TOWN OF GREENWICH

RTM FINANCE COMMITTEE

REPORT ON PROPERTY AGREEMENTS

MARCH 2012

A Study of Town Property Agreements: Leases, Licenses, and Management Agreements

Conducted by a Subcommittee of the RTM Finance Committee
December 2010 through December 2011

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Since the size of the report including Exhibits is large, the Committee will print the complete report in the following three volumes:

Volume 1: The Report and Exhibits I to VII:
Volume 2: Exhibits VIII and IX:
Volume 3: Exhibit X Lease Abstracts:

Executive Summary

In December 2010, the Representative Town Meeting (RTM) authorized the RTM Finance Committee (FinCom) to study the property agreements of the Town of Greenwich (Town). These agreements include leases, licenses, and management/operating agreements between the Town and various business and non-profit entities.

A Subcommittee (SubCom) was subsequently empowered to execute the resolution. The SubCom conducted independent research and analyzed 43 leases, licenses and other agreements. The SubCom determined the following:

- **The Town has no formal policy governing the use of Town property by an outside person or entity;**
- **The Town does not currently fully comply with the Town Charter requirement that all leases and similar agreements governing the use of Town property be approved by the RTM;**
- **The Town has no clearly defined chain of command for the administration of real property use agreements;**
- **The Town has insufficient information on the value of subsidies provided to entities using Town property; and**
- **The information provided to the RTM is insufficient for members to assess the total value and benefit of a proposed agreement.**

Based on these findings, the SubCom urges the Town to adopt a formal process to improve transparency and accountability. The Town should implement the recommendations summarized below by the end of 2012:

1. Use of Town Property: The Town should develop a formal, written policy governing the use of Town property by outside entities using written agreements in a consistent format adopted through a transparent approval process which includes submission to the RTM for approval. The policy should explicitly define 'licenses' and clarify which licenses may be delegated and to whom.

2. Compliance with Law; Delegation: *All* leases, management agreements, and similar arrangements for the use of Town property *MUST* be submitted to the RTM**.** The RTM should adopt a new ordinance expressly delegating authority to approve certain short term and occasional uses similar to the authority delegated to Parks and Recreation under the Town Charter.

3. Town Administration of Property Agreements: The Town should designate one employee as the individual responsible for the management and administration of all real property agreements as described in the steps in Section D of this report.

4. Reporting the Value of Town Property: Annually, the Town should produce a comprehensive statement of the cost to the Taxpayers for the use of Town property by outside entities pursuant to a real property agreement.

5. Presentation to the RTM: Each proposed real property agreement should be accompanied by a complete Lease Abstract describing the material terms, the cost benefit analysis brought forth in this report and, in the case of a renewal, any changes from the prior contract.

6. The SubCom offers specific observations and recommendations on the following:

a. Greenwich Arts Council
b. Wireless Technology
c. Nathaniel Witherell Apartments
d. Boat and Yacht Clubs
e. Innis Arden Cottage
f. GEMS

A. Background, SubCom Composition, and Process

1. Background

In October 2010, several members of the RTM FinCom observed that the RTM Call included a proposed lease renewal of a Town property located in the Central Business District with a term of 10 years and an annual rent of $1 per year. This was the second time in two years that a proposed lease of Town property for sub-market rent was listed on the Call but not referred to the FinCom for consideration.[1]

The FinCom noticed the proposed renewal lease was a "marked copy" with changes to the terms and conditions which were not highlighted in the explanatory comments. The FinCom also found important details lacking in the explanatory material, including no description of the square footage of leased space or the amount of subsidy to fair market value contributed by the Town.

The FinCom Chairman contacted the Town Administrator with questions related to this item in the October 2010 Call. The Town Administrator did not have the necessary information to respond to the questions.[2] The SubCom developed answers to these questions through its year-long review (Exhibit I).

The FinCom determined it needed to be better informed about the Town's policy toward sub-market lease arrangements by conducting a thorough review of the leases, licenses and management agreements relating to Town property.

To achieve this goal and to understand Town practices regarding property arrangements, the FinCom introduced a Sense of the Meeting Resolution for consideration at the regular RTM meeting in December 2010. At that meeting, the following resolution was approved by a vote of 187 in favor, 24 against, with 1 abstention:

> *"NOW, THEREFORE, BE IT RESOLVED that it is the sense of this meeting that the Finance Committee in accordance with its charge in the RTM Rules review all leases and licenses of town property, and prepare for the RTM by March 2011 a summary of the terms and conditions of these documents so that the body may have a factual understanding of ALL leases and licenses of town land."*[3]

a. March 2011 Report to the RTM

At the Regular Meeting of the RTM in March, 2011, the FinCom reported the results of its review to that date (Exhibit II). At the outset of the SubCom's review, there was no comprehensive inventory of current property agreements. The SubCom observed that while the more recent agreements were likely to contain standard lease terms (e.g. market insurance clauses), older agreements displayed a greater variety of provisions. It immediately became obvious to the SubCom and FinCom that this project would take considerably more time than was originally anticipated.

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[1] The SubCom notes that the RTM Moderator, not the Town, determines which Committee receives Call Items for review.

[2] Specifically, the Town Administrator responded: "I do not have the information that responds to your questions. I am also not sure who in Town government tracks this information. I suspect that the Finance Department does. . . During my time here all new leases and renewals have been considered on a case by case basis. I am not aware of any Town policy that governs this issue other than the merits of each situation." See John Crary email to Gordon Ennis, October 15, 2010.

[3] Minutes of December 13, 2010 Meeting of the Representative town Meeting, pp. 1-2.

b. May 2011 Meeting with First Selectman

At a meeting on May 27, 2011 at Town Hall, the SubCom presented and discussed its draft report with Peter Tesei, First Selectman, John Crary, Town Administrator, and Joseph Siciliano, Director of Parks & Recreation. The full SubCom was present at this meeting.

The meeting reaffirmed the findings of the SubCom. A copy of the meeting minutes are attached as Exhibit III and the Town's response is attached as Exhibit IV.

2. SubCom Composition

The FinCom formed a Subcommittee of interested RTM members to conduct the lease/license/management agreement review. Participation was open to all RTM members.

The SubCom was composed of the following representatives:

NAME	District	POSITION
Jill Oberlander	2	SubCom Co-Chairman
Rob Perelli-Minetti	12	SubCom Co-Chairman
Gordon A. Ennis	8	FinCom Chairman
Erf Porter	6	FinCom Vice Chairman
Mary Ferry	5	Member
Suzanne Geiss-Robbins	2	Member
Lucia D. Jansen	7	Member
Erik Norrgard	6	Member
Karen Sadik-Khan	6	Member

3. SubCom Process

The SubCom met regularly (one to two times each month) to assign individual tasks, report observations, and discuss findings. SubCom members worked alone between meetings. The SubCom developed a lease abstract tool to facilitate its review and the subsequent presentation to Town officials and the RTM.

Over the course of 2011, the SubCom reviewed 43 property agreements. A list of these agreements is included as Exhibit V. Each agreement was summarized in an abstract. The abstract summarizes the most relevant and material information in the agreements. Using the abstract, a reader is informed quickly about the most important features of each agreement.

While much was learned during this exercise, each meeting raised more questions and highlighted the SubCom's observation that the fact-finding stage should be viewed as a first step and not an end product.

A summary of the lease abstracts and other documents the SubCom prepared as part of this review can be found in Exhibit X attached to this report. The Town website (www.greenwichct.org/) will host all information regarding the work of SubCom, including copies of lease abstracts, after it is reported to the RTM.

B. Applicable Statutes Related to Agreements for the Use of Town Property and the Authority to Enter Into Such Agreements

The SubCom reviewed the statutory authority governing the lease of Town-owned property and buildings, considered the provisions for review and approval of such agreements and discussed these questions with Town Attorney John Wayne Fox and attorneys Aamina Ahmad and Eugene McLaughlin of the Law Department. The Town Attorney provided the SubCom with a Memorandum dated January 5, 2012, expressing his views about the source and locus of statutory authority with respect to leases.[4] We believe the arguments made by the Town Attorney are equally applicable in the case of other agreements (including licenses, management and operating agreements) dealing with the use of Town property.

Town governments in Connecticut, such as Greenwich, are entirely statutory creations. That is, they derive their power and authority from laws passed by the State Legislature,(whether Session Laws of general application to all municipal entities or Special Acts which apply only to specifically named towns. Generally, Connecticut municipalities are governed by Title 7 of the Connecticut General Statutes ("CGS")[5], including provisions for "home rule to replace the earlier system that required approval by the Legislature of all changes in municipal charters as Special Acts.[6]

Some Towns, including Greenwich, have charters which contain different "home rule" provisions which were passed under earlier Special Acts of the Legislature. The legal situation with respect to precisely how Greenwich "home rule" works has been the subject of some disagreement and came before the RTM in March 2006 in another context. While an attorney member of the SubCom has reviewed all of the documents provided to the RTM in 2006, and has reviewed all of the authorities cited in those documents, and while he believes the uncertainty has not been satisfactorily resolved, the SubCom believes this report is not the appropriate place to revisit questions regarding Greenwich 'home rule'.

a. General Legal Power to Enter into Agreements for use of Town Property

The Town has the powers granted by the Legislature to all municipalities under Title 7 of the GCS, unless specific provisions of the Greenwich Town Charter approved by the Legislature under Special Acts give the Town powers that differ from those granted to all municipalities under Title 7 of the CGS. The legal powers of Connecticut municipalities are set forth in Section 7-148 and specifically include, *inter alia*, the right to lease or otherwise permit the use of property (whether the Town is lessor or lessee) on such terms and conditions as the municipality may approve.[7]

What Section 7-148 does not specify is how a municipality must approve any such lease or similar arrangements.

b. Locus of Authority to Enter into Agreements for use of Town Property

Under the Greenwich Town Charter, the RTM *shall exercise* ***exclusively****(emphasis added), so far as will conform to the provisions of this Article, all powers vested in the Town, except as otherwise specifically provided by law.*[8]

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[4] Memorandum, January 5, 2012 from John Wayne Fox, Town Attorney to Carl R. Perelli-Minetti, re Authority of Town of Greenwich Leases (the "Memorandum"). The Memorandum is attached as part of Exhibit IX

[5] Connecticut General Statutes ("CGS"), Title 7, Chapter 98 generally

[6] CGS Title 7, Chapter 99, Sections 7-187 through 7-201 are commonly referred to as the "Home Rule Act."

[7] CGS Title 7, Chapter 98, Section 7-148 (c)(3)(A) This and other pertinent provisions of State and local law are set forth in Exhibit IX.

[8] The Charter of the Town of Greenwich, Connecticut (the "Town Charter") Article 13, Section 167

Town Attorney Fox explained to the SubCom, in meetings and in his Memorandum, that all "municipal power that is not specifically granted to the executive office by statute, charter or ordinance is deemed to remain with the legislative body" and offers Connecticut Supreme Court authority for this view.[9] The SubCom concurs after review of the authorities cited.

What the language of the Town Charter means is that ***ONLY the RTM has the authority to approve any and all agreements*** entered into by the Town with respect to the use of Town property, **unless** there are specific provisions of law, which we understand in this context to include applicable Connecticut state law, the Town Charter and the Municipal Code (also referred to as the Code of Ordinances) pursuant to which the State of Connecticut has authorized the executive or other authority to act, or pursuant to which the RTM has specifically delegated its authority to approve leases and other agreements relating to Town-owned property to the First Selectman as Chief Executive Officer of the Town[10] or the Board of Selectmen or to some other municipal board or agency.

c. Has Authority to Approve Agreements for use of Town Property Been Delegated?

The Town Attorney's Memorandum is very clear that he does not believe there has been any delegation of authority with respect to leases:

> Our Charter which has been established and authorized by special act of the legislature reserves for our legislative body all powers vested in the municipality except as otherwise specifically provided. Nowhere in our Charter does one find a specific directive power or authority to lease real estate. The only conclusion that one can draw is that such power by virtue of §167 has been reserved within our legislative body i.e. the RTM.[11]

The SubCom believes this is correct, notwithstanding the provisions of the Town Charter with respect to municipal improvements[12] which require the approval of the Planning and Zoning Commission for, *inter alia,* "the …lease … of public real property or public buildings, including schools".[13] Based on the language establishing the Planning and Zoning Commission,[14] we believe that the purpose of requiring municipal improvements, including the lease of public real property or public buildings, to be submitted to the Planning and Zoning Commission was to insure compliance with Planning and Zoning regulations, rather than to make the Planning and Zoning Commission the authority which determines to whom the Town could lease or otherwise dispose of property. This view is supported by the fact that any action by Planning and Zoning is subject to preemption by the RTM[15] or to appeal to the RTM.[16]

The Town Charter delegates certain authority to manage properties unde r the control of the Parks and Recreation Department to the Director of Parks and Recreation and the Board of Selectmen.[17]

> The Director shall have the power to promulgate regulations respecting recreational activities governing the use of recreational places and facilities subject to the prior approval of the Selectmen. He shall have charge of the issuance of all permits and licenses, the assignment of

[9] Memorandum, page 2
[10] Town Charter, Article 15, Section 217(b) designates the First Selectman as CEO.
[11] Memorandum, page 3
[12] Town Charter, Article 9, Sections 99 and 100
[13] Town Charter, Article 9, Section 99
[14] Town Charter, Article 9, Section 83
[15] Town Charter, Article 9, Section 99
[16] Town Charter, Article 9, Section 100
[17] Town Charter, Article 8, Section 76(b)

facilities, the collection of fees and charges, and the enforcement of ordinances and regulations governing the use of recreational facilities, activities and places.

Additionally, Chapter 7 of the Municipal Code contains more specific provisions with respect to the management of facilities under the control of the Department of Parks and Recreation.[18]
The SubCom did not find any similar delegation of authority to other Town Departments.

d. Does the RTM Currently Approve All Agreements for use of Town Property?

Although the Town Charter and Municipal Code locate the authority to approve any agreements with regard to Town property with the RTM, the practice in Greenwich for at least as long as any members of the SubCom can remember (to 1990) has been to submit only "significant" leases to the RTM.

The Rules of the RTM which have the force of law do not address leases and similar agreements, which are dealt with only in the Appendix[19] which expressly disclaims any legal authority.

In addition to agreements specifically titled "leases," the Town has entered into many other agreements involving the use of Town property which are variously referred to as "management agreements," "operating agreements," or licenses. Most of these agreements are not currently submitted to the RTM.

Authority to approve Parks and Recreation 'licenses' has been delegated by the RTM, but there is no definition of 'license.' Thus, there are no criteria to determine whether a particular agreement for the use of Town property is sufficiently limited in duration or rights that it can be considered a 'licenses' (which has been delegated), or is more in the character of a lease, which requires RTM approval.

While the management agreement with the Bruce Museum is specifically addressed in the Town Charter[20], other than with respect to Parks and Recreation facilities[21], the SubCom did not find similar specific statutory authorization for the Town's practice of using "licenses" or "management/operating agreements" to manage use of Town properties by outside persons or entities (such as concessionaires or other quasi-governmental organizations).[22]

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[18] Municipal Code, Chapter 7, Parks and Recreation

[19] The subject is, however, dealt with in two places in the Appendix to the RTM Rules (Appendix A – Powers and Functions of the RTM, subparagraph 2g and Appendix B – Standing Committees, Section D. Finance Committee) which state "…*the powers and functions of the RTM extend into the following … basic areas … [t]o* ***approve the purchase, sale or lease of town property*** *[and]… [t]to act upon significant contracts (*Appendix A – Powers and Functions of the RTM, subparagraphs 2g and 2h) and give the Finance Committee the operational responsibility to review "*all proposed leases or rental agreements for acquisition or disposal of property for terms of more than two years or with annual payments in excess of $40,000.*"(Appendix B – Standing Committees, Section D) Further, Appendix notes that "*[g]roups of rental or lease agreements for similar property should be considered based on the aggregate values rather than lease by lease.*"(ibid).

[20] Town Charter, Article 8, Section 81A.

[21] Town Charter, Article 8, Section 76 (b):

[22] It appears that the Town is relying on the broader power in the CGS and/or the Town Charter to give the 'municipality' acting through its executives the authority to do what they do not have the specific authority to do in the Charter or Municipal Code. Query whether this is the right way to read the two together: alternatively one might conclude that the Municipal Code is a locally adopted ***limit*** on the Selectmen's authority under the CGS and the Town Charter.

C. Findings

The SubCom identified five areas of concern related to Town property leases, licenses, and management/operating agreements:

1. The Town has no formal policy governing the use of Town property by an outside person or entity. There is no written policy or procedure for Town property agreements. Decisions are made on a case-by-case basis without public disclosure of community benefits, possible alternative uses of the property (opportunity cost), or an accurate accounting of the Town subsidy. It is not obvious that the public receives notice about the availability of space.

Significantly, there is no clearly articulated policy on when an entity receives a lease instead of a license. This is an important issue because licenses are not reviewed by or approved by the RTM or the BET.

2. The Town does not currently fully comply with the Town Charter requirement that the RTM approve all leases, management agreements, and similar arrangements governing the use to Town property.

3. The Town has no clearly defined chain of command for the administration of real property use agreements. No specific Town employee or department is responsible for oversight regarding all these agreements, including reporting requirements, insurance and compliance tracking. For example, one lease enumerated eleven (11) different reporting requirements for the tenant. Thus, Town responsibility appears to be so decentralized that, effectively, no one in the Town administration is responsible for the ongoing management of leases.

4. The Town lacks information on the amount of subsidy provided to entities permitted to use Town property. The SubCom found no financial models or term sheets detailing the financial implications of these property arrangements or the Town's comprehensive contribution:

> (a) directly in un-reimbursed services provided (e.g. snowplowing, landscaping, utilities); and
>
> (b) indirectly in the form of a discount from the fair market value of the leased space.

5. The information provided to the RTM is insufficient for members to assess the total value and benefit of a proposed agreement. The Town's presentation to the RTM Standing Committees and the RTM General Meetings on real property agreements do not provide sufficient detail and context to allow RTM members to make informed decisions about the proposed use of Town property and the available alternatives to such use.

D. Recommendations

1. Use of Town Property:

a. The Town should develop a formal, written policy governing the use of Town property by an outside person or entity (both non-profit and for profit). At a minimum, this policy should include the following:

(i) Clear definitions of a lease, a license, and a management / operating agreement including specific direction on when each type of agreement shall be used.[23] This definition should identify the steps necessary for approval of each such agreement.

(ii) A clear policy statement describing how the Town offers surplus Town property to outside entities and the criteria for selecting an entity for such use.

(iii) A requirement that each applicant for use of Town property certify the public purpose and benefits accruing to the Town and its residents as a result of its proposed usage. To the extent they are able, this certification should include quantifiable measures of the community benefits provided by the applicants. This certification statement should be included as a representation and warranty in any property agreement entered into with the Town.

b. Use of Town property by an outside person or entity should be governed by a formal agreement with a consistent format. Each agreement should include the same material terms and should be drafted with an eye to the future.

(i) All agreements should be expressly subject to change of terms by the Town at renewal and for an exigent public purpose.

(ii) All agreements should be subject to change in insurance requirements anytime during the term of the agreement.

(iii) The Town should develop forms of property agreements to be used for situations where the Town is a landlord or a licensor. These forms should be the starting point for negotiations over the use of Town property. Deviations and exceptions to the language in Town forms should then be reported as part of the presentation when the agreement reaches the RTM.

c. The Town should provide for a transparent approval process. All Town property agreements including leases, licenses, and management agreements should have a clear checklist of process, criteria and personnel who will be involved in the evaluation and approval of agreements.

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[23] Black's Law Dictionary, Sixth Edition, defines "Lease" to mean "[a]ny agreement which gives rise to relationship of landlord and tenant (real property) or lessor and lessee (real or personal property). . . A contract for exclusive possession of lands, tenements or hereditaments for life, for term of years, at will, or for any interest less than that of lessor, usually for a specified rent or compensation." A "License" is defined to mean a "personal privilege to do some particular act or series of acts on land without possessing any estate or interest therein, and is ordinarily revocable at the will of the licensor and is not assignable." It can also mean a "permit, granted by an appropriate governmental body, generally for a consideration, to a person, firm, or corporation to pursue some occupation or to carry on some business subject to regulation under the police power."

2. Compliance with Statutory Requirements; Delegation of Limited Authority.

a. In order to comply with the Town Charter, *ALL* leases, management agreements, and similar arrangements for the use of Town property *MUST* be submitted to the RTM.

b. Short term and occasional use and 'licenses' of Parks and Recreation facilities have been delegated to the Director of Parks and Recreation under Article 8, Section 76(b) of the Town Charter. There needs to be clarification of the meaning of the term 'license' because 'licenses' are not submitted to the RTM.

c. The delegation of authority must be carried out pursuant to an Ordinance, which amends the Municipal Code, and the SubCom believes the new ordinance should:

- Specifically authorize the Board of Selectmen to approve competitive bid agreements to provide services and clarify the meaning of the term 'licenses';
- Specifically authorize appropriate Town Departments to approve and regulate short term and occasional use of certain Town facilities not currently covered by Article 8, Sections 75 and 76 of the Town Charter; and
- Add clarifying language expressly retaining the RTM's authority as the only body which can approve the lease or other significant use of Town property.

3. Administration of Real Property Agreements:

a. The Town should designate one Town employee as the individual responsible for the management and administration of all real property agreements. This employee can subsequently designate a qualified Town employee to perform annual physical inspections to verify compliance with agreement terms.

b. Administration of Town real property agreements includes the following:

(i) Maintenance of official files, which should include copies of all agreements as well as all correspondence pertaining to each agreement (including email and other digital media) in both digital format and hard-copy;

(ii) Performance of accounting and supervision of billing and collection, as appropriate;

(iii) Annual review and certification of all the agreements' insurance requirements and verification of continuing compliance;

(iv) Annual certification to the Town Treasurer (who is tasked by the Charter to retain original copies of all leases) and the First Selectman confirming the lessee's compliance with the material terms of the agreement, or a detailed statement of how the lessee or occupying entity is not in compliance and what must be done to achieve compliance.

c. Tracking compliance:

(i) The SubCom recommends that the Town make use of an electronic "tickler" or notification system that will advise the appropriate person of items coming due. Preliminarily, the SubCom believes the "case management" software system used by

the Law Department could provide the needed capabilities as well as easy access to digital copies of all documentation. The Town agreed to investigate the cost and personnel needed to utilize the Law Department system for this purpose;

(ii) Responsibility for initiating appropriate action on a lessee or occupying entity's non-compliance according to the terms of the agreement; and

(iii)Responsibility for monitoring proposed new and renewal agreements to track compliance with Town policies and procedures.

4. Value of Town Property Subject to Use Agreement:

a. Annually, the Town should submit to the RTM Finance Committee a comprehensive statement of the cost to the Town for the use of Town property by outside entities pursuant to a real property agreement.

b. This statement should separate and specify the costs by agreement and should include all un-reimbursed expenses paid for by the Town under each agreement, including, but not limited to, labor and benefits, utilities, sewer fees, landscaping services, snow removal, janitorial/custodial services and improvements. It should also include the fair market value of the leased space, as reported by the lessee in its Federal Income Tax return if an exempt organization, or otherwise as estimated by the lessee and the Town.

c. This statement should detail Town expenses by department budget account code. The statement should record any payments or contributions made by the property lessee/licensee/manager.

5. Presentation to RTM:

a. Each proposed real property agreement must be submitted to the RTM, and should be accompanied by a complete Abstract of Terms, similar to the abstracts prepared as part of this project, and a Summary sheet outlining, in a one or two page document, the material agreement terms. The Abstract and Summary should serve to give all RTM members an overview of the material agreement terms without their having to read through the full agreement.

b. Presentations of proposed property agreements to the RTM should include:

(i) The full proposed agreement, with changes to the Town form (additions and deletions) clearly marked;

(ii) The certification of public benefit discussed in paragraph E(1)(a)(iii) above; and

(iii) A statement of the estimated cost to the Town for the proposed arrangement as described in paragraph E(3) above.

c. The RTM Moderator should refer all leases of Town Property listed on the Call to the RTM Finance Committee for review, regardless of lease size or term.

E. Specific Entity Observations and Recommendations

1. Greenwich Arts Council (GAC)

The SubCom's field visit to the GAC was held on November 15, 2011. As described in the field visit report (Exhibit VIII, no. 3), the business relationship between the GAC and the Town began over 30 years ago, starting in 1980. At that time, Mr. Frank Keegan, the then P&R Director, was responsible for managing and controlling the old Town Hall property, located in the Central Business District. Mr. Keegan sought a second non-profit tenant (the Senior Center was on the first floor) that would be responsible for maintaining and enhancing the remaining 2nd and 3rd floors of the renovated building.

The SubCom learned that GAC was chosen by Mr. Keegan because the organization offered Town residents a variety of cultural programs and services promoting the arts and theGAC needed the extra space over their space at the Greenwich Library. The terms were $1.00 per year rent for ten years and required the GAC to maintain at its own expense the 2nd and 3rd floors. The GAC was encouraged to provide and manage for numerous smaller non-profit arts organizations co-located with the GAC. Although the Town (through P&R) remained in ultimate charge of the allocation of the space and the rental, GAC was permitted collect the rental funds from these organizations to augment GAC's own fundraising efforts to carry out GAC's mission and to help defray the building renovation and maintenance costs. According to the GAC, without the revenue generated from the rental tenants (currently GAC has six tenants who generate $70,000 in rent toward their $400,000 overall budget), the GAC would not be able to exist then or today.

The 2000 to 2010 GAC lease agreement has expired. GAC is currently operating, month-to-month, as a holdover tenant under Section 14 of the 2000-2010 lease agreement. Since the 2000-2010 lease did not allow GAC to sublease, GAC has entered into yearly recurring license agreements with tenants to allow them to continue operating in the space.

Recommendation: The Town should allow the GAC to continue to operate month-to-month under Section 14 of the 2000-2010 Lease. Once the Town develops and completes its new Town property lease policy (recommended by SubCom to be completed by the end of 2012) a new lease agreement should then be executed between the GAC and the Town with terms and conditions in conformance with the new policy. While the Town may wish to permit GAC to continue to collect rents on its behalf from additional organizations permitted to use part of the space, to defray maintenance costs, the new lease should not permit the creation of subtenancies which create any legally cognizable interests in the premises leased to GAC.

2. Wireless Technology

The two agreements for wireless technology were negotiated before the growth in cellular markets and their ubiquitous use. The financial terms were not re-negotiated over the terms of the leases. Both agreements expire February 28, 2013, subject to exercise of their renewal options.

The SubCom believes it is in the Town's best interest to review the financial terms of these agreements before the renewal date and evaluate its options to match the rent with the current market value of the property subject to the agreement.

The Town advised the SubCom that it has undertaken a Town-wide needs assessment for wireless technology, including a study of market rates. The Town further advised that the terms and conditions of the

wireless technology agreements will be modified with the renewal and that the Town will bring these renewal agreements before the RTM for review. [24]

Recommendation: The Town should bring all new and renewal agreements for wireless technology located on Town real property to the RTM for approval.

3. Nathaniel Witherell Apartments

The SubCom's research indicates that The Nathaniel Witherell ("TNW") leases 11 apartments: five are located at TNW Pavilion and six are located in TNW Administration building. The TNW leases are further described in Exhibits V and VIII. The SubCom learned that these 11 apartments are occupied on a month-to-month basis by a combination of active and retired Town employees. While close to half of the lease agreements provide for an annual increase in the rent charged, on July 18, 2011 TNW advised that it has not increased any continuing tenant's rent in the past four years.[25] Further, the SubCom did not learn of any formal policy guiding the award of such tenancies or the amount of rent charged.[26]

The Town advised the SubCom that it would investigate the practices surrounding access to and use of TNW apartments.

Recommendation: As with any Town property, the Town should adopt, as soon as practicable, a transparent policy covering the award of any Town owned apartments. The SubCom recommends that this policy include, among other things:

(i) a procedure for notifying the appropriate applicant pool of the availability of these apartments;

(ii) a process for selecting among applicants for the use of such apartments; and

(iii) such criteria as may be appropriate to determine continued eligibility for use of all Town-owned apartments.

4. Boat and Yacht Club Agreements

There are four operating agreements and one license regarding the Town marinas. The SubCom's research determined that while the agreements covering the Boat Clubs are somewhat similar in terms, there are some unexplained differences:

(i) The Mianus River Boat & Yacht Club members with boats are required to maintain $500K general liability insurance limits while other clubs need only $300K. (Notes from SubCom field visit to Mianus River Boat & Yacht Club are included in Exhibit VIII);

[24] This was John Crary's verbal response to the SubCom at the May 27, 2011 meeting. The SubCom notes that a slightly different response was provided in the Town's June 30, 2011 written response to SubCom questions (see Exhibit IV).
[25] TNW informed the SubCom that TNW sent a notice to all tenants that a 3% rent increase would go into effect on August 1, 2011. Lucia Jansen Field Report of July 18, 2011 meeting with TNW Board Chair, David Ormsby.
[26] The Town suggested that use of the apartments is determined by TNW. See June 30, 2011 Town response to SubCom Questions, question 7 (attached as Exhibit IV). TNW representatives have indicated that the First Selectman's Office referred tenants for these apartments to TNW and that TNW did not perform a separate review of the referred tenants. See Lucia Jansen Field Report of July 18, 2011 meeting with TNW Board Chair, David Ormsby, included in Exhibit E.

(ii) The Byram Shore Boat Club is governed by an "Operating Agreement" while the other clubs have leases; and

(iii) The Byram Shore Boat Club Operating Agreement is silent about the rights and duties of slip holders while leases at the other clubs have specific terms for this class of membership.

The SubCom is aware that other Town committees are considering the issues applicable to the entire Greenwich waterfront and, further, that a new Harbor Master is expected to help sort out these issues.

Recommendation: The First Selectman's Coastal Resources Advisory Committee, the POCD Town Property Committee and the Harbor Master should review the Boat and Yacht Club Agreements and make recommendations regarding their modification consistent with this Report's recommendations.

5. Innis Arden Cottage

During its investigation of Town property agreements, the SubCom became aware that the Seaside Center operated by the Bruce Museum ("BMI") is now housed in the recently renovated Innis Arden Cottage. The SubCom inquired whether the Town would enter into a lease with BMI for use of this property.

The Town responded that the Town intended to retain management and operational responsibility for the Innis Arden Cottage and that the Cottage would house the Floren Family Environmental Center and the Bruce Museum Seaside Center.[27]

The SubCom also learned that the Town has hired a new part-time Town employee with $8,100 in cost allocated by P&R, and with DPW responsible for training, insurance, and safety (no costs breakdown), to perform maintenance at the new Innis Arden Cottage. The Greenwich Point Conservancy has generously paid for the first year's cost, but all costs in all subsequent years will be the Town's responsibility. The Town's obligation to provide maintenance of the Cottage was described in the Operating Plan at the time of RTM gift acceptance from the Conservancy, but without specific amounts or parameters.

Programming for the Cottage, which includes meeting rooms and office space, will be organized through the Conservation Commission with input from the Shellfish Commission, Greenwich Public Schools, BMI, Greenwich Point Conservancy, Friends of Greenwich Point, Audubon-CT, and Soundwaters.[28] Access to the Cottage will be available to Town departments and non-profit groups, with programming supporting environmental and cultural literacy having priority.[29]

The Town stated in the May 27, 2011 meeting with the SubCom that it would not enter into a lease or license with BMI for the relocated Seaside Center and that use of the Cottage by outside entities would be pursuant to a "use agreement" administered by the Conservation Commission.

Recommendation:

1. **As with any Town property, the Town should adopt, as soon as practicable, a written, transparent policy covering use of the renovated Innis Arden Cottage by non-Town entities**.
2. **The Town should develop a formal written agreement governing use of the Cottage. The Town should specify how this written agreement differs from a license agreement.**
3. **In the future, property gifts should include an Operating Plan that details the minimum anticipated initial level of Town financial obligations for maintenance and operations with**

[27] See June 30, 2011 Town Response to RTM Finance Committee – Subcommittee on Leasing Policy, Question 8.
[28] Ibid.
[29] Ibid.

respect to the new property; as well as parameters or boundries to the future costs associated with the new property.

6. GEMS

Greenwich Emergency Management Systems (GEMS) occupies two Town-owned properties [on King Street and at 143 Lower Cross Road (the Art Barn)] for the storage and maintenance of ambulances used to provide life-support services within the Town. Surprisingly, neither of these properties has a formal lease agreement in place. GEMS also has locations at Greenwich Hospital and at 1111 E. Putnam Ave.

The relationship between the Town and GEMS dates back to 1989. Pursuant to contract, GEMS agrees to provide the Town with a specified level of emergency service and guaranteed emergency response times. In return, the Town agrees to pay GEMS, subject to appropriation by the BET and RTM, a sum to subsidize operations and to underwrite the cost of occupying two of three required ambulance stations and administrative offices. At the time the contract was written, GEMS occupied three locations in Greenwich. Currently GEMS has a fourth location on King's St.

The contract does not allocate responsibility for the maintenance of the occupied premises. At the time of the SubCom's survey, there was a draft, unsigned maintenance agreement for the Art Barn.

Recommendation: GEMS use of Town property should be subject to written lease agreements with consistent terms as other Town leases.

Exhibit I: SubCom Answers to Original Questions to Town Administrator

1. Q: How many such leases does the Town have and who are the parties in each lease?

A: The Town has 28 [sub-market] leases, plus 11 individual residential leases at TNW. We did not review the boat slip rentals, locker rentals, or various concession agreements. The parties to the 28 leases are listed on Exhibit C.

2. Q: Does the Town have a written policy regarding leases?

A: No.

3. Q: Can the lessee sub-let any part of the property? And who receives the rental income from such an arrangement?

A: Excluding the Boat & Yacht Clubs and Greenwich Plaza, none of the sub-market leases authorize the tenant to sub-lease any part of the property. One tenant does sub-lease although its lease does not permit this. The tenant receives and retains the sub-lease income. The Boat & Yacht Clubs are authorized to sub-lease the Town-owned boat slips they manage under terms of their leases. Such rental income is retained by the Clubs.

4. Q: Who in Town government is part of the negotiating/agreement process that produces these leases?

A: Please refer to the Abstracts of Leases.

5. Q: What is the fair rental value of the property leased by the Town to the Greenwich Arts Council located at 299 Greenwich Avenue and the other sub-market leases of Town property?

A: To be determined.

6. Q: How is the value determined, who does the valuation and what role does the market value play in the decision process?

A: The fair market value was never stated in any documents the Subcommittee reviewed. The Subcommittee determined that fair market value played no role in the decision process.

7. Q: How is the leasing of Town assets for sub-market rates reconciled with the long-range financial plan of the Town?

A: There is no reconciliation with either the Long Range Financial Plan or the Annual Budgets.

8. Q: What is the proposed square footage leased by the Town to the Greenwich Arts Council located at 299 Greenwich Avenue and any other sub-market leases?

A: The square footage leased through sub-market agreements has not yet been determined by the Town or the Subcommittee.

Exhibit I (cont)

9. Q: What are the benefits to the Town of continuing the practice of sub-market leases?

A: There are several activities conducted by tenants in sub-market leases. The Subcommittee was able to identify some of them. However, the precise benefits must be developed according to the terms of each lease and the activities of each tenant. The Subcommittee developed the following categories of benefit:

- Surplus Town real property assets are occupied;
- Some of these properties are maintained by the tenant;
- Certain services, like sailing classes, are available to residents and the Town is protected from liability;
- Other services are now provided by non-governmental entities saving the Town operating costs and/or enhancing services to Town residents; and
- Certain non-profit organizations are able to offer their services with very little overhead expense.

10. Q: Are such leases offered only to non-profits organized under section 501c (3) or can other types of entities qualify?

A: Sub-market leases are held by non-profit and for-profit organizations as well as private citizens.

11. Q: If the Town has excess real property that it wants to make available to community organizations, why can not the Town offer the leases in a public auction? Or, can it find another way to distribute the opportunity to qualifying organizations?

A: The Subcommittee developed recommendations to respond to this question. Please refer to Report paragraph D above.

12. Q: How do some organizations receive sub-market leases almost in perpetuity, while others are not considered for such arrangements?

A: The SubCom was unable to provide a definitive answer. The Subcommittee learned that some organizations bring proposals to the Town, most often through the Board of Selectman. Over time, the Board members change. Since lease management responsibility is divided between many Town departments, the agreements tend to stay in place.

The RTM has generally approved these agreements when they were listed on the Call. The Subcommittee is not aware of an instance where the RTM voted 'No' on a market value or a sub-market lease in recent years. It did vote 'NO' on the initial Teen Center Lease but subsequently approved it about ten years ago.

Exhibit II: Subcommittee Interim Report to the RTM

March 14, 2011

Thank you to the members of the Subcommittee: Co-chairs Rob Perelli-Minetti, D-12 and Jill Oberlander, D-2 as well as Mary Ferry, D-5, Erik Norrgard, Erf Porter, and Karen Sadic-Kahn, all from D -6, Lucia Jansen, D-7, Gordon Ennis, D-8.

We have reviewed approximately 22 lease documents, with each member contributing many hours of work.

Thank you as well to the Town employees who made themselves available to provide documents and answer questions. Special thanks go to Peter Minarsky whose help has been invaluable.

As part of our review, we have excerpted the main lease components, for example, term, responsibility for maintenance and repairs, allocation of costs, etc. We will recommend this type of review be performed on every lease that comes before the RTM.

Our task is not yet complete. We are working with various Town Departments to ensure we have received the entire universe of property agreements. We are also working to clear up some questions about specific lease documents / arrangements with the not-for-profits.

We continue to examine the process the Town uses to handle leases of property to not-for-profit entities in our attempt to define and understand the total complex of Town leased property.

We expect to meet with the First Selectman to review our preliminary report in May. Our final and complete report to the RTM is expected after the summer break with the conclusions of our review and our recommendations for action.

SOME PRELIMINARY OBSERVATIONS ARE AVAILABLE NOW AS FOLLOWS:

1. There is a lack of uniformity in the lease agreements.
2. There is a lack of coherence in the administration of the lease arrangements.
3. There is no single assigned person/department responsible for lease administration and compliance, i.e. track billing, costs, receipt of annual reports, notice, etc.
4. There is no consistent or unified Town policy that is followed either in the award of a lease or in the terms contained therein.
5. Leases should be negotiated with an eye to the future. What seems like a good deal in 2011 may not be a good deal in 10 years (e.g. cell tower compensation).
6. The RTM should receive a lease abstract every time it receives a document to review.
7. It appears that some tenants are not complying with the terms of their leases.

by: Gordon A. Ennis,
Chairman, RTM Finance Committee

Exhibit III: Minutes of May 27, 2011 Meeting with First Selectman

RTM Finance SubCom with First Selectman & Town Administration
By: Lucia D. Jansen, Acting Secretary

Attendees: **Town:** Peter Tesei, John Crary, Joe Siciliano
RTM Finance Subcommittee: Gordon Ennis, Erf Porter, Erik Norgarrd, Jill Oberlander, Rob Perelli-Minetti, Suzanne Geiss-Robbins, Mary Ferry, Lucia D. Jansen, Karen Sadik-Khan

1. **Kickoff –** Gordon kicked off with Introductions and Executive Summary.

2. **Lease Abstract Walk-thru –** Rob described in summary form the Greenwich Arts Council lease abstract and emphasized the value of having such an abstract for not only for the RTM, but the Town administrators. Rob also discussed the need for RTM members to see easily and clearly the changes that may have occurred in terms and conditions from the expired prior agreement.

3. **SubCom Draft Report walk-thru.** Jill then walked through the report and below are the items with discussion:
   a. **RTM Finance Committee bypass.** Tesei mentioned to modify page 4– "2nd time RTM Finance committee bypassed for review of a lease". Tesei mentioned that the decision for call items is made by Moderator.

   b. **Statutory Authority –**Tesei mentioned that Leslie Tarkington, of the BET, , two years ago had asked why the BET isn't involved in the review of leases. Tesei seemed to suggest that Town officials need to explore this further and define what, precisely, is the BET's role, and re-evaluating if it should be modified going forward.

   c. **Innis Arden Cottage and Education Center –**Tesei delved into this example during the discussion of lease vs. license. He explained that a license was used in the interior construction phase out of the cottage in order for the Greenwich Point Conservancy to have flexibility in hiring artisan craftsman "experts" rather than constrained by "municipal" mandated contractors who may not be of the same quality.

      Tesei further explained that the Town was not going to set up a "management agreement" with Bruce Museum Inc. (BMI), but rather, he and others decided that the Town is going to manage all the entities (Bruce Museum's Seaside Center, Shellfish Commission, Greenwich Point Conservancy, and other educational programming)--- and put the Conservation Commission Director (Denise Savageau) in charge. That Denise has written a one page "license" agreement.

      However, it was still not clear why a license vs. a lease, especially since Crary in this discussion mentioned that licenses are primarily used by "concession providers" and the Town basically uses a license as a RFP process.
      Further, it was not discussed at the meeting, to clarify the question about the naming rights of a Town building, now that BMI is not the party managing the education programming. What are the policies and rules guiding when a Town building is renamed after an individual or entity?

Tesei also mentioned the Greenwich Point Conservancy has $400,000 in the bank to work on a future project identified as the 'barn' at Greenwich Point.

d. **Board of Selectman vs. First Selectman –**Tesei clarified that it is indeed the full BOS and not just FS that approves all leases.

e. **Cell Tower at Griff Golf Course –** in the discussion of lease vs. license the cell tower was mentioned. Joe Siciliano had understood there were no changes to the Terms and Conditions and that this was a "renewal" so he had apparently misspoken at the RTM P&R budget meeting in May because Crary said clearly: "there will be changes to the T&C's and the RTM will be involved" in the renewal of the cell tower contract. Karen also mentioned that Siciliano had stated at the same meeting that all the revenue in the future cell tower agreement flow to the Griff [versus the General Fund].

f. **Benefits vs. Costs Discussion –** in the discussion of costs vs. benefits that is provided by a non-profit in a Town building, Tesei mentioned the Housing Authority at Town Hall Annex. Changes are underway to restructure the agreement for tax purposes.

g. **Tickler System –**Tesei noted that it sounded like a good idea to use the legal department's existing automated tickler system. He expressed an interest to investigate further

h. **Nathaniel Witherell –**Tesei mentioned that Leslie Tarkington, of the BET, had mentioned by reference an Entec study that the apartments are not up to fire code. Tesei was mentioning he did not know, but if they were not up to code, it would be serious. Rob did mention to Tesei they are probably up to code via a waiver. Tesei also said he didn't know who governed the property on tenant selection. He would look into both .

i. **Town logo on report –** Tesei and Crary confirmed we can use the logo in the report.

4. **Questions submitted prior to meeting –** Gordon relayed to Tesei and Town officials the questions did not need to be answered at the meeting, but may be answered by email and returned to SubCom. No date was mentioned for deadline.

5. **Feedback on report –**Tesei was very thankful for the time and effort by SubCom. He especially liked the idea of a side-by-side comparison of costs versus benefits. Siciliano remark was that he was confused on the value of Lease Abstract since all the information is in the agreement--- SubCom explained the need to Siciliano..
   Crary also was appreciative of the effort but remarked that felt he did not have personnel to carry out the recommendations in the report. He did welcome any future help by the RTM SubCom, including help to draft a lease/license/management agreement policy that the Town might adopt from the report.

6. **Next Steps –** Gordon discussed the desire to present to the full RTM by September 2011. Tesei and team thought that was fine.

7. **Meeting concluded.**

Exhibit IV: Town Response to SubCom

by First Selectman Peter Tesei, June 30, 2011

Questions posed to First Selectman

1. How do the Selectmen review & approve property agreements? (ref pg 5 5/23 draft para 4).

Answer: Requests for renewal are generally presented to the First Selectman's Office and the Law Department by the department that has responsibility for oversight. Generally the department will also have some recommendations for changes in the proposed lease that they feel are now necessary due to operational considerations. Typically the Office of the First Selectman will look at financial and operational issues and the Law Department will review the language and insurance requirements. Other modifications will be considered, as necessary. Once Law has completed their review a meeting is scheduled with the appropriate oversight department and members of the First Selectman's office to finalize all proposed changes. Once all parties on the Town side are in agreement, the modifications are presented to the party interested in renewing their lease of Town property. Once an agreement is reached by all of these parties the proposed lease is presented to the First Selectman for his concurrence. There may also be other actions that occur depending on the individual circumstances including; presentation to the Board of Selectmen, the adoption of Municipal Improvement status and review by P & Z. As soon as all of these intermediate actions are complete the lease is presented to the RTM for their review and final approval.

If a property is proposed to be leased that has never been leased in the past the process is much more complicated. In the past four years we have not had any property in this category. The elements that would be considered are: should the property be leased at all, what are the reasons for the lease – services beneficial to the community or financial incentives or some combination of the two, should other parties be contacted to determine if there is any other interest in its use and finally, are there any other issues that need to be considered prior to a decision to lease a Town asset.

2. Which committees review leases/agreements with terms more than one year but less than two yrs? (ibid pg 4 para 2).
Note: Where is the delegation to the RTM of the review/approval of leases with a term longer than one year, but less than two years?

Answer: All leases are treated the same regardless of their duration.

3. Are there leases which under the Charter and/or Code do not require RTM review? (ibid pg 4 para 2).

Answer: Not that we are aware of.

4. GEMS does not have a lease for the Art Barn or King Street locations. Why?

Answer: Our relationship with GEMS is contractual. GEMS first entered into a contract with the Town of Greenwich Health Department in 1989 for the provision of Life Support Emergency Medical Services. A key element of this agreement was the Town providing space for the Ambulance Corps to locate their vehicles and staff to minimize the response times for call outs for service. Another important consideration was minimizing the financial cost of these services by providing space that did not require lease payments to be made. The use of Town property in this fashion meets both our financial and operational interests. Please see the attached agreement (2001) and extension (2009) with GEMS and the most recent (2010) audit of GEMS that speaks about this arrangement.

5. The Pigeon Club does not have a lease. Why?

Answer: The Pigeon Club had a lease that we believe has expired. The Town is in the process of finalizing our redesign plan for the Holly Hill facility and we will need the land where this building is located as a part of that plan. We are working with the Pigeon Club to relocate them to another site.

6. Should the annual statement of Town cost (subsidy) be included as part of the budget or should it stand alone? (ibid pg 9, para 3).

Answer: We don't think that the inclusion of such a statement is useful. Each lease that is proposed by the First Selectman's Office and approved by the RTM is unique. Some, such as the cell tower leases, are primarily for economic purposes although the provision of reliable cell coverage is a consideration. Other leases, such as the Arts Council, have been proposed because the facility provides important services to the community that government does not. Each lease presented to the RTM meets different needs of our community. Lumping these leases into a line item that provides our best estimate of the implied subsidy would be a disservice to this process and would not properly disclose the complexity of this subject.

7. How do we explain the historical context of TNW apartment arrangements for Town active and retired employees?

Answer: The leasing of the TNW apartments has been occurring for many years. While gathering information in response to this inquiry the best that we have determined is that the Nathaniel Witherell Board has permitted and encouraged the rental of these apartments for Town Employees and/or Town residents in financial need to provide more housing opportunities for the community.

8. Is the Innis Arden Cottage or Floren Family Environmental Center controlled by a lease or a license? Why?

Answer: The Town is not leasing the Innis Arden Cottage. The Town did enter into a short term license agreement with the Greenwich Point Conservancy to permit the Cottage to be renovated in a historical manner. Now that the renovation is complete the license agreement has come to an end.

The Innis Arden Cottage at Greenwich Point (aka Queen Anne Building) was built by the Tod Family in 1902-03 for use as a guest house. The building was restored by the Greenwich Point conservancy as a part of a public/private partnership with the Town. It will house the Floren Family Environmental Center and includes meeting rooms, office space, and is the new home of the Bruce Museum Seaside Center.

The building is owned and managed by the Town as part of its Parks and Recreation Department. The Conservation Commission will be responsible for all programming in the building. It will be available to town agencies and non-profit groups for education, outreach, during normal park hours. It will not be available for private parties. Key partners that are coordinating programming with Conservation include the Town of Greenwich Shellfish Commission, Greenwich Public Schools, Bruce Museum, Greenwich Point Conservancy, Friends of Greenwich Point, Audubon Greenwich and Soundwaters. Programs supporting the mission of environmental and cultural literacy will be the primary focus of the Center.

Subcommittee on Town Leasing Policy – Follow-up

Town Action Items:

1. Town to provide answers to written questions posed by SubCom and forwarded prior to the meeting.

Answer: See responses above

2. Town to provide SubCom with Housing Authority leases.

Answer: We are continuing to work on this request. Most properties that may fall in this category (i.e. Town Hall Annex) are long term agreements made many years ago to foster housing opportunities for low and moderate individuals and will require continued research to identify. As they become available they will be shared with the sub-committee.

3. Town to consider requiring lease abstracts for all upcoming leases.

Answer: We agree that this is desirable and will work with the Town Attorney's office to assure that as future leases are presented to the RTM that a lease abstract is included in the submission.

4. Town to advise SubCom on the status of Greenwich Arts Council lease and cell tower renewals.

Answer: The lease for the Arts Council was submitted to the RTM last fall. The proposed lease renewal has been delayed pending the work of the RTM's Subcommittee on Town

Leasing. No further modifications to the proposed Arts Council lease extension have been proposed or are anticipated.

The cell tower lease does not expire until 2013. If we elect to recommend the renewal of this lease to the RTM we expect that this will occur after a negotiation process that will assure that the Town is properly compensated and the cellular service needs of our residents are protected.

5. Town to research role of BET in reviewing and approving leases & licenses.

Answer: According to the Town Charter the BET does not have role in the leasing of Town properties or the issuance of license agreements. Of course, the BET, through one of its committees, may take an interest in such matters and may provide advice to the Office of First Selectman and the RTM as appropriate.

6. Town to explore using Law Dept. case management software to manage lease compliance.

Answer: The Town has begun the process of considering how best to manage the many leases that the Town has entered into over the years. This may include the Law Department case management software or a standalone software package designed for property management. Lease compliance is a more complicated issue and will also be an important consideration in the management of this subject.

7. Town to provide policy/rationale for using Use Agreement (vs. lease or license) for Innis Arden Cottage.

Answer: The Town was approached by the Greenwich Point Conservancy over a year ago. They expressed an interest in protecting and restoring the Innis Arden Cottage. They offered to raise sufficient funds to cover the total cost of restoring the building in a historically accurate fashion. They were concerned that if the work was performed by the Town that we would be hampered by the Town's purchasing requirements and the historical issues would not be paramount in the renovation decisions. After reviewing this matter with the Law Department we determined that the best means of accomplishing our goal of renovating the building in a historically accurate fashion was a license agreement. The agreement would permit the Greenwich Point Conservancy to employ those vendors most suited for this project and would permit them to perform the work without the normal limitations that the Town would have to face. Once the building renovation was complete the license agreement would end and the building would revert to the Town for its intended purpose.

Exhibit V: List of Agreements Reviewed

	NAME	ADDRESS	Start Date	End Date	Annual Rent
1	ABILIS Pomerance Property	101 Orchard St. Cos Cob	8/16/2002	8/16/2012	$1
2	Adult Day Care	Mianus Dam Pump Station	2004	2014	$1
3	American Legion	248 Glenville Rd	12/16/1997	12/15/2017	$1
4	Bruce Museum Mgt Agreementt	One Museum Drive	1/31/2007	1/30/2017	N/A
5	Byram Boat Club	Byram Park, Byram	6/29/2007	7/1/2017	$1
6	Byram Library	Mead & William Sts	6/14/1971	6/13/2070	$1
7	Children's Day School	Western Grwch Civic Ctr	7/1/2007	8/31/2017	$43,968
8	Concession License # 023	G Harris GC 1323 King St	12/16/2010	12/31/2013	$58,500
9	Cos Cob Rifle Club	Sportsmen Hall, Steamboat Rd	10/28/2010	10/27/2035	$10
10	Garden Education Center	130 Bible St Cos Cob	10/1/2007	9/30/2017	$1
11	GEMS Art Barn Maint Agrmnt (undated and unsigned)	Art Barn, 143 Lower Cross Rd			
12	GEMS Management Agreement	1111 E. Putnam Ave	7/1/2001	6/30/2014	N/A
13	Golf Management Agreement	G Harris GC 1323 King St	1/1/2011	12/31/2013	$5,000
14	Greenwich Arts Council	299 Greenwich Ave	11/1/2000	10/31/2010	$1
15	Greenwich Plaza (Air Rights)	Steamboat Rd & Arch St	9/21/1967	9/21/2037	$127,000
16	Grwch Boat & Yacht Club	Grass Island, Grwch	10/15/1997	10/14/2017	$1
17	Hill House Sublease	10 Riverside Ave.	6/10/1996	12/30/2015	$1
18	Historical Society Sublease	Strickland Rd. Cos Cob	6/10/1996	11/30/2015	$1
19	Innis Arden Edu Center License	Greenwich Point			
20	Libry Peterson Wing Mgt Agrmt	101 W. Putnam Ave	1999		
21	Metro Mobile of Fairfield Co	Griff Harris GC 1323 King St	3/1/1993	2/28/2013	$12,500
22	Mianus Bridge Overlease	Parcels under I-95	12/1/1995	11/30/2015	$1
23	Mianus River Boat & Yacht Club	98 Strickland Rd. Cos Cob	3/1/2003	2/28/2013	$1
24	New Cingular Wireless PCS	G Harris G.C. 1323 King St	7/13/2006	2/28/2013	$33,765
25	Old Grwch Riverside Comm Ctr	E Grwch Civic Center 90 Harding Rd	9/1/2010	8/31/2011	$19,200
26	Old Grwch Yacht Club (OGYC)	Greenwich Point, Grwch	10/6/1997	10/5/2017	$1

Exhibit V: List of Agreements Reviewed (cont.)					
27	OGYC: Chimes Bldg	Greenwich Point, Grwch	5/1/2010	9/30/2010	$4,000
28	Parsonage Cottage	88 Parsonage Rd	8/9/1995	7/31/2094	$1
29	Pigeon Club	Holly Hill Rd	1985	1995	
30	Teen Center	100 Arch St. Grwch	4/1/2010	12/31/2015	$1
31	TNW Admin Build: Apt # 1	TA	10/15/2007	Mo to Mo	$6,684
32	TNW Admin Build: Apt # 2	JC	7/15/2010	Mo to Mo	$6,684
33	TNW Admin Build: Apt # 3	EAB	1/1/2009	Mo to Mo	$6,600
34	TNW Admin Build: Apt # 4	CMM	7/1/2009	Mo to Mo	$6,492
35	TNW Admin Build: Apt # 5	MS	10/15/2007	10/15/2012	$6,684
36	TNW Admin Build: Apt # 6	JE	10/15/2007	Mo to Mo	$7,068
37	TNW Pavilion: Apt # A	RAE	3/6/2009	Mo to Mo	$600
38	TNW Pavilion: Apt # B	FR, JR	3/15/2007	Mo to Mo	$800
39	TNW Pavilion: Apt # C	BS	10/15/2007	Mo to Mo	$7,800
40	TNW Pavilion: Apt # D	AK	7/1/2009	Mo to Mo	$8,100
41	TNW Pavilion: Apt # E	CD, BD	10/1/2006	Mo to Mo	$9,600
42	Town Hall Annex	27 Havermeyer Pl	12/31/1980	12/31/2020	$1
43	Town Hall Annex Corp (Old Byram School)	W Putnam, Byram & Sherman	8/31/1985	8/30/2084	$1

Exhibit VI: Map with Locations Plotted

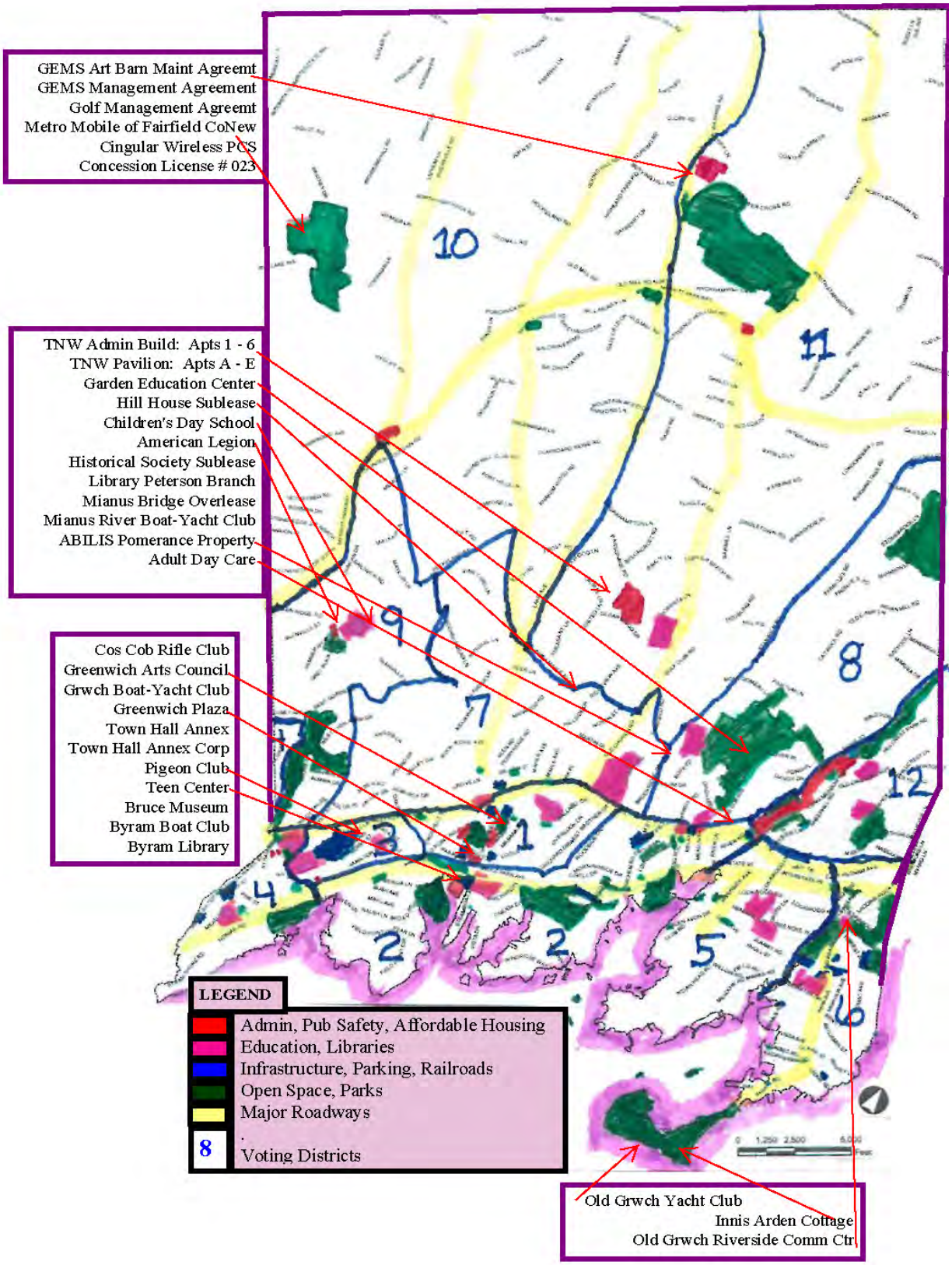


Exhibit VII: TNW Lease Summaries

Five Apartments Located at Pavilion on TNW Premises

Apt #	Rent		Security Deposit	Start Date	NOTES & OBSERVATIONS
	Month	Annual			
A	$50	$600	$650	3/6/09	Mo-to mo Initial rent: $650 reduced to $50 on 6/1/10
B	$800	$9,600	$800	3/15/07	Mo-to-mo.
C	$650	$7,800	$650	10/15/07	Mo-to-mo. Escalation to be negotiated annually.
D	$675	$8,100	$200	7/1/09	Mo-to-mo.
E	$800	$9,600	$0	10/1/06	Mo-to-mo.
Total	**$2,975**	**$35,700**	**$2,300**		

Six Apartments located at Administration Building – 3rd Fl on TNW Premises

Apt #	Rent		Security Deposit	Start Date	NOTES & OBSERVATIONS
	Month	Annual			
1	$557	$6,684	$0	10/15/07	Mo-to-mo. Escalation to be negotiated annually.
2	$557	$6,684	$557	7/15/10	Mo-to-mo.
3	$550	$6,600	$550	1/1/09	Mo-to-mo.
4	$541	$6,492	$541	7/1/09	Mo-to-mo.
5	$557	$6,684	$0	10/15/07	12 mo term**.** Escalation to be negotiated annually.
6	$589	$7,068	$0	10/15/07	Mo-to-mo. Escalation to be negotiated annually.
Total	**$3,351**	**$40,212**	**$1,648**		

Grand Total	**$6,326**	**$75,912**	**$3,948**

Exhibit VIII: Reports on Field Visits

1. Mianus River Boat & Yacht Club (MRBYC)

Field Interview by Gordon Ennis
May 6, 2011

On Friday, May 6th, I met with Commodore Richard Mould and Fleet Captain William Ingraham at the MRBYC clubhouse to discuss their understanding of the Club's responsibilities under their lease.

Commodore Mould and Fleet Captain Ingraham reported the following:

1. When the club organized, the only improvement on the property was a paved parking lot. The club built the clubhouse, covered bridge and attached docks. These improvements were completed with all necessary and appropriate permits and zoning approvals. The improvements were gifted to the Town by the club.
2. The club has a letter from the Town Finance Dept. forgiving them from the duty of r

cials and other unspecified items required in their lease. They will forward a copy of the letter to me. This was a surprise!

Figure 1: Strickland Rd Looking East

3. MRBYC is required to maintain $500K general liability insurance limits while the other boat & yacht clubs on Town property need only $300K limits. This seems unfair and the insurance was difficult to buy for a time.
4. The tenant's financial operations were to be included in the annual post-audit of the Town. This practice "was stopped years ago" allegedly because it was too expensive for the Town to continue.
5. The club pays a dock license fee of $79 to the Health Dept even though the Town owns the dock.

6. Club also pays a permit fee because they operate a kitchen.
7. All slip owners pay $5350 as a cash bond held interest free by the club. The bond is returned when the member resigns.
8. All slip owners pay a use permit fee of $75 per year. The fee is waived for people over age 65.
9. Applicants for membership must provide the same kinds of proof of residence as those who apply for Town beach passes. If members move out of Town, they can maintain an associate membership for $100 per year. They are able to stay in touch with the club through events and the newsletter. They cannot maintain a boat slip.
10. There are about 285 member families. Each family gets one vote on matters decided by the membership..

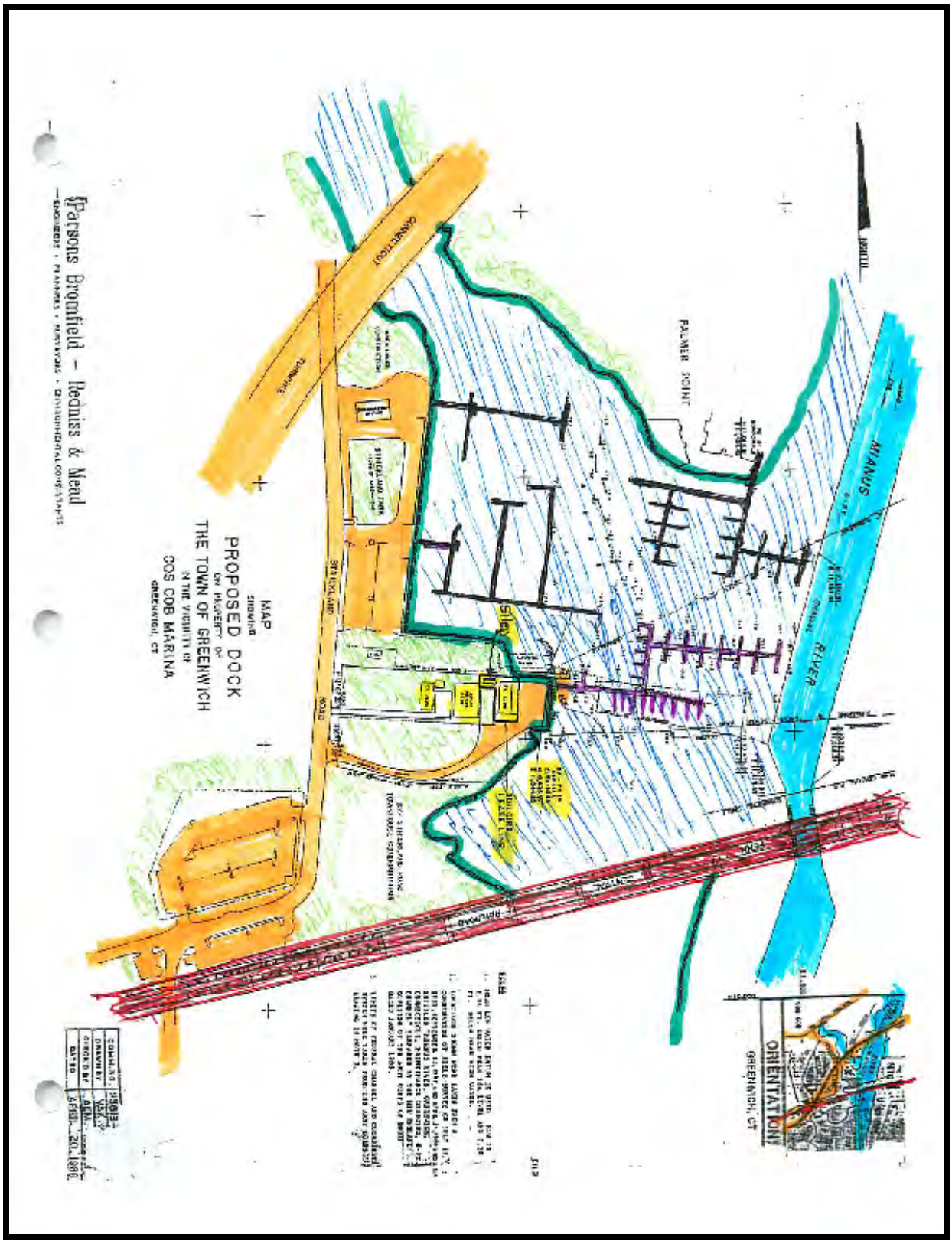
11. The marina has the capacity to serve 46 boats with dock space.
12. The marina needs to be dredged every ten years. The last dredging was completed in 2002. The adjacent Town dock is silted-in where members have paid their dock fees but cannot use the dock.

Figure 2: Clubhouse Looking NNW

13. The club pays for the hydrographic and soil composition tests to comply with EPA regulations and facilitate dredging operations. It also does these tests for the Town docks.
14. The marina requires a depth of six feet below mean low tide. It has less than four feet.
15. The club operates a head pump service that is free to all boats. Beacon Point charges a fee. Riverside offers the service to members only. Grass Island has the equipment but it is not functioning.
16. Summer use of boat slips costs $23 per foot. Winter storage is $24 per foot. By comparison, slips in summer cost $165 per foot at Beacon Point and $145 at Palmer Marina.
17. The club offers the following events for members and/or non members:
    a. Sept Fishing Tournament
    b. Safe boating classes and EPA training with the Greenwich Fire Dept. including fire drills
    c. Clam bakes & similar events
    d. An adult Christmas party for members. The children's Christmas party, pumpkin carving party and similar events are open to all Town residents.

e. The club remains open to children for events throughout the year

Figure 3: MRBYC PLOT SURVEY



2. The Nathaniel Witherell Pavilion & Administration Apartments

Field Interview by Lucia D. Jansen
July 18, 2011

Attendees: David Ormsby, Chair, TNW Board
Lloyd Bankson, Finance, TNW Board
Allen Brown, Executive Director, TNW
Lucia D. Jansen, SubCom, RTM Finance Committee

Figure 4: TNW Parsonage Rd Sign

TNW responded quickly and graciously to SubCom's request to meet in order to respond to Mr. John Crary remarks regarding the TNW apartment units. I read verbatim the comments in point #7 and during our meeting asked the following questions:

Question: Is it exclusively the TNW board making the decisions for the rental units?

Answer: Mr. Ormsby relayed a different scenario than described by the Town Administrator. Mr. Ormsby described that the Office of the First Selectman calls him and recommends a tenant for an available rental unit. Typically, the call was made by the First Selectman's Executive Assistant (Charlene Abdal) who Mr. Ormsby seemed to have the impression was coordinated with the Social Services department. TNW would know little to nothing of the tenant and honor the request.

Question: What other methods are used for tenants to be considered for the units?

Answer: Mr. Brown indicated that in his 2 yrs experience with TNW one unit was available and it was "word-of-mouth" on its availability and quickly taken. TNW has no policy guiding the

granting of the unit, such as more credit for a TNW employee or low-income financial consideration---its simply first come, first serve.

Question: Why are most of the tenants are either active or ex Town employees?

Answer: Again, they had no input to the selection and could not explain the makeup of the tenants.

Question: Explain the financial criteria for a tenant to qualify for the units given Mr. Crary's response indicating financial need.

Answer: Again, it was related that there is no financial hurdle or criteria to be considered a tenant. They could not further explain how a tenant who owns a home in the back country qualified for a so-called, low income unit.

Question: Please describe the situation with the so-called "hoarder" tenants.

Answer: Apparently, Mr. Brown indicated, there is a couple that suffers from "hoarding of things" and they are under surveillance by the Social Services Department. No one was quite sure the history on how they arrived at TNW apartments since it was before their tenure, but it appeared they had no idea the status other than what Social Services periodically tells them when they come to visit to see they are fine.

Figure 3: Admin Build Entrance

Figure 6: TNW North Side & Tower Build

Question: Why have the tenants had no yearly rate increases, in some cases more than 4 years have passed?

Answer: They admitted that they have been a little lenient as it relates to the management of the rental units; however, a letter has been sent to all tenants recently that as of August 1, 2011 rents will be increasing by 3%.[30]

[30] Mr. Allen Brown sent a correspondence on July 25, 2011 clarifying comments made at the July 18 meeting. Mr. Brown wrote that most of the tenants had financial difficulty and that Witherell's rent increases (or lack thereof) paralleled the Medicaid reimbursement rate (Medicaid has not raised nursing home reimbursement since 2007 due to a tight state budget). The follow-up correspondence also stated that not raising the rents for the apartments reflected an awareness by the Witherell Board of the tough economic times, and was not a lack of attention to managing them. It should be noted that this seems to contradict the answers given at the July 18 meeting with SubCom's question on the financial criteria for a tenant to qualify for a unit. As indicated, TNW responded that they have no financial hurdle or criteria for a tenant and not performing any financial background checks.

Question: Is the Administration Building soon to be fire code compliant?

Answer: I was told the State Dept of Health only needs to see "progress" not completion by the fall. Therefore, TNW is not worried that they have neither blueprint design nor appropriation from the BET as of this date. They feel by the fall they will have all in order to meet the State's compliance criteria. Mr. Ormsby said that the project should not take more than 6 weeks to 2 ½ months to complete.[31]

Other

We spoke in general about the TNW Project Renew.

I was then given a full tour by Allen Brown of the first floor of the TNW---the rehab area, dining, main gathering, and living quarters. I did not go to the apartments in question discussed in this report.

[31] Also, in Mr. Brown's July 25th correspondence he indicates that TNW has a firm, Pustola and Associates, currently engaged to engineer the sprinkler system upgrades. Pustola will be submitting drawings later this month to Al Monelli in the Town's Public Works Department. The project will then be put out to bid by the Town so TNW expects the project to be completed before the next DPH inspection and has included the $125,000 in their 2011-12 budget.

3. Greenwich Arts Council

Field Interview by Gordon A. Ennis and Lucia D. Jansen
November 15, 2011

Barbara Collier, GAC President, Mike Harris, GAC Vice President, and Paul Master-Karnik, GAC Executive Director met with SubCom members Gordon A. Ennis and Lucia D. Jansen on November 15, 2011 at the GAC offices located at 299 Greenwich Avenue, 2nd floor.

Figure 7: GAC on 2nd and 3rd Floors 'Olde Towne Hall"

The meeting began with handouts containing the following:

- A statement describing the history of lease arrangements between the GAC and the Town,
- The names and descriptions of the six tenants subleasing from the GAC—most have been tenants for the last 30 years;
- Copy of a letter from Mr. Francis Keegan, former Director of the Parks and Recreation Department. (P&R) of the Town.

Mr. Master-Karnik described how the GAC was founded in 1974 and located at the Greenwich Library. P&R, who managed and controlled the old Town Hall, asked the GAC in 1980 to consider relocating to the 2nd and 3rd floors. The Senior Center was the first tenant in the renovated building and occupied the first floor.

The GAC signed a written agreement on October 21, 1980 and a year later (October 16, 1981), were also given a "policy revision" letter directed by then First Selectman, Ruth Sims, and signed by Francis H. Keegan clarifying GAC's "collection and administration of rental funds." These documents were given to SubCom on January 24, 2012. See Attachment 1.

P&R offered the following terms in the 1980 written agreement.

- A lease for a term of ten years with an annual rent of $1.00.
- The GAC maintains, at its expense, the 2nd and 3rd floors, total 7000 sq ft.
- On behalf of P&R, the GAC would be permitted to "collect and administer rent fees" for tenants who complement the GAC mission

The GAC accepted the offer and moved out of the library to occupy its present space in 1980.

The Agreement was renewed in 1990 for a second 10 year term without changes. However, the agreement was apparently verbal since both parties have informed SubCom that no written documentation can be found..

In 2000 the lease was renewed, with written documentation, describing the same terms and conditions. The lease expressly prohibited subleasing.

In 2010, at the time of the next lease renewal, the GAC became aware of the prohibition on subleasing, and requested that it be changed.

Following the meeting, we enjoyed a tour of the 2nd and 3rd floors. We observed many facility improvements which were made possible by donors' contribution or rents collected through subleases. The GAC claims it invested more than $900,000 in building enhancements since their occupancy began. Some of the renovations include:

- Large wood paneled multi-purpose room.
- Two professional galleries.
- Wood paneled dance studio
- Pottery studio (no longer in use)
- Various office areas

Figure 8: GAC Front Entry

The GAC described their operations and noted the following:

- The GAC runs on a "shoe string" budget;
- The majority of their events are free to the public, including regular programming for seniors and outreach programs to the schools;
- The rent charged to tenants is at sub-market rates;
- The six tenants combined pay approximately $70,000 in annual rent or 17.5% of the GAC's $400k annual budget.
- The panel stated the GAC could not fulfill its mission or continue operations without these rent payments.
- The tenants are required to carry their own insurance in the event of liability.

The three officials related their understanding of the history of GAC property lease agreements with the Town since 1980:

- **1980** a written agreement dated October 21, 1980 as well as an added "policy statement" almost one year later dated October 19, 1981with Director of P&R, $1.00 per year provided GAC maintain the 2nd and 3rd floor, ability to sublease[32]

[32] **Note:** This reflects the GAC representatives' understanding. Review of the 1980 lease agreement and 1981 policy statement which are attached shows there has never been a right to sublease; rather GAC essentially acted as an agent for the Town, which ultimately determined the tenants and the amount of any rental.

space, 10 year term;

- **1990** renewed verbal agreement with Director of P&R, same terms, 10 year period;

- **2000** lease agreement signed by the First Selectman, Lolly Prince and the GAC, 10 year term. Subleasing not permitted by the lease;

- **2010** a new 10 year lease presented to the GAC. GAC believes the Town used a boilerplate agreement in 2000 that included this clause for other non-profits and was not meant for them. Neither party at the time noticed the clause. The GAC referred to Mr. Frank Keegan's letter included in the handout to press this point;

- **2011-12** GAC seeks to have the new contract clarify their ability to sublease to tenants of their choosing who fulfill its mission. The GAC, in good faith, increased their insurance coverage and now contributes a higher janitorial fee despite having no lease.

The GAC representatives said they are grateful for the lease arrangement with the Town and for recent facility improvements such as the new roof and the stairwell repairs. They stated the Town could be more proactive in maintaining the condition of the building. They described the

building condition as "shabby". They specifically spoke of the bathrooms as out of date and have poor ventilation, and the ceiling is crumbling in the dance studio. The Department of Public Works currently provides building maintenance and improvements.

Figure 9: Front Facade from Greenwich Ave

Figure 10: GAC 2nd Floor Space Floorplan

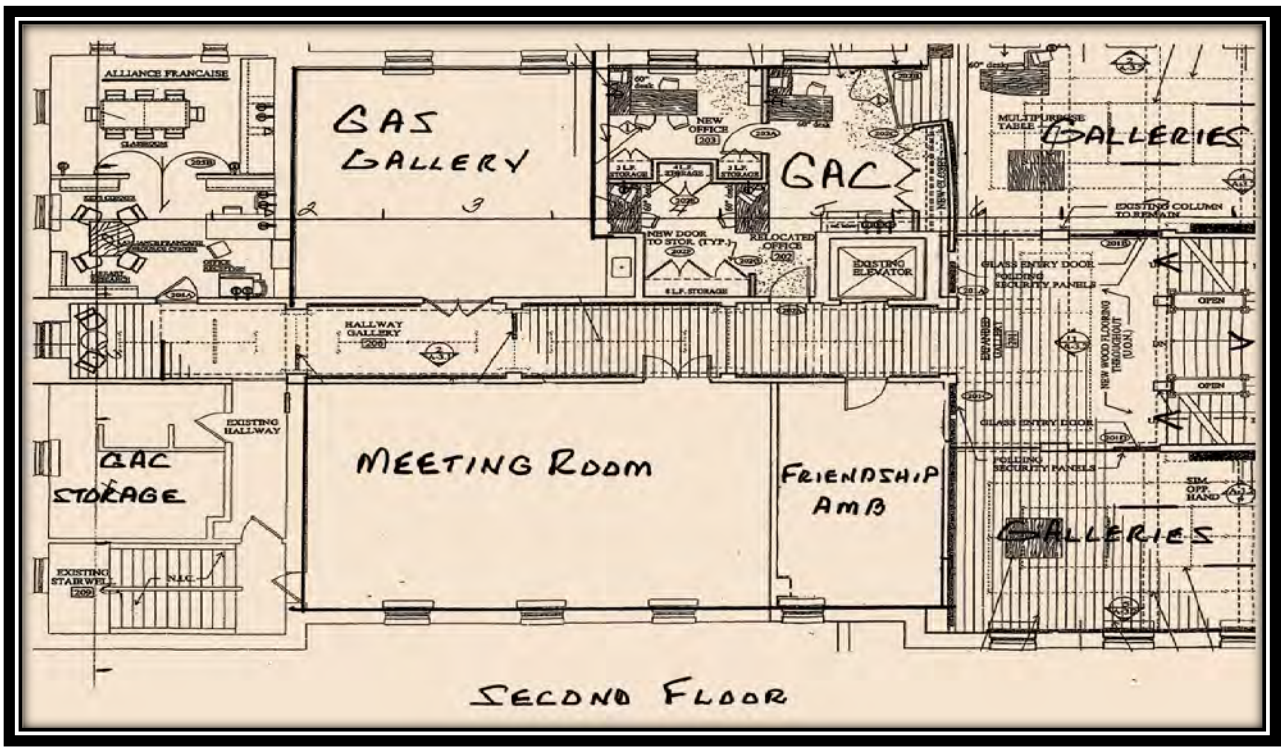
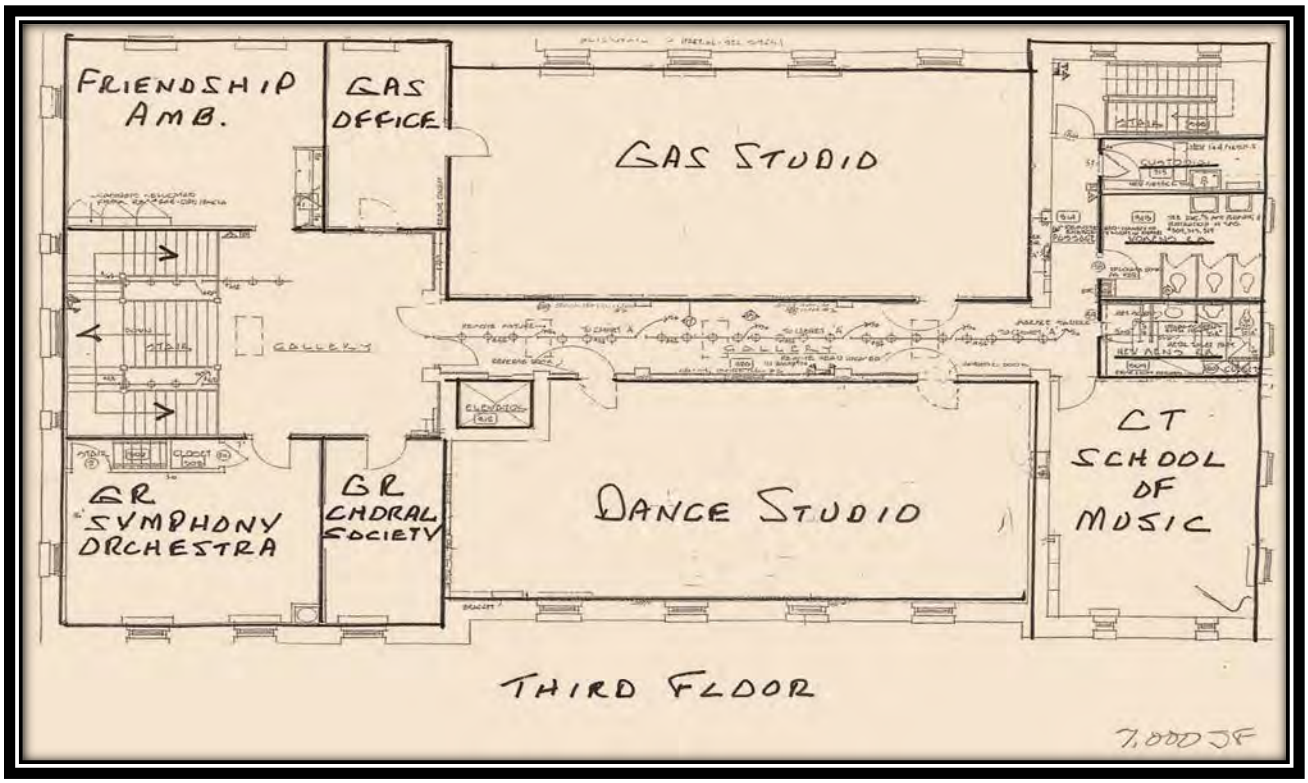
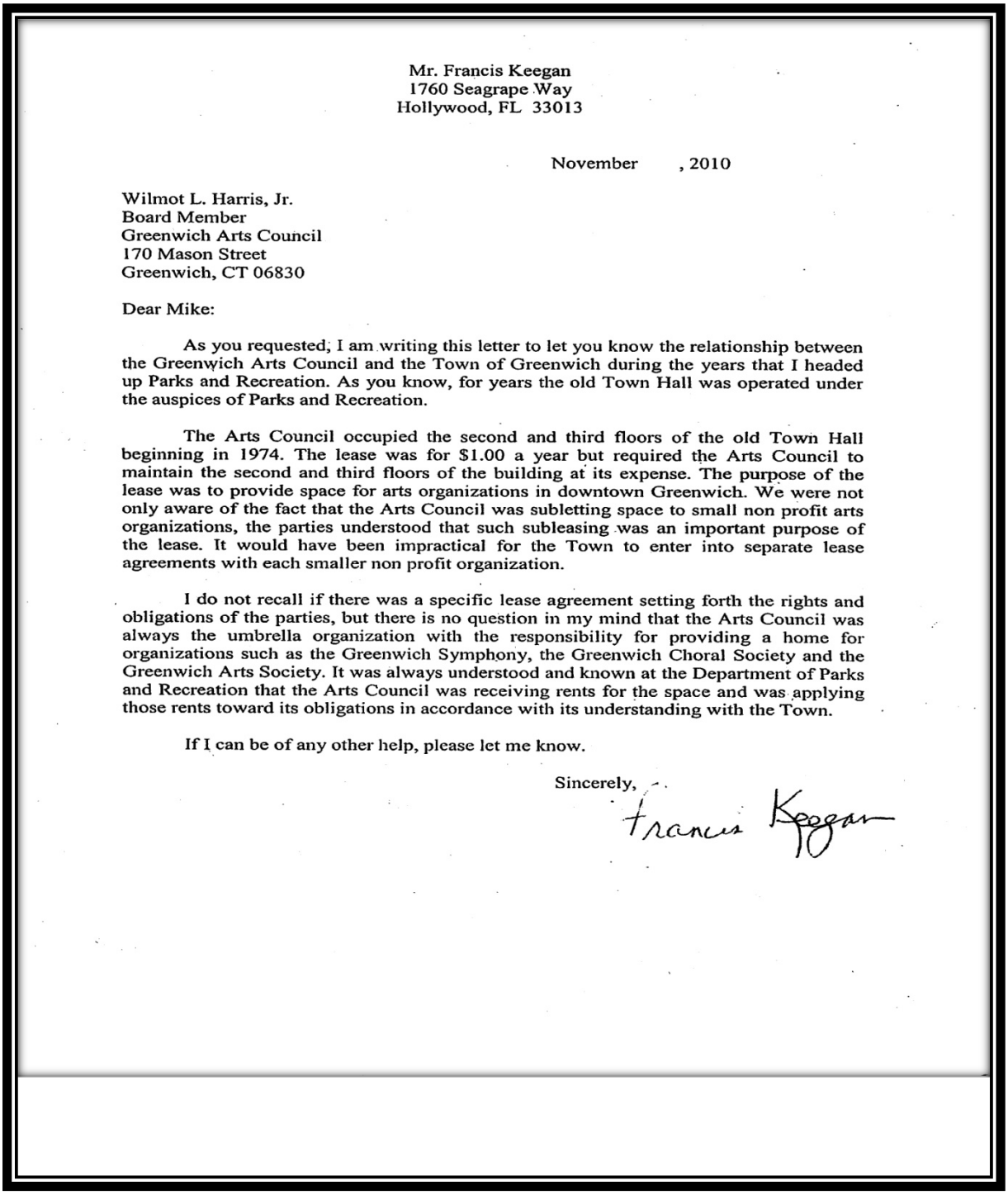


Figure 11: GAC 3rd Floor Space Floorplan



GAC Field Visit (cont)

Figure 12: Letter from Frank Keegan



Mr. Francis Keegan
1760 Seagrape Way
Hollywood, FL 33013

November , 2010

Wilmot L. Harris, Jr.
Board Member
Greenwich Arts Council
170 Mason Street
Greenwich, CT 06830

Dear Mike:

As you requested, I am writing this letter to let you know the relationship between the Greenwich Arts Council and the Town of Greenwich during the years that I headed up Parks and Recreation. As you know, for years the old Town Hall was operated under the auspices of Parks and Recreation.

The Arts Council occupied the second and third floors of the old Town Hall beginning in 1974. The lease was for $1.00 a year but required the Arts Council to maintain the second and third floors of the building at its expense. The purpose of the lease was to provide space for arts organizations in downtown Greenwich. We were not only aware of the fact that the Arts Council was subletting space to small non profit arts organizations, the parties understood that such subleasing was an important purpose of the lease. It would have been impractical for the Town to enter into separate lease agreements with each smaller non profit organization.

I do not recall if there was a specific lease agreement setting forth the rights and obligations of the parties, but there is no question in my mind that the Arts Council was always the umbrella organization with the responsibility for providing a home for organizations such as the Greenwich Symphony, the Greenwich Choral Society and the Greenwich Arts Society. It was always understood and known at the Department of Parks and Recreation that the Arts Council was receiving rents for the space and was applying those rents toward its obligations in accordance with its understanding with the Town.

If I can be of any other help, please let me know.

Sincerely,

Francis Keegan

***Received with an Incomplete Date**

ATTACHMENT 1

,er
& Tree Warden

ek
.dent

: Facility Operations
.t E. Chard
.erintendent

.ministration
Muriel A. Lawson
Executive Secretary

DEPARTMENT OF PARKS & RECREATION
TOWN HALL ANNEX
P. O. Box 929
GREENWICH, CONN. 06830

Francis H. Keegan
Director

October 19, 1981

Greenwich Arts Council, Inc.
Old Town Hall
Greenwich, Connecticut

Gentlemen:

Enclosed is a policy statement concerning collection and administration of funds which has been adopted for the Town Hall Arts Center.

Pursuant to the contract between the Greenwich Arts Council and the Town, the Department of Parks and Recreation hereby designates this policy statement as the basis on which the Arts Center rentals will be collected and administered.

Please follow this policy until further notice.

Very truly yours,

Francis H. Keegan

Francis H. Keegan

cc: Hon. Ruth Sims

Town of Greenwich

Department of Parks & Recreation

Francis H. Keegan
Director

DIVISIONS:

Parks & Trees
Laurence A. Cooper
Superintendent & Tree Warden

Recreation
Edward Bilek
Superintendent

Marine & Facility Operations
Robert E. Chard
Superintendent

Administration
Muriel A. Lawson
Executive Secretary

Memo to: Robert Worley
Greenwich Arts Council

From: Francis H. Keegan
Director of Parks and Recreation

Date: October 26, 1981

Enclosed please find the First Selectman's revisions to the policy for collection and administration of funds for Town Hall Arts Center.

At Mrs. Sims' request, I had the policy retyped including her recommended changes.

I have signed the cover letter and, if everything is agreeable, the policy will be in effect commencing November 1, 1981

Francis H. Keegan

Francis H. Keegan, Director of Parks & Recreation

cc: Rachel Love
Sue Cohen
Barbara Williams
Ruth Sims

m

Policy for Collection and Administration
of Funds for Town Hall Arts Center

Pursuant to the agreement between the Town of Greenwich Town") and Greenwich Arts Council Inc. ("GAC") dated October 26, 1981, concerning the Town Hall Arts Center ("Arts Center"), the following procedures shall be observed with respect to rental fees for use of space in the Arts Center:

1. Rental fees charged shall be as established from time to time by the Town Department of Parks and Recreation ("P&R") on the recommendation of the GAC and with the approval of the First Selectman.

2. Rental fees shall be paid to Greenwich Arts Council - Arts Center Account". GAC shall establish and maintain a separate account (Account") for Arts Center rental funds and shall not comingle other funds in such Account. Such Account shall be operated by GAC on behalf of P&R. GAC shall also maintain records indicating who has rented space in the Arts Center.

3. P&R will arrange for the Town Department of Public Works ("DPW") to estimate from time to time the heat and utility costs attributable to the Arts Center operation and P&R will estimate the average monthly cost thereof. On or about the fifteenth day of each month GAC will draw a check on the Account in an amount equal to the average monthly costs estimated pursuant to paragraph. At such time, GAC will also draw a check on the Account in an amount equal to the Art Center's share of the other maintenance costs that may be chargeable as determined by P&R. These payments shall apply to the relevant expenses of the previous month. GAC shall not be liable for any deficiency between the rental amounts collected and the amounts scheduled to be paid pursuant to paragraph 2 since GAC is operating the Account for P&R which is

:ged with administering the funds collected but any deficiency .nall be paid from subsequent surplus collections, if any.

4. In the event there is a surplus of rentals collected over the amounts required to be disbursed as provided in paragraph 3, such surplus shall be used to pay any deficiency in collections under expenses for prior months and thereafter shall be accumulated until there is a balance ("Minimum Balance") of $1,000.00 in the Account to cover possible future deficiencies. Thereafter, such amounts in excess of $1,000. may be expended as provided in paragraph 5.

5. In any month in which at the start of the month the balance in the Account exceeds the Minimum Balance as defined in paragraph 4, such excess may be expended by GAC, acting on behalf of P&R for improvement, operating or program costs in connection with the Arts Center; provided, however, that no expenditure in excess of $500.00 shall be made without written approval of P&R.

6. On or about the fifteenth day of each month GAC shall send to P&R an accounting for the receipts and disbursements to and from the Account for the previous month, together with a copy of the most recent bank statement for the Account. P&R shall have access to GAC's books and records concerning the Account at all reasonable times.

7. This policy will be subject to periodic review and may be amended upon thirty days notice to GAC.

Exhibit IX: Statutes Related to Town Property Agreements

LAW DEPARTMENT

Town Hall 101 Field Point Road P.O. Box 2540 Greenwich, CT 06830
Tel: (203) 622-7876 Fax: (203) 622-3816

Memo to: Carl R. Perelli-Minetti, District 12 RTM

cc: Gordon A. Ennis, Chairman, RTM Finance Committee
Thomas J. Byrne, Chairman, RTM
Peter J. Tesei, First Selectman
John N. Crary, Town Administrator

From: John Wayne Fox, Town Attorney /s/

Date: January 5, 2012

Re: **Authority Over Town of Greenwich Leases**

Your Committee has been working diligently for several months to review existing leases, to review the process for approving leases and to establish a procedure for cataloging said leases. A question which you asked the Law Department to review is under what authority the RTM has jurisdiction over the leasing process. While I have found no specific cases within the State of Connecticut that deals directly with that topic, it is my belief that the lack of case law is due to a lack of controversy over the issue. The basic premise that a legislative body, unless otherwise specifically so provided, has the obligation and authority to oversee the leasing of town real estate, is well established.

There is no doubt that under Title 7 of the Connecticut General Statutes, in particular, Section 7-148, municipalities have the power to lease real estate. It is also clear to me that under our Charter, in particular Section 167, the RTM has broad residual powers that leaves such authority with that entity. The key and controlling language reads as follows:

> The Representative Town Meetings shall exercise exclusively, so far as will conform to the provisions of this Article, all powers vested in the Town, except as otherwise specifically provided by law. Action in conformity with all provisions of law now or hereafter applicable to the transaction of Town

> affairs in Town Meeting, shall when taken by any Representative Town Meeting in accordance with the provisions of this Article, have the same force and effect as if such action had been taken in a Town Meeting open to all the voters of the Town as heretofore organized and conducted, except as specifically provided in this Article. (Emphasis added.)

Courts have held that municipal power that is not specifically granted to the executive office by statute, charter or ordinance is deemed to remain with the legislative body. For example, in a case involving the validity of a contract, it was stated in Fennell v. City of Hartford 238 Conn. 809, 813-814, 681, A.2d 934 (1996):

> The officer, body or board duly authorized must act [on] behalf of the municipality, otherwise a valid contract cannot be created. Generally the power to make contracts on behalf of the municipality rests in the council or governing body....Generally, no office or board, other than the common council, has power to bind the municipal corporation by contract, unless duly empowered by statute, the charter, or authority conferred by the common council, where the latter may so delegate its powers..." 10 E. McQuillin, Municipal Corporations (3d Ed.Rev.1990) §29.15, p. 315; see Keeney v. Old Saybrook, 237 Conn. 135, 145-46, 676 A.2d 795 (1996). "It follows that agents of a city, including its commissions, have no source of authority beyond the charter. [T]heir powers are measured and limited by the express language in which authority is given or by the implication necessary to enable them to perform some duty cast upon them by express language." (Internal quotation marks omitted.) Perretta v. New Britain, 185 Conn. 88, 92-93, 440 A.2nd 823 (1981). "'[A]ll who contract with a municipal corporation are charged with notice of the extent of...the powers of municipal officers and agents with whom they contract, and hence it follows that if the...agent had in fact no power to bind the municipality, there is no liability on the express contract....'" Norwalk v. Board of Labor Relation, 206 Conn. 449, 452, 538, A.2d 694 (1988). Thus, "'every person who deals with [a municipal corporation] is bound to know the extent of its authority and the limitations of its powers.'" John J. Brennan Construction Corp. Inc. v. Shelton, 187 Conn. 695, 704, 448, A.2d 180 (1982); see Keeney v. Old Saybrook, supra, at 149, 676 A.2d 795.

While Fennel dealt with a contract, not a lease, it should be noted that the power of contract is covered by similarly broad language in the empowering statute and is found in the section just preceding that granting the ability to lease. See C.G.S. §7-148(c)(2).

Similarly, in Kelley v. Town of Torrington, 81 Conn. 615, 71 A.939.(1909), it was held:

> While the towns nominally make the improvements, their powers, and the powers of their officers, are prescribed and limited by statute. Their

> selectmen have no power to expend for other purposes the money appropriated by the town and state for these improvements, and they have no power to waive any of the requirements of the statute which safeguard the interests of the state and the taxpayers.

In looking at related cases, there are a series of decisions that deal with the concept of delegation of the authority of a legislative body. This is of interest because of what these cases suggest and the conclusions that one can draw from them. As an example, in a case entitled Donnelly v. City of New Haven, 95 Conn/ 647, 111 A.897 (1921), the underlying dispute relates to the delegation of authority with respect to the extension of a sewer system. The case talks in terms of public powers and the ability to delegate to others. It goes on to say:

> The municipal charter is a delegation from the legislative body of the state. Whatever is by such a charter required to be done by the governing body of the municipality must, so far forth as that municipality is concerned, be deemed to be legislative in character and can only be done by such governing body itself. Donnelly at 654.

Donnelly also holds that this latter branch can perform ministerial or administrative acts that are necessary to empower the decisions made by the legislative branch – such as signing a deed to sell property where the legislature has authorized it.

So too I would reference the case of Kelley v. Town of Torrington, 81 Conn. 615, 71 A.939 (1909). Although it does not deal specifically with leases, it implies that municipal authority to act resides in its legislative body unless and expressly conferred on the executive or supervisory branch which would be the mayor or board of selectmen.

Our Charter which has been established and authorized by special act of the legislature reserves for our legislative body all powers vested in the municipality except as otherwise specifically provided. Nowhere in our Charter does one find a specific directive power or authority to lease real estate. The only conclusion that one can draw is that such power by virtue of §167 has been reserved within our legislative body i.e. the RTM.

Please feel free to call with any questions.

/dan

Sec. 7-148. Scope of municipal powers. (a) **Definitions.** Whenever used in this section, "municipality" means any town, city or borough, consolidated town and city or consolidated town and borough.

(b) **Ordinances.** Powers granted to any municipality under the general statutes or by any charter or special act, unless the charter or special act provides to the contrary, shall be exercised by ordinance when the exercise of such powers has the effect of:

(1) Establishing rules or regulations of general municipal application, the violation of which may result in the imposition of a fine or other penalty including community service for not more than twenty hours; or

(2) Creating a permanent local law of general applicability.

(c) **Powers.** Any municipality shall have the power to do any of the following, in addition to all powers granted to municipalities under the Constitution and general statutes:

(1) **Corporate powers.** (A) Contract and be contracted with, sue and be sued, and institute, prosecute, maintain and defend any action or proceeding in any court of competent jurisdiction;

(B) Provide for the authentication, execution and delivery of deeds, contracts, grants, and releases of municipal property and for the issuance of evidences of indebtedness of the municipality;

(2) **Finances and appropriations.** (A) Establish and maintain a budget system;

(B) Assess, levy and collect taxes for general or special purposes on all property, subjects or objects which may be lawfully taxed, and regulate the mode of assessment and collection of taxes and assessments not otherwise provided for, including establishment of a procedure for the withholding of approval of building application when taxes or water or sewer rates, charges or assessments imposed by the municipality are delinquent for the property for which an application was made;

(C) Make appropriations for the support of the municipality and pay its debts;

(D) Make appropriations for the purpose of meeting a public emergency threatening the lives, health or property of citizens, provided such appropriations shall require a favorable vote of at least two-thirds of the entire membership of the legislative body or, when the legislative body is the town meeting, at least two-thirds of those present and voting;

(E) Make appropriations to military organizations, hospitals, health care facilities, public health nursing organizations, nonprofit museums and libraries, organizations providing drug abuse and dependency programs and any other private organization performing a public function;

(F) Provide for the manner in which contracts involving unusual expenditures shall be made;

(G) When not specifically prescribed by general statute or by charter, prescribe the form of proceedings and mode of assessing benefits and appraising damages in taking land for public use, or in making public improvements to be paid for, in whole or in part, by special assessments, and prescribe the manner in which all benefits assessed shall be collected;

(H) Provide for the bonding of municipal officials or employees by requiring the furnishing of such bond, conditioned upon honesty or faithful performance of duty and determine the amount, form, and sufficiency of the sureties thereof;

(I) Regulate the method of borrowing money for any purpose for which taxes may be levied and borrow on the faith and credit of the municipality for such general or special purposes and to such extent as is authorized by general statute;

(J) Provide for the temporary borrowing of money;

(K) Create a sinking fund or funds or a trust fund or funds or other special funds, including funds which do not lapse at the end of the municipal fiscal year;

(L) Provide for the assignment of municipal tax liens on real property to the extent authorized by general statute;

(3) **Property.** (A) Take or acquire by gift, purchase, grant, including any grant from the United States or the state, bequest or devise and hold, condemn, lease, sell, manage, transfer, release and convey such real and personal property or interest therein absolutely or in trust as the purposes of the municipality or any public use or purpose, including that of education, art, ornament, health, charity or amusement, cemeteries, parks or gardens, or the erection or maintenance of statues, monuments, buildings or other structures, require. Any lease of real or personal property or any interest therein, either as lessee or lessor, may be for such term or any extensions thereof and upon such other terms and conditions as have been approved by the municipality, including without limitation the power to bind itself to appropriate funds as necessary to meet rent and other obligations as provided in any such lease;

(B) Provide for the proper administration of gifts, grants, bequests and devises and meet such terms or conditions as are prescribed by the grantor or donor and accepted by the municipality;

(4) **Public services.** (A) Provide for police protection, regulate and prescribe the duties of the persons providing police protection with respect to criminal matters within the limits of the municipality and maintain and regulate a suitable place of detention within the limits of the municipality for the safekeeping of all persons arrested and awaiting trial and do all other things necessary or desirable for the policing of the municipality;

(B) Provide for fire protection, organize, maintain and regulate the persons providing fire protection, provide the necessary apparatus for extinguishing fires and do all other things necessary or desirable for the protection of the municipality from fire;

(C) Provide for entertainment, amusements, concerts, celebrations and cultural activities, including the direct or indirect purchase, ownership and operation of the assets of one or more sports franchises;

(D) Provide for ambulance service by the municipality or any person, firm or

corporation; (E) Provide for the employment of nurses;

(F) Provide for lighting the streets, highways and other public places of the municipality and for the care and preservation of public lamps, lamp posts and fixtures;

(G) Provide for the furnishing of water, by contract or otherwise;

(H) Provide for or regulate the collection and disposal of garbage, trash, rubbish, waste material and ashes by contract or otherwise, including prohibiting the throwing or placing of such materials on the highways;

(I) Provide for the financing, construction, rehabilitation, repair, improvement or subsidization of housing for low and moderate income persons and families;

(5) **Personnel.** (A) Provide for and establish pension systems for the officers and employees of the municipality and for the active members of any volunteer fire department or any volunteer ambulance association of the municipality, and establish a system of qualification for the tenure in office of such officers and employees, provided the rights or benefits granted to any individual under any municipal retirement or pension system shall not be diminished or eliminated;

(B) Establish a merit system or civil service system for the selection and promotion of public officials and
employees. Nothing in this subparagraph shall be construed to validate any merit system or civil service system established prior to May 24, 1972;

(C) Provide for the employment of and prescribe the salaries, compensation and hours of employment of all officers and employees of the municipality and the duties of such officers and employees not expressly defined by the Constitution of the state, the general statutes, charter or special act;

(D) Provide for the appointment of a municipal historian;

(6) **Public works, sewers, highways.** (A) **Public facilities.** (i) Establish, lay out, construct, reconstruct, alter, maintain, repair, control and operate cemeteries, public burial grounds, hospitals, clinics, institutions for children and aged, infirm and chronically ill persons, bus terminals and airports and their accessories, docks, wharves, school houses, libraries, parks, playgrounds, playfields, fieldhouses, baths, bathhouses, swimming pools, gymnasiums, comfort stations, recreation places, public beaches, beach facilities, public gardens, markets, garbage and refuse disposal facilities, parking lots and other off-street parking facilities, and any and all buildings or facilities necessary or convenient for carrying on the government of the municipality; (ii) Create, provide for, construct, regulate and maintain all things in the nature of public works and improvements; (iii) Enter into or upon any land for the purpose of making necessary surveys or mapping in connection with anypublic improvement, and take by eminent domain any lands, rights, easements, privileges, franchises or structureswhich are necessary for the purpose of establishing, constructing or maintaining any public work, or for any municipal purpose, in the manner prescribed by the general statutes; (iv) Regulate and protect from injury or defacement all public buildings, public monuments, trees and ornaments in public places and other public property in the municipality; (v) Provide for the planting, rearing and preserving of shade and ornamental trees on the streets and public grounds; (vi) Provide for improvement of waterfronts by a board, commission or otherwise;

(B) **Sewers, drainage and public utilities.** (i) Lay out, construct, reconstruct, repair, maintain, operate, alter, extend and discontinue sewer and drainage systems and sewage disposal plants;

(ii) Enter into or upon any land for the purpose of correcting the flow of surface water through watercourses which prevent, or may tend to prevent, the free discharge of municipal highway surface water through said courses;

(iii) Regulate the laying, location and maintenance of gas pipes, water pipes, drains, sewers, poles, wires, conduits and other structures in the streets and public places of the municipality;

(iv) Prohibit and regulate the discharge of drains from roofs of buildings over or upon the sidewalks, streets or other public places of the municipality or into sanitary sewers;

(C) **Highways and sidewalks.** (i) Lay out, construct, reconstruct, alter, maintain, repair, control, operate, and assign numbers to streets, alleys, highways, boulevards, bridges, underpasses, sidewalks, curbs, gutters, public walks and parkways;

(ii) Keep open and safe for public use and travel and free from encroachment or obstruction the streets, sidewalks and public places in the municipality;

(iii) Control the excavation of highways and streets;

(iv) Regulate and prohibit the excavation, altering or opening of sidewalks, public places and grounds for public

and private purposes and the location of any work or things thereon, whether temporary or permanent, upon or under the surface thereof;

(v) Require owners or occupants of land adjacent to any sidewalk or public work to remove snow, ice, sleet, debris or any other obstruction therefrom, provide penalties upon their failure to do so, and cause such snow, ice, sleet, debris or other obstruction to be removed and make the cost of such removal a lien on such property;

(vi) Grant to abutting property owners a limited property or leasehold interest in abutting streets and sidewalks for the purpose of encouraging and supporting private commercial development;

(7) **Regulatory and police powers.** (A) **Buildings.** (i) Make rules relating to the maintenance of safe and sanitary housing;

(ii) Regulate the mode of using any buildings when such regulations seem expedient for the purpose of promoting the safety, health, morals and general welfare of the inhabitants of the municipality;

(iii) Regulate and prohibit the moving of buildings upon or through the streets or other public places of the municipality, and cause the removal and demolition of unsafe buildings and structures;

(iv) Regulate and provide for the licensing of parked trailers when located off the public highways, and trailer parks or mobile manufactured home parks, except as otherwise provided by special act and except where there exists a local zoning commission so empowered;

(v) Establish lines beyond which no buildings, steps, stoop, veranda, billboard, advertising sign or device or other structure or obstruction may be erected;

(vi) Regulate and prohibit the placing, erecting or keeping of signs, awnings or other things upon or over the sidewalks, streets and other public places of the municipality;

(vii) Regulate plumbing and house drainage;

(viii) Prohibit or regulate the construction of dwellings, apartments, boarding houses, hotels, commercial buildings, youth camps or commercial camps and commercial camping facilities in such municipality unless the sewerage facilities have been approved by the authorized officials of the municipality;

(B) **Traffic.** (i) Regulate and prohibit, in a manner not inconsistent with the general statutes, traffic, the operation of vehicles on streets and highways, off-street parking and on-street residential neighborhood parking areas in which on-street parking is limited to residents of a given neighborhood, as determined by the municipality;

(ii) Regulate the speed of vehicles, subject to the provisions of the general statutes relating to the regulation of the speed of motor vehicles and of animals, and the driving or leading of animals through the streets;

(C) **Building adjuncts.** Regulate and prohibit the construction or use, and require the removal of sinks, cesspools, drains, sewers, privies, barns, outhouses and poultry pens and houses;

(D) **Animals.** (i) Regulate and prohibit the going at large of dogs and other animals in the streets and public places of the municipality and prevent cruelty to animals and all inhuman sports;

(ii) Regulate and prohibit the keeping of wild or domestic animals, including reptiles, within the municipal limits or portions thereof;

(E) **Nuisance.** Define, prohibit and abate within the municipality all nuisances and causes thereof, and all things detrimental to the health, morals, safety, convenience and welfare of its inhabitants and cause the abatement of any nuisance at the expense of the owner or owners of the premises on which such nuisance exists;

(F) **Loitering and trespassing.** (i) Keep streets, sidewalks and public places free from undue noise and nuisances, and prohibit loitering thereon;

(ii) Regulate loitering on private property with the permission of the owner thereof;

(iii)Prohibit the loitering in the nighttime of minors on the streets, alleys or public places within its limits; (iv) Prevent trespassing on public and private lands and in buildings in the municipality;

(G) **Vice.** Prevent vice and suppress gambling houses, houses of ill-fame and disorderly houses;

(H) **Public health and safety.** (i) Secure the safety of persons in or passing through the municipality by regulation of shows, processions, parades and music;

(ii) Regulate and prohibit the carrying on within the municipality of any trade, manufacture, business or profession which is, or may be, so carried on as to become prejudicial to public health, conducive to fraud and cheating, or dangerous to, or constituting an unreasonable annoyance to, those living or owning property in the vicinity;

(iii) Regulate auctions and garage and tag sales;

(iv) Prohibit, restrain, license and regulate the business of peddlers, auctioneers and junk dealers in a manner not inconsistent with the general statutes;

(v) Regulate and prohibit swimming or bathing in the public or exposed places within the municipality;

(vi) Regulate and license the operation of amusement parks and amusement arcades including, but not limited to, the regulation of mechanical rides and the establishment of the hours of operation;

(vii) Prohibit, restrain, license and regulate all sports, exhibitions, public amusements and performances and all places where games may be played;

(viii) Preserve the public peace and good order, prevent and quell riots and disorderly assemblages and prevent disturbing noises;

(ix) Establish a system to obtain a more accurate registration of births, marriages and deaths than the system provided by the general statutes in a manner not inconsistent with the general statutes;

(x) Control insect pests or plant diseases in any manner deemed appropriate;

(xi) Provide for the health of the inhabitants of the municipality and do all things necessary or desirable to secure and promote the public health;

(xii) Regulate the use of streets, sidewalks, highways, public places and grounds for public and private purposes; (xiii) Make and enforce police, sanitary or other similar regulations and protect or promote the peace, safety, good government and welfare of the municipality and its inhabitants;

(xiv) Regulate, in addition to the requirements under section 7-282b, the installation, maintenance and operation of any device or equipment in a residence or place of business which is capable of automatically calling and relaying recorded emergency messages to any state police or municipal police or fire department telephone number or which is capable of automatically calling and relaying recorded emergency messages or other forms of emergency signals to an intermediate third party which shall thereafter call and relay such emergency messages to a state police or municipal police or fire department telephone number. Such regulations may provide for penalties for the transmittal of false alarms by such devices or equipment;

(xv) Make and enforce regulations for the prevention and remediation of housing blight, including regulations reducing assessments and authorizing designated agents of the municipality to enter property during reasonable hours for the purpose of remediating blighted conditions, provided such regulations define housing blight, and further provided such regulations shall not authorize such municipality or its designated agents to enter any dwelling house or structure on such property, and including regulations establishing a duty to maintain property and specifying standards to determine if there is neglect; prescribe fines for the violation of such regulations of not less than ten or more than one hundred dollars for each day that a violation continues and, if such fines are prescribed, such municipality shall adopt a citation hearing procedure in accordance with section 7-152c;

(xvi) Regulate, on any property owned by the municipality, any activity deemed to be deleterious to public health, including the lighting or carrying of a lighted cigarette, cigar, pipe or similar device;

(8) **The environment.** (A) Provide for the protection and improvement of the environment including, but not limited to, coastal areas, wetlands and areas adjacent to waterways in a manner not inconsistent with the general statutes;

(B) Regulate the location and removal of any offensive manure or other substance or dead animals through the streets of the municipality and provide for the disposal of same;

(C) Except where there exists a local zoning commission, regulate the filling of, or removal of, soil, loam, sand or gravel from land not in public use in the whole, or in specified districts of, the municipality, and provide for the reestablishment of ground level and protection of the area by suitable cover;

(D) Regulate the emission of smoke from any chimney, smokestack or other source within the limits of the municipality, and provide for proper heating of buildings within the municipality;

(9) **Human rights.** (A) Provide for fair housing;

(B) Adopt a code of prohibited discriminatory practices;

(10) **Miscellaneous.** (A) Make all lawful regulations and ordinances in furtherance of any general powers as enumerated in this section, and prescribe penalties for the violation of the same not to exceed two hundred fifty dollars, unless otherwise specifically provided by the general statutes. Such regulations and ordinances may be enforced by citations issued by designated municipal officers or employees, provided the regulations and ordinances have been designated specifically by the municipality for enforcement by citation in the same manner in which they were adopted and the designated municipal officers or employees issue a written warning providing notice of the specific violation before issuing the citation;

(B) Adopt a code of ethical conduct;

(C) Establish and maintain free legal aid bureaus;

(D) Perform data processing and related administrative computer services for a fee

for another municipality; (E) Adopt the model ordinance concerning a municipal

freedom of information advisory board created under
subsection (f) of section 1-205 and establish a municipal freedom of information advisory board as provided by said ordinance and said section.

[Legislative History omitted]

SELECTED PORTIONS OF

THE CHARTER OF THE TOWN OF GREENWICH, CONNECTICUT*

Article 6. Home Rule

Sec. 64. Incorporation.
Sec. 65. Home rule.
Sec. 66. Mandatory referndum; approval.
Sec. 67. Home Rule procedures.
Sec. 68. Home Rule action; report.
Sec. 69. Existing Home Rule laws unaffected.
Sec. 70. Repeal of inconsistent Special Acts.

Article 8. Parks and Recreation.

Sec. 75. Department of Parks and Recreation.
Sec. 76. Director of Parks and Recreation; appoint- ment; duties.
Sec. 81a. Bruce Museum.

Article 9. Planning and Zoning.

Sec. 83. Planning and Zoning Commission; powers.
Sec. 99. Municipal improvements; approval.
Sec. 100. Municipal, improvements; referral to Representative Town Meeting.

Article 13. Representative Town Meeting.

Sec. 167. Representative Town Meeting; powers.
Sec. 172. Organization of Representative Town Meeting.
Sec. 173. Meetings; procedure.

Article 15. Selectmen.

Sec. 217. First Selectman; powers and duties.

ARTICLE 6. HOME RULE Sec. 64.

Incorporation.

The electors of this State dwelling within the terri- torial limits of the Town of Greenwich as the same now are or hereafter may be are and shall continue in perpetuity to be a body politic and corporate under the name of "Town of Greenwich" and as such shall con- tinue to have perpetual succession and to hold and exercise all rights, powers and privileges conferred on

the Town by this and previous laws, general and special, and which hereafter may be conferred by law. This Article and all special acts affecting the Town, together with any authorized additions to or amend- ments or repeals thereof by local action without re- course to the General Assembly, constitute its charter. (S.A. 377, 1955; as confirmed by S.A. 118, 1961.)

Sec. 65. Home rule.

The Town is authorized, in addition to all powers now or which hereafter may be conferred on the Town by general or special laws, subject to the following provisions of this Article and within the scope permit- ted by the General Statutes, to adopt charter provi- sions and amend or repeal, pursuant to the provisions of this Article, special acts constituting charter provi- sions of the Town and charter provisions which may locally be adopted pursuant to this Article or other law. Such adoptions, amendments or repeals are hereafter referred to as home rule action.
(S.A. 377, 1955; as confirmed by S.A. 118, 1961.)

Sec. 66. Mandatory referndum; approval.

(a) No home rule action which would affect the existence, mode of selection, composition, rights, pow- ers, privileges or duties of the Representative Town Meeting, the Selectmen or the Board of Estimate and Taxation shall become effective unless such action is approved at a referendum held not later than one (1) year after completion of all actions required by Section

67 hereof. The Board of Selectmen shall submit such home rule action to the electors at a regular or special election, as it shall determine.

(b) Approval of such home rule action at a regular election shall be by a majority of the electors voting thereon and at a special election shall be by a majority of the electors voting thereon which majority shall be not less than fifteen percent (15%) of the electors of the Town as determined by the last-completed registry list.
(S.A. 377, 1955; as confirmed by S.A. 118, 1961; as amended by S.A. 28, § 1, 1965.)

Sec. 67. Home Rule procedures.

(a) A proposal for home rule action affecting the Board of Estimate and Taxation or the Finance De- partment of the Town government may be initiated only by affirmative vote of seven (7) members of the Board of Estimate and Taxation, and any other pro- posals for home rule action may be initiated only by affirmative vote of a majority of the Selectmen. Any proposal so initiated shall be transmitted to the Town Clerk. The Clerk shall cause the content of the pro- posal and the question of its adoption or rejection to be included in the warning of the next Representative Town Meeting.

(b) A proposal initiated as prescribed in Subsection (a) may be adopted or amended and adopted by affir- mative vote of a majority of the entire membership of the Representative Town Meeting at a meeting warned for that purpose, except that where the proposal in- volves the creation or abolition of any board of the Town government an affirmative vote of two-thirds (2/3) of the entire membership of the Representative Town Meeting is required for its adoption.

(c) If any proposal initiated as prescribed in Subsec- tion (a) shall be amended and adopted by the Repre- sentative Town Meeting, it shall not become effective until the initiating board shall have concurred in the amendment by the same vote as required for initia- tion.
(S.A. 377, 1955; as confirmed by S.A. 118, 1961; as amended by S.A. 28 § 2, 1965.)

Sec. 68. Home Rule action; report.

Whenever a proposal for home rule action has been adopted and becomes effective pursuant to this Article or other law the Town Clerk shall, within fifteen (15) days, file with the Secretary of the State a copy thereof.
(S.A. 377 § 6, 1955.)

Sec. 69. Existing Home Rule laws unaffected.

All existing provisions of general and special law authorizing the Town to adopt charter provisions or to add to, amend or repeal special acts affecting the Town, by local action and without recourse to the General Assembly, shall remain effective.
(S.A. 377 § 7, 1955.)

Sec. 70. Repeal of inconsistent Special Acts.

Any existing special acts or provisions thereof incon- sistent with any of the provisions of this Article are, to the extent necessary to eliminate such inconsistency and effectuate the purposes of this Article amended or repealed.
(S.A. 377 § 8, 1955.)

Sec. 71. Authority to adopt ordinances.

All authority to adopt ordinances and bylaws regu- lating traffic and parking in the Town shall be exer- cised by the Board of Selectmen. All authority to adopt ordinances and bylaws with respect to other matters shall, subject to the provisions of any special act relating to the Town, be exercised by the Representa- tive Town Meeting.
(S.A. 406 § 4, 1953.)(Char. Rev. 11/4/1975, eff. 1/1/1978.)

Sec. 72. Notice by publication.

Whenever it is required by law that any ordinance or bylaw adopted by the Board of Selectmen or Represen- tative Town Meeting shall be published before becom- ing effective, such ordinance or bylaw shall become effective fifteen (15) days after publication thereof or at such later date as may be specified in such ordi- nance or bylaw.
(S.A. 406 § 5, 1953.)

Sec. 73. Substituted notice.

Whenever it is required by law that any ordinance or bylaw adopted by The Board of Selectmen or Repre- sentative Town Meeting must be published before becoming effective, in lieu of publication verbatim a certified copy thereof may be filed in the office of the Town Clerk, provided notice of such filing and of the general nature of such ordinance or by-law and of its
effective date shall be published, in which event pub- lication of such notice shall be deemed publication of such ordinance by law.
(S.A. 328 §1, 1953.)

Sec. 74. Copies available.

Whenever notice of the adoption and effective date of any ordinance or by-law is given in the manner pro- vided above in lieu of publication verbatim, copies thereof shall be made available for distribution to interested parties by the Board of Selectmen or the officer charged with the administration and enforce- ment thereof.
(S.A. 328 §2, 1953.)

Sec. 75. Department of Parks and Recreation.*

There shall be a Department of Parks and Recre- ation which shall have supervision and control of the recreational facilities and activities of the Town includ- ing the development, regulation, maintenance and use of public parks, trees, playgrounds, community cen- ters, golf courses, skating rinks, the Greenwich Civic Center, bathing beaches, boat harbors, boating facili- ties, and waters of Long Island Sound and elsewhere subject to the jurisdiction of the Town, and all other recreational places and means of transportation thereto, and the equipping of the same with buildings and other structures. The Department shall have such other powers and duties as the First Selectman may, from time to time, prescribe.
(RTM, 4/27/70.) (Char. Rev. 11/4/1975, eff. 1/1/1978.)

***Cross reference—**As to park regulations gener- ally, see Chapter 7 of this Code.

Charter reference—As to Harbor regulations, see Article 19.

.Sec. 76. Director of Parks and Recreation; ap- pointment; duties.

(a) The Department of Parks and Recreation shall be under the direction and control of the First Select- man. The head of the Department shall be the director of Parks and Recreation. He shall be appointed by the Selectmen after consultation with the Board of Parks and Recreation.

(b) The Director shall have the power to promulgate regulations respecting recreational activities govern- ing the use of recreational places and facilities subject to the prior approval of the Selectmen. He shall have charge of the issuance of all permits and licenses, the assignment of facilities, the collection of fees and charges, and the enforcement of ordinances and regu- lations governing the use of recreational facilities, activities and places.
(RTM, 4/27/70.) (Char. Rev. 11/4/1975, eff. 1/1/1978.)

Sec. 81a. Bruce Museum.

(a) The Bruce Museum shall be under the control of the Department of Parks and Recreation.

(b) The Director of Parks and Recreation is authorized to enter into an agreement, subject to Representative Town Meeting approval, with the Bruce Museum, Inc., a not-for-profit Connecticut corporation organized and existing for the purposes of promoting and carrying out activities for the benefit and welfare of the Bruce Museum and the Town, to administer, supervise, manage and operate the Bruce Museum for such purposes. Any such agreement shall provide for the method of acceptance of gifts, grants, devises and bequests to the Bruce Museum, which method shall be in accordance with the standards of the American Association of Museums and which acceptance shall be the best interest of the townspeople. All items in the Bruce Museum collection shall be properly cataloged and conserved, whether stored or exhibited.

(c) Budget report; appropriation. Bruce Museum, Inc., through the Director of Parks and Recreation, shall annually prepare and submit to the First Select- man for preparation, submission and processing in accordance with Town budget procedures, a budget report presenting the proposed financial plans of the Museum for the ensuing fiscal year. Such budget reports shall be made at the time and in the form

prescribed by the Board of Estimate and Taxation. The appropriations for the Museum shall be in the form of a single appropriation for such purpose.

(d) Sale or Disposition of Bruce Museum Collection Items. Bruce Museum, Inc., through the Director of Parks and Recreation may sell by sealed bid or public

auction, transfer, exchange or convey any item in the collection of the Bruce Museum, subject, nevertheless to the following:

(i) All of the items in the collection of the Bruce Museum shall be held in trust for the benefit of the townspeople.

(ii) No such item shall be disposed of except by affirmative action of the Board of Directors of Bruce Museum, Inc., acting at a meeting of said Board publicly noticed for such purpose. Notice of such meeting shall be published in a newspa- per having general circulation in the Town of Greenwich at least Thirty (30) days prior to the date of such meeting, and the public shall have the right to attend and participate at such meeting.

(iii) The Board of Directors of Bruce Museum, Inc., shall act to so dispose of an item in the collection of the Bruce Museum only upon an affirmative determination by said Board that the continued ownership or possession of such item by the Bruce Museum is not appropriate or necessary in the best interests of the townspeople for the proper operation of the Bruce Museum, either at the time of such determination or in the foreseeable future.

(iv) In the case of a sale or exchange of any item in the collection having a value in excess of $25,000, Bruce Museum, Inc., shall not dispose of such item without first obtaining an objective judg- ment appraisal of its value from a qualified, independent appraiser, which appraisal must include an indication of how the determination was made. All funds or property thereupon received by Bruce Museum, Inc., upon the sale or exchange of such item shall be in an amount of value at least equal to the value thereof as so appraised.

(v) All funds received from sale or exchange of any item shall be deposited in an account specially designated to be used by Bruce Museum, Inc., to acquire objects to be added to the Bruce Mu- seum collection. Any objects received in ex- change for items in

the museum collection shall be added to the said collection and held as aforesaid.

(vi) No item or object so disposed of shall be ac- quired privately by any Museum employee, of- ficer, volunteer or member of the Board of Di- rectors of the Bruce Museum, Inc. or other governing body of the Museum or his or her representative unless the item or object is sold publicly and with complete disclosure of its history.

(vii) The Director of Parks and Recreation shall execute all documents of title necessary to effect the sale or disposition of such items provided that there has been full compliance with the procedures set forth herein.

(RTM, 10/28/1991.)

ARTICLE 9. PLANNING AND ZONING.*

Sec. 83. Planning and Zoning Commission; pow- ers.

There shall be in the Town a commission to be known as the "Planning and Zoning Commission of the Town of Greenwich." The commission shall, in addition to the powers and duties conferred by this Article have all the powers and duties conferred upon zoning com- missions under the General Statutes. Authority to regulate the erection, construction, reconstruction, al- teration or use of buildings and the use of land shall include authority to adopt building lines. Regulations concerning building lines, including those heretofore established for the Town and former borough of Green- wich, shall be adopted, enforced, amended or changed in the same manner as other zoning regulations.

(S.A. 469 § 2, 1951.)

....

Sec. 99. Municipal improvements; approval.

(a) After the passage of this Article no action, other than the making of studies or surveys, shall be taken by any Town agency, the Board of Education or the Housing Authority on any proposal involving;

(1) The location, relocation, major redesign, exten- sion or abandonment of any street or sewage disposal plant;

(2) The acquisition of land for, or the location, relocation, abandonment, sale, lease or major redesign of public real property or public build- ings, including schools;

(3) The extent and location of transportation routes and terminals whether publicly or privately owned; or

(4) The location of public housing projects.

Until such proposal has been submitted to and ap- proved by the Commission or has been approved by the Representative Town Meeting as herein provided. (S.A. 469 § 17, 1951.)

Sec. 100. Municipal, improvements; referral to Representative Town Meeting.

(a) The failure of the Commission to act upon any proposal, submitted to it pursuant to Section 99 hereof, within ninety (90) days after such submission shall be deemed to constitute an approval thereof. The Com- mission may, by resolution adopted prior to the termi- nation of the ninety (90) day period and for sufficient reasons to be stated in the resolution, defer approval for any length of time reasonably necessary.

ARTICLE 13. REPRESENTATIVE TOWN MEETING.

Sec. 167. Representative Town Meeting; pow- ers.

The Town of Greenwich shall have the capacity to act through and be bound by its Town Meeting mem- bers when acting in meeting assembled who shall, when convened from time to time as herein provided, constitute Representative Town Meetings. The Repre- sentative Town Meetings shall exercise exclusively, so far as will conform to the provisions of this Article, all powers vested in the Town, except as otherwise specif- ically provided by law. Action in conformity with all provisions of law now or hereafter applicable to the transaction of Town affairs in Town Meeting, shall, when taken by any Representative Town Meeting in accordance with the provisions of this Article, have the same force and effect as if such action had been taken in a Town Meeting open to all the voters of the Town as heretofore organized and conducted, except as specifi-

cally provided in this Article. Nothing in this Article shall be construed to confer upon the Representative Town Meeting any powers other than those vested in the Town Meeting prior to the creation of the Repre- sentative Town Meeting.
(S.A. 154 § 8, 1933.)

Sec. 172. Organization of Representative Town Meeting.

(a) The annual meeting of Representative Town Meeting members shall be held on the third Monday of January 1966, and biennially thereafter. The Repre- sentative Town Meeting members shall, at their first annual meeting and biennially thereafter, elect from among their number a Moderator, who shall act as moderator of all Representative Town Meetings. He shall hold office for a term of two (2) years and until his successor shall be elected and shall have qualified. A Moderator pro tempore may be elected by the Repre- sentative Town Meeting members from among their number who shall serve in the absence of the moder- ator.

(b) The Town Clerk or the Assistant Town Clerk shall act as clerk of all Representative Town Meetings and, in the absence of both, a clerk pro tempore of the meeting shall be elected by the meeting.
(S.A. 154 § 5, 1933; as amended by S.A. 217, 1947; RTM, 10/13/64.)

Sec. 173. Meetings; procedure.

(a) The Moderator may call a meeting of the mem- bers at any time. The Moderator, and, in his absence or inability, the Town Clerk, shall call such meeting upon the request of the first Selectman or the Chairman of the Board of Estimate and Taxation or upon the application of twenty (20) registered voters of the Town to be held within sixty (60) days after receiving such application. The Town Clerk shall notify all Representative Town Meeting members of the time and place at which Representative Town Meetings are to be held. The notices shall be sent by mail at least five (5) days before the meeting and a copy of such notice shall be published in the newspapers published in the Town. Such notice shall specify the object for which the meeting is to be held.

(b) One-third (1/3) of the Representative Town Meet- ing members shall constitute a quorum for doing business; but a smaller number may organize tempo- rarily and may adjourn from time to time, but no

Representative Town Meeting shall adjourn over the date of an election of Representative Town Meeting members. All Representative Town Meetings shall be public.

(c) Subject to such conditions, rules and regulations as may be determined from time to time by the members of the Representative Town Meeting, any registered voter of the Town who is not a Representa- tive Town Meeting member may speak at any Repre- sentative Town Meeting, but shall not vote.
(S.A. 154 § 3, 1933; as amended by S.A. 607 § 8, 1951.)

ARTICLE 15. SELECTMEN.

Sec. 217. First Selectman; powers and duties.

(a) All administrative functions relative to police, fire, highways, sewers and other public works, build- ing inspection, parks, recreation, law, human re- sources, parking services, fleet management, informa- tion technology and purchasing for such purposes,
shall be divided, under the supervision and control of the First Selectman, among administrative depart- ments which shall include the Department of Police, Fire, Public Works, Parks and Recreation, Law, Hu- man Resources, Parking Services, and Fleet Manage- ment. The First Selectman shall have the supervision and control, and shall be responsible for the adminis- tration, of all the affairs of the Town in respect to such departments, and may fix and determine the internal organization of such departments, the number and kinds of offices and positions, the methods of proce- dure and, subject to appropriation as otherwise pro- vided by law, the rates of compensation.

(b) First Selectman and board of selectmen. The First Selectman shall be the chief executive officer of the town and the town agent and shall devote his full time to the duties of his office. The two selectmen other than the First Selectman who are elected as provided in this act shall, together with the First Selectman, constitute the board of selectmen. The First Selectman shall chair the board of selectmen. The First Select- man shall hold at least one meeting each month with the other selectmen for the purpose of keeping them generally informed of the business of the town. Upon five days' written notice to the First Selectman, either of the two selectmen may place an item on the agenda

of a meeting, which item shall be germane to the duties and responsibilities of the board of selectmen. Minutes of such meetings shall be taken and made available for public inspection. The First Selectman shall designate one of the other selectmen to act in his place and stead during his absence. Such Selectman when so acting shall have all of the powers and duties of the First Selectman.

Exhibit X: Lease Abstracts

All Lease Abstracts are available on line at the RTM web site and they are also printed from a .jpg master as Volume 3.