

**MINUTES OF THE SPECIAL TOWN MEETING**  
**JULY 13, 2022**  
**TOWN COUNCIL CHAMBERS**  
**6:30 p.m.**

RECEIVED FOR RECORD  
Jul 15, 2022 09:33A  
JoAnn Doyle  
TOWN CLERK  
CROMWELL, CT

Deputy Mayor Steve Fortenbach called the meeting to order at 6:30 p.m. Deputy Mayor Fortenbach asked for a motion to nominate Josh Kelly as Moderator. Town Manager Tony Salvatore nominated Josh Kelly as Moderator, Alice Kelly seconded. All were in favor; the motion passed.

Moderator Kelly read the Special Town Meeting Legal Notice:

**A Special Town Meeting of the electors and citizens qualified to vote in town meetings of the Town of Cromwell, Connecticut, will be held at the Town Hall in the Council Chambers, 41 West Street, Cromwell, Connecticut on Wednesday, July 13, 2022 at 6:30 p.m. for the following purpose:**

- 1. To consider and act upon a resolution authorizing the Town of Cromwell to transfer \$5,000,000 to Restricted Fund Balance to satisfy the appeal bond requirement for the following lawsuit: Gilead Community Services, Inc., Rainbow Housing Corp., and The Connecticut Fair Housing Center, Inc. v. Town of Cromwell, Et. Al.**

**Copies of the full text of the resolution referenced in Item 1 above is on file at the office of the Town Clerk and available for public inspection during normal business hours.**

**Dated at Cromwell, Connecticut this 29<sup>th</sup> day of June 2022.**

  
**Allan Spotts, Mayor**  
**For the Town Council**

Moderator Kelly also let everyone know that copies of the Legal Notice and the Resolution (Attachment) were available here, at the meeting this evening. Moderator Kelly then called up Attorney Tom Gerarde to speak.

Attorney Gerarde introduced himself and said that he is the Town of Cromwell's attorney in the Gilead lawsuit. He stated, as everybody knows, when we were in court last fall, a jury entered a verdict against the Town. The status of that right now is that we are on appeal before the United States Court of Appeals for the second circuit in New York City. Our appeal briefs are being written and finalized right now, and we're going to file those in September. I want you to know we have very strong appeal grounds. To use an analogy that everyone will understand - We're at halftime at a football game - this is not over by any stretch. But in order to succeed on appeal, we have to convince the court and represent to the court, that if we go through our

appeal process and we are unsuccessful, the Town of Cromwell is good for it. We have the money; we don't need to pay for and post a very expensive appeal bond. If we lose, we're good for it. In the meantime, we're going forward with our appeal on the grounds that we've articulated and we're preparing right now.

That's what this is about tonight. I wholeheartedly recommend that everybody vote yes, so that we can proceed with our appeal, on our strong appeal grounds, without having to try to find someone to post a bond for the Town of Cromwell in this amount. The advantage to this is, if we are successful - yes, the money has been put aside - but it all comes back; we don't lose anything if we're successful on the appeal. There are a lot of different ways that this makes sense. I hope everyone will embrace that.

This is not the night to talk about the case, what the case was about, who testified, what worked and what didn't, what the grounds for appeal are. Those grounds are being set in stone now, we're briefing them. We're going to file those in a formal appeal document that we filed at the Court of Appeals in New York. I would be happy to come back in September and have another meeting to talk about anything that you want about the appeal, of course, if the Town Council wants to do that and they invite me. But tonight, we need this vote in order to proceed with the appeal without having to try to come up with an appeal bond that we would have to pay an awful lot of money for, if we could even find someone to do it, and you never get that money back, that money would be spent and gone.

Moderator Kelly opened the floor for public remarks and asked speakers to state their name and address, to keep remarks to two minutes, and to only speak about the resolution, not the case.

Chris Cambareri, 10 Sachem Drive - I would like to say that I understand that in order to proceed with the appeal, part of the criteria is that we have to set this money aside. So I think it's prudent that we vote yes to set this money aside.

Dick Newton, 1 Elm Road - I make a motion to move the resolution. Alice Kelly seconded.

Myron Johnson, 16 Pleasant Street - I have a little bit of a problem with these proceedings. I have no idea what this is all about. I know that we have to pay this \$5 million, but I don't know any of the circumstances or details. The attorney is telling us we're sure to win this appeal, but I don't know any of the details.

Moderator Kelly suggest that Mr. Johnson read the resolution, which has the full language from the court documents.

Mr. Johnson stated that he is a former member of the Council and has no idea what this case is all about. He referred to Section 3.04, number nine of the Town Charter. He said that it says that he is supposed to know about this case, and if he doesn't, that it is a violation and he is here for the rule of law.

Alice Kelly, 47 Willowbrook Road – Ms. Kelly asked that since there was a motion to move the question and there was a second, do we have to reject moving the question, and open it back up? Do we have to vote on the resolution now? Attorney Gerarde stated that we are still in discussion.

Mr. Newton made a motion to approve the resolution and to enter back into discussion. Alice Kelly seconded.

James Demetriades, 272 Skyview Drive – What I want to make clear is that tonight's vote is not about whether the Town did something correctly or incorrectly. Tonight's vote is about the appropriation of the \$5 million into a restricted fund. That is the question that we have tonight. We need to set aside that money in order to pursue the appeal. If the Town loses the appeal, we need to set aside that money in order to pay the judgement. So the question for us to consider tonight is whether we want to set aside the \$5 million into a restricted account, as a prerequisite for us to continue our appeal, or do we want to pursue other financing options for that \$5 million, which would end up costing the Town more money that we would never get back? If the question is how to save taxpayer dollars and how we insure our fiscal stability, whether or not you agree or disagree with the underlying court case, the \$5 million should be set aside in the restricted fund. Because if we lose the appeal, the \$5 million will be paid to Gilead and if we win the appeal, there's an opportunity for a lesser judgement to be rendered against the Town. That is the background under which this operates and I just want to clarify that.

Marianne Sylvester, Finance Director – Director Sylvester provided some information about the Town's financial ability to set this money aside. The Town does have reserve funds available in the amount of approximately \$12 million to \$13 million. We try to keep that money set aside as available reserves in case we run into situations; for example, we had reserves for COVID in case taxpayers had trouble paying their bills, or we had a hurricane come through Town, we need to have some reserves just like everybody needs to have their savings - this is our savings. This savings account, at this point, we're in a very good position to set a part of this money into a restricted area for the possibility that we lose the appeal and we will have to make a payment toward Gilead for this case. We haven't finished closing our books for the fiscal year, but we're reassuring you that we do have the funds available in case we need to make this payment. It's not going to be a hit on your tax dollars or something that we will be looking to borrow extra money for. It is in a savings account for the Town right now and we would continue to earn interest on this.

Alyssa Goduti, 8 Newbury Road – I am also the President and CEO of Adelbrook. I do have some concerns in hearing that we are looking to set aside \$5 million to file an appeal. We have not heard what the grounds of the appeal are what are likelihood of success may be with an appeal. I am also a proud mother of three kids and I feel like we teach our kids, and I teach my kids at Adelbrook. We serve hundreds of kids and young adults with autism, for those of you that don't know Adelbrook. We serve the community of Cromwell and we employee 600 people in

this community, working with our kids and young adults with autism and we help them find hope and a future with dignity and respect. I would hope for all of them that they would have that opportunity and if they want to live in a community, they have every chance like the rest of us. Moderator Kelly reminded Ms. Goduti to focus on the resolution only.

My concern really is, do we set aside \$5 million as taxpayers, for an appeal that we don't yet know the merits or the likelihood of? And we might not know until the fall what the grounds for that appeal is and the likelihood of success, and then continue to accumulate legal expenses in that process, and ultimately it may cost us more. I just really think we need to make an informed decision about that.

Attorney Gerarde - The Town of Cromwell has an insurance policy through CIRMA and CIRMA has the defense responsibility for this case. My bills are not paid for by the Town of Cromwell – not in the very beginning, not now, and now during the appeal. My bills are all paid by CIRMA, they're covered by your insurance, so there will be no expense to the Town of Cromwell for me to go forward with this appeal. I can't take you all to law school tonight and talk to you about the Fair Housing Act, Supreme Court decisions and all of that. I can tell you we have strong grounds for appeal. The briefs will be filed in September, that's the best time to talk them through because they're not finalized. They're typed out, they're public and I can give everybody a copy. We can have a night here and we'll debate all of the issues. But tonight's mission is we have to go forward with this appeal and just like James said, do we want to go forward when we have our money put aside so we can get it all back if we're successful, or do we want to go into the bond market and try to find someone who will charge us an arm and a leg to put up \$5 million, and even if we win, we never get that money back.

Nick Tomassone, 119 Field Road – I just have one question. You said we have a strong case in appeal. How was the case in the first place? Was it a strong case? Is it stronger than the appeal?

Moderator Kelly reminded Mr. Tomassone that tonight's discussion is limited to the resolution.

Alice Kelly, 47 Willowbrook Road – To clarify what it is tonight - the \$5 million - that is what Cromwell has to pay. We need to put the money, which has already been set by the court, and we are responsible for, into a special fund to go forward. It has nothing to do with the case. The case has already been decided in the court. The only thing is, are we going to encumber the money so that it goes into a special fund, so that when the case is taken care of, it will either be the \$5 million, or a lower amount, or none. Actually, to go forward, we should just vote on it and say yes that it will go into that special fund. Then the next step will be, whatever they're going to do for the appeal. Tonight, before you, it's only that we will move it from the fund balance to a restricted fund, which encumbers \$5 million dollars. That is what tonight's meeting is all about.

Robin Cassella, 582 Main Street - With the amount of people that are here, how can we actually vote? Can it be put to a referendum, so that everybody in Town has a little more notice on it and can vote on it? With about 50 people here, we have to decide the fate of the Town right here, right now? Why can't we put it to a Town vote, so that the whole Town can vote? The vote on the school went to a referendum. I don't think that's unreasonable. Why wasn't this put out in a little more notice?

JoAnn Doyle, Town Clerk, spoke and explained to Ms. Cassella that a petition would have had to have been filed, and explained the process of filing a petition for a referendum vote, involving the collection and verification of signatures, and timelines.

Ms. Cassella – Had I known that, I would've gotten the signatures. But I don't think this amount of people qualifies to set aside \$5 million, regardless.

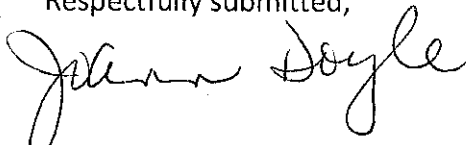
There were no more public comments.

Moderator Kelly made a motion to end the discussion. All were in favor except one; the motion passed.

Moderator Kelly made a motion to move the resolution to a vote. All were in favor except three; the motion passed.

Moderator Kelly asked for a motion to adjourn the meeting. The motion was made by Mike Cannata, seconded by Marianne Sylvester. The meeting adjourned at 7:31 p.m.

Respectfully submitted,



JoAnn Doyle

RECEIVED FOR RECORD  
Jun 29, 2022 03:25P  
JoAnn Doyle  
TOWN CLERK  
CROMWELL, CT

**RESOLUTION AUTHORIZING TRANSFER OF FIVE MILLION DOLLARS TO  
RESTRICTED FUND BALANCE TO SATISFY APPEAL BOND REQUIREMENT**

WHEREAS, the Town is currently embroiled in a lawsuit with Gilead Community Services, Inc., et al. as captioned below (collectively, "Gilead")

**GILEAD COMMUNITY SERVICES, INC., RAINBOW HOUSING CORP., and THE  
CONNECTICUT FAIR HOUSING CENTER, INC. v. TOWN OF CROMWELL, ET AL.  
Docket number 3:17-CV-00627-VAB; and**

WHEREAS, after trial, the jury awarded Gilead damages in the amount of 5 million dollars (the "Judgment"); and

WHEREAS, the Town has appealed the verdict (the "Appeal"); and

WHEREAS, in order to prosecute the appeal, the Town is required to secure the funds necessary to pay the Judgment in the event the appeal is unsuccessful; and

WHEREAS, it is in the Town's best interest to prosecute the appeal vigorously;  
and

**NOW, THEREFORE, BE IT RESOLVED:**

That the Town Council recommends an appropriation and transfer from the Town's General fund available fund balance to its restricted fund balance, in the amount of Five Million Dollars, which money shall be held as restricted funds solely for the purpose of paying a final judgment, if any, rendered in the Gilead case, once all appeals have been exhausted.

The restricted funds shall also be available to pay any settlement of the claims made by the plaintiffs, and if such settlement is reached, and the case disposed of by stipulation or dismissal of the courts, any remaining balance of the above restricted funds shall become unrestricted and returned to the general fund.

**BE IT FURTHER RESOLVED:**

That the recommended appropriation and transfer be submitted to the Board of Finance and to a special town meeting for approval.

  
Clerk of the Town Council