



Pursuant to the foregoing notice a regular Representative Town Meeting of the Town of Greenwich was held on Monday, March 12, 2012 at 8:00 P.M (E.D.S.T.) in the Moderator's Hall of Central Middle School.

The meeting was called to order by the Moderator Thomas J. Byrne.

The members pledged allegiance to the flag.

Town Clerk Carmella C. Budkins swore in the members who were not at the January 2012 meeting and Gerrit Argento, a new member in District 7 and Marion S. Beale, new member in District 11.

The Moderator announced that as all members had received a copy of the call for the meeting, the reading of the call would be omitted.

Attendance cards were presented showing 200 present, 29 absent and 1 vacancy. District 1 and 3 had perfect attendance. The members absent in District 2- James Boutelle, Jill Oberlander; District 4- Russell Bowman, William J. Clark; District 5- Edward T. Broadhurst, III; District 6- Walter K. Howe, Geroge S. McBride, Erford E. Porter, II; District 7 – Amy H. Bibb, Ellen Breenan-Galvin, William W. Galvin, III, Lucia D. Jansen; District 8- Nancy P. Chapin, Stephen Ng; District 9- Robert L. Beerman; District 10 – Robert M. Byrnes, Maureen A Freder, Swan M. Grant, Erica Hoffman-Purnell, Roger S. Shedlin, Alan A. Small; District 11- Joseph Fahys, William C. Hambleton,, Daniel J. Natale, Jr., Adam J. Savitz, Michael Spilo, Michael G. Wacek; District 12 – David F Alfano, Gregroy W. Schulte.

The Moderator announced that as all members had received a copy of the minutes of the January 17, 2012 meeting, the reading of the minutes would be omitted. He asked if there were any corrections or comments. There being none the minutes were approved as submitted by unanimous consent.

Pursuant to the RTM rules, the Moderator designated that the following items be placed on the consent calendar – 1-2-5-8 & 10.

The Moderator suggested a motion, which was moved and seconded, to suspend the rules and place items 3, 11 & 19 on the combined items calendar #1 and place items 7, 12 thru 18 on the combined items calendar #2 and consider separately items 4, 6 and 9.

Motion Carried

The Moderator announced that the consent calendar was now before the meeting.

The items on the consent calendar are as follows:

1. **RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Nathaniel Witherell Board for a term expiring 3/31/15.**

LLOYD BANKSON

2. **RESOLVED**, that the sum of \$149,000 be and the same is hereby appropriated to be added to Capital Account Number Z312-59600-12123, known as “STP Pavement Restoration, East Elm Street and Milbank Avenue”.

5. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Planning and Zoning Board of Appeals for a term expiring 3/31/16.

ENNALA RAMCHARANDAS

8. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Board of Health for a term expiring 3/31/16.

ROBERT AILLEO

10. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Board of Health for a term expiring 3/31/16.

MARILYN ROSS CAHN

The vote was now on the consent calendar.

In Favor	-	195
Against	-	2
Abstentions	-	0

Items Carried

The Moderator announced that the combined items calendar No.1 was now before the meeting.

David Thompson, Deputy Commissioner of Public Works, offered the following resolution, which was duly moved and seconded, regarding Item No. 3.

3. **RESOLVED**, that the sum of \$225,000 be and the same is hereby appropriated to be added to Operating Account Number A312-51100, known as “Overtime Services”.

Drew Marzullo, Selectman, offered the following resolution, which was duly moved and seconded, regarding Item No. 11.

11. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Board of Social Services for a term expiring 3/31/15.

LAUREN E. RABIN

Peter Tesei, First Selectman, offered the following resolution, which was duly moved and seconded, regarding Item No. 19.

19. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Nathaniel Witherell Board for a term expiring 3/31/13.

H. ANDREW FOX

The vote was now on the combined items calendar No. 1.

In Favor	-	195
Against	-	1
Abstentions	-	0

Items Carried

The Moderator announced that the combined items calendar No. 2 was now before the meeting.

Peter Tesei, First Selectman, offered the following resolutions, which were duly moved and seconded, regarding Items 7 and 12 thru 18.

7. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed an alternate member of the Planning and Zoning Board of Appeals for a term expiring 3/31/16.

ROBERT SHIPPEE

12. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Inland Wetlands and Watercourses Agency for a term expiring 3/31/16.

JAMES CARR

13. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed as a regular member of the Board of Parks and Recreation for a term expiring 3/31/15.

PATRICK SLYNE

14. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed as a regular member of the Board of Parks and Recreation for a term expiring 3/31/15.

RICHARD C. LOH

15. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed as a regular member of the Board of Parks and Recreation for a term expiring 3/31/15.

DONALD M. LANDSMAN

16. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Historic District Commission for a term expiring 3/31/15.

NOBLE WELCH

17. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Planning and Zoning Commission for a term expiring 3/31/15.

RICHARD MAITLAND

18. **RESOLVED**, that the following named person, nominated by the Board of Selectmen, be appointed as a regular member of the Board of Ethics for a term expiring 3/31/15.

PAUL DEBARY

Christopher VonKeyserling, Chairman of the Appointments Committee, made a motion, on behalf of the committee, to postpone items 7 & 12 thru 18 until the April 2012 meeting.

Motion Carried.

The Moderator announced that Item No. 4 on the call was now before the meeting.

Gordon Ennis, Chairman of the Finance Committee, offered the following substitute resolution, which was duly moved and seconded, regarding Item No. 4.

WHEREAS, The Representative Town Meeting (RTM) authorized the RTM Finance Committee through a Sense of the Meeting Resolution passed by a vote of 187-24-1 at its December 2010 regular meeting to review all leases and licenses of Town property, prepare for the RTM 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; and

WHEREAS, The Finance Committee established a Subcommittee on Leases (Subcommittee) to conduct this review and subsequently made an interim report to the RTM at its regular meeting in March 2011; and

WHEREAS, The Subcommittee reported its results to the Finance Committee at its regular meeting on December 5, 2011 whereupon the Finance Committee directed The Subcommittee to focus on several additional actions necessary to complete the study; and

WHEREAS, The Subcommittee completed the specific actions directed by the Finance Committee and thereupon presented the final report to the Finance Committee at a Special Meeting on February 6, 2012; and

WHEREAS, The Finance Committee studied and accepted the Findings and Recommendations of the Subcommittee and by a vote of 10-0-0 authorized the presentation of the entire Report on Property Agreements to the RTM; and

WHEREAS, the Town, after reviewing the recommendations of the Subcommittee, has already begun to implement some of the recommendations.

NOW, THEREFORE, be it resolved that it is the Sense of the Meeting that the entire set of recommendations offered by the RTM Finance Committee, as the same are described on pages 8 through 14 of the RTM Finance Committee Report on Property Agreements dated March 2012 and are included on Schedule A, attached hereto and incorporated herein by reference (as so described, the "Recommendations"), be and hereby are acknowledged, accepted and approved by the RTM, and

BE IT FURTHER RESOLVED, that it is the consensus of the RTM that the Recommendations be implemented by the Town by the end of calendar year 2012.

Schedule A

Report - General 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. 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 persons or entities and the criteria for selecting a person or 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.

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 (including licenses not specifically delegated to Town departments) *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:

- (i) Specifically authorize the Board of Selectmen to approve competitive bid agreements to provide services and clarify the meaning of the term 'licenses';
- (ii) 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
- (iii) 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 qualified Town employees 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 person or 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 person's or 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 a comprehensive statement of the cost to the Town for the use of Town property by outside persons or 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 the 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 1(a)(iii) above; and

(iii) A statement of the estimated cost to the Town for the proposed arrangement as generally described in paragraph 4 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.

Specific Entity Recommendations

1. Greenwich Arts Council (GAC)

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 sub-tenancies which create any legally cognizable interests in the premises leased to GAC.

2. Wireless Technology

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

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

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

Recommendation:

- (i) 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 persons or entities.
- (ii) 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.
- (iii) 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 respect to the new property; as well as parameters or boundaries to the future costs associated with the new property.

6. GEMS

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

The vote was now on Item No. 4.

In Favor	-	187
Against	-	4
Abstentions	-	2

Item Carried

The Moderator announced that Item No. 6 on the call was now before the meeting.

Drew Marzullo, Selectman, offered the following resolution, which was duly moved and seconded, regarding Item No. 6.

6. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Planning and Zoning Board of Appeals for a term expiring 3/31/16.

PATRICIA G. KIRKPATRICK

The vote was now on Item No. 6.

In Favor - 127
Against - 58
Abstentions - 10

Items Carried

The Moderator announced that Item No. 9 on the call was now before the meeting.

David Theis, Selectman, offered the following resolution, which was duly moved and seconded, regarding Item No. 9.

9. RESOLVED, that the following named person, nominated by the Board of Selectmen, be appointed a regular member of the Board of Health for a term expiring 3/31/16.

JULIA CHIAPPETTA

The vote was now on Item No. 9.

In Favor - 129
Against - 53
Abstentions - 11

Items Carried

There being no further business, the Moderator adjourned the meeting, upon unanimous consent, at 9:30 P.M.

ATTEST:

CARMELLA C. BUDKINS
TOWN CLERK