

**LEGISLATIVE COUNCIL REGULAR MEETING
COUNCIL CHAMBERS, 3 PRIMROSE STREET, NEWTOWN, CT
WEDNESDAY, SEPTEMBER 7, 2022**

MINUTES

PRESENT: Jeffrey Capeci, Phil Carroll, Angela Curi, William DeRosa, Charles Gardner, Chris Gardner, Dan Honan, Lisa Kessler, Ryan Knapp, Michelle Embree Ku, Tom Long, Matthew Mihalcik

ALSO PRESENT: First Selectman Dan Rosenthal, Finance Director Bob Tait, Chief of Police David Kullgren, Police Commission Member Neil Chaudhary; 0 public, 0 press

CALL TO ORDER: Mr. Capeci called the meeting to order with the Pledge of Allegiance at 7:30 pm.

VOTER COMMENT: None

MINUTES: Mr. Charles Gardner moved to accept the minutes of the August 17, 2022 Legislative Council Regular Meeting. Seconded by Mr. Knapp. All in favor. Motion passes (12-0).

COMMUNICATIONS: None

COMMITTEE REPORTS: None

FIRST SELECTMAN'S REPORT: First Selectman Dan Rosenthal reported that him and Mr. Tait have been working on finalizing the CIP which will be presented at the next BOS meeting. He doesn't expect big changes. At the last BOS meeting, they approved the year end transfer which puts us in a good financial position. They also moved about \$800,000 to capital non-recurring and designated a number of items. This puts capital and non-recurring at about \$3.2 million which is net of the appropriation that they'll have to do for roads. The fund balance is about \$1.2 million over the 12% target. We are in good position as we get this budget year underway.

NEW BUSINESS

Discussion and Possible Action

- Consideration for a "Do Not Block the Box" Ordinance for the intersection of State Route 25 and Country Club Road

Mr. Charles Gardner moved to refer the proposed language regarding the proposed ordinance to the Ordinance Committee. Seconded by Mr. Carroll. All in favor. Motion passes (12-0).

Chief Kullgren explained that this ordinance would allow the Town to apply for encroachment permits with the State of CT (att.). The permit would include painting the roadway and putting up signage at the intersection of Country Club Road and Route 25. Blocking off the intersection would allow drivers to have a clear line of sight and help reduce accidents. Mr. Chris Gardner asked if this ordinance applies only to this project or to all in general. Chief Kullgren explained that CT State statute 14-250(b) talks about Do Not Block the Box. A town ordinance is required to allow an encroachment permit to get approved. This would apply to all future projects, but, this is the only intersection they are interested in right now. Mr. Chaudhary added that the State will not paint on an intersection where a state road meets with a town road, therefore this ordinance is required. Mr. DeRosa asked what the fine would be. Chief Kullgren said this would be a violation of a town ordinance and once the ordinance is passed, the ordinance committee would help determine a fine amount which could not exceed \$99. Mr. DeRosa also asked about the traffic concerns surrounding the flag pole on Main Street. Chief Kullgren said the flag

pole area is deemed a historic spot. Mr. Chaudhary said a do not block the box would not help with this area. First Selectman Rosenthal recalled years ago when this was first brought up, the only way to fix it would be to shift Church Hill Road a little further south in order to get the flag pole out of the intersection. A traffic circle would not be possible because there is not enough room. The DOT had conducted a traffic study at the flag pole which concluded with not enough accidents to warrant any more of an investment beyond what had already been done there. Mr. Knapp stated the Ordinance Committee will discuss the proposed ordinance and compare it to what other towns have done in this situation. Ms. Kessler asked if the Town is responsible to paint the road and put up the signs. Chief Kullgren confirmed with Public Works Director Fred Hurley that it is the Town's responsibility. Mr. Hurley told him it would cost about \$3,000. Mr. Chaudhary said that without this ordinance, we cannot put a "do not block the box in that location.

- Amendment to the 2022-23 Legislative Council Approved CIP for a Public Works Front Bucket Loader (\$300,000 to be funded by the ARP funds)

Mr. Charles Gardner moved to amend the 2022-23 Legislative Council Approved CIP for a Public Works Front Bucket Loader to be funded with \$300,000 from the ARP funds. Seconded by Mr. Chris Gardner. All in favor. Motion passes (12-0).

The First Selectman explained that this truck is 16 years old and has been our main work horse. It is the largest and oldest truck in the fleet and has extensive body rot. He explained the reason why the CIP needs to be amended is because he is trying to align with the new policy which states that anything over \$200,000 should be on the CIP. This truck will be traded in or sold for parts. (Att.)

- American Rescue Plan (ARP) Appropriation related to Public Works, Student Tutoring, Child / Youth Enrichment

Mr. Charles Gardner moved to approve American Rescue Plan (ARP) funds related to Student Tutoring, Child/Youth Enrichment in the amount of \$100,000 for Student Tutoring support program and \$20,000 for Child / Youth Enrichment fund. Seconded by Mr. Mihalcik. All in favor. Motion passes (12-0). (Att.)

Mr. Knapp acknowledged the support of the First Selectman and our new Superintendent on this. He believes it is important in helping to get those kids who fell behind during Covid get back on track. Ms. Kessler asked how many students this would allow tutoring for. First Selectman Rosenthal said it's difficult to pinpoint how many exactly. We will use the guidelines set forth by United Way's ALICE program which includes families with an income constraint. It will be administered by BOE's Deborah Petersen and Human Services Director Natalie Jackson. We are reaching out to staff to see which teachers are willing to serve as tutors. The teachers will agree to take payment from the Town after the tutoring sessions have been done. It will apply to all grade levels. The intake would be done by Human Services who would be responsible for making sure the families met the income level. Ms. Kessler asked if the tutoring would be done in school or after school. The First Selectman said it would primarily be done after school but we would try hard to accommodate special circumstances. Ms. Curi asked why this wouldn't be available to all students regardless of income level. The First Selectman replied that they all agreed that it should apply to those families that are financially struggling first and those that have had learning loss due to Covid. Mr. DeRosa wishes we had the money to open this program up to everybody. Mr. Knapp said the data showed it did disproportionately impact those that were generally less affluent. When speaking to our Superintendent, he mentioned that teachers are making note of those children that have fallen behind. He hopes it gets embraced and becomes effective. Ms. Ku thanked Mr. Knapp for bringing this up originally and supports this completely.

Mr. Charles Gardner moved to appropriate \$300,000 from the ARP funds towards the Public Works front end bucket loader. Seconded by Mr. Mihalcik. Motion passes (11-1, Nay: Ku).

Ms. Ku said she voted against this in the ARP committee. She would rather not use ARP funds for things that would normally appear in the budget. She feels this leaves a gap in the budget that we would have to explain in future years. The First Selectman explained that these ARP funds have been used to offset various things that we normally would've borrowed for. He feels our great equalizer is our mill rate – everybody has to pay it whether it's a business or a resident. If we can use it to help stop the pinch of taxes that we would otherwise have to use operating funds for, he's all in favor for that.

- RESOLUTION WITH RESPECT TO THE CLOSE-OUT OF VARIOUS CAPITAL PROJECTS, TRANSFER OF UNSPENT BOND PROCEEDS, AND REDUCTION OF CERTAIN APPROPRIATIONS AND BOND AUTHORIZATIONS

Mr. Charles Gardner moved the RESOLUTION WITH RESPECT TO THE CLOSE-OUT OF VARIOUS CAPITAL PROJECTS, TRANSFER OF UNSPENT BOND PROCEEDS, AND REDUCTION OF CERTAIN APPROPRIATIONS AND BOND AUTHORIZATIONS and further moved to waive the reading of the full resolution. Seconded by Mr. Knapp. All in favor. Motion passes (12-0).

Mr. Tait said this is simply a house keeping act and would officially close the budget. He has already closed them out in his books. (Att.)

- **EXECUTIVE SESSION** - Strategy and negotiations relative to legal matter, Zeisler Litigation - Docket # DBD - CV18 – 6025800-S

Mr. Charles Gardner moved to go into Executive Session to discuss strategy and negotiations relative to legal matter, Zeisler Litigation. Seconded by Mr. Knapp. All in favor. Motion passes (12-0).

Executive Session was entered into at 8:22 pm, with only the members of the Legislative Council and First Selectman Rosenthal present, and returned to regular session at 8:55 pm with the following motion:

Mr. Knapp moved to allow the First Selectman to sign and execute stipulated judgment in Town vs Zeisler. Seconded by Mr. Carroll. All in favor. Motion passes (12-0). (Att.)

VOTER COMMENT: None

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, Mr. Knapp moved to adjourn the meeting at 9:00 pm. Seconded by Mr. Mihalcik. All in favor.

*Respectfully submitted,
Rina Quijano, Clerk*

Attachments: Do Not Block the Box Ordinance, ARP Appropriations, Resolution to De-authorize Closeout 2022, Town vs Zeisler Judgment

THESE MINUTES ARE SUBJECT TO APPROVAL BY THE LEGISLATIVE COUNCIL AT THE NEXT MEETING. ANY EDITS WILL BE REFLECTED IN THE MINUTES OF THE NEXT MEETING.

From: David Kullgren <david.kullgren@newtown-ct.gov>
Sent: Friday, August 5, 2022 7:10 AM
To: Dan Rosenthal <dan.rosenthal@newtown-ct.gov>
Cc: Joel Faxon <jfaxon@faxonlawgroup.com>; Brian Budd <bbudd@townofstratford.com>; Scott Ciccari <scicciari@gmail.com>; Neil Chaudhary <nkc@4newtown.com>; Bryan Bishop <bryan.bishop@newtown-ct.gov>; Jason Flynn <jason.flynn@newtown-ct.gov>; Ben Mulhall <ben.mulhall@newtown-ct.gov>; William Chapman <william.chapman@newtown-ct.gov>
Subject: Do Not Block the Box Ordinance Request

Dan,

Attached is the language for a proposed ordinance prohibiting motor vehicle operators from blocking an intersection if posted and marked according to statute. The attached language was approved at the 8/3 Special Meeting of the Police Commission. We ask that this be brought up to the Legislative Council for approval so we can complete our encroachment permit for Rt 25 & Country Club Road. When presented to the Legislative Council I can make myself available for presentation. This ordinance will also allow the Town to apply for future encroachment permits for other Do Not Block the Box locations if needed.

History:

NPD has identified the intersection of State Route 25 and Country Club Road to have a high rate of motor vehicle crashes. An NPD traffic study recommended posting and marking the intersection as a Do Not Block the Box intersection to assist with visibility during heavy traffic by keeping the intersection clear. This will increase visibility for N/B vehicles turning left on to Country Club Road and for S/B vehicles traveling straight. Per CT DOT In this situation where you have a State Road intersecting with a Town Road, a requirement of the Statute (14-250b) requires a Municipality to have an ordinance in place that covers "Do Not Block the Box" prohibition.

Once the town ordinance is passed (draft ordinance attached) which mirrors the State statute, CT DOT stated they would grant our encroachment permit for such markings and postings at this location at the Town's expense.

Thank you,

Dave

Respectfully,

David Kullgren, Chief of Police

Newtown Police Department

191 South Main Street

Newtown, CT 06470

Proposed Ordinance Language:

Obstructing intersection. No operator of a motor vehicle, other than a tractor-trailer unit, as defined in section CGS 14-1, shall proceed into an intersection that has been designated, posted and marked by the Town of Newtown in accordance with CT State law, except when making a turn, unless there is sufficient space on the opposite side of the intersection to accommodate such motor vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding the indication of a traffic control signal that would permit such operator to proceed into the intersection.

The Town of Newtown shall (1) post signs at each such designated intersection or request such action from the State indicating that blocking the intersection is **prohibited** and violators are subject to a fine, and (2) mark, in white paint, the boundary of such intersection with a line not less than one foot in width and the area within such boundary line with parallel diagonal lines not less than one foot in width.

Any person who violates the provisions of subsection (a) of this section shall have committed an infraction.

A resolution providing for an appropriation totaling \$420,000 to finance a Public Works front end bucket loader (\$300,000); a student tutoring support program (\$100,000); and a child/youth enrichment fund (\$20,000) . To be funded from the American Rescue Plan (ARP) grant.

\$420,000 requested appropriation was recommended by the ARP Working Group on 07/28/2022.

The ARP Working Group is comprised of the following:

Board of Selectmen

- Ed Schierloh *

Board of Finance

- Open
- Erica Sullivan *

Legislative Council

- Charles Gardner *
- Matthew Mihalcik *
- Michelle Ku *

Ex-officio

- First Selectman, Dan Rosenthal *

* Present

Tim Whelan
Fleet Foreman

203-270-4300
203-426-9968 Fax



TOWN OF NEWTOWN
DEPARTMENT OF PUBLIC WORKS
4 Turkey Hill Road
Newtown, CT 06470

To: Bob Tait

From: Tim Whelan

Re: Justification for ARP funding

Date: May, 23 2022

Public works has requested ARP funding to replace our front bucket loader. This loader is our primary machine that loads and unloads our fleet as well as all the contractors we hire throughout our season. This loader is responsible for loading our trucks with salt sand in the winter as well as stockpiling our salt and sand products. Used with our screening plant it recycles old materials to make new materials for various road jobs as well as supporting the everyday duties at the transfer station. This 16 year old front bucket loader has 29,000 operating hours; it suffers from very expensive repair costs, and frame/body rot due to years loading and stockpiling winter salt. This machine is the backbone of our operation. We would expect 15 to 20 years of service from this loader.

ARPA Funds to the Department of Human Services (DHS) to support Newtown Residents:

Enrichment

\$20,000 has been approved to supplement current funding to allow for Newtown children and youth to participate in enrichment activities, who would not otherwise be able to do so due to financial constraints in the household. Activities may include the creative arts, athletics, or academic enhancement. Participation in extracurricular, enrichment activities is directly related to the physical and emotional health of children. These opportunities were halted during the height of the pandemic. This aid will allow Newtown children and youth to participate in activities which promote overall health that were not available to them for months during the pandemic.

Tutoring Program

\$100,000 has been approved to create a tutoring program available to Newtown children and youth to address learning loss as a result of COVID 19. A Newtown student, with confirmed financial need, will be eligible for up to 16 sessions of tutoring per calendar year. Students who may benefit for academic support via tutoring will be identified by school staff or parent inquiry. The school district will assist DHS in promoting the program, providing program information/DHS contact to parents of potential recipients, and in identifying a tutor pool.

**TOWN OF NEWTOWN
FINANCIAL IMPACT STATEMENT
(Per Town Charter 6-35(b), 6-40 & 7-25)**

REQUESTING DEPARTMENT PUBLIC WORKS

PROJECT: FRONT END BUCKET LOADER

PROPOSED APPROPRIATION AMOUNT: \$ 300,000

PROPOSED FUNDING:

BONDING	\$	-
GRANT	\$	300,000
LOCAL MATCH	\$	-
OTHER	\$	-
CONTINGENCY	\$	-
IN KIND	\$	-
	\$	<u>300,000</u>

ANNUAL FINANCIAL IMPACT ON OPERATING BUDGET (GENERAL FUND):

List any financial impact your request will have on the Town's annual operating budget.
Attach spreadsheet(s) showing your calculation of the estimated impact.

EXPENDITURE CATEGORY:	**FOR BRACKETS USE NEGATIVE SIGN BEFORE NUMBER**	(POSITIVE IMPACT) / NEGATIVE IMPACT	Attachment #
SALARIES & BENEFITS		***	
PROFESSIONAL SERVICES			
CONTRACTED SERVICES			
REPAIRS & MAINTENANCE			
UTILITIES			
OTHER			
DEBT SERVICE (average)			
TOTAL IMPACT ON EXPENDITURES		\$ -	

REVENUE CATEGORY:	POSITIVE IMPACT / (NEGATIVE IMPACT)	Attachment #
PROPERTY TAXES		
CHARGES FOR SERVICES (FEES)		
OTHER		
TOTAL IMPACT ON REVENUES	\$ -	

TOTAL FINANCIAL IMPACT ON OPERATING BUDGET \$ -

EQUIVALENT MILL RATE OF TOTAL IMPACT

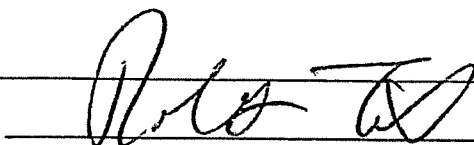
(using current year's information)

0.0000 mills

COMMENTS:

NO MATERIAL IMPACT ON THE BUDGET. THIS REPLACES A 16 YEAR OLD FRONT END BUCKET LOADER. THERE WILL BE LESS MAINTENANCE COSTS.

PREPARED BY:



DATE: 8/1/2022

TOWN OF NEWTOWN
FINANCIAL IMPACT STATEMENT
 (Per Town Charter 6-35(b), 6-40 & 7-25)

REQUESTING DEPARTMENT NEWTOWN HUMAN SERVICES DEPARTMENT

PROJECT: STUDENT TUTORING SUPPORT PROGRAM

PROPOSED APPROPRIATION AMOUNT: \$ 100,000

PROPOSED FUNDING:

BONDING	\$	-
GRANT	\$	100,000
LOCAL MATCH	\$	-
OTHER	\$	-
CONTINGENCY	\$	-
IN KIND	\$	-
	\$	100,000

ANNUAL FINANCIAL IMPACT ON OPERATING BUDGET (GENERAL FUND):

List any financial impact your request will have on the Town's annual operating budget.
 Attach spreadsheet(s) showing your calculation of the estimated impact.

EXPENDITURE CATEGORY:

**FOR BRACKETS USE NEGATIVE SIGN
BEFORE NUMBER**

(POSITIVE IMPACT) /
NEGATIVE IMPACT

Attachment
#

SALARIES & BENEFITS	***	
PROFESSIONAL SERVICES		
CONTRACTED SERVICES		
REPAIRS & MAINTENANCE		
UTILITIES		
OTHER		
DEBT SERVICE (average)		
TOTAL IMPACT ON EXPENDITURES	\$ -	

REVENUE CATEGORY:

POSITIVE IMPACT /
(NEGATIVE IMPACT)

Attachment
#

PROPERTY TAXES		
CHARGES FOR SERVICES (FEES)		
OTHER		
TOTAL IMPACT ON REVENUES	\$ -	

TOTAL FINANCIAL IMPACT ON OPERATING BUDGET

\$ -

EQUIVALENT MILL RATE OF TOTAL IMPACT

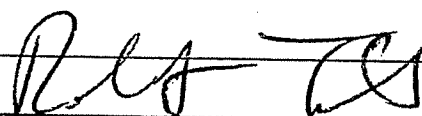
(using current year's information)

0.0000 mills

COMMENTS:

NO MATERIAL IMPACT ON THE BUDGET. ADMINISTRATION OF THE PROGRAM WILL BE SUPPORTED BY CURRENT STAFF. IF IT IS FOUND THAT ADDITIONAL STAFF IS NEEDED THEN AN ADDITIONAL APPROPRIATION WILL BE REQUESTED FROM ARP FUNDS.

PREPARED BY:



DATE: 8/1/2022

**TOWN OF NEWTOWN
FINANCIAL IMPACT STATEMENT
(Per Town Charter 6-35(b), 6-40 & 7-25)**

REQUESTING DEPARTMENT NEWTOWN HUMAN SERVICES DEPARTMENT

PROJECT: CHILD/YOUTH ENRICHMENT FUND

PROPOSED APPROPRIATION AMOUNT: \$ 20,000

PROPOSED FUNDING:

BONDING	\$	-
GRANT	\$	20,000
LOCAL MATCH	\$	-
OTHER	\$	-
CONTINGENCY	\$	-
IN KIND	\$	-
	\$	<u>20,000</u>

ANNUAL FINANCIAL IMPACT ON OPERATING BUDGET (GENERAL FUND):

List any financial impact your request will have on the Town's annual operating budget.
Attach spreadsheet(s) showing your calculation of the estimated impact.

EXPENDITURE CATEGORY:	**FOR BRACKETS USE NEGATIVE SIGN BEFORE NUMBER**	(POSITIVE IMPACT) / NEGATIVE IMPACT	Attachment #
SALARIES & BENEFITS		***	
PROFESSIONAL SERVICES			
CONTRACTED SERVICES			
REPAIRS & MAINTENANCE			
UTILITIES			
OTHER			
DEBT SERVICE (average)			
TOTAL IMPACT ON EXPENDITURES		\$ -	

REVENUE CATEGORY:	POSITIVE IMPACT / (NEGATIVE IMPACT)	Attachment #
PROPERTY TAXES		
CHARGES FOR SERVICES (FEES)		
OTHER		
TOTAL IMPACT ON REVENUES	\$ -	

TOTAL FINANCIAL IMPACT ON OPERATING BUDGET \$ -

EQUIVALENT MILL RATE OF TOTAL IMPACT

(using current year's information)

0.0000 mills

COMMENTS:

NO MATERIAL IMPACT ON THE BUDGET. THIS IS AN EXTENSION OF A PROGRAM ALREADY ADMINISTERED BY THE HUMAN SERVICES DEPARTMENT (USING UNITED WAY ALICE ENRICHMENT FUNDS).

PREPARED BY:



DATE: 8/1/2022

**TOWN OF NEWTOWN
FINANCIAL IMPACT STATEMENT
(Per Town Charter 6-35(b), 6-40 & 7-25)**

REQUESTING DEPARTMENT SENIOR CENTER / COMMUNITY CENTER

PROJECT: 14 SEAT PASSENGER BUS

PROPOSED APPROPRIATION AMOUNT: \$ 90,000

PROPOSED FUNDING:

BONDING	\$ -
GRANT	\$ 90,000
LOCAL MATCH	\$ -
OTHER	\$ -
CONTINGENCY	\$ -
IN KIND	\$ -
	<u>\$ 90,000</u>

ANNUAL FINANCIAL IMPACT ON OPERATING BUDGET (GENERAL FUND):

List any financial impact your request will have on the Town's annual operating budget.
Attach spreadsheet(s) showing your calculation of the estimated impact.

EXPENDITURE CATEGORY:	**FOR BRACKETS USE NEGATIVE SIGN BEFORE NUMBER**	(POSITIVE IMPACT) / NEGATIVE IMPACT	Attachment #
SALARIES & BENEFITS		***	
PROFESSIONAL SERVICES			
CONTRACTED SERVICES			
REPAIRS & MAINTENANCE			
UTILITIES			
OTHER			
DEBT SERVICE (average)			
TOTAL IMPACT ON EXPENDITURES		<u>\$ -</u>	

REVENUE CATEGORY:	POSITIVE IMPACT / (NEGATIVE IMPACT)	Attachment #
PROPERTY TAXES		
CHARGES FOR SERVICES (FEES)		
OTHER		
TOTAL IMPACT ON REVENUES	<u>\$ -</u>	

TOTAL FINANCIAL IMPACT ON OPERATING BUDGET \$ -

EQUIVALENT MILL RATE OF TOTAL IMPACT

(using current year's information)

0.0000 mills

COMMENTS:

EXCEPT FOR ROUTINE MAINTENANCE, NO MATERIAL IMPACT ON THE BUDGET. GASOLINE COULD BE CALCULATED IN THE COST OF A TRIP AND INCLUDED IN THE TRIP FEE (ACCOUNTED FOR IN THE SENIOR SPECIAL REVENUE FUND). COMMUNITY CENTER RELATED TRIPS WILL BE PAID FOR OUT OF THE COMMUNITY CENTER SPECIAL REVENUE FUND.

PREPARED BY: 

DATE: 5/16/2022

**RESOLUTION WITH RESPECT TO THE CLOSE-OUT OF
VARIOUS CAPITAL PROJECTS, TRANSFER OF UNSPENT
BOND PROCEEDS, AND REDUCTION OF CERTAIN
APPROPRIATIONS AND BOND AUTHORIZATIONS**

WHEREAS, certain of the projects and purposes set forth on herein (collectively, the “Projects”), are complete or are no longer intended to be completed and the Town of Newtown (the “Town”) desires to close-out the Projects;

WHEREAS, the Town desires to transfer to the general fund account of the Town for the purposes of paying debt service, unspent bond proceeds which are no longer needed for the Projects; and

WHEREAS, the Town desires to reduce the remaining appropriations and bond authorizations related to the Projects.

NOW THEREFORE BE IT RESOLVED THAT:

Section 1. The unexpended bond proceeds related to the Projects as set forth in Schedule A hereto are hereby transferred to the general fund of the Town to be used for debt service on the next debt service payment date for the relevant bond issue which financed such unexpended amounts.

Section 2. The appropriations and bond authorizations for the Projects are hereby reduced in accordance with Schedule B attached hereto.

SCHEDULE A

Account Number	Project Name	Bonds Authorized	Bonds Issued	Bond Proceeds Transferred to General Fund
155-05-900-1025	Hawley Boiler/Lighting	\$ 783,200	\$ 750,000	\$ 30,695.64
155-05-900-1008	NHS Lighting & Boilers	2,702,000	2,405,000	26,245.15
155-06-900-1016	Middlegate Roof	875,000	797,000	361.33
155-06-740-1028	Treadwell Parking Lot	550,000	535,000	3,141.10
155-02-900-1007	High School Addition & Renovation	44,871,454	30,440,000	1,969.70
155-06-310-1057	New Police Facility	15,100,000	14,852,000	15,381.46
1-155-12-320-1053	Fire Apparatus	575,000	560,000	2,645.70
1-155-17-900-1008	Reed School Boiler & Lighting	1,539,894	705,000	16,820.18
		<u>\$ 66,996,548</u>	<u>\$ 51,724,000</u>	<u>\$ 97,260.26</u>

SCHEDULE B

Account Number	Project Name	Appropriation & Bond Authorization Amount	Total Appropriation & Bond Authorization Expended	Total Appropriation & Bond Authorization Reduction
155-05-900-1025	Hawley Boiler/Lighting	\$ 783,200	\$ 783,071.64	\$ 128.36
155-05-900-1015	Hawley School Roof	850,000	698,632.28	151,367.72
155-06-900-1016	Middlegate Roof	875,000	797,000.00	78,000.00
155-06-740-1028	Treadwell Parking Lot	550,000	535,000.00	15,000.00
155-02-900-1007	High School Addition & Renovation	44,871,454	40,841,358.39	734,641.61
155-06-310-1057	New Police Facility	15,100,000	14,852,000.00	248,000.00
1-155-12-320-1053	Fire Apparatus	575,000	560,000.00	15,000.00
1-155-17-900-1008	Reed School Boiler & Lighting	1,539,894	705,000.00	834,894.00
		<u>\$65,144,548</u>	<u>\$ 59,772,062.31</u>	<u>\$ 2,077,031.69</u>

DBD-CV18-6025800-S

TOWN OF NEWTOWN and
GEORGE BENSON, Land Use
Director

VS.

LOF ADAPTIVE SKIERS, INC, and
JOEL ZEISLER

SUPERIOR COURT

JUDICIAL DISTRICT OF
DANBURY AT DANBURY

AUGUST 31, 2022

STIPULATED JUDGMENT RE: MOTION FOR CONTEMPT (116.00)

The Plaintiffs, Town of Newtown (the "Town") and George Benson, Land Use Director (collectively, the "Plaintiffs"), and Defendant Joel Zeisler ("Mr. Zeisler") (Plaintiffs and Mr. Zeisler are at times referred to herein as the "Parties"), having consulted with counsel, hereby stipulate and agree to the entry of judgment resolving Plaintiffs' Motion for Contempt (116.00) ("Motion for Contempt") as follows:

Background

1. Mr. Zeisler is the owner of real property located in a residential zone in the Town and known as 62 and/or 90 Housatonic Drive, Assessor's Map 42, Block 2, Lot 46 (the "Property").
2. The Parties entered into a July 20, 2018 Stipulated Judgment (Entry No. 113.00) ("2018 Stipulated Judgment") governing Mr. Zeisler's use of the Property, which was entered as a judgment of the Superior Court. A copy of the 2018 Stipulated Judgment is attached hereto and made a part hereof as Exhibit A.
3. On June 28, 2022, the Plaintiffs filed the Motion for Contempt alleging violations of the 2018 Stipulated Judgment starting on July 30, 2018 and continuing through the summer of 2022.

Violations and Monetary Damages

4. Mr. Zeisler hereby admits to violating Paragraph 4.a. of the 2018 Stipulated Judgment approximately forty-two (42) times between July 30, 2018 and September 18, 2021, by

hosting LOF-sanctioned Events at his Property. Mr. Zeisler further admits that there is sufficient evidence to establish approximately ten (10) violations of Paragraphs 4.b. and/or 4.c. of the 2018 Stipulated Judgment between June 13, 2020 and July 29, 2022..

5. Accordingly, Mr. Zeisler accepts and agrees that he is in contempt of the 2018 Stipulated Judgment.

6. Mr. Zeisler recognizes that should the Plaintiffs proceed with the Motion for Contempt, they would be entitled, pursuant to the 2018 Stipulated Judgment, to recover at least \$100 per violation, for a total of \$5,200, and at least \$28,000 in attorneys' fees, for a total of \$33,200 ("Monetary Damages"). However, the Parties agree to suspend the award of Monetary Damages, provided that Mr. Zeisler does not further violate the 2018 Stipulated Judgment or this Stipulated Judgment ("2022 Stipulated Judgment"), as more fully set forth below.

Injunctive Relief to Ensure Future Compliance

7. The following orders shall enter as against Mr. Zeisler only:

a. On or about May 15th of each calendar year, Mr. Zeisler shall provide the Newtown Land Use Agency with a written statement listing the location and description of all "LOF-sanctioned Events" and all other "Waterskiing Events" (as defined below) planned to take place on or near Lake Zoar. If, during the course of the year additional LOF-sanctioned Events or Waterskiing Events are planned or scheduled, Mr. Zeisler shall provide additional written statement(s) listing the location and description of the event to the Newtown Land Use Agency within one week of the date on which each event is first advertised, posted or otherwise communicated to potential participants or other attendees, or within one (1) day of the event, whichever is earlier. If the date of any such event is changed, Mr. Zeisler must notify the Newtown Land Use Agency in writing within one (1) day of the change. Mr. Zeisler's obligation to provide written statements concerning planned LOF-sanctioned Events and Waterskiing Events pursuant to

this paragraph shall continue from the entry of this 2022 Stipulated Judgment for so long as Mr. Zeisler owns, resides on, uses, rents and/or otherwise has access to the Property; and, with respect to LOF-sanctioned Events only, so long as Mr. Zeisler is the Executive Director of LOF Adaptive Skiers, Inc. ("LOF"), is on the board of LOF, or otherwise occupies a management position within LOF.

i. "LOF-sanctioned Event" means any event involving waterskiing, wakeboarding or other water activity sanctioned, sponsored or otherwise authorized in whole or in part by LOF Adaptive Skiers, Inc.

ii. "Waterskiing Event" means all instances in which Mr. Zeisler plans to use the Property as permitted by Paragraph 4.d. of the 2018 Stipulated Judgment, and which involve ten (10) or more total attendees (regardless of their relationship with Mr. Zeisler).

iii. The written description of each LOF-sanctioned Event and Waterskiing Event must, at a minimum, provide the name of the event, the name, email address and phone number for the primary contact of any organizations participating in or otherwise involved in the event (if the event involves an organization), the approximate number of total attendees, the location of any planned boat launch, and the location of any parking and/or gatherings associated with each event.

b. Mr. Zeisler shall provide the Newtown Land Use Agency with copies of all flyers, social media posts or other marketing materials describing any and all LOF-sanctioned Events and all Waterskiing Events no later than one (1) week of the date on which each event is first advertised, posted or otherwise communicated to potential participants or other attendees, or within two (2) days of the event, whichever is earlier.

c. Mr. Zeisler shall provide the Newtown Land Use Agency with copies of all applications (including all attachments and other application materials) for LOF-Sanctioned Events and Waterskiing Events submitted to the Connecticut Department of Energy and Environmental Protection and/or the Lake Zoar Authority within three (3) days of each such application.

d. The orders in this Paragraph in no way alter, limit or modify the requirements of the 2018 Stipulated Judgment, including, without limitation, the use provisions set forth in paragraph 4a. – 4d. thereof, which remain in full force and effect.

Remedies for Non-Compliance

8. Should Mr. Zeisler violate one or more of Paragraphs 4.a., 4.b., and/or 4.c. of the 2018 Stipulated Judgment, or Paragraph 7 of this 2022 Stipulated Judgment, the Plaintiffs shall be entitled to recover the full Monetary Damages upon filing an appropriate motion with the Court and upon proving that a violation of the 2018 Stipulated Judgment and/or 2022 Stipulated Judgment actually occurred. Prior to filing such motion, Plaintiffs shall send to Mr. Zeisler by first class mail (62 Housatonic Drive, Sandy Hook, CT 06482) and e-mail (joelzlof@gmail.com), or hand-deliver to Mr. Zeisler, a notice stating the basis of the alleged violation. Within one (1) week of the receipt of a notice of an alleged violation, Mr. Zeisler may request an opportunity to meet with the Plaintiffs or their designees to provide evidence refuting the alleged violation. Such meeting shall take place within two (2) weeks of Mr. Zeisler's receipt of said notice, unless the Parties agree to a later date in writing. The meeting may be held in person, by phone or videoconference. If Mr. Zeisler fails to timely request a meeting, or if in the Plaintiffs' sole discretion does not provide sufficient evidence to refute the allegations at any such meeting, the Plaintiffs may immediately seek judicial relief pursuant to this Paragraph. Should the Plaintiffs establish a violation, they shall be entitled, in addition to the Monetary Damages, to reasonable attorneys' fees and costs associated therewith. Plaintiffs shall not be required to prove the amount of the Monetary Damages, which

shall be ordered by the Court. The terms in this Paragraph shall supersede the terms in Paragraph 8 of the 2018 Stipulated Judgment only with respect to a motion contemplated by this Paragraph. The Court shall retain jurisdiction to entertain a motion filed under this Paragraph.

9. Plaintiffs retain the right to seek all other remedies available at law or equity, including but not limited to seeking a judgment of contempt of the 2018 Stipulated Judgment and/or 2022 Stipulated Judgment, which may include requests for additional injunctive relief.

Miscellaneous

10. The 2018 Stipulated Judgment remains in full force and effect, except that the maximum daily fines set forth in Paragraph 9 shall increase from \$100 to \$500. All other provisions of Paragraph 9 shall remain unchanged.

11. This Stipulated Judgment is final and shall not be appealed by any of the Parties.

PLAINTIFFS

By: _____
Alexander Copp
Their Attorney
Cohen and Wolf, P.C.

George Benson
Director of Planning

Daniel Rosenthal
First Selectman of the Town of Newton

DEFENDANT

By: _____
Thomas Blatchley
His Attorney
Gordon & Rees

Joe Zeisler



EXHIBIT A

DBD-CV18-6025800-S

TOWN OF NEWTOWN and
GEORGE BENSON, Land Use
Director

VS.

LOF ADAPTIVE SKIERS, INC., and
JOEL ZEISLER

SUPERIOR COURT

JUDICIAL DISTRICT OF

DANBURY AT DANBURY

STIPULATED JUDGMENT

Plaintiffs, Town of Newtown (the "Town") and George Benson, Land Use Director (collectively, the "Plaintiffs") and Defendants Joel Zeisler ("Zeisler") and LOF Adaptive Skiers, Inc. ("LOF") (Plaintiffs and Defendants are at times referred to herein as the "Parties"), desire to end their dispute without further litigation, and having consulted with counsel, hereby agree to the entry of a stipulated judgment, as follows:

1. Mr. Zeisler is the owner of real property located in a residential zone in the Town and known as 62 and/or 90 Housatonic Drive, Assessor's Map 42, Block 2, Lot 46 (the "Property").
2. The Town served a Cease and Desist Order on Mr. Zeisler on August 15, 2016, concerning the alleged use of the Property.
3. Mr. Zeisler and LOF deny all material allegations of the Cease and Desist Order and Plaintiffs' Complaint.
4. The following orders shall enter as to Mr. Zeisler only and shall govern Mr. Zeisler's use of the Property:

OFFICE OF THE CLERK
SUPERIOR COURT & CAS
2018 JUL 20 PM 3:42
JUDICIAL DISTRICT
DANBURY
STATE OF CONNECTICUT

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- a. Mr. Zeisler shall not conduct, allow, engage in, or otherwise permit any LOF sanctioned activities or activities associated with LOF to occur on the Property or contiguous properties in Town. However, Mr. Zeisler may lawfully use the Property, or contiguous properties in Town subject to permission of the owner(s), as of right, including uses customary and incidental to ownership of personal and real property abutting a recreational waterbody, to the extent such uses are permitted pursuant to the Town's Zoning Regulations or other applicable law, and subject to any other applicable permitting requirements.
- b. Mr. Zeisler shall not engage in any commercial and/or club related use of the Property or contiguous properties in Town, except to the extent Mr. Zeisler and/or any person or third party organization applies for and obtains a special permit or variance or other appropriate approval from the Town, any application for which would be evaluated by the Town pursuant to the Town's Zoning Regulations or other applicable law. For purposes of this Section 4.b., the term "commercial" shall mean uses not permitted in a residential zone pursuant to the Town's Zoning Regulations (Eff. April 1, 2008), and "club" shall have the same definition of "Club" in Section 2 of the Town of Newtown Zoning Regulations (Eff. April 1, 2008).

c. Mr. Zeisler shall not allow an organization to host, sponsor, promote, advertise, or otherwise utilize the Property or contiguous properties in Town for water ski, sport, or other related activities, except to the extent approvals are obtained from the Town. While Mr. Zeisler may utilize the Property for his own personal use, allowing third party organizations to use the Property or contiguous properties in Town is not considered personal use and is not permitted pursuant to this Stipulated Judgment.

d. Nothing herein shall or is meant to preclude Mr. Zeisler from using the Property for his personal use and enjoyment, including the ability of Mr. Zeisler to invite family, friends and other guests and/or invitees, including persons who happen to have an affiliation with LOF or some other third-party organization, to his Property for activities and/or uses, which may, at times, include waterskiing and other recreational water activities. However, individuals using the Property, as family, friends, invitees or guests of Mr. Zeisler shall not pay a registration fee or deposit for such use, or provide any other payment, consideration, or remuneration of any kind as a requirement for such use. Such individuals shall also not sign a waiver/release as a requirement of such use.


5. This Stipulated Judgment is a final judgment concerning the matters set forth in Plaintiffs' Complaint and fully and finally resolves all such matters that were asserted in Plaintiffs' Complaint, including any counterclaims or defenses that were asserted or could have been asserted related to Plaintiff's Complaint. The Parties shall bear their own attorneys' fees, costs, and expenses through the entry by the Court of this Stipulated Judgment.
6. This Stipulated Judgment is final and shall not be appealed by Defendants.
7. Prior to negotiation and entry of this Stipulated Judgment, LOF made certain representations to Plaintiffs concerning its alleged use of the Property and agreed to provide various documents to Plaintiffs, and to provide certain notices to third parties and to post certain notices on its social media accounts and websites. The documents and notices agreed to must be provided and completed no later than 15 days after entry of this Stipulated Judgment, and the documents and notices are outlined on Exhibit A attached hereto.
8. If the Plaintiffs believe that a violation of this Stipulated Judgment has occurred or is about to occur, prior to enforcing their rights under this Stipulated Judgment, including pursuant to Paragraph 9 below, Plaintiffs shall first provide written notice to Mr. Zeisler by first class mail (62 Housatonic Drive, Sandy Hook, CT 06482) and e-mail (joelzlof@gmail.com), or hand delivery to Mr. Zeisler of the alleged violation, and, upon request of Mr. Zeisler, shall allow at least one informal meeting

to occur with Mr. Zeisler and the Town at the Newtown Municipal Center to provide Mr. Zeisler an opportunity to respond to the allegations. Mr. Zeisler and the Town shall work in good faith to attempt to resolve whether or not a violation occurred, but if the Plaintiffs are not satisfied with Mr. Zeisler's explanation or the Town and Mr. Zeisler are otherwise unable to resolve whether or not a violation occurred, Plaintiffs may then pursue their rights pursuant to this Stipulated Judgment, including paragraph 9 below.

9. If a violation of the Stipulated Judgment occurs and such is found to be a violation by the Court through a contempt motion or otherwise, Plaintiffs shall be entitled to an award of reasonable attorneys' fees in prosecuting any contempt or other motion, and daily fines in an amount not to exceed \$100.00 for any period for which the Property is not in compliance with this Stipulated Judgment.

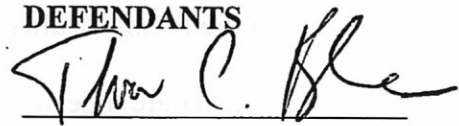
It is so stipulated and agreed by, between and among the Parties this 20th day of July, 2018.

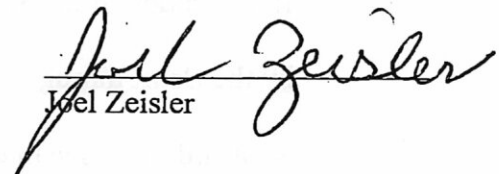
PLAINTIFFS


By: Jason A. Buchsbaum, Esq.
Their Attorney
Cohen and Wolf, P.C,

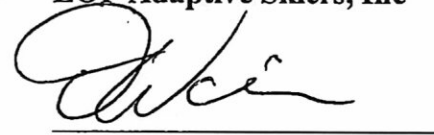

George Benson
Director of Planning

DEFENDANTS



By: Thomas Blatchley
Their Attorney
Gordon & Rees


Joel Zeisler

LOF Adaptive Skiers, Inc


By: David Wiener
Its Director
Duly Authorized

SO ORDERED AS A JUDGMENT OF THE COURT:


Mintz, J.
July 20, 2018

