

## **BOARD OF FINANCE**

### **TOWN OF BRANFORD**

TOWN HALL DRIVE, P.O. BOX 150, BRANFORD, CONNECTICUT 06405

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September 28, 2010

Honorable RTM Members

As many of you are aware the Board of Finance recently voted to increase the appropriation and bond authorization for Tabor Drive from \$10,990,000 to \$13,875,000. The increase is to fulfill the terms of a settlement agreement of \$3,485,000 which if approved will end the legal battles which we have endured for nearly eight years. While we remain committed to presenting our arguments at the United States Supreme Court we have a shared responsibility along with the RTM to be good financial stewards.

In exercising our stewardship role we met with our Town Attorney and Finance Director along with the First Selectman to consider possible options. Our goal was to take a forward looking approach focusing on risks and costs.

In coming to our decision we considered the following:

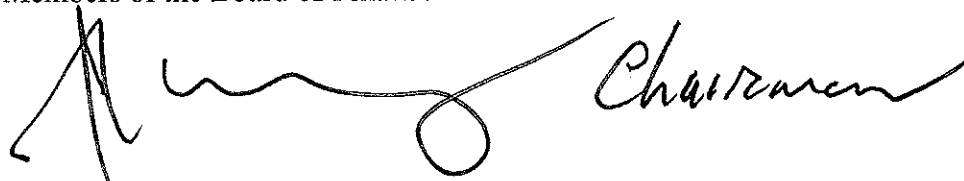
- Statistically it is unlikely that the Supreme Court will take the case, however, if they were to hear the case the odds of a reversal increase significantly.
- It is estimated that the owners of the property are owed payments of \$2.256 million (from previous court awards) including legal fees, and interest calculated at a rate up to ten percent pursuant to state statute. The interest continues to accrue as the case is appealed along with additional legal fees.
- The projected costs of going to the US Supreme Court and having the court uphold the decision of the CT Supreme Court is more costly than the proposed settlement.
- A reversal of Connecticut Supreme Court decision will eviscerate the nearly 14 million in savings (excluding interest) the Town achieved through this successful appeal. Moreover the added cost of interest and legal fees (ours and theirs) when compared to the settlement offer is projected to cost the taxpayers an additional \$19.8 million.
- If the Town is successful in its petition and the US Supreme Court does not take the case the Town would save approximately \$935,000 as compared to the settlement.
- The settlement concludes the Tabor litigation and upon receipt of a release from the plaintiffs the Town will issue payment and close the matter forever absolving the Town from future damages.

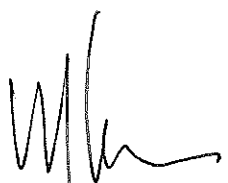
While one could argue that the settlement costs the taxpayer an additional \$935,000 we believe a more compelling argument is to trade \$935,000 and insure against the unknown. To put it more simply we do not believe that \$935,000 is adequate compensation for owning a potential risk of \$19.8 million.



In conclusion we feel that the settlement represents the best option for the Town of Branford by indemnifying the risk of future damages and preserving the financial capacity to proceed with desired and needed capital improvements. We therefore strongly encourage the RTM to approve this appropriation and bond authorization.

Sincerely:

Members of the Board of Finance

 Chairmen  
Lorraine K. Young

 Victor J. Cassella

 J. E. Vaillette  
 Kenneth F. Hamel