REPRESENTATIVE TOWN MEETING
TOWN OF GREENWICH

EXPLANATORY COMMENTS FOR
DECEMBER 2012 MEETING

ITEM NO: **1**
DEPARTMENT: Office of the First Selectman
CONTACT: John Crary, 203-622-2208 jcrary@greenwichct.org
REFERRED TO: *Finance, Land Use and Legislative & Rules Committees*

RESOLVED, that the RTM affirms the five (5) year renewal of the lease of New Cingular Wireless PCS, LLC (AT&T) located at the Griffith E. Harris Golf Course, 1323 King Street for a term ending February 28, 2018.

EXPLANATORY COMMENTS

New Cingular Wireless PCS, LLC (AT&T) has notified **t**he Town that they have renewed their lease at 1323 King Street. The lease permits AT&T the right to co-locate on a tower with Verizon Wireless and the Town's Emergency Communications system. The agreement permits AT&T to install up to 12 antennas on the existing 100 foot tower. In exchange for this right AT&T agreed to make payments of $30,000 per year with a 3% escalator clause per year (rent for 12-13 is $35,604), pave the approximately 1,000 foot road to the site (next to the maintenance shed for the golf course), and plant various trees to screen the area,

Personnel from Parks and Recreation regularly visit this site and have reported that the site and grounds are in good condition. The Town does not recommend any changes in the terms or conditions of the lease and none are proposed. The insurance requirements included within the lease have been reviewed and the Town Risk Manager and the Town Attorney's office are working with AT&T to obtain coverage that meets the Town's requirements..

Attached to this document is a copy of the lease, an abstract of its terms, a letter from the lessor's attorney Cuddy & Feder regarding certain modifications that were made last year and a letter from P&Z that details P&Z's approval of this application in 2006. Since this lease was based upon an arm's length business transaction no separate appraisal was undertaken. I would point out however that while the lease terms included remuneration, physical improvements to the access way (estimated value of in excess of $100,000) and screening I am sure an

additional consideration was the desire to improve cell phone service to this portion of the Town.

Attachements: separate packet –
Lease

ITEM NO.: **2**
DEPARTMENT: Nathaniel Witherell
CONTACT: David G. Ormsby, Chairman (212) 474-1546
dormsby@cravath.com
REFERRED TO: *Finance, Health & Human Services and Legislative & Rules Committees*
VOTES: Board of Estimate & Taxation- 11/19/12- 12-0-0

WHEREAS, the Representative Town Meeting at its meeting on May 14, 2007, appropriated $3,600,000 for construction manager and architect's fees and other preliminary costs for the planning and design of a major physical renovation of the Nathaniel Witherell Nursing Facility in order to achieve the remediation of its most serious deficiencies, bring it into compliance with certain Health Code requirements and improve its competitive position among similar healthcare providers ("Project Renew");

WHEREAS, Project Renew has been approved by the various agencies of the State and the Town having jurisdiction over the matter including (i) the Department of Social Services of the State, (ii) the Board of Selectmen, (iii) the Commission on Aging, (iv) the Planning & Zoning Commission, (v) the Architectural Review Committee, (vi) the Historic District Commission and (vii) the Board of Estimate and Taxation;

WHEREAS, based upon construction cost estimates by the construction manager and the Town's Nathaniel Witherell Building Committee the Representative Town Meeting at its meeting on December 12, 2011 appropriated $20,205,000 for construction of Project Renew and authorized the issuance of an identical amount of Bonds of the Town to meet that appropriation;

WHEREAS, the Town has now received firm bids from subcontractors which show that total construction costs of Project Renew will aggregate $25,961,000 which, together with capitalized financing costs of $355,000, require the issuance of an additional $2,426,000 of Bonds of the Town;

NOW, THEREFORE BE IT RESOLVED, that the sum of $2,426,000 is hereby appropriated for additional construction and financing costs of Project Renew and the issuance of $2,426,000 of Bonds of the Town is authorized to meet said appropriation, all pursuant to the following resolution prepared by Robinson & Cole LLP, Bond Counsel to the Town .

RESOLUTION AMENDING A RESOLUTION APPROPRIATING $20,205,000 FOR THE CONSTRUCTION OF IMPROVEMENTS TO THE NATHANIEL WITHERELL NURSING FACILITY AND AUTHORIZING THE ISSUANCE OF $20,205,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE

BE IT RESOLVED BY THE REPRESENTATIVE TOWN MEETING:

Section 1. Section 1 of the resolution entitled "Resolution Appropriating $20,205,000 For The Construction Of Improvements To The Nathaniel Witherell Nursing Facility And Authorizing The Issuance Of $20,205,000 Bonds Of The Town To Meet Said Appropriation And Pending The Issue Thereof The Making Of Temporary Borrowings For Such Purpose" adopted by a Representative Town Meeting on December 12, 2011 (the "Resolution"), is hereby amended by increasing the amount of the appropriation and bond authorization therein by $2,426,000 from $20,205,000 to $22,631,000, thereby making said Section read as follows:

> **"Section 1. The sum of $22,631,000 is appropriated for the renovation, construction and equipping of the Nathaniel Witherell Nursing Facility as more fully described in the Application for a Certificate of Need filed by the Board of Directors of Nathaniel Witherell with the Department of Social Services of the State of Connecticut, and for administrative, printing, legal and financing costs related thereto (the "Project"). The Project shall be supervised and administered by the Nathaniel Witherell Building Committee established under the provisions of Section 57.1 of the Town Charter and such Committee shall supervise construction of the Project in accordance with said Section and this Resolution."**

Section 2. The first sentence of Section 2 of the Resolution is hereby amended by substituting the figure $22,631,000 therein for the figure $20,205,000, thereby making said sentence read as follows:

> **"Section 2. To meet said appropriation $22,631,000 bonds of the Town or so much thereof as shall be necessary for such purpose, shall be issued in one or more series, each maturing not later than the twentieth year after their date, as determined by the Comptroller, provided that the total amount of bonds to be issued by the Comptroller shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds.**

Section 3 The remaining provisions of the Resolution shall be applicable to this resolution as of the date of the adoption of this resolution.

Section 4. The remaining provisions of the Resolution are hereby ratified and confirmed.

EXPLANATORY COMMENTS:

The original estimated construction cost for Project Renew of $22.837M was prepared by the Construction Manager without the benefit of detailed construction drawings. Work on those drawings had been deferred pending the December 2011 approval of Project Renew by the RTM. Those drawings have now been provided and afford the basis for the 21 bid packages received from construction trade subcontractors which have resulted in a total project cost of $26.316M. It is unlikely that there will be a further increase in the cost of Project Renew. The construction bids, if accepted by December 31, 2012, represent legally binding obligations of the construction subcontractors who will be participating in Project Renew. Moreover, the revised total project cost includes an Owner's Contingency of $1.9M (10% of hard construction costs) which is available to meet unforeseen conditions.

ITEM NO.: **3**
DEPARTMENT: Inland Wetlands & Watercourses Agency
CONTACT: Robert Clausi, Senior Wetlands Analyst, rclausi@greenwichct.org
REFERRED TO: *Land Use, Legislative & Rules Committees*
VOTES: Board or commission name vote (y/n/a)

RESOLVED that the ordinance establishing a municipal fine for Inland Wetlands violations, which was adopted by the Representative Town Meeting on December 10, 2007, be amended to remove the one-day "grace period" afforded to violators.

EXPLANATORY COMMENTS

The Greenwich Inland Wetlands and Watercourses Agency (Agency) respectfully requests that the Representative Town Meeting (RTM) remove the one day "grace period" from the *"Ordinance Establishing a Municipal Fine for Violation of Wetland Regulations"* (Ordinance), as reflected in the attached Draft Ordinance dated September 14, 2012.

Approximately ten percent of the 120 violations that have occurred since the Ordinance was originally adopted in December 2007 were of such an egregious or repeated nature that they warranted the immediate issuance of citations, but application of the one day "grace period" allowed these violators to game the system and avoid being fined. Removing the "grace period" from the Wetland Fine Ordinance will give the Agency the ability to immediately penalize contractors who commit significant violations, will reduce the likelihood that contractors such as these will continue to violate the Regulations, and

will thereby provide strengthened protection for the Town's wetland and watercourse resources.

- The Agency is required to protect the inland wetlands and watercourses of the Town by State Statute and the local Regulations. Preserving these resources ensures that they will continue to provide the citizens of Greenwich with an adequate supply of surface and underground water, flood and erosion control, and a healthy natural environment.
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- The Agency has found the Ordinance, which the RTM adopted in late 2007, to be a useful tool in its efforts to protect the Town's wetlands and watercourses. However, the Ordinance includes specific language exclusive to Greenwich which prohibits the issuance of a citation until the party responsible for the violation has been officially noticed and given one day to comply with temporary corrective measures set forth by Staff.

- Only two citations (see attached) have been issued to site contractors since the Ordinance was adopted, even though others of the more than 120 violations that have occurred since December 2007 were of an egregious or repeated nature that warranted such a penalty. Summaries of several recent cases where compliance with the one day "grace period" clause in the Ordinance precluded the issuance of citations are attached.

- The Agency maintains that eliminating the "grace period" from the Ordinance will increase its effectiveness as a deterrent, and thus lead to a reduction in unauthorized activities that have both direct adverse impacts on wetlands and watercourses in Greenwich and follow-on effects on flood control and the other wetland and watercourse functions on which we all rely.

- As violations diminish, the amount of time that Staff must devote to getting unauthorized activities corrected will be reduced, which in turn will allow Staff to devote more attention to the review and monitoring of ongoing projects throughout the Town.

- Eliminating the "grace period" will bring the Greenwich Ordinance in line with those in the fifty percent of the municipalities in Connecticut that have instituted a Wetlands Fine Ordinance. None of the other ordinances reviewed includes a restriction on the immediate issuance of a citation.

- Checks and balances are in place to protect the public if the one day "grace period" is removed from the Ordinance. Pursuant to the Ordinance, Greenwich attorney Philip H. Bartels has been appointed by First Selectman Peter Tesei as the Citation Hearing Officer, and a hearing process has been put in place through which any person may appeal a citation.

- By providing the Agency with the ability to apply immediate and substantial penalties to parties involved in significant or repeated violations of the Regulations, the RTM will improve the Agency's ability to protect the Town's inland wetland and watercourse resources. The Agency, therefore, respectfully requests that the Representative Town Meeting adopt the attached Draft Ordinance from which the one day "grace period" has been removed.

Attachments: separate packet
Ordinance

ITEM NO.: **4**
DEPARTMENT: Board of Education
CONTACT: William McKersie, Ph.D. 203-625-7425
william_mckersie@greenwich.k12.ct.us
REFERRED TO: *Appointment and Education Committees*
VOTES: Board of Selectmen 11/15/12 (3-0)

WHEREAS, the Greenwich Representative Town Meeting, previously issued the following resolution at its June 9, 2008 meeting:

> RESOLVED, *that the following named persons, nominated by the Board of Selectmen, be appointed members of the Greenwich High School Musical Instructional Space and Auditorium Building Committee.*
> *Genevieve (Genny) Krob, Leslie Cooper, Robert Brady, Joseph Ross, Steven Loparco, Frank Napolitano, Aris Crist*

WHEREAS, in order to comply with State school construction grant requirements and clarify the authority granted the School Building Committee and the Board of Education by the Town of Greenwich Municipal Code, the Representative Town Meeting wishes to amend their June 9, 2008 resolution to include additional language as follows:

FURTHER RESOLVED, that the Greenwich Representative Town Meeting recognizes the establishment of the Greenwich High School Musical Instructional Space and Auditorium Building Committee at its June 9, 2008 meeting,

FURTHER RESOLVED, that the Representative Town Meeting authorizes Greenwich Board of Education to apply to the Commission of Education and to accept or reject a grant for the Musical Instructional Space and Auditorium at the Greenwich High School,

FURTHER RESOLVED, that the Representative Town Meeting hereby authorizes at least the preparation of schematic drawings and outline specifications for the Musical Instructional Space and Auditorium at the Greenwich High School.

EXPLANATORY COMMENTS

The Greenwich Public Schools (GPS) Administration requested the Board of Selectmen (BOS) approve the submittal of amendments to the resolution which formed the GHS Music Instructional Space and Auditorium (MISA) Building Committee for Representative Town Meeting (RTM) approval. This was necessitated by the requirement from the State's Bureau of School Facilities grant authorization department to match the language in their regulations for the formation of the building committee in order to be eligible for a school construction grant. The original resolution to create the Building Committee, which was approved by the RTM in June 2008, was the same language used to create the Glenville Building Committee and was accepted by the State for that project. The GPS Administration believes the State will take the prompt action by the BOS and RTM to approve the amendments to the resolution into account and maintain MISA on the approved projects list.

BACKGROUND

The GPS Administration submitted a school construction grant application (Form ED-049) for MISA in FY12. There are several requirements of the application, one of which is providing the approved resolution that created the School Building Committee for the project. The District recently received notification from the State that the application was missing the proper language in the form of a local resolution for the creation of the school building committee and will not currently be considered for a grant commitment. The language used in June 2008 resolution was the same language used to create the Glenville School Building Committee, which was accepted by the State for that school construction grant. For the MISA project, the State is indicating it wants Greenwich to submit a revised resolution. The GPS Administration believes this procedural issue can be addressed by the approval by the Board of Selectmen and RTM of amendments to the original resolution and that the State will take this action into account and maintain MISA on the approved projects list.

Construction grant applications to the Connecticut State Department of Education require resolutions from the local legislative body (not the Board of Education) that: 1) establish a building committee, 2) authorize at least the preparation of schematic drawing and outline specifications, 3) authorize the filing of grant application (ED-049). At the Representative Town Meeting on June 9, 2008 the RTM approved the formation of a building committee. Compliance with the other requirements is reflected in the Greenwich Municipal Code language pertaining to School Building Committee, Chapter 2, Article 9, Section 2-45. The Town's Code authorizes the School Building Committee to select and employ an architect and approve plans and specifications. The Code assigns authority for approving plans and specifications and submitting all applications for State aid to the Board of Education. For the Glenville construction grant application, GPS supplied the resolution and the Greenwich Municipal Code language, which was acceptable to the State. For the MISA school construction grant, they are asking for an approved RTM resolution for the MISA project to comply with items 2 and 3 above.