



John L. Salomone
Town Manager

TOWN OF NEWINGTON

131 CEDAR STREET
NEWINGTON, CONNECTICUT 06111

MAYOR JEFF WRIGHT

MINUTES

NEWINGTON TOWN COUNCIL MEETING

March 24, 2009

Mayor Wright called the meeting to order at 7:00 PM in the Helen Nelson Room of the Newington Town Hall.

I PLEDGE OF ALLEGIANCE

II ROLL CALL

Councilors Present

Councilor Banach
Councilor Boni
Councilor Bottalico
Councilor Bowen
Councilor Cohen
Councilor Lenares
Councilor Nagel
Councilor Nasinnyk
Mayor Wright

Staff Present

Town Manager Salomone
Lori Verreault, Executive Assistant

III AWARDS/PROCLAMATIONS

A National Public Health Week

Mayor Wright read the following proclamation:

WHEREAS, healthy people and healthy communities are the centerpiece of any strong and vibrant society; and

WHEREAS, the American Public Health Association has proclaimed April 6 through April 12, 2009 as National Public Health Week; and

WHEREAS, National Public Health Week provides an opportunity for the public to learn about public health concerns and its success stories that are vital to healthy communities, such as immunizations against infectious disease; communicable disease control; tobacco prevention; food protection; ensuring healthy living and working environments; and protection against new and emerging public health threats; and

WHEREAS, National Public Health Week also raises awareness about the fundamental role that state and local health departments play in promoting public health; and

WHEREAS, the Town of Newington, together with its neighboring towns of Wethersfield, Rocky Hill and Berlin, receives quality local public health services through its regional health department, the Central Connecticut Health District; and

WHEREAS, continued improvements in health for all residents of these communities are still needed and require strong partnerships based on common goals among government officials, community-based organizations, businesses, schools, health care professionals and members of the community; and

WHEREAS, this year's National Public Health Week theme is "Building a Foundation for a Healthy America," which seeks to inspire our citizens to recognize the need to maintain and improve our current public health system; and

WHEREAS, it is important that we recognize the value of public health and the need to maintain and improve our current public health efforts;

NOW, THEREFORE, BE IT RESOLVED, that the Newington Town Council hereby proclaims April 6, 2009 to April 12, 2009 as 2009 NATIONAL PUBLIC HEALTH WEEK in Newington, Connecticut and encourages all citizens to join me in this celebration by acknowledging the importance of public health activities in improving our local quality of life and taking action to improve and support the health of the entire community, including our own health and well-being.

Motion seconded by Councilor Cohen. Motion passed 9-0.

IV PUBLIC PARTICIPATION – IN GENERAL

Mary Udice – 26 Dalewood Road: Mrs. Udice noted that she is a seventeen year resident of Newington. She indicated that she read the March 23, 2009 letter to Town parents from the Board of Education and stated that the letter has enlightened her as to what the three-percent budget means to the students and the extreme irrefutable damage it will do to the Town. Mrs. Udice stated that the school system is in grave danger with the proposed changes to the Board of Education's 2009-2010 budget and remarked that the budget was low last year and will be even lower this year. She referenced from the letter some changes that would have to be made in order to meet a proposed three-percent budget: all day kindergarten will be eliminated, class sizes will increase at every level, textbooks and supplies will be reduced, school buildings will be closed at night, foreign language studies will be eliminated at the middle school level, and students will have increased walking distances. She encouraged parents who have not seen this letter to request a copy from the Board. Mrs. Udice stated that she has worked as a Special Education assistor for nine years. (Mayor Wright indicated that Mrs. Udice reached the three-minute time limit and requested that she wrap up her remarks.) Mrs. Udice stated that it is apparent how hard teachers, tutors and assistors work very hard every day to give students the education they deserve, and are truly devoted to the children of Newington.

Peter Boorman – 225 Robbins Avenue: Mr. Boorman distributed a written memo to the Councilors. He stated that he is speaking in regards to Town Attorney Ancona's opinion regarding Town Council members serving on various boards, commissions, committees and stated that the memo he just distributed to the Council is merely to attempt to clarify Atty. Ancona's opinion and is intended to be only in regards to committees created by the Council. Mr. Boorman stated that there is a difference between boards and commissions and committees created by the Council. He stated that in his opinion Council members can clearly serve on Boards and Committees created by the Council. He stated that the Council controls the committees and that committees have no power except for the power instilled by the Council and committees cannot act independently of the Council. He stated that as such, committees do not constitute an office. Mr. Boorman indicated that Charter section 415 states: "No member of the Council shall hold an elected or appointed office" and stated that a committee is not an office. He stated that most of the background work done by the Council is done through committees; and indicated that Charter section 303(b) permits this. He stated that the committees merely assist the Council in its duties and have no independent authority and as such they are agencies of the Council, not offices. He stated that the Council can choose not to serve on committees, but it is not required to do so. He stated that if the Council does desire to serve on committees then there is no reason not to do so.

Mady Kenny – 53 Crestview Drive: Mrs. Kenny stated that the discussion of allowing Council members to serve on various boards and committees reminded her of a Seinfeld episode about double dipping and remarked that it is not healthy at a cocktail party and it is not healthy for the Town.

V CONSIDERATION OF OLD BUSINESS

- A Amendment to Classification and Pay Plan (Revised Job Descriptions for Executive Assistant to the Town Manager, Executive Assistant to the Superintendent/Executive Secretary to the Board of Education)

Town Manager Salomone stated that the Town is in the process of filling these important positions and has updated the job descriptions to fit the format of other updated job descriptions. He stated that there have been minor changes but the general descriptions remain consistent.

Assistant Superintendent Dr. Jeffrey Schumann addressed the Council regarding the classification and pay plan for the Executive Assistant to the Superintendent/Executive Secretary to the Board of Education position. Councilor Bottalico inquired whether this is a new position and inquired about the salary range for the position. Dr. Schumann replied that it is not a new position. Town Manager Salomone replied that the salary range is about \$55,000 - \$80,000 per year. Dr. Schumann indicated that the position is opening due to retirement. Councilor Bowen inquired whether the changes in the new job description are to make the description current. Dr. Schumann replied in the affirmative and indicated that the language from the old description was taken verbatim and placed into the new format and current ADA language was added to make the description compliant with current laws. Councilor Nasinnyk noted wording in the job descriptions that state "sit/remain/stand continuously for long periods of time." and inquired whether this is a typo. Town Manager Salomone stated that it is language taken directly from State guidelines. Councilor Bottalico inquired whether the salary range has increased with the new classification and job description. Dr. Schulman replied in the negative.

Deputy Mayor Lenares moved the following:

RESOLVED:

The Newington Town Council hereby approves of amendments to the "Classification and Pay Plan" by approving revised job/position descriptions for Executive Assistant to the Town Manager and Executive Assistant to the Superintendent/Executive Secretary to the Board of Education (A-5) as recommended by the Town Manager in his capacity as Personnel Director in his memorandum of February 13, 2009.

Motion seconded by Councilor Bowen

Motion passed 9-0.

VI CONSIDERATION OF NEW BUSINESS

A AFSCME Contract Extension

Town Manager Salomone stated that the AFSCME contract expires on June 30, 2009 and stated that there have been discussions between AFSCME and the Town regarding the fiscal challenges of the upcoming year. He stated that these discussions led to a proposed agreement that was ratified by the AFSCME union on March 14, 2009 and overwhelmingly approved by AFSCME Local 2930. Town Manager Salomone stated that he is grateful to the members who were very cooperative during the process. He stated that the proposed agreement will take place from July 1, 2009 – June 30, 2010 and during that time there will be no salary increases other than step increases for that one-year period, and no bargaining unit employees will be laid off during the one year period, and the cost-sharing premiums will be calculated at 2008-2009 rates. Town Manager Salomone recommended that the Council accept the agreement. He stated that this agreement affects about 110 Town employees and slightly smaller number of Board of Education employees.

Councilor Bowen noted that the police union voted overwhelmingly against adjusting its contract. Town Manager Salomone concurred. Councilor Bowen inquired about the savings to the Town and the Board with the AFSCME contract agreements. Town Manager Salomone replied that the savings would be about \$115,000 on the Town side and about \$160,000 on the Board of Education side. Councilor Bowen inquired what would have happened to the Town budget without the \$115,000 savings. Town Manager Salomone stated that not having the savings would have likely resulted in closing the Senior Center in the evening and laying off an employee at the Center. Councilor Bowen inquired whether this agreement will cause any problems. Town Manager Salomone replied that while it would have been helpful for there to be solidarity between the unions, he remarked that the AFSCME members understand the stakes and want to be part of the solution. He stated that department heads also understand and are on board with the solution. Town Manager Salomone noted that the police union does have one year remaining on its contract, unlike the AFSCME contract which is due to expire

this year. Councilor Bowen thanked the AFSCME members as well as the department heads and non-union staff members who have agreed to forgo a raise this year in recognition of the difficult economic times.

Councilor Nagel inquired what types of positions are held by AFSCME members in the Town. Town Manager Salomone replied that the union members hold a range of positions, including maintenance positions, clerical positions, technical staff and library staff. Councilor Nagel thanked these employees for the agreement. Councilor Cohen expressed gratitude on behalf of the entire Council. Deputy Mayor Lenares thanked AFSCME members for stepping up to the plate. Councilor Boni thanked the members on behalf of all of the people of Newington and stated that it is great to see this group recognize the dire economy and step up to take this action. Councilor Bottalico noted that some AFSCME members have expressed disappointment that the police union members did not accept the agreement and indicated that the AFSCME members understand the situation and did not want to see anyone laid off. He thanked everyone involved. Councilor Cohen inquired about the savings to the Town had the police union accepted the proposal. Town Manager Salomone replied that the savings would have been approximately \$200,000 - \$275,000.

Councilor Cohen moved to waive the rules to vote on the resolution. Motion seconded by Councilor Boni. Motion to waive the rules passed 9-0.

Deputy Mayor Lenares moved the following:

**WHEREAS, the Town of Newington and AFSCME Council 4, Local 2930, recognize that enormous economic challenges currently exist for all local governments; and
WHEREAS, AFSCME Local 2930 understands that minimizing local tax increases is in the best interest of all Newington taxpayers; and
WHEREAS, AFSCME Local 2930 voted on March 14, 2009 to agree to a one year extension of the current contract which expires on June 30, 2009 with no general wage increase;
NOW, THEREFORE, BE IT RESOLVED:
That the Newington Town Council hereby approves the tentative agreement reached between AFSCME Local 2930 and the Town of Newington extending the existing contract which expires June 30, 2009 to June 30, 2010, as attached.**

Motion seconded by Councilor Bowen.

Mayor Wright expressed gratitude towards the AFSCME members for stepping up during these difficult economic times and also thanked the department heads and the Town Manager for also agreeing to a zero-percent salary increase this year.

Motion passed 9-0.

- B Discussion of Legal Opinion re Town Council Members Serving on Various Boards, Commissions, Committees

Mayor Wright inducted that the Town Attorney has issued a letter dated March 16, 2009 in response to a question brought up at the March 10 Council meeting regarding Council members serving on boards, commissions and committees. Mayor Wright read Charter section 415:

No member of the council shall hold any employment or elective or appointive office in or under the town government except the office of justice of the peace. This section shall not be construed to prevent members of the council from representing the town as members of intertown or regional bodies or agencies.

Mayor Wright indicated that Atty. Ancona's conclusion is that "Town Councilors, including you, Mr. Mayor, are acting in ultra vires by holding offices other than that as a town councilor within Newington's town government. Accordingly, all offices, whether they be deemed commissions, boards, committees or any commonly used term to describe a group which is convened by election or appointment, shall be vacated or resigned by the councilor holding it and the Town Council shall appoint a replacement to fill such an office. "Mayor Wright stated that the ruling is clear and indicated that Councilors hold a total of forty positions on various committees. He stated that it is clear that the Council is not acting in accordance with the Town Charter by serving in these positions.

Councilor Bowen referred to the minutes of the March 10, 2009 meeting in which Councilor Bottalico had asked questions regarding this topic and had indicated that he would ask the Town Attorney and Councilor Bowen noted that according to the minutes Councilor Bottalico had inquired whether the CIP is a board, commission or committee and Councilor Bottalico then requested to learn the difference between a board, commission and committee. Councilor Bowen stated that the legal opinion does not address Councilor Bottalico's specific question. Councilor Bowen also indicated that Atty. Ancona's letter was addressed to the Mayor and inquired whether the Mayor sent a formal letter to ask the question. Mayor Wright replied that he called the Town Attorney to ask the question. Councilor Bowen stated that Mayor Wright never asked Atty. Ancona the questions asked by Councilor Bottalico. Mayor Wright replied that he asked the Town Attorney questions based on the Council's discussion and stated that the Attorney's opinion does address that discussion. Councilor Bowen stated that Councilor Bottalico specifically asked for a definition of the difference between boards, commissions and committees and stated that he had the same question and he again stated that Atty. Ancona's opinion does not address those questions. Councilor Bowen requested another opinion from the Town Attorney regarding the difference between a board, commission and committee. He also requested that Atty. Ancona define the term "ultra vires". He stated that he is confused by Atty. Ancona's opinion and stated that Atty. Ancona should be present at a Council meeting to explain his opinion prior to the Council taking any action. Mayor Wright stated that while Atty. Ancona can be invited to the next Council meeting he has made it very clear in his conclusion that Council members cannot serve on boards, commissions and committees. Councilor Bowen inquired why Atty. Ancona didn't answer Councilor Bottalico's question and stated that he is surprised that the Town Attorney is not present at the current meeting to speak to an opinion that will cause sweeping changes to something that has been an accepted practice for over thirty years and through three Charter Revision Commissions. He indicated that during the last Charter Revision Commission Atty. Ancona and Atty. Clark never brought the issue to the table. Mayor Wright stated that any member of the Council has the right to obtain a legal opinion and stated that he asked for this opinion on behalf of Councilor Bottalico and stated that he asked about the legality of allowing Town Councilors of holding other Town offices concurrently with their elected positions as Councilors. He stated that the letter answers the question and basically states that the Council's current practices are not in line with the Charter. He stated that his interpretation of the letter is that it is not correct for a Councilor to sit on a board, commission or committee. He stated that it is not a Democratic or Republican issue, and remarked that now that the Council knows it is in violation of the Charter all Councilors should immediately resign from boards, commissions and committees. He stated that Councilors should not have two votes and stated that the Council should abide by the Town Attorney's ruling. Mayor Wright stated that the Council has three choices: to abide by the ruling and vacate the positions, to ignore the ruling, or to acquire another legal opinion.

Councilor Bottalico stated that he would still like to know the definition of and the difference between committees, commissions and boards as he originally asked. Mayor Wright agreed, but stated that the Council already knows that these groups are committees. Councilor Bottalico stated that he would feel more comfortable if he knew the difference between the groups. Mayor Wright noted that no matter what the group is called, board, commission, or committee, the legal opinion still states that the current situation is in violation of the Charter and therefore Council members should vacate those positions. Councilor Bottalico requested a legal opinion of the difference between the three groups.

Deputy Mayor Lenares inquired whether this issue ever came up in the Charter Revision Commission. He also inquired whether past Town Attorneys have interpreted the language differently or whether past Councils have just ignored the language. He inquired who would fill the positions vacated by the Councilors and noted that Councilors Bottalico and Nasinnyk have had problems with quorums on the Standing Insurance Committee. He stated concern that many committees will not have a quorum but remarked that he respects the legal opinion and understands that the Council has to abide by the Charter. He requested to have the Town Attorney present at the next Council meeting to address his opinion, and requested to possibly obtain a second legal opinion on the issue. Councilor Boni indicated that questions did come up regarding the legality of his service on the Charter Commission. He stated that the Council should abide by the Charter whether or not it agrees with the opinion. Deputy Mayor Lenares inquired whether the Councilors should abandon their positions on committees immediately or wait until the positions are filled. He stated that he read the Charter section to mean boards and commissions such as the TPZ or the Conservation Commission. He stated that he is confused by the opinion, but if the Councilors have to resign then so be it. Mayor Wright stated that there have not been any rulings on this topic by any past Town Attorneys and he indicated that according to former Mayor Mazzoccoli Council members did not serve on any boards, committees or commissions during his time as Mayor. Mayor Wright commented that it was something that changed gradually over time and was not done with intent to bypass the Charter or gain any control or power.

Councilor Cohen remarked that she suspects that former Mayor Mazzoccoli didn't understand Mayor Wright's question and she stated that there are Town ordinances that very specifically refer to committees and stated that these ordinances very specifically call for Councilors to serve on these committees. She stated disappointment that the Town Attorney is not present at the meeting to discuss his opinion. Councilor Cohen noted that boards and commissions such as Parks and Receptions and the TPZ are autonomous from the Council in their power, authority and decision making. She stated that members of boards and commissions serve specific term lengths whereas members of committees generally serve for the duration of the committee or for the Council term length in the case of Councilors sitting on the committees. She stated that this section of the Charter has not been changed for forty years and based on its usage the definition and the distinction between boards, commissions and committees has been very clear. She stated that committees are merely subcommittees of the Council. Mayor Wright stated that the Charter supersedes any ordinances or acts of the Council. He stated the ruling refers to all elected or appointed positions, and the Council appoints positions to the committees. Mayor Wright stated that based on this interpretation he should resign from the Downtown Revitalization Committee and stated that it is not appropriate for the Council to ignore the law. He stated that another legal opinion can be requested if desired but stated that Atty. Ancona's opinion meets the intent of the question.

Councilor Nasinnyk agreed with Councilor Bottalico that his question was not answered in the Town Attorney's letter. She stated that committees are intended to perform legwork, background work, interviews, etc. and stated that the committees cannot make a decision without coming before the Council. She stated that without committees the Council will be required to perform all of the legwork and will need to spend the time doing all of the work currently performed by the individual committees. She suggested that the Council wait to hear the Town Attorney's opinion on the difference between boards, committees and commissions prior to taking any action and she expressed disappointment that the item appeared on the agenda without the Town Attorney being available to answer the Council's questions. She requested to have the Town Attorney present to answer questions prior to the Council taking a vote on the item. Mayor Wright agreed that this ruling will create an additional workload for the Council. He stated that this is not an item that needs to be voted on since the legal opinion states that the Council cannot serve in these positions.

Councilor Cohen inquired what would happen if Councilors do not resign from the positions or the Town does not change its ordinances. Mayor Wright replied that changing the ordinances will have to be done over time, but in the mean time the Council needs to be aware that serving on boards and committees is in violation of the Charter and remarked that he does not think anyone is advocating doing something illegal. Deputy Mayor Lenares inquired whether his appointment to the CIP is considered an appointed office based on the Charter and also noted an upcoming School Code Compliance Committee meeting in which four companies are scheduled to give a half-hour presentations. He stated that if this ruling holds true, the presentations would have to be made to the Town Council as a whole and would cause the Council to hold a four-hour meeting rather than a two-hour meeting. He inquired whether this ruling will cause the Council to have to hold four to six hour meetings. Mayor Wright stated that everything at the committee level will have to come to the Council level until the committees can be reconstituted. Councilor Nagel expressed concern about the standing of the School Code Compliance committee given the current situation and inquired what procedure the Council would take if it is in fact in violation of the Charter.

Councilor Bowen remarked that the question regarding whether Councilor Boni could serve on the Charter Commission must have prompted Attys. Ancona and Clark to perform extensive research to make sure that it was okay for Councilor Boni to serve on the Commission. He inquired why the two Attorneys who examined the topic didn't raise the issue at that time. He requested an opinion as to why the ruling is different now than it was then. Councilor Bowen agreed with Mayor Wright that a Councilor should not get two votes on an issue, but stated that committees don't have any authority or any final votes on an issue. He explained that the Council has a lot of work to do and not all Councilors are experts on all of the issues the Council must address; therefore since the nine Councilors can't address all the issues as an entire group it assigns a couple people to represent the its interests and to then come back to the Council with recommendations, not with final decisions. He stated that boards and commissions have the authority to make binding decisions, but committees don't have such authority. He inquired how the Town Attorney could not recognize the difference between boards, commissions and committees. Councilor Bowen noted that an individual who has ten years experience as a past Town Attorney has also submitted an opinion. Councilor Bowen noted that this former Town Attorney's opinion quotes statutes while Atty. Ancona's opinion quotes the Merriam-Webster Dictionary. He stated that in order for the Council to address all of the issues currently addressed by committees it would have to hold many special meetings. He remarked that Atty. Ancona's letter is not a true legal opinion. He requested to see the conclusion substantiated by statutes and case history. He cautioned the Mayor against making decisions based

on his secondhand interpretation of Atty. Ancona's conclusion and stated that there are many questions to be answered before the Council makes any sweeping changes to how it has operated for many years. Mayor Wright countered that this is a legal opinion and stated that Atty. Boorman's opinion is not binding in nature, as he is a member of the public and has not been hired by the Council to submit his opinion. Mayor Wright indicated that the Charter Revision Commission was formed under the guidance of State statute; therefore Councilor Boni's participation on the Commission was allowed.

Mayor Wright stated that he would invite the Town Attorney to the next Council meeting and stated that in the meantime the Council members should abide by the ruling and should not serve as voting members of any board or committee. Councilor Banach stated that if the Council were to abide by this ruling the Council would grind to a halt very quickly as the committees exist to assist the Council in decision making processes. Councilor Banach noted that a labor attorney is used to assist with labor issues and stated that the Charter is a very complicated document. He stated that the item should be tabled until the Council receives further information from the Town Attorney and suggested that the Council consults a special counsel that is well-versed in this topic. He urged the Council to use caution in moving forward with this item. Deputy Mayor Lenares inquired what happens from this point, and whether the Council should hold business as usual until the next meeting. Town Manager Salomone stated that he has some concerns from a management standpoint and indicated that various staff members have ongoing work related to the committees. He noted that there are still questions that need to be clarified and stated that until everyone feels comfortable with the answers to the questions he suggests that the committees continue to operate as usual. He stated that it would be a personal decision if a Councilor wishes to resign from a committee prior to clarification of all of the questions. Mayor Wright suggested that the committees continue to meet but that Councilors abstain from any votes held by the committees until the Town Attorney can address the Council. Councilor Bottalico stated that doing so wouldn't work. Mayor Wright indicated that Town Attorneys have issued a number of legal opinions regarding the Charter over the years and those opinions have been viable. Deputy Mayor Lenares stated that if Council members don't vote in their committees then there will not be a quorum on many committees. Mayor Wright stated that Council members can attend meetings but not vote and therefore there will still be caucuses.

Councilor Banach noted that he attended a focus group for the search for a new Superintendent of Schools, and noted that one of the things that the people in the group agreed upon is that they want to see a Superintendent who exhibits common sense. He stated that the people who elected the Council to govern also expect it to exhibit common sense and stated that common sense would dictate that the business of the Town should move forward as usual while the Council obtains other opinions as warranted. He stated that he can not recall past opinions that would force the Council to sweepingly vacate committees, or that would make such a fundamental change to the Council's operation of Town government. He stated that the public expects the Council to exercise common sense and to not rush to judgment on the issue. Councilor Nasinnyk stated that there are already committees in place that are doing all this work and remarked that for past legal opinions the attorney has always been present to discuss the opinion and did not just leave it open to interpretation. She suggested that the Council keep operations status quo until the Town Attorney can be present to clarify his opinion and to answer the original questions. Councilor Bowen inquired as to why the Town Attorney was not invited to the meeting. Mayor Wright replied that he did not invite or un-invite Attorney Ancona and stated that Councilor Bowen could have invited him as well. Councilor Bowen stated that since he doesn't understand the document he does not have a problem voting as a member of a committee until he receives clarification. He stated that when the question first came up about whether Councilor Boni could serve on the Charter Commission, Atty. Ancona followed a procedure to answer that question, and in that procedure he first looked at the Charter, and then to State statutes. Councilor Bowen stated that if Attys. Ancona and Clark were able to make that ruling the first time then they should have understood Charter section 415 well enough that they should have noticed that there was a bigger issue for the Commission to address – that the current situation with the Council is illegal. Mayor Wright stated that when one asks an attorney about an issue the attorney responds to that issue. He stated that Atty. Ancona was not asked for a legal opinion on section 415 at the time, therefore he did not make a ruling on it. He stated that the issue of Councilor Boni serving on the Charter Revision Commission is a separate issue from the issue of Councilors serving on committees. He stated that Atty. Ancona's opinion is crystal clear. Councilor Bowen noted that the question was raised by former Mayor Reynolds, who believed that Councilor Boni was in violation of the Town Charter for sitting on the Charter Revision Commission, which is why Councilor Bowen assumed that the attorneys would look at the Charter to see if a Councilor could sit on the Commission. He stated that he needs Atty. Ancona's clarification regarding his opinion prior to moving forward with this item. Councilor Bottalico stated that he serves on three critical committees for this budget and stated that the committees must get their work done for this budget. He indicated that he will not resign from any committees until the Council votes on the item.

Councilor Cohen inquired what would happen in regards to the ordinances if the Councilors abided by the opinion and resigned from committees. Mayor Wright stated that while it may be inconvenient, the legal opinion states that the what the Council is currently doing is illegal and he stated that he can't turn a blind eye to something illegal simply because it's inconvenient. Councilor Cohen inquired where this is going to end for the Town. Mayor Wright stated that in the end the Town will clean up the committees and the ordinances and in the meantime the opinion is that the Council is in violation. He stated that many of the decisions will be have to be made by the Council at special meetings and ultimately the Town Charter will have to be changed to get to that point.

Councilor Bowen stated that he has spoken to the Democratic Town Committee Chair and indicated that the Democratic Town Committee will be ready to fill positions on all committees with qualified volunteers. Councilor Bowen remarked, however, that the entire process makes no sense unless there is an ulterior motive. He encouraged the Council to put off any decision on the issue until it receives clarification from the Town Attorney. Councilor Bottalico inquired how positions would be filled for the CIP Committee. Councilor Bowen replied that the CIP Committee would have to be eliminated. Councilor Bottalico agreed and stated that the Council would have to eliminate several committees because of a lack of qualified volunteers to serve on the committees. Councilor Bowen stated that the CIP Committee was established to do non-partisan work for the good of the entire Town and remarked that it would break his heart to dissolve that Committee.

Councilor Nagel clarified that the current discussions have nothing to do with Council liaison positions on committees, nor are they in regards to regional committees such as CRCOG. Mayor Wright agreed and concluded that ultimately it is not an item that the Council will have to vote on and stated that there is a legal opinion that the Council's current situation is incorrect. He stated that he believes that all Council members should resign from commissions and committees, but whether or not to do so is each individual Councilor's prerogative.

VII RESIGNATIONS/APPOINTMENTS

- A. Treasurer, Development Commission, Fair Rent Commission, Conservation Commission
 - 1. Acknowledge resignation of Cherie Woods
 - 2. Appoint a replacement (none)

Deputy Mayor Lenares moved the following:

RESOLVED:

That the Newington Town Council hereby accepts the resignation of Cherie Woods as Town Treasurer effective March 31, 2009 in accordance with a communication received March 15, 2009 and as a member of the Development Commission, Fair Rent Commission and Conservation Commission in accordance with a communication received March 17, 2009.

Motion seconded by Councilor Nagel. Motion passed 9-0.

VIII Tax Refunds

Deputy Mayor Lenares moved the following:

RESOLVED:

That property tax refunds in the amount of \$3,489.44 are hereby approved in the individual amounts and for those named on the "Requests for Refund of an Overpayment of Taxes," certified by the Revenue Collector, a list of which is attached to this resolution.

Motion seconded by Councilor Bowen. Motion passed 9-0.

Town Manager Salomone reverted to the previous agenda item regarding the Town Treasurer's resignation and stated that because the Treasurer cosigns checks the position would have to be reappointed by March 31, 2009. Mayor Wright requested that the item be added to the March 30, 2009 Special Meeting agenda.

IX MINUTES OF PREVIOUS MEETINGS

A Special Meeting, March 9, 2009

Councilor Nasinnyk moved to accept the minutes of the Special Meeting, March 9, 2009 as written. Motion seconded by Councilor Bottalico. Motion passed 9-0.

B Regular Meeting, March 10, 2009

Councilor Cohen indicated that her comments in the paragraph above the consideration of new business item on page two of the minutes should read “the small amount of the project’s funding will come from the Cemetery building project’s contingency budget” and in the same paragraph her comment should read “Councilor Cohen explained that alternate three, not included in the bid acceptance...”

Councilor Nasinnyk moved to accept the minutes of the Regular Meeting, March 10, 2009 as amended. Motion seconded by Councilor Bowen. Motion passed 9-0.

C Public Hearing, Town Manager’s Proposed Budget, March 16, 2009

Councilor Nasinnyk moved to accept the minutes of the Public Hearing, Town Manager’s Proposed Budget, March 16, 2009 as written. Motion seconded by Councilor Bowen. Motion passed 9-0.

D Special Meeting, March 16, 2009

Councilor Nagel moved to accept the minutes of the Special Meeting, March 16, 2009 as written. Motion seconded by Councilor Nasinnyk. Motion passed 9-0.

E Special Meeting, March 18, 2009

Councilor Nagel moved to accept the minutes of the Special Meeting, March 18, 2009 as written. Motion seconded by Councilor Nasinnyk. Motion passed 9-0.

X WRITTEN/ORAL COMMUNICATIONS FROM THE TOWN MANAGER, OTHER TOWN AGENCIES AND OFFICIALS, OTHER GOVERNMENTAL AGENCIES AND OFFICIALS AND THE PUBLIC

Councilor Boni inquired about where the Police Department’s share of the SRO costs appear in the budget. Town Manager Salomone replied that there is a line item in the general fund for the Police Department’s share.

Councilor Boni inquired about the investments listed on page four of the report. Town Manager Salomone replied that they are certificates of deposit, and they do not exceed the FDIC insured amount. Councilor Boni noted the interest rates and inquired whether the Town is obliged to use these banks. He stated that certain credit unions pay higher interest rates. Town Manager Salomone replied that the Town may only use banks that are on an approved list under State law. He stated that these are very short-term investments of only several days or weeks.

Councilor Bottalico inquired whether the number of delinquent motor vehicle tax payers is higher than usual. Town Manager Salomone replied that he would check with the Revenue Collector. Councilor Bottalico inquired about the 1437 uncollected real estate accounts. Town Manager Salomone replied that those are the total real estate delinquencies and indicated that there are more delinquencies this year versus last year, Councilor Bottalico stated that the delinquencies are a perfect example what’s going on in today’s economy.

Councilor Bowen noted claims statistics on page three of the report and noted that since it is getting close to the end of the fiscal year the Town should keep a close eye on the claims numbers.

XI COUNCIL LIAISON/COMMITTEE REPORTS

Councilor Nagel reported on the following:

- Community Safety Committee:

- Further information was presented regarding the Healthy Community Healthy Youth program, specifically in building a program through Town organizations that would match youth with particular interests and skills with adults, including senior citizens, in order to give the youth the chance to develop skills, interests and experiences.
- School Code Compliance Committee
 - The Committee has narrowed down the number of potential architects to four and will interview these four firms and will present the findings to the Council
 - Councilor Boni inquired about the length of this project. Councilor Nagel replied that it is a project that is expected to go on for a number of years and involves a series of minor and major changes to be made in the schools in order to bring them up to compliance with State accessibility codes for the disabled.
 - Councilor Boni inquired whether the funding requested is for the entire project. Deputy Mayor Lenares replied that the project will cost at least two million dollars and will go on for many years. He stated that there is currently about \$850,000 in the CIP budget for the project.
 - Councilor Boni inquired as to how the schools have fallen so far out of compliance. Councilor Bowen replied that its not that the schools have fallen out of compliance, rather the schools were built before these codes existed and must be updated in order to be brought up to code. He stated that if the Town hires the right architect there may be some room for negotiations on the work that needs to be done.

XII PUBLIC PARTICIPATION – IN GENERAL

Peter Boorman – 225 Robbins Avenue: Mr. Boorman remarked that the Council held an excellent discussion in regards to the topic of Council members serving on committees and stated that Councilors on both sides of the table came up with excellent questions. He stated that his letter previously distributed to the Council will answer most of those questions. He recommend that the Council have the Town Attorney present at the next meeting to discuss the item. Mr. Boorman stated that there is no requirement that the Council change the way it operates its committees and he indicated that there is a difference between committees, commissions and boards. He stated that it boils down to the fact that committees are created by the Council and have no power, whereas boards and commissions are offices. He stated that the Council can make changes to its committee structure if it pleases but the changes will not be because the law requires such change. He stated that no Town Attorney can direct the Council to do anything, rather a Town Attorney can only advise the Council and indicated that a Council member who agrees with Atty. Ancona's opinion can decide to step down from a committee but cannot be forced to do so unless the Council takes a vote as a whole not to allow Council membership on committees. He stated that since committees are the creations of the Council the Council can decide how the committees work. Mr. Boorman stated that he is available to any Councilor who has questions and urged the Council to select an attorney with a background in this type of analysis and an attorney with no political persuasion if it decides to seek another opinion.

Rose Lyons, 46 Elton Drive: Ms. Lyons noted when Councilor Bottalico added the committee item to the previous meeting's agenda she wondered where this was all going and remarked that the more she thought about it the more she believes that this is the Mayor's attempt at opening up the Charter. She noted the Mayor's comments at the current meeting that this change may ultimately lead to the Town reopening the Charter. Ms. Lyons noted that Charter section 415 does not contain the words "boards", "commissions" or "elected officials" and stated that it specifically refers to Council members. She stated that the people against the changes to section 415 were against the changes because they would have allowed for elected officials to sit as voting members of boards and commissions. She stated that the question posed to the Town Attorney should be discussed with the entire Council.

Sandy Lallier, 27 Elton Drive: Mrs. Lallier stated that she looked up the definitions of boards, commissions and committees in the dictionary and stated that a committee is a group of people that gathers information or researches an item and then presents the research to someone else. She stated that she does not believe that Councilors who serve on committees are breaking the law and stated that she does not want to see the internal function of how the Town works turned upside down. Mrs. Lallier remarked that she feels that the Town Attorney's opinion was skewed towards what the Mayor wants to hear. She stated hope that the Council doesn't rush to an opinion on this problem and urged the Council to get another legal opinion and to have the Town Attorney speak to the Council about his opinion.

XIII REMARKS BY COUNCILORS

Councilor Nasinnyk congratulated the students who participated in the recent spelling bee. She stated that it was a great experience and she was pleased to be a part of it.

Councilor Bowen noted that the Council encourages people to attend meetings and participate, yet it limits public comments to three minutes per speaker. He requested that the Council consider allowing more leniency with public participation remarks, especially when there are few people in attendance.

Councilor Bottalico expressed concern with the letter Board of Education Chair Carson sent to parents. He indicated that he read the letter and spoke with members of the Board who said that they are fine with the proposed three-percent Board budget. Councilor Bottalico stated that he is appalled at the scare tactics that Mr. Carson used in the letter and stated that with AFSCME alone the Board received an additional \$160,000. He stated that he is tired of the Board cutting sports and urged Board members to do their jobs.

Mayor Wright stated that the issue discussed earlier in the meeting is in regards to Council members serving as voting members of committees, boards and commissions, and the issue is not with Councilors serving as liaisons to these groups. He stated that in regards to the Board of Education letter he does not have a problem with the Board's opinions but he does have a concern with the Board sending a letter of political nature home with the children and expressed concern that the Town paid for the letter.

XIV EXECUTIVE SESSION RE COLLECTIVE BARGAINING (not held)

XV ADJOURNMENT

Councilor Nagel moved to adjourn the meeting at 9:07pm. Motion seconded by Councilor Bowen. Motion passed 9-0.

Respectfully Submitted,

Mrs. Jaime Trevethan
Clerk of the Council