

TO: Mayor Mark D. Boughton and Members of the Common Council

RE: Minutes of the Common Council Meeting held November 4, 2004

Mayor Boughton called the meeting to order at 7:30 P.M. The Pledge of Allegiance and Prayer were offered. The members were recorded as:

PRESENT – McMahon, Burns, Calandrino, Saadi, Barry, Visconti, Steinerd, Urice, Esposito, Nolan, Basso, Saracino, Cavo, Diggs, Teicholz, Nagarsheth, Payton, Riley, Seabury, Stanley

ABSENT – Trombetta

20 PRESENT – 1 ABSENT

Mr. Trombetta was on vacation.

PUBLIC SPEAKING

Rick Ferreira, 5 Alexander D Avenue – moved forward with item 17, Sewers on Alexander D Avenue.

A representative of the marine corp. presented a citation to Council Member Minority Leader in honor of his service in the marines on his 80th birthday, which was celebrated in September.

MINUTES – Minutes of the Common Council Meeting held October 5, 2004. Mr. Nolan made a motion to adopt the minutes as presented and waive the reading as all members have copies, which are on file in the clerk's office for public inspection. Seconded by Mr. Nagarsheth. Motion carried unanimously.

CONSENT CALENDAR – Ms. Saracino presented the following items for the consent calendar:

1 – Receive the communication and adopt the Resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive grant funding from the State of Connecticut Department of Social Services in the amount of \$46,993.00 for Before and After School programs.

2 – Receive the communication and adopt the Resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive grant funding from the State of Connecticut Department of Transportation in the amount of \$42,300.00 for DUI Enforcement programs of the Danbury Police Department.

3 – Receive the communication and adopt the Resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive grant funding from the State of Connecticut Department of Transportation in the amount of \$11,325.00 for Thanksgiving/Christmas/New Year DUI Enforcement programs of the Danbury Police Department.

4 – Receive the communication and adopt the Resolution authorizing the assignment of Real Estate & Water/Sewer tax liens to American Tax Funding, LLC in the amount of \$452,087.55 as proposed by the Tax Collector.

5 – Receive the communication and adopt the Resolution authorizing the extension of time for the acquisition of the sanitary sewer easement from O & G Industries through May 1, 2005.

6 – Receive the communication and adopt the Resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive an Economic Development Grant from the State of Connecticut Department of Economic and Community Development, in an amount not to

exceed \$3,000,000.00 for the purpose of public infrastructure improvements related to the Boehringer Ingelheim expansion.

7 – Receive the communication and adopt the Resolution authorizing Mayor Mark D. Boughton to execute the necessary documents with the State of Connecticut Department of Transportation for the purpose of granting easements necessary for the reconstruction of Route 6 from Segar Street to a point just west of Kenosia Avenue, subject to a positive report from the Planning Commission.

16 – Receive the communication and authorize Mayor Mark D. Boughton to execute a license agreement with Northeast Generation Services to facilitate the installation of a storm drainage system supporting the expansion of the parking lot at Hatters Park, contingent on approvals from the Planning Commission and the Environmental Impact Commission.

19 – Receive the communication and approve the mortgaging of the lease agreement between the City of Danbury and Ron Whelan d/b/a New England Aircraft Sales for property located at the Danbury Airport and authorize Mayor Mark Boughton to sign documents which may be necessary to complete the transaction with Danbury Aviation, LLC and the mortgagor.

20 – Receive the communication and approve the phase-in of the water extension previously approved for GRC Development, Crows Nest Lane, in accordance with the recommendations made by the Director of Public Works and the Deputy Corporation Counsel in the memo dated October 27, 2004.

21 – Receive the report and take no further action, as the Council previously approved the specific action subject to this favorable report from the Planning Commission.

25 – Receive the report and take no action.

26 – Receive the report and adopt the committee's recommendation to approve the relocation of sewer and water mains at 114 Federal Road.

27 – Receive the report and adopt the committee's recommendations to approve the extension of time on the sewer and water extension approval for 38 Oil Mill Road.

28 – Receive the report and adopt the committee's recommendation to approve the sewer and water extension for 42-44 Briar Ridge Road.

29 – Receive the report and adopt the committee's recommendation to approve the sewer extension for 32-34 Lawncrest Road.

30 – Receive the report and adopt the committee's recommendation requesting the Planning Department to send a letter to the Cornell Road Association requesting a name change and to report the response back to the Common Council.

32 – Receive the report and adopt the committee's recommendation to approve the sidewalk easement at 25 Germantown Road.

33 – Receive the report and adopt the committee's recommendation to approve the extension of requested utilities on Concord Street and the condemnation of the existing easement subject to the stated conditions.

35 – Receive the report and adopt the committee's recommendation to authorize the Director of Public Works to continue the process of acquiring the Indian Spring Water Company.

36 – Receive the report and adopt the committee's recommendation to take no action at this time.

Mr. Nolan moved that the Consent Calendar be adopted as read. Seconded by Mr. Cavo. Motion carried unanimously.

1 – RESOLUTION – Before & After School Program

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut, Department of Social Services, will make grant funds available to Connecticut municipalities;

WHEREAS, the State of Connecticut, Department of Social Services, will award these funds to the Danbury Public Schools for use in the Before and After School Child Care program to provide day care services up to 520 school age children;

WHEREAS, these funds, if awarded, would be used for the Before and After School Program for the grant period of July 1, 2004, through June 30, 2005, for the 2004-05 school year;

WHEREAS, the City of Danbury is eligible to receive grant funds up to the amount of \$46,993.00; and

WHEREAS, no local cash match is required.

NOW, THEREFORE, BE IT RESOLVED THAT Mark D. Boughton as Mayor of the City of Danbury is hereby authorized to apply for said grant funds and to sign all documents necessary and do all things necessary to effectuate the purposes of said program.

The communication was received on the Consent Calendar and the Resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive grant funding from the State of Connecticut Department of Social Services in the amount of \$46,993.00 for Before and After School programs approved.

2 – RESOLUTION – Driving Under the Influence Enforcement Grant

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut Department of Transportation, Division of Highway Safety has made a grant available in the amount of \$42,300.00 for the 2005 Expanded Driving Under the Influence Enforcement Program; and

WHEREAS, a 25% local cash match in the amount of \$14,100.00 is required in order to reach the total cost of the program, which is \$56,400.00.

NOW, THEREFORE, BE IT RESOLVED, THAT Mayor Mark D. Boughton is hereby authorized to apply for said grant and to accept grant funds if approved, and Mayor Mark D. Boughton is authorized to sign all contracts necessary to effectuate the purposes of said grant. Any prior acts of the Mayor in applying for such grant funds are hereby ratified.

The communication was received on the Consent Calendar and the Resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive grant funding from the State of Connecticut Department of Transportation in the amount of \$42,300.00 for DUI Enforcement Programs of the Danbury Police Department approved.

3 – RESOLUTION – DUI Enforcement Grant

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut Department of Transportation, Division of Highway Safety has made a grant available in the amount of \$11,325.00 for the

2004-2205 Thanksgiving/Christmas/New Year's Driving Under the Influence Enforcement Program; and

WHEREAS, a local cash match of \$3,775.00 is required in order to reach the total cost of the program, which is \$15,100.00.

NOW, THEREFORE, BE IT RESOLVED THAT Mayor Mark D. Boughton is hereby authorized to apply for said grant and to accept grant funds if approved, and Mayor Mark D. Boughton is authorized to sign all contracts necessary to effectuate the purposes of said grant. Any prior acts of the Mayor in applying for such grant funds are hereby ratified.

The communication was received on the Consent Calendar and the Resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive grant funding from the State of Connecticut Department of Transportation in the amount of \$11,325.00 for Thanksgiving/Christmas/New Year's DUI Enforcement programs of the Danbury Police Department approved.

4 – RESOLUTION – Assignment of Real Estate & Water/Sewer Tax Liens

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, Connecticut General Statutes 12-195h authorizes any municipality to assign, for consideration, any and all liens filed by the tax collector to secure unpaid taxes on real property; and

WHEREAS, the City of Danbury previously assigned certain real estate tax liens to American Tax Funding, LLC ("ATF"); and

WHEREAS, the assignment of additional tax liens on the grand lists of October 1, 1998, October 1, 1999, October 1, 2000, October 1, 2001, October 1, 2002 and October 1, 2003, and having a value of \$452,087.55 (less any amounts paid on or after September 27, 2004) and that Mayor Boughton be and hereby is further authorized to execute any agreements or amendments thereto as may be required to accomplish the purposes hereof.

The communication was received on the Consent Calendar and the Resolution authorizing the assignment of Real Estate & Water/Sewer tax liens to American Tax Funding, LLC in the amount of \$452,087.55 as proposed by the Tax Collector approved.

5 – RESOLUTION – O & G Industries, Inc. – Segar Street

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the City of Danbury is proceeding through plans and designs to make necessary improvements to the Segar Street sanitary sewer; and

WHEREAS, the property to be acquired is described and identified in EXHIBIT A attached hereto; and

WHEREAS, said easement will have to be acquired either by negotiation with the property owner or by eminent domain, if such negotiations are unsuccessful; and

WHEREAS, it is in the best interest of the City of Danbury to acquire said rights and proceed with the work required.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Danbury through the Office of Corporation Counsel, be and hereby is authorized to acquire the easement set forth on EXHIBIT A attached hereto, in accordance with procedures established by State law either by negotiation or eminent domain through the institution of suit against the interest property owners and holders of mortgages encumbering the properties, if any by May 1, 2005.

The communication was received on the Consent Calendar and the Resolution authorizing the extension of time for the acquisition of the sanitary sewer easement from O & G Industries through May 1, 2005 approved.

6 – RESOLUTION – Infrastructure Development Project – Boehringer Ingelheim

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut acting through its Connecticut Department of Economic and Community Development (“DECD”), has made grant funds available pursuant to the provisions of the Economic Development and Manufacturer’s Assistance Act of 1990, for the purposes of supporting business and encouraging the retention and creation of jobs in Connecticut; and

WHEREAS, the proposed expansion of the Boehringer-Ingelheim Pharmaceutical Corporation campus is expected to create and retain 2350 full-time jobs for Connecticut and the region; and

WHEREAS, the DECD is interested in supporting an Infrastructure Development Project designed to further the expansion of the Boehringer-Ingelheim Pharmaceutical Corporation campus in Danbury and Ridgefield; and

WHEREAS, the proposed Infrastructure Development Project, to be supported by a DECD grant in an amount not to exceed Three Million Dollars (\$3,000,000), will include planning, design and construction of critical roadway and related public infrastructure improvements in the vicinity of the Boehringer-Ingelheim campus in both Danbury and Ridgefield; and

WHEREAS, all local share requirements will be met by Boehringer-Ingelheim.

NOW, THEREFORE, BE IT RESOLVED THAT Mark D. Boughton, Mayor of the City of Danbury be and hereby is authorized to make application for and accept said grant, and that Mayor Boughton is further authorized to execute any necessary contracts and take such other necessary actions to effectuate the purposes hereof.

The communication was received on the Consent Calendar and the resolution authorizing Mayor Mark D. Boughton to apply for and to execute the necessary documents to receive an Economic Development Grant from the State of Connecticut Department of Economic and Community Development in an amount not to exceed \$3,000,000 for the purpose of public infrastructure improvements related to the Boehringer-Ingelheim expansion approved.

7 – RESOLUTION – State DOT Reconstruction of Route 6 – Easements from City

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut Department of Transportation (“CTDOT”) is in the process of acquiring property for the reconstruction of Route 6 from Segar Street to just west of Kenosia Avenue; and

WHEREAS, as part of its process, the CTDOT seeks to acquire drainage and driveway easement rights across and over a strip of land owned by the City of Danbury and identified and described on a map entitled “Right of Way Survey, Town of Danbury, Map Showing Easement Acquired From City of Danbury By the State of Connecticut Department of Transportation For The Reconstruction of U. S. Route 6, April 2003”; and

WHEREAS, CTDOT is proposing to pay the City of Danbury \$500 as fair value for said rights upon the execution of appropriate documents.

NOW, THEREFORE, BE IT RESOLVED THAT Mayor Mark D. Boughton be and hereby is authorized to execute the CTDOT Land Payment Voucher and such other documents as may be necessary in order to grant to CTDOT those rights that

may be required to accomplish the purposes of the reconstruction of Route 6 and as referenced in said map.

The communication was received and the resolution authorizing Mayor Mark D. Boughton to execute the necessary documents with the State of Connecticut Department of Transportation for the purpose of granting easements necessary for the reconstruction of Route 6 from Segar Street to a point just west of Kenosia Avenue, subject to a positive report from the Planning Commission.

8 – COMMUNICATION – Donation to the Ives Trail

Letter from Jack Kozuchowski requesting permission to accept a donation in the amount of \$5,000 from the Swampfield Land Trust for the purpose of creating the Foundation Section of the Ives Trail. Mr. Nagarsheth made a motion to receive the communication, accept the donation, credit the appropriate line item and send a letter of thanks. Seconded by Mr. Visconti. Motion carried unanimously.

9 – COMMUNICATION – Donations to the Parks and Recreation Department

Letter from Director of Parks and Recreation Robert Ryerson requesting permission to accept in-kind contributions from Danbury Youth Baseball Association. Mr. Cavo made a motion to receive the communication, accept the donations and send a letter of thanks. Seconded by Mrs. Stanley. Motion carried unanimously.

10 – COMMUNICATION – Donations to the Fire Department

Letter from Fire Chief Peter Siecienski request permission to accept five hundred 9-volt batteries from The Eveready Corporation; 400 smoke detectors from Firefighter Brands; five Maplewood cabinets from Kingswood Kitchens and \$75.00 from Gloria and William Keenan. Mr. Urice made a motion to receive the communication, accept the donation, credit the appropriate line item and send letters of thanks. Seconded by Mrs. McMahon. Motion carried unanimously.

11 – COMMUNICATION – Donation to the Welfare Department

Letter from Director of Welfare Deborah MacKenzie requesting permission to accept a donation of kitchen cabinetry and a Corian countertop for the City's homeless shelter from Phyllis Boughton of Connecticut Kitchen and Bath. Ms. Payton made a motion to receive the communication, accept the donation and send a letter of thanks. Seconded by Mr. Cavo. Motion carried unanimously.

12 – COMMUNITION – Donation to the Welfare Department

Letter from Director of Welfare Deborah MacKenzie requesting permission to accept a donation of approximately \$2,500 in labor costs from Mark Lubus to install cabinetry at the homeless shelter. Mr. Steinerd made a motion to receive the communication, accept the donation and send a letter of thanks. Seconded by Ms. Saracino. Motion carried unanimously.

13 – COMMUNICATION – Donations to the Department of Elderly Services

Letter from Director of Elderly Services Susan Tomanio requesting permission to accept donations in the amount of \$75.00. Mr. Seabury made a motion to receive the communication, accept the donations, credit the appropriate line item and send letters of thanks. Seconded by Ms. Saracino. Motion carried unanimously.

14 – COMMUNICATION – Donation to the Library

Letter from Library Director Betsy McDonough requesting permission to accept a donation in the amount of \$35 from Mr. and Mrs. Robert Feinson. Mr. Saadi made a motion to receive the communication, accept the donation, credit the

appropriate line item and send a letter of thanks. Seconded by Mrs. Basso. Motion carried unanimously.

15 – COMMUNICATION – DMEA Proposed Collective Bargaining Agreement

Proposed DMEA Contract and a letter from the Director of Finance/Personnel requesting the appropriation of funds in the amount of \$248,581 for salary accounts for the new contract. Ms. Saracino made a motion to receive the communication, approve the contract and authorize the appropriation of funds. Seconded by Mrs. Basso. Motion carried unanimously.

16 – COMMUNICATION – Hatters Park Parking Lot Expansion

Letter from Director of Public Works William Buckley requesting that the Common Council authorize Mayor Boughton to sign a license agreement for use of property owned by Northeast Generating Company.

The communication was received on the Consent Calendar and Mayor Boughton authorized to execute a license agreement with Northeast Generating Services to facilitate the installation of a storm drainage system supporting the expansion of the parking lot at Hatters Park, contingent upon approvals from the Planning Commission and the Environmental Impact Commission.

17 – COMMUNICATION – Petition for Sewers on Alexander D Avenue

Mr. Esposito asked that this be referred to the Planning Commission and the Director of Public Works for reports back within thirty days. Mayor Boughton so ordered.

18 – COMMUNICATION – Request for Assessment Deferral – 62-69 Kenosia Avenue

Mrs. Teicholz asked that this be referred to an ad hoc committee, the Corporation Counsel, the Director of Planning, the Director of Finance and the Tax Assessor. Mayor Boughton so ordered and appointed Council Members Cavo, Calandrino and Saadi to the committee.

19 – COMMUNICATION – Lease Agreement – Danbury Aviation

The communication was received on the consent calendar and the mortgaging of the lease agreement between the City of Danbury and Ron Whelan d/b/a New England Aircraft Sales for property located at the Danbury Airport approved and Mayor Boughton authorized to sign documents which may be necessary to complete the transaction with Danbury Aviation, LLC and the mortgagor.

20 – COMMUNICATION – Request to Phase Water Extension – 32 Crows Nest Lane

The communication was received on the Consent Calendar and the phase-in of the water extension previously approved for GRC Development, Crows Nest Lane, approved in accordance with the recommendations made by the Director of Public Works and the Deputy Corporation Counsel in the memo dated October 27, 2004.

21 – COMMUNICATION – Report regarding Hawthorn Terrace Water System

The report was received on the Consent Calendar and no further action taken as the Council previously approved the specific action subject to this favorable report from the Planning Commission.

22 – COMMUNICATION – Reports regarding Candleview Ridge Area

Ms. Diggs asked that this be referred to the Planning Commission for a report and to the Director of Public Works for a survey. Mayor Boughton so ordered.

23 – COMMUNICATION – Reports regarding the Affordable Housing Contract

Mr. Steinerd asked that this be referred to an ad hoc committee, the Corporation Counsel and the Director of Planning. Mayor Boughton so ordered and appointed Council Members Seabury, Payton and Saadi to the committee.

24 – REPORT & ORDINANCE – Assessment Deferral Program Enhancements

Mr. Nolan made a motion to receive the report and defer the ordinance to public hearing. Seconded by Mr. Urice. Motion carried unanimously.

25 – REPORT – Assessment Deferral – 62-69 Kenosia Avenue

Mr. Cavo submitted the following reports:

The Common Council Committee appointed to review the request for an assessment deferral at 62-29 Kenosia Avenue met on October 26, 2004 at 7:30 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Cavo, Calandrino and Saadi. Also in attendance were Director of Finance Dena Diorio, Assistant Corporation Counsel Les Pinter and Council Member Mary Saracino, ex-officio.

Mr. Cavo stated that the Director of Planning Dennis Elpern submitted a negative report on October 7, 2004 stating that it could not be granted because it is not a permitted use. That application was withdrawn and a new application was submitted with a positive recommendation. This committee was appointed to review the original request. Therefore, this committee has no jurisdiction to take up this application.

Mr. Saadi made a motion to recommend taking no action on this application since it has been withdrawn. Seconded by Mr. Calandrino. Motion carried unanimously.

The report was received on the Consent Calendar and no action taken.

26 – REPORT – Relocation of Sewer and Water Mains – 114 Federal Road

Ms. Saracino submitted the following report:

The Common Council Committee appointed to review the request to relocate sewer and water mains at 114 Federal Road met on October 18, 2004 at 8:00 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Saracino and Nagarsheth. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Director of Public Works William Buckley, Engineer Jim Rotundo for the petitioner and Council Member Joe Cavo, ex-officio.

Ms. Saracino noted the positive recommendation from the Planning Commission. Mr. Buckley stated that this is the existing Home Depot Building at 114 Federal Road. They already have sewer and water and they are expanding off the front of the building. The expansion encroaches on the existing lines. They want to relocate the lines outside the building structure and give the City an easement. Mr. Buckley recommends approval of the concept in conjunction with the required eight steps, with the understanding that we are relinquishing one of the existing easements. Attorney Gottschalk suggested that a ninth step be included documenting the release of the existing easement as shown on the site utility plan.

Mr. Nagarsheth made a motion to recommend approval of the sanitary sewer and water mains, subject to the required eight steps, with a ninth step releasing the existing easement as shown on the site utility plan. Seconded by Ms. Saracino. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendation to approve the relocation of sewer and water mains at 114 Federal Road approved.

27 – REPORT – Request for Sewer and Water Extensions – 38 Oil Mill Road

Mrs. McMahon submitted the following report:

The Common Council Committee appointed to review the request for sewer and water extensions at 38 Oil Mill Road met on October 19, 2004 at 7:30 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members McMahon and Barry. Also in attendance were Director of Public Works William Buckley and Council Members Basso, Diggs and Esposito, ex-officio.

Mrs. McMahon noted the positive recommendation from the Planning Commission. Mr. Buckley said that this is a request for a continuation of time since the original request was approved in March 2003. He would recommend granting the extension of time subject to the required eight steps.

Mr. Barry made a motion to recommend granting the extension of time subject to the required eight steps. Seconded by Mrs. McMahon. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendation to approve the extension of time on the sewer and water extension approval for 38 Oil Mill Road approved.

28 – REPORT – Request for Sewer and Water Extensions – 42-44 Briar Ridge Road

Ms. Teicholz submitted the following report:

The Common Council Committee appointed to review the request for sewer and water extensions at 42-44 Briar Ridge Road met on October 19, 2004 at 8:00 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Teicholz and Diggs. Also in attendance were Director of Public Works William Buckley, Attorney Paul Jaber and Engineer Jeannie Williamson for the petitioners and Council Member Basso, ex-officio.

Ms. Teicholz noted the positive recommendation from the Planning Commission. Ms. Williamson said this is a Briar Woods development project. They are the same developers who did Sterling Woods, Arlington Woods and others. The property is located behind the GE Building on Old Ridgebury Road. The property is vacant and they are proposing to build eighty two-bedroom units.

Mr. Buckley recommended that the request be approved subject to the required eight steps, which would allow him to review it and cover the manner in which it is connected. Attorney Jaber asked if they could be allowed to do this in two phases. Mr. Buckley said if the committee wants to allow this, they could make it a ninth step.

Ms. Diggs made a motion to recommend approval of the request subject to the required eight steps, with a ninth step allowing the project to be completed in two phases. Seconded by Ms. Teicholz. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendation to approve the sewer and water extension for 42-44 Briar Ridge Road adopted.

29 – REPORT – Request for Sewer Extension – 32-34 Lawncrest Road

Ms. Teicholz submitted the following report:

The Common Council Committee appointed to review the request for sewer extension at 32-34 Lawncrest Road met on October 19, 2004 at 7:45 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Teicholz, Diggs and Esposito. Also in attendance were Director of Public Works William Buckley, the petitioner James Stoltz and Council Members Basso and McMahon, ex-officio.

Ms. Teicholz noted the positive recommendation from the Planning Commission. Mr. Stoltz said that he had problems with his septic system and inspectors told him it would have to be replaced. The line is right across from him at 31 Lawncrest. He would like to extend it to his property. Mr. Buckley said he would recommend approval of this request subject to the required eight steps. Mr. Stoltz would have to contract with an engineer and submit a design. Mr. Stoltz said he has already submitted the design.

Ms. Diggs made a motion to recommend approval of the request for sewer extension at 32-34 Lawncrest subject to the requested eight steps. Seconded by Mr. Esposito. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendation to approve the sewer extension fro 32-34 Lawncrest approved.

30 – REPORT – Cornell Road

Mrs. Basso submitted the following report:

The Common Council appointed to review a name change for Cornell Road met on October 12, 2004 at 8:00 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Basso, Cavo and Saadi. Also in attendance were Director of Planning Dennis Elpern, Fire Chief Peter Siecienski, Assistant Corporation Counsel Les Pinter, Police Captain Arthur Sullo, the petitioner Paul Duncan and Council Member Fred Visconti, ex-officio.

Mrs. Basso asked Mr. Visconti for an overview of his request. Mr. Visconti stated that he received a letter from Paul Duncan. He was concerned that there are two Cornell Roads, one being a private road over by Candlewood Lake. Mr. Duncan has received mail for the other Cornell Road and there have been instances where police and fire vehicles have gone to the wrong street.

Mr. Saadi explained to Mr. Duncan that there is another committee looking at the whole issue of duplicate street names and this request will be incorporated into that committee. It is difficult for the city to change the name of a private road. Mr. Cavo asked Chief Siecienski if there is a problem changing the suffix or would he prefer a complete name change. Chief Siecienski said he would prefer a complete name change. It would not eliminate the problem if you change the suffix. Captain Sullo said he agrees with Chief Siecienski.

Mr. Saadi made a motion to recommend that the Planning Department send a letter to the private Cornell Road association requesting a name change and report the results back to the Common Council. Seconded by Mr. Cavo. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendation requesting the Planning Department to send a letter to the Cornell Road Association requesting a name change and to report the response back to the Common Council approved.

31 – REPORT – Shepard Road

Mr. Cavo submitted the following report:

The Common Council Committee appointed to review a change of name for Shepard Road met on October 12, 2004 at 7:35 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Cavo and Calandrino. Also in attendance were

Director of Planning Dennis Elpern, Fire Chief Peter Siecienski, Police Captain Arthur Sullo, Assistant Corporation Counsel Les Pinter and Council Members Saracino, Seabury, Saadi and Visconti, ex-officio.

Mr. Cavo noted the positive recommendation from the Planning Commission to change the name of Shepard Road in the Great Plain District to Sniffin Court. Mr. Seabury stated that he made this request because he knows Karen Sniffin who lives in the house originally bought by her in-laws. She mentioned to him that it is very difficult because there are two Shepard Roads.

Mr. Cavo asked Mr. Elpern how the name was chosen. Mr. Elpern said it was easy because Karen Sniffin works in the Permit Center and her home is the only occupied house on the street. Mr. Cavo asked if there are any businesses on that street. Mr. Elpern said there are none.

Mr. Calandrino made a motion to recommend that the Common Council approve the change of name from Shepard Road to Sniffin Court and submit it to the Planning Department for a survey. Seconded by Mr. Cavo. Motion carried unanimously.

Mr. Saadi made a motion to receive the report and adopt the committee's recommendation. Seconded by Mr. Barry. Mr. Nolan asked if this is premature and are we obligated to get a report. Attorney Gottschalk said there was no obligation to get a report or a survey.

Mr. Saadi offered an amendment that a survey not be required. Seconded by Ms. Saracino. Motion to amend carried unanimously. Main motion, as amended, carried unanimously.

32 – REPORT – 25 Germantown Road Easement

Ms. Saracino submitted the following report:

The Common Council Committee appointed to review a sidewalk easement at 25 Germantown Road met on October 13, 2004 at 7:35 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Saracino, Trombetta and Esposito. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Attorney Paul Jaber, Ervie Hawley and Council Members Cavo and Teicholz, ex-officio.

Ms. Saracino noted the positive recommendation from the Planning Commission. She also stated that Mr. Buckley recommends the granting of this easement. Attorney Gottschalk stated that the easement is for three purposes: installation of a sidewalk, maintenance and road widening, if necessary. He would work to record the easement, certificate of title and subordination to insure that the City gets what is required by the land use agencies.

Mr. Esposito asked if this request is coming from the developer. Attorney Jaber responded that the City requires it. The City is anticipating what may be necessary twenty-five years from now.

Mr. Esposito made a motion to recommend approval of the easement. Seconded by Mr. Trombetta. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendation to approve the sidewalk easement at 25 Germantown Road adopted.

33 – REPORT – Concord Road LLC

Mr. Riley submitted the following report:

The Common Council Committee appointed to review two requests from Concord Street, LLC, one utility extensions and a condemnation of a utility easement met on October 27, 2004 at 8:00 P.M. in the Caucus Room in City Hall. In attendance were committee members Riley, Stanley and Visconti. Also in

attendance were Deputy Corporation Counsel Eric Gottschalk and Council President Vin Nolan, ex-officio.

Mr. Buckley issued a report recommend approval of the request for sewer and water extensions subject to the required eight steps and also approval of the condemnation of the utility easement. The Planning Commission issued a positive recommendation as well.

Attorney Gottschalk pointed out on Merrimac Street and Concord Street on a map and showed a two-family dwelling. The present utility lines are in Concord Street, but they are private. The City requires a more organized approach for installation of utility lines. If lines are to serve more than one dwelling, the City requires that it must own the line. The request is for the public system up Concord Street and shall the public system be extended, and if so, how is the city going to do it because it is private property.

He received a letter from Attorney Mark Neilsen saying this line is part of a 1929 system. At that time he would have gone to the owners and asked for the extension. He is now asking the City to authorize condemnation of the utility easement in the street. The City would own and maintain the line. There is some precedent for this such as Duck Street and Victor Street. The Common Council authorized condemnation of those easements provided the cost is borne by the developer. He would put up \$4,000 to defray the cost and he would pay more if the cost were higher. Any remaining balance would be returned to him. The City would acquire the easement, the line becomes part of the public system and the development of the two-family dwelling is completed.

Mr. Riley asked if the City would anticipate any problem with the system dating back to the 1930s? Attorney Gottschalk said no problems are anticipated. Attorney Gottschalk said the City would require a deposit, will publish the request in the newspaper, then the Court will give the city a document that will be put on the land records that it acquired the easement. That will cover the utilities. The road will remain private.

Mr. Visconti made a motion to authorize the extension of the utilities subject to the required eight steps and to authorize condemnation of the necessary easement, conditioned upon payment of \$4,000 to cover estimated costs of the condemnation. Seconded by Mrs. Stanley. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendation to approve the extension of requested utilities on Concord Street and the condemnation of the existing easement subject to the stated conditions approved.

34 – REPORT – Request for Easement – AutoZone

Mr. Riley submitted the following report:

The Common Council Committee appointed to review the request from AutoZone for an easement met on October 27, 2004 at 7:30 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Riley, Stanley and Visconti. Also in attendance were Tax Assessor Colleen Velez, John LaFonte for the petitioner, Deputy Corporation Counsel Eric Gottschalk and Council President Vin Nolan, ex-officio.

Mr. Buckley submitted a report recommending approval of the requested drainage easement. The Planning Commission submitted a positive recommendation.

Attorney Gottschalk pointed out the AutoZone parcel on a map, as well as the proposed construction and drainage easements. He showed the temporary easement and the permanent easement. The question is whether the

City would be willing to grant the easement. If it were granted, he would work out the terms and conditions.

Mr. Visconti asked if the Common Council would be acting on the entire site or just the easement. Attorney Gottschalk said that just the easement was before the committee. Mr. Visconti asked if this would drain directly into the Still River. Attorney Gottschalk said it would. Mr. LaFonte explained the water purification system. He said that the Environmental Impact Commission had required that a maintenance schedule be filed with the Health Department.

Mr. Riley asked what the cost for the easement would be. Attorney Gottschalk said that AutoZone is seeking to use City property just as the City sometimes seeks to use private property. Tax Assessor Colleen Velez stated that based on the location and size of the property, she would assess it in the range of \$700 to \$1,500. Mr. Nolan stated that given there is a range of value, would it be appropriate for the committee to authorize Attorney Gottschalk to negotiate the terms. Attorney Gottschalk said that would be appropriate, but the Common Council could establish the price. It could be handled either way.

Mrs. Stanley made a motion to recommend approval of the request for an easement and to authorize the Corporation Counsel to negotiate the price. Seconded by Mr. Riley. Attorney Gottschalk said his office will negotiate a price and the terms and conditions for an easement and present the Common Council with a proposed document that will contain a description of the area and the Common Council as a whole will vote whether or not to grant the easement. Motion carried with committee members Riley and Stanley voting in the positive and committee member Visconti voting in the negative.

Mr. Nolan made a motion to receive the report, approve the easement and assign the cost of the easement at \$1,500. Seconded by Mr. Cavo. Motion carried with Mr. Visconti voting in the negative.

35 – REPORT – Indian Spring Water Company

Mr. Cavo submitted the following report:

The Common Council Committee appointed to review acquisition of the Indian Spring Water Company met on October 26, 2004 at 6:30 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Calandrino, Cavo and Barry. Also in attendance were Director of Finance Dena Diorio, Director of Public Works William Buckley, Assistant Corporation Counsel Les Pinter and Council Member Mary Saracino, ex-officio.

Mr. Buckley said there are ten private water companies owned by Ron Black. Mr. Black's attorney wrote to the Mayor five months ago asking if the City would be interested in acquiring the Indian Spring Water Company. There are 90 customers served by the company behind St. Gregory's Church. The City sells them water from a two-inch pipe. We would evaluate the system and determine the necessary improvements and assess benefits, which would include acquisition costs and improvements and bill the 90 customers. Public hearings would be held and improvements made in conjunction with Chapter 21. He is looking for direction from the Common Council on how to proceed.

Mr. Cavo asked Mr. Buckley for an approximate cost. Mr. Buckley said that the cost should be under \$100,000. This is an operating system that is not in bad shape. He would run an 8-inch line rather than the 2-inch and meter individual homes. The customers are paying \$250.00 per year for water. The average city customer pays \$100. The extra \$150 would go into the assessment. He still has to evaluate the system. Mr. Cavo asked if the \$100,000 would be completely paid by the homeowners. Mr. Buckley said it would because it would not be fair to take it from the Water Fund.

Mr. Cavo made a motion to recommend authorizing Mr. Buckley to continue the process of acquiring the Indian Spring Water Company. Seconded

by Mr. Barry. Attorney Pinter said that it is inherent in the motion that Mr. Buckley report back to the Common Council. Motion carried unanimously.

The report was received on the consent calendar and the committee's recommendation to authorize the Director of Public Works to continue the process of acquiring the Indian Spring Water Company approved.

36 – REPORT – Paving of Haley Street

Mr. Cavo submitted the following report:

The Common Council Committee appointed to review the request to pave Haley Street met on October 26, 2004 at 7:00 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Cavo, Calandrino and Barry. Also in attendance were Director of Public Works Bill Buckley, the petitioner Bob Volz and Council Member Saracino, ex-officio.

Mr. Volz stated that his parents have owned the property for forty years. Since the development of the land by Mr. Voytek, the grade of the land has changed and once a year a crater forms. His father wrote to the Mayor in 2000 and he received a reply in which the Mayor agreed to plow the road. A second correspondence from the Mayor suggesting that he petition the Common Council under Section 17-34 to accept the road.

Mr. Buckley stated that he issued a report on August 17th outlining the criteria, which would bring the road up to standard for acceptance. The price tag would be approximately \$225,000. Mr. Cavo asked if the road is privately owned and Mr. Volz stated that he is not sure who owns the road. Mr. Buckley stated that a title search would have to be done to determine who owns the road, but it appears that the road is a separate piece. Mr. Cavo asked Mr. Buckley if it would be logical for the homeowners to get together and pave it as a private road and keep it a private road? Mr. Buckley said he would suggest putting some processed material there, but he does not know if he would pave it.

Mr. Barry made a motion to take no action at this time. Seconded by Mr. Calandrino. Motion carried unanimously.

The report was received on the consent calendar and the committee's recommendation to take no action approved.

37 – REPORT – ATVs and Motorcycles

Mr. Nagarsheth submitted the following report:

The Common Council Committee appointed to review a problem with ATVs and Motorcycles met on October 18, 2004 at 6:00 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Nagarsheth, Stanley and Saadi. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Director of Public Works William Buckley, Police Captain Arthur Sullo, Ed Scirbona from the Briar Ridge Homeowners Association, and Council Members Steinerd and Urice, ex-officio.

Mr. Nagarsheth stated that Council Members Steinerd and Urice originally submitted this petition. Mr. Urice said that the Briar Ridge Homeowners Association contacted him in late June or early July to see if some solution could be found for a problem they are having with ATVs and Motorcycles. They were being ridden every day on an undeveloped road area in that neighborhood.

Captain Sullo said he assigned patrols in the neighborhood and police officers have interviewed a juvenile suspect. Proper action has been taken and a warning given to this minor. Officers have been advised to keep an eye on the neighborhood and if they find illegal vehicles to take proper action. Attorney Gottschalk said this involves the laws of highways and the approach to this problem depends on Briar Ridge Road. He understands that the problem may not now exist.

Mr. Buckley stated that Briar Ridge Road is listed as a private road. It has never been accepted. A portion of it is maintained by the City and some is not. Mr. Saadi asked where the ATVs and motorcycles are coming from and are there more than two or is it limited? Mr. Scirbona stated that as far as he can tell, there is more than one vehicle. Mr. Saadi asked if the vehicles seem to be coming from Briar Ridge? Mr. Scirbona said he couldn't tell, but they use Jenny Drive to come through because it is open. Mr. Saadi asked if a barrier would be feasible or would it be a problem because it is a private road? Mr. Buckley asked who would be responsible for the barrier since it is a private road.

Mr. Saadi asked what the current status of enforcement is. An ATV is prohibited from using public highways. He asked Attorney Gottschalk is there is a provision in the statutes regarding use of an ATV on private property? Attorney Gottschalk stated that if you post no riding signs on your property, it converts to a law enforcement issue. Captain Sullo said that if criminal activity occurs on private property, the police would then have jurisdiction, but they would have to have evidence.

Mr. Saadi stated that the residents should track and write down the dates of these incidents and then have the police follow up. If we could get signs posted, we could make it a direct issue of law enforcement. Captain Sullo stated that a private community could post all the signs they want. Mr. Buckley said Lilac Lane and Jenny Drive are city roads, but Briar Ridge is not.

Attorney Gottschalk stated that in addition to formal acceptance, roads could arise through action by the public as well as the municipality. If you use the road for a long enough period of time, it becomes a public highway without formal action. If a municipality acts in a way that is consistent with ownership, it becomes a public highway. If that's where we are, ATVs are not allowed there whether signs are posted or not and it then becomes a law enforcement issue. An ordinance was passed some time ago prohibiting ATVs to use city property unless so permitted.

Mr. Saadi made a motion to recommend that the neighbors be advised to document and report offenses to the Police Department. Seconded by Mrs. Stanley. Motion carried unanimously.

Mr. Urice made a motion to receive the report and take no further action. Seconded by Ms. Saracino. Motion carried unanimously.

38 – REPORT – Pocket Bikes

Ms. Saracino submitted the following report:

The Common Council Committee appointed to review the problem of pocket bikes met on October 18, 2004 at 7:00 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Saracino and Nagarsheth. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Police Captain Arthur Sullo, Corporation Counsel Robert Yamin and Council Members Steinerd, Teicholz, Basso, Cavo and Urice.

Ms. Saracino opened the meeting by reading the Mayor's request for an ad hoc committee to address this problem. Attorney Gottschalk said he thought the problem was a road problem rather than a problem with pocket bikes being ridden in Tarrywile Park. He focused on what these things are and their use on highways. The City can regulate the use of these bikes on municipal property.

The problem relates to City streets and he does not believe regulation of pocket bikes is a local issue. In his opinion, he cannot think of an area of law more heavily regulated than motor vehicle law. Other municipalities are attempting to adopt local regulations on pocket bikes. It is a well-intentioned attempt to correct a problem, but it is not legitimate from a legal point of view. There are a host of state statutes that are implicated on this. There will be remedial legislation in the next session of the General Assembly.

Ms. Saracino asked, pending action by the legislature, is there anything the Common Council can do as a stopgap? Attorney Gottschalk said he is stuck at the conclusion that the field of vehicular use of highways is heavily regulated. He believes municipalities have no authority to regulate in this area. There is nothing here for us to do.

After discussion on remedies the police may enforce, Mr. Nagarsheth made a motion to recommend that the Corporation Counsel draft a legal opinion to be directed to the Chief of Police as far as enforcement regarding the issue of pocket bikes. Seconded by Ms. Saracino. Motion carried unanimously.

Mr. Nagarsheth made a motion to receive the report and adopt the committee's recommendations. Seconded by Mr. Seabury. Ms. Saracino offered an amendment directing the leadership to draft a resolution asking the State Legislature to amend the law to cover these vehicles. Seconded by Mr. Cavo. Motion carried unanimously. Main motion, as amended, carried unanimously.

39 – REPORT – Modification of Easement, Lot B, Aunt Hack Road – WITHDRAWN

40 – DEPARTMENT REPORTS – Fire Chief, Police Chief, Fire Marshall, Elderly Services, Permit Center, Building Department, Public Works Department, Health and Housing, Welfare and Social Services.

Mr. Nolan made a motion to receive the department reports and waive the reading as all members have copies, which are on file in the clerk's office for public inspection. Seconded by Mr. Cavo. Motion carried unanimously.

41 – COMMUNICATION – Donation to the Police Department

Letter from Police Captain Arthur Sullo requesting permission to accept the donation of a police canine from Officer James Antonelli. Mr. Urice made a motion to receive the communication, accept the donation and send a letter of thanks. Seconded by Mr. Nolan. Motion carried unanimously.

42 – COMMUNICATION & RESOLUTION – Rogers Park Land Acquisition

Mr. Nolan made a motion to add the report from the Planning Commission to the agenda. Seconded by Mr. Cavo. Motion carried unanimously.

Report from the Planning Commission giving a positive recommendation subject to a satisfactory conclusion of negotiations.

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the City of Danbury, pursuant to authorization through the Vision 2 bond package is proceeding through plans and designs, to acquire additional property in and near Rogers Park; and

WHEREAS, in order to undertake the above referenced project, the City must acquire this parcel of land as described in the Exhibit attached hereto; and

WHEREAS, said parcel of land will have to be acquired either by negotiation with the property owners or by eminent domain, if such negotiations are unsuccessful; and

WHEREAS, it is in the best interest of the City of Danbury to acquire said parcel of land.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Danbury, through the Office of Corporation Counsel, be and hereby is authorized to acquire the parcel of land set forth on EXHIBIT A attached hereto, in accordance with procedures established by State law, either by negotiation or eminent domain through the institution of suit against the interested property owners and holders of mortgage(s) encumbering the properties, if any, by April 1, 2005.

Mr. Nolan made a motion to receive the report and adopt the resolution. Seconded by Mr. Cavo. Motion carried unanimously.

Mayor Boughton extended all committees.

There being no further business to come before the Common Council a motion was made at 8:40 P.M. by Mr. Urice for the meeting to be adjourned.

Respectfully submitted,

JIMMETTA L. SAMAHA, Clerk

ATTEST:

MARK D. BOUGHTON, Mayor