of the \$255,000 is for equipment such as the warming kitchen at Darcey School, \$165,000; improvements to classrooms/more space/ramps so food can be delivered from Chapman School, ADA compliant improvements (i.e. space for wheelchairs), and improvements in the schools that will host full day kindergarten classrooms (Highland, Chapman, Norton) such as lower toilets and sinks. These are all code related and required items, and there is no purchase of school supplies or materials for classrooms.

Mr. Schrumm does not support the full day kindergarten program, and said it is spending money that could be used elsewhere, nor does he believe there is wide spread support of the program in Cheshire. The proponents of the program should have money in the operating budget. The high school improvement projects have been lost in the midst of time, and the Council is reaching back and pulling money from old appropriations. Mr. Schrumm said there was \$150,000 set aside last year with the intention to do repairs to existing buildings and not start a new program. Some of the improvements stated are capital budget related; the money cannot be used for something else; and Mr. Schrumm believes a new program should be in the operating budget so the public can see the new mill rate.

Concerns were cited by Mr. Ruocco about the allocation of these funds, and he noted the high school auditorium seating and window wall was \$250,000, and the revised appropriation as \$70,916, which is well under budget. Mr. Ruocco believes some of the projects may have been funded out of the operating budget, and this is why they appear to be over-funded. The funds are to be used for an unstated purpose; full day kindergarten is funded from many sources; and now there is transferring money from defunct capital budget items. Mr. Ruocco wants to give the public information on how projects are funded, and it was stated the kindergarten program would be funded through the capital budget. Also, he noted there are nice things this money could be used for with this transfer.

In response to Mr. Ruocco’s comments, Mr. Talbot related that this funding was discussed in budget meetings, and the Town Manager stated that even if projects were decommissioned the balance of the funding would be appropriated to some BOE project in some way. The subject funding is money found by Mr. Masciana in the capital books

from prior years. If it must be spent on education, it is nice to appropriate the \$255,000 towards the one time full day kindergarten start up costs, as opposed to going forward with the capital budget process and allocating a new \$250,000 for this project. Mr. Talbot said this was the intention during the budget process, and he is glad the money is there to be transferred, and what is happening is very transparent.

Mr. Oris stated this is just another referendum on full day kindergarten, with some Councilors in support and some against the new program. The fact is...that the \$255,000 was discussed when the budget was approved...and all Councilors knew the assumption that the money would be reallocated from past capital projects to another BOE project. There is nothing wrong with that, and Mr. Oris said there is savings to be used for another project. The approved budget counted on this money, so there should be no surprise that the Council is talking about this, as it is part of the budget approval from a few weeks ago. Mr. Oris noted that everyone who voted for the budget should vote for the resolution on the floor because this is what this budget assumed.

Regarding Mr. Talbot's issues with capital money being used for education, Mr. Sima commented on the funding of replacement of flooring in the schools due to air quality issues. This project was stopped due to lack of funds, and if it was known the capital money was available, the flooring and mold removal could have been completed. Mr. Sima's question is that this has happened before, and are there any more dormant projects with balances out there. Mr. Sima requested Town Manager Milone to provide a list of projects still "out there" to the Council.

In response, Town Manager Milone stated he would have this report ready for the Council for the May 20<sup>th</sup> Budget/Planning Committee Special Meeting. Mr. Milone also stated that during the capital budget process, detailed reports on projects will be reviewed with Council.

Chairman Slocum agreed with the statements made by Mr. Oris...that the Council did discuss the use of CNR money for capital type uses. However, the hoops and loops the BOE went through to accommodate full day kindergarten raises questions for him. When the BOE was asked about retirements, there were only two, and the Council was not apprised of potential savings from the retirement incentive. For the next budget process, Mr. Slocum would appreciate discussion on the means to an end. He said what is being accomplished by retirement incentives is funding of full day kindergarten. In the future, Chairman Slocum expects the BOE to be more transparent and put everything on the table.

VOTE            The motion passed 6-3; Opposed – Schrumm, Sima, Ruocco.  
                    In Favor – Flynn-Harris, Linehan, Nichols, Oris, Talbot.

**G.     Authorization to execute a paving agreement with the Regional Water Authority for Horton Avenue and acceptance and appropriation of \$25,813 For said paving.**

MOTION by Mr. Sima; seconded by Ms. Nichols.

BE IT RESOLVED, that the Town Council approves Resolution #051314-8

RESOLUTION #051314-8

BE IT RESOLVED, that the Town Council approves a Paving Agreement by and between the South Central Connecticut Regional Water Authority (RWA) and the Town of Cheshire in which the RWA agrees to compensate the Town of Cheshire \$25,813 for the cost of paving Horton Road in lieu of the RWA patching the area in which water mains were replaced, and authorizes the Town Manager to execute said agreement, and

BE IT FURTHER RESOLVED, that the Town Council accepts the \$25,813 in consideration from this agreement, and appropriates said amount for the paving of Horton Avenue.

Discussion

Mr. Sima noted this is something done consistently with RWA. It is a benefit to the Town and should be continued. The last major road that was done was East Johnson Avenue. Under the program the roads are done to Town standards.

Mr. Milone said this speaks to the quality of work of the Public Works Dept. crews. With this agreement with RWA the Town has been able to pave a road that would, otherwise, be patched. Horton Avenue has an index of 59 and is a good road for a trench.

VOTE           The motion passed unanimously by those present.

**H.     Approval of proposal from Milone and MacBroom for Construction Administration Services for the Blacks Road Bridge.**

MOTION by Mr. Sima; seconded by Ms. Nichols.

BE IT RESOLVED, that the Town Council approves Resolution #051314-9

RESOLUTION #051314-9

BE IT RESOLVED, that the Town Council approves the fee proposal from Milone & MacBroom Inc. as presented and attached, for construction phase engineering services for the Blacks Road Bridge Replacement Project, and be it further resolved that the Town Council directs Town Manager Michael A. Milone, pursuant to Resolution #091200-10 to execute the professional services agreement with Milone & MacBroom Inc. for said Blacks Road construction administration services.

Discussion

Town Engineer, Walter Gancarz, addressed the Council on this agenda item. Mr. Gancarz advised this fee is for the construction phase services. Two bridges, Blacks Road and Creamery Road, had proposals; a number of responses were received; and the committee, Engineering staff and PW staff interviewed five firms for each bridge. For Blacks Road, Milone and MacBroom was selected. The design is completed, has been out to bid, and the low bidder is Nagy Bros. for \$639,400. The resolution is for construction/administration services done by the design firm and Council approval is requested.

Mr. Schrumm noted that WMC Engineers is the firm for the Creamery Road Bridge project and Milone and MacBroom is the firm for the Blacks Road Bridge project. He asked about their doing follow-up work.

For any problems or issues, i.e. changes due to field conditions, Mr. Gancarz said the Town wants the designer available to answer questions.

Mr. Oris finds it interesting that the engineer designs and supervises construction but has no responsibility for insuring the project is completed as designed. He commented on this responsibility falling on the Town, due to exclusions in the contract.

According to Mr. Gancarz, typical engineering contracts have this exclusion because the contractor is ultimately responsible for his product. In his experience as an engineer, he said these are typical exclusions, and if there are issues, the contractor and design engineer both get sued. The designer does not have control over the situation; the contractor directs his forces, orders his supplies, materials, etc. so the designer cannot be responsible for this part of the work.

If that is the case, Mr. Oris said the owner must insure the contractor fulfills his contract.

Mr. Gancarz said it is the Town, engineer and contractor responsible for the contract being fulfilled.

An excerpt from the contract was read into the record by Mr. Oris, and it tells him it is the Town's burden to oversee the contractor.

Mr. Gancarz advised the designer cannot control the contractor, and if there are issues or things wrong the Town and contractor supervisor will be made aware.

Mr. Sima clarified the issues, stating that the Town is hiring Milone and MacBroom to oversee the project, and report anything wrong to the PW Department and/or Mr. Gancarz. Their contractor is responsible to the Town only, not to the hired consultant. If there are things not right, Milone and MacBroom is obligated to inform the Town, and the Town is then obligated to the citizens to inform the contractor of what is wrong, they are in violation of the contract and the job is not being done properly.

VOTE           The motion passed unanimously by those present.

**I.       Award of Cheshire High School Partial Roof Project Bid.**

MOTION by Mr. Sima; seconded by Ms. Nichols.

BE IT RESOLVED, that the Town Council approves Resolution #051314-10

RESOLUTION #051314-10

BE IT RESOLVED, that the Public Building Commission is hereby authorized to accept the lowest responsive bid of Imperial Roofing Company, in the amount of \$197,700, and award the Cheshire High School Partial Roof Replacement Project to said vendor, as recommended by the Public Building Commission. Further, the Town Manager is authorized to execute the contract pursuant to this award and the Town's Bid Documents, upon the approval by the Town Attorney as to form and legal sufficiency.

Discussion

The Council was told by Mr. Sima that there was a lower bidder on this project but the firm was not authorized or certified to install the roof brand specified in the bid documents. BL Company was made aware of this and the next company, Imperial Roofing, is certified to this type of roof system. This is why the project does not have the lowest bidder, but has the lowest bidder certified to install this system.

VOTE           The motion passed unanimously by those present.

**J.       Approval of design and authorization to go to bid on the Cheshire High School Locker Room Project.**

MOTION by Mr. Sima; seconded by Ms. Nichols

BE IT RESOLVED, that the Town Council approves Resolution #051314-11

RESOLUTION #051314-11

BE IT RESOLVED, that the Town Council approves the plans as recommended by the Public Building Commission for the Cheshire High School Locker Room Renovation Project, and authorizes the Public Building Commission to bid said project.

Discussion

It was noted by Mr. Sima that some of the information (sheet) with the motion shows significant changes in the cost of many items for this project. The project was at \$509,000; it is now at \$656,000; with an added \$50,000 for trailer rentals for a temporary locker rooms and additional site work. There was added cost for BL Companies to go out and re-do and update the plans from three years ago. Right now,

the project cost is about \$750,000. There was \$550,000 for this project, with \$506,000 available.

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

MOVED that the Town Council postpone this agenda item until the capital budget process which starts in July through August.

Discussion

This project will have to be reviewed during the capital budget process and Mr. Schrumm explained that a project cannot go out to bid without enough authorized funding. Therefore, now is not the time to go to bid for this project which will take us into the fall season, disrupt the schools, and it should have been done in January to get all in place for August completion.

VOTE           The motion passed 7-3; In favor – Linehan, Schrumm, Slocum, Sima, Nichols, Ruocco.   Opposed – Flynn-Harris, Oris, Talbot.

**K.     Authorization to apply for Central Naugatuck Valley Council of Governments Roads grant for portions of Mountain Road and South Brooksvale Road.**

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

BE IT RESOLVED, that the Town Council approves Resolution #051314-12

RESOLUTION #051314-12

BE IT RESOLVED, that the Town Council authorizes the application for two local Transportation Capital Improvement Project Grants through the Central Naugatuck Valley Regional Council of Governments for improvements to portions of Mountain Road and South Brooksvale Road.

Discussion

Mr. Schrumm explained this motion is to allow the Town Council to go, retroactively, with a grant to repair roads, drainage and resurfacing.

This is a \$3.6 million grant program, and Mr. Gancarz reported that selected projects will be 100% funded. The minimum project is \$300,000, and Cheshire has two projects which meet the grant criteria – a section of Mountain Road/ Cornwall Avenue to just short of RT 70 and South Brooksvale Road, RT 42 to Mt. Sanford Road intersection.

Marion Road was suggested by Mr. Sima for a grant program in the future, as it is now more heavily traveled roadway.



With regard to this work being done at sometime in the future, Mr. Gancarz said these roads would have to be repaved along with drainage problems in the next two years. This grant is an opportunity for someone else to pay for the work.

VOTE           The motion passed unanimously by those present.

**L.       Approval of Lease for 487 North Brooksvale Road (Lock 12)**

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

BE IT RESOLVED, that the Town Council approves Resolution #051314-13

RESOLUTION #051314-13

BE IT RESOLVED, that the Town Council hereby authorizes the execution of a Lease Agreement by and between the Town of Cheshire and Kevin Zakewicz, in the form and upon the terms and conditions as attached and as presented at this meeting, and authorizes Town Manager Michael A. Milone to execute and deliver all documents as may be necessary to consummate said Agreement.

Discussion

This is a month to month tenancy, and Mr. Ruocco stated that Officer Zakewicz will maintain the property and insure safety in the area. It is a modest rent, good arrangement for the Town and the police officer.

Ms. Flynn-Harris commented on the fact that the Council will be looking at all Town leases for Town owned property, and updating rents accordingly.

For the subject lease, Mr. Milone said it was represented at \$600 a month, but it was made clear that the lease will be increased during the budget process next year by \$100 to \$150 per month. Officer Zakewicz is aware of this.

Mr. Oris read an excerpt about compliance with rules and regulations, and asked if there are any associated with this property.

There are none, and Mr. Milone noted that with a police officer as a tenant there is an expectation of conduct to be maintained. In the future there could be development of other expectations and guidelines.

VOTE           The motion passed unanimously by those present.

**M.       Authorization for a two month reinstatement of the Custodian position  
          In Public Property and the Community Pool (possible executive session)**

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

BE IT RESOLVED, that the Town Council approves Resolution #051314-14

RESOLUTION #051314-14

BE IT RESOLVED, that the Town Council approves the extension of the 40 hour per week Custodial position in Public Property and Community Pool Departments for the months of July and August 2014. The cost for this two month extension will be covered by each department's existing FY 14-15 budget.

Discussion

Mr. Milone explained that this position reinstatement comes about because of the pool opening for the summer months – July and August. The cost, \$3300, can be absorbed in each of the two department budgets. The pool will close the day after Labor Day until January 2015. For the summer season the custodian position is needed. When the pool opens with the new tension membrane cover structure, the “Maintainer” will take the place of the custodian to meet the bigger needs of the pool, new equipment etc.

Mr. Sima commented on the pool committee working hard, and he asked about the time frame for a September 1<sup>st</sup> start of construction. If the pool is opened longer, he asked if the custodian position will be continued.

Right now there is the assumption of pool construction starting immediately after Labor Day, and Mr. Milone will return to the Council if this changes. The budget was designed with no pool operations September to January; Sheila Adams will be the only cost along with utilities; and everything will be carefully monitored and the Council kept informed. Mr. Milone assured the Council that everything will be carefully monitored.

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**

Monthly Financial Report – General Fund surplus is projected to be about \$430,000. Pool budget will be balanced with use of the insurance proceeds. WPCA budget should have about a \$10,000 surplus

State Legislative Update - there is an increase to Cheshire in the PILOT payments of \$261,252 more in the revenue fund than what was in the budget. There is also an increase of \$680,000 in the three grants since the Governor's budget was submitted. The General Assembly increased this budget by \$417,000 which is included in next

year's budget. There may be another \$68,000 in the revenue sharing program; Cheshire was shorted on the last quarterly payment because it went into the next fiscal year; CCM was successful in getting the money restored. The State appropriated this money in the next fiscal year's budget so there may be another \$68,000 revenue. Mr. Milone noted that Cheshire will start the next fiscal year with \$370,000 more than anticipated.

Mr. Milone also mentioned that Cheshire had success with important things. One was the PILOT payments. The Town asked for a change in the design flow parameters that DEEP uses, a 6 month average, and a study of the utilization and expansion of the plant is required. The average time frame has been changed to 365 days from 180 days, and the delegation was supportive in this regard. The Town will have its permit revised, with the change to 365 days, so there is protection going forward. Another achievement was getting the claim for retroactive payment for sewer use charges from the Department of Corrections, \$1,453,000. The House and Senate unanimously supports Cheshire's bill which waives the one year retroactive time frame for making a claim, and allows going back 9 years for the \$1,453,000. It has not been signed by the Governor, but with the unanimous vote of both houses, if he does not sign it, the bill goes back to the legislature and they will override the veto. Rep. Adinolfi will prepare Town staff for the Claims Commission (Mr. Milone, Mr. Gancarz, Mr. Dievert) presentation. The calculations on the interest on the outstanding DOC claim will be about \$300,000, and the final claim could be about \$1.8 million.

The Council was informed by Mr. Milone that Town staff worked hard to prevent the change in the motor vehicle taxes, and this bill never passed.

Bulky Waste Collection Status Report – The program is in week #5 with few complaints, and Mr. Milone commended Mr. Noewatne and Mr. Gancarz for the smooth operation of the pickup program.

Mr. Gancarz gave the Council an overview of the program that is in week #5, 4 sections are done, and the final section pickup should be completed by Friday. The tonnage for the first four sections is just under 900 tons, and it is expected total tonnage will be about 1150 tons. There have been few complaints, with questions related to the time of pickup and what can be put out. On June 21<sup>st</sup> there will be a town wide pickup of electronics at the A.J. Waste facility. Regarding mattress pickup, the State has a requirement by July for mattress returns with a surcharge when someone purchases a new mattress.

The Council was advised that A.J. Waste has done a great job, has been very cooperative, and special conditions that arose were well handled. For the next program, Mr. Gancarz said there should be a quantity limit for pickup, as one house had enough bulky waste set out that could fit into a 30 yard dumpster. The project is on time and on budget.

Equalized Net Grand List – the Cheshire grand list cannot be compared to another town’s grand list because municipalities are doing revaluations at different times over five years. The State uses the sales ratio, the amount a house sells for versus the assessed value, and comes up with an all in percentage, and uses it to equalize our grand list. Cheshire’s sales ratio is about 72% sales ratio, which is divided into the \$2.8 billion for an equalized rate of \$3.9 billion.

Mr. Milone commented on being able to keep to the time schedule, which has kept the Town clean.

CCM Prescription Plan – This program continues to get more interest; 82 claims have been handled; the average savings is about \$50 on prescriptions.

Various Events – Connecticut Trails Day, June 7, 2014, 9:00 a.m. to 11:00 a.m.  
Chesprocott “Meet and Greet”, May 21, 2014, 3:00 p.m. to 6:00 p.m.  
East Johnson Avenue Bridge Replacement – Public Information Meeting, May 14, 2014, 7:30 p.m.  
Electronics Recycling Collection – June 21, 20-14, 9:00 a.m. to 12 Noon.  
HazWaste Central – opens May 17, 2014, 9:00 a.m. to 12 Noon.

Upcoming Meetings – Planning Committee, May 20, 2014, 7:30 p.m.; Technology Committee Meeting, May 28, 2014, 7:00 p.m.

Ms. Flynn-Harris asked Town Manager Milone about the Police Department involvement with the I-84 closure, redirection of traffic and impact on this area of Town.

Mr. Milone will be discussing this issue with Chief Dryfe and inform the Council about detours, and police officers required during the I-84 construction work.

In the Police Department report, Mr. Oris noted an increase in Part I offenses, and questioned if this is something to be concerned about.

Mr. Milone will check with Chief Dryfe and inform the Council on this issue.

**9. TOWN ATTORNEY REPORT AND COMMUNICATIONS  
(Executive Session)**

**10. REPORTS OF COMMITTEES OF THE COUNCIL**

**A. Chairman’s Report.**

- i. Referral of Pay Plan, Classifications and Job Descriptions, and Rules and Regulations to the Personnel Committee.**
- ii. Referral of the Street Light Program, electric vehicle charging station, Microgrid Grant Program and solar farm proposal to the Planning Committee.**

Planning Committee – Mr. Sima advised there is a meeting on May 20<sup>th</sup> with the Budget Committee for capital budget pre-planning.

Personnel Committee – Mr. Ruocco stated there would be a meeting scheduled due to the referrals from the Chair to the committee.

Budget Committee – Mr. Schrumm advised the Planning and Budget Committees meet on May 20<sup>th</sup> for capital budget pre-planning. There will also be discussion about a trust fund policy, medical benefits for BOE and Town.

## **B. Miscellaneous**

### **11. APPROVAL OF MINUTES – Regular Meeting of April 8, 2014 and Special Meeting of April 22, 2014.**

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

MOVED that the Town Council approves the minutes of the Regular Meeting of April 8, 2014 and Special Meeting of April 22, 2014 be approved subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

### **12. MISCELLANEOUS AND APPOINTMENTS**

#### **A. Liaison Reports**

Environment Commission – Ms. Nichols reported on the upcoming Trail Day, June 7<sup>th</sup>, at the Casertano property, highlighting interesting places for hiking. Information is available at the Library and maps are at Town Hall Planning Department.

Mr. Sima commented on the new parking lot at the Casertano property which will be available on Trails Day to the public.

Human Services Committee – Ms. Nichols reported that this committee had a televised meeting last week.

Beautification Commission – Mr. Schrumm reported that the commission participated in the successful Chamber program at the high school last week, and continues to do tree planting in Town.

WPCA – Mr. Schrumm reported that construction continues on pace; there are remediation issues being worked on with three separate buildings; the remediation will be done in each building during the renovation process. At this time there is no set cost for the remediation work.

Planning and Zoning Commission – Ms. Flynn-Harris informed the Council that the commission continues to move forward with work on the Plan of Conservation and Development.

Historical Society – the organization held a bus tour around Town that was very successful. Ms. Flynn-Harris stated she is impressed with A.J. Waste and how the company has handled the bulky waste collection program.

Arts Place – Ms. Linehan and her family participated in Arts Day which was a successful and fun event.

Youth Services – Ms. Linehan stated the committee is putting together a presentation for the Council's next meeting – focused on a town wide initiative to support youth in Cheshire.

Mr. Sima asked about GPS devices in all Town vehicles, and noted this was discussed in the past as a way to insure these vehicles are being properly and safely used. He requested a report on the status of the GPS devices, and when the installation will be completed.

**B. Appointments to Boards and Commissions (none)**

**13. COUNCIL COMMUNICATIONS**

**A. Letters to Council.**

Chairman Slocum received a letter from Ray Squier regarding the increase in his real estate taxes in the next fiscal year, and read the letter into the record.

**B. Miscellaneous**

**14. EXECUTIVE SESSION**

MOTION by Mr. Schrumm; seconded by Ms. Nichols.

MOVED that the Town Council enter Executive Session at 10:00 p.m. to include Town Manager Milone, Town Attorney Smith, Town Engineer Gancarz, PBC members Purtill and Wetmore, and Pool Committee member Matt Levin to discuss contract negotiations; and Mr. Milone and Attorney Smith to discuss pending claims and potential litigation.

VOTE           The motion passed unanimously by those present.

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

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 Mr. Oris; seconded by Ms. Flynn-Harris

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

VOTE           The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk