

TO: Mayor Mark Boughton and Members of the Common Council

RE: Minutes of the Special Meeting held July 18, 2005

Mayor Boughton called the meeting to order at 7:45 P.M. The Pledge of Allegiance and Prayer were recited. The members were recorded as:

PRESENT – McMahon, Trombetta, Calandrino, Saadi, Barry, Visconti, Urice, Esposito, Nolan, Basso, Saracino, Cavo, Diggs, Teicholz, Nagarsheth, Seabury

ABSENT – Steinerd, Payton, Riley, Stanley

16 PRESENT – 4 ABSENT – 1 VACANCY

Mr. Steinerd, Mr. Riley and Mrs. Stanley were on vacation.

NOTICE OF THE SPECIAL MEETING – There will be a Special Meeting of the Common Council on July 18, 2005 at 7:15 P.M. in the Common Council Chambers in City Hall to act on the items below. Ms. Saracino made a motion to accept the call and return of service. Seconded by Mr. Cavo. Motion carried unanimously.

PUBLIC SPEAKING

Lynn Waller, 83 Highland Avenue – spoke regarding item 6. She is against granting the variance to the noise ordinance. This dirt is not from Danbury. CL&P should truck it closer to where it originates. This is a quality of life issue.

1 – REPORT, ORDINANCE & RESOLUTIONS – An Ordinance Amending an Ordinance Making Appropriations \$9,980,000 for Various Public Improvements and Authorizing the Issuance of \$9,980,000 Bonds of the City to meet said Appropriations and Pending the Issuance Thereof the Making of Temporary Borrowings for such Purpose.

Mr. Nolan submitted the following report:

Re: An Ordinance Amending An Ordinance Making Appropriations Aggregating \$9,980,000 for Various Public Improvements and Authorizing the Issuance of \$9,980,000 Bonds of the City to meet said Appropriations and Pending the Issuance thereof the Making of Temporary Borrowings for such Purpose

The Common Council met as a committee of the whole immediately following a public hearing in the Common Council Chambers in City Hall on July 18, 2005 at 7:05 P.M.

Ms. Saracino made a motion to adopt the ordinance amending an ordinance making appropriations aggregating \$9,980,000 for various public improvements and authorizing the issuance of \$9,980,000 bonds of the city to meet said appropriations and pending the issuance thereof the making of temporary borrowings for such purpose. Seconded by Mr. Nagarsheth.

Ms. Diorio said the initial ordinance is being amended to include \$950,000 to do the Broadview all-purpose field. The sewer and water portions are separate.

Mr. Cavo made a motion to amend the original motion to change the initial amount of \$9,980,000 to \$10,930,000. Seconded by Ms. Saracino. Motion to amend carried unanimously. Main motion, as amended, carried unanimously.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF DANBURY:

Section 1. Section 1(b) of the ordinance entitled "An Ordinance Making Appropriations Aggregating \$9,980,000 For Various Public Improvements And Authorizing The Issuance of \$9,980,000 Bonds of the City to Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose", adopted by the Common Council on May 3, 2005 (the "Ordinance"), is hereby amended by adding the following new appropriation:

Project	Amount
<u>Parks and Recreation</u>	
Artificial Turf All Purpose Field Broadview Middle School	\$950,000

Thereby increasing (i) the Sub-Total for Twenty Year Projects by \$950,000 from \$8,210,000 to \$9,160,000, (ii) the Total All Projects by \$950,000 from \$8,710,000 to \$9,660,000, and (iii) increasing the Aggregate Appropriations in Section 1 by \$950,000 from \$9,980,000 to \$10,930,000.

Section 2. Section 7 of the Ordinances shall be applicable to the appropriation added by this amendment, as of the date of adoption of such amendment.

Section 3. This ordinance shall become effective upon its approval at a Special City Meeting called by the Mayor for such purpose, pursuant to the revised City Charter.

RESOLVED by the Common Council of the City of Danbury:

RESOLUTION PROVIDING FOR SPECIAL CITY MEETING

RESOLVED: That the ordinance entitled "An Ordinance Amending An Ordinance Making Appropriations Aggregating \$9,980,000 For Various Public Improvements And Authorizing The Issuance of \$9,980,000 Bonds of the City To Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose", be submitted for approval or disapproval at a Special City Meeting to be called by the Mayor pursuant to Section 7-10(a) of the Revised City Charter and held November 8, 2005, between the hours of 6:00 o'clock A.M. and 8:00 o'clock P.M. (E.S.T.), that the Warning of said meeting state the question to be voted as follows:

Shall the ordinance entitled "An Ordinance Making Appropriations Aggregating \$9,980,000 For Various Public Improvements And Authorizing The Issuance Of \$9,980,000 Bonds Of The City To Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose", adopted by the Common Council at its meeting held May 3, 2005, as amended by an ordinance making an additional appropriation and bond authorization in the amount of \$950,000 adopted by the Common Council at its meeting held July 18, 2005 be approved?

RESOLVED by the Common Council of the City of Danbury:

RESOLVED that the Mayor be authorized and directed to call a Special City Meeting to be held on November 8, 2005 between the hours of 6:00 o'clock A.M. and 8:00 o'clock P.M. (E.S.T.) at the several voting districts of the City to consider and take action upon the aforesaid proposed ordinance and that the notice of said Special City Meeting be in substantially the following form:

LEGAL NOTICE

WARNING

NOTICE OF SPECIAL CITY MEETING

The electors of the City of Danbury and qualified voters entitled to vote in a City Meeting are hereby warned and notified to meet where such purposes are entitled to vote on November 8, 2005, between the hours of 6:00 o'clock A.M. and 8:00 o'clock P.M. (E.S.T.) for the following purpose of approving or disapproving the following questions:

1. "Shall the ordinance entitled 'An Ordinance Making Appropriations Aggregating \$9,980,000 For Various Public Improvements And Authorizing The Issuance Of \$9,980,000 Bonds Of The City To Meet Said Appropriations and Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose,' adopted by the Common Council at its meeting held May 3, 2005, as amended by an ordinance making an additional appropriation and bond authorization in the amount of \$950,000 as adopted by the Common Council at its meeting held July 18, 2005, be approved?"

The form of the question and the ballot label on the voting machine shall be as follows:

"Shall the Ordinances Making Appropriations Aggregating \$10,930,000 For Various Public Improvements and Authorizing The Issuance Of \$10,930,000 Bonds Of The City To Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose Be Approved? YES/NO"

2. "Shall the ordinance entitled 'An Ordinance Making Appropriations Aggregating \$998,000 For Sewer System Improvements And Authorizing The Issuance Of \$998,000 Bonds Of The City To Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose', adopted by the Common Council at its meeting held May 3, 2005 be approved?"

The form of the question and the ballot label on the voting machine shall be as follows:

"Shall the Ordinance Making Appropriations Aggregating \$998,000 For Water System Improvements And Authorizing The Issuance Of \$998,000 Bonds Of The City To Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose', adopted by the Common Council at its meeting held May 3, 2005, be approved?"

The form of the question and the ballot label on the voting machine shall be as follows:

3. "Shall the ordinance entitled 'An Ordinance Making Appropriations Aggregating \$998,000 For Water System Improvements and Authorizing The Issuance Of \$998,000 Bonds Of The City To Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose', adopted by the Common Council at its meeting held May 3, 2005, be approved?"

The form of the question and the ballot label on the voting machine shall be as follows:

"Shall the Ordinance Making Appropriations Aggregating \$998,000 For Water System Improvements And Authorizing The Issuance Of \$998,000 Bonds Of The City To Meet Said Appropriations And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purposes Be Approved? YES/NO"

The vote will be by voting machine. Those desiring to vote in favor of the adoption of the ordinances shall place the pointer over the question on the voting machine at "YES". Those desiring to vote against the adoption of the

ordinances shall place the pointer over the question on the voting machine at "NO".

Electors of the City of Danbury and qualified voters are entitled to vote. A qualified voter is any citizen of the United States of the age of eighteen years or more who, jointly or severally, was liable to the City for taxes assessed against him based on an assessment of not less than \$1,000 on the last completed grand list of the City or who would have been so liable if not entitled to an exemption as a blind person or as a veteran or as a widow or parent of a veteran.

Electors will be entitled to vote at the polling place in their respective voting districts. Polling places will be located in the following districts.

- Ward No. 1: Danbury High School, 43 Clapboard Ridge Road
- Ward No. 2: Pembroke School, 34 Pembroke Road
- Ward No. 3: Broadview Middle School, 72 Hospital Avenue
- Ward No. 4: Shelter Rock School, 2 Crows Nest Lane
- Ward No. 5: Danbury War Memorial, Memorial Drive
- Ward No. 6: Park Avenue School, 82 Park Avenue
- Ward No. 7: Mill Ridge Intermediate School, 1 School Ridge Road

Qualified voters will be entitled to vote at the polling place in the Common Council Chambers on the third floor on the City Hall, 155 Deer Hill Avenue.

The polls in said districts and at the City Hall will be open during the hours between 6:00 o'clock A.M. and 8:00 o'clock P.M. (E.S.T.).

Said vote is being held pursuant to Section 7-10(a) of the Revised Charter of the City of Danbury approved by the electors November 6, 1990.

The full text of the aforesaid ordinances is on file, open to public inspection, in the office of the City Clerk.

Dated at Danbury, Connecticut, this _____ day of _____, 2005.

2 – ORDINANCE – An Ordinance Appropriating \$5,600,000 for Renovations and Improvements to the Old Immanuel Lutheran School and Authorizing the Issuance of \$5,600,000 Bonds of the City to Meet Said Appropriations and Pending the Issuance Thereof The Making of Temporary Borrowings for Such Purpose.

Mr. Nolan asked that this be deferred to public hearing. Mayor Boughton so ordered.

3 – 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, 2005 through June 30, 2006, for the 2005-06 school year;

WHEREAS, the City of Danbury is eligible to receive grant funds up to the amount of \$49,285.00; 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 empowered to enter into or amend contractual instruments in the name and on behalf of the City of Danbury with the Department of Social Services of the State of Connecticut for a Child Day Care program if such an agreement is offered and to have the corporate seal affixed to all documents required as part of any offered agreement.

Mr. Cavo made a motion to receive the communication and adopt the resolution. Seconded by Mrs. Basso. Motion carried unanimously.

4 – COMMUNICATION – Lease Agreement for Reach and Rebound Programs for the Board of Education.

Letter from Superintendent of Schools Eddie Davis requesting approval of a five-year property lease at 8-10 Crosby Street for the relocation of the Reach and Rebound programs presently at Immaculate Heart of Mary Church building and Adult Education office presently at Mill Ridge Intermediate School.

Mr. Nolan made a motion to receive the communication, approve the lease and authorize the Corporation Counsel to enter into all appropriate negotiations, subject to Planning Commission approval. Seconded by Mr. Cavo. Motion carried unanimously.

5 – COMMUNICATION – Lease for Copy Machines for the Board of Education

Letter from Superintendent of Schools Eddie Davis requesting approval of a four-year equipment lease for new copy machines in all schools and offices in the school district.

Mr. Cavo made a motion to receive the communication and approve the equipment lease for four years. Seconded by Mrs. McMahon. Mr. Urice asked if these are replacements or additional machines? Mr. Longo said they are replacements of 60 existing machines. The lease is fully paid and there is no rollover. There is a \$25,000 return of equipment fee. Mr. Seabury asked if the funds have been budgeted for? Mr. Longo said yes.

Motion carried unanimously.

6 – REPORT – Request for Variance of Noise Ordinance

Mr. Nolan submitted the following report:

The Common Council Committee appointed to review a request for a variance of the noise ordinance met on July 13, 2005 at 7:30 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Nolan, Cavo and Saadi. Also in attendance were Police Chief Alan Baker, Deputy Corporation Counsel Eric Gottschalk, Jeff Towle, George Breitwieser and Chris Swan from Connecticut Light and Power, Council Members Diggs, Esposito, McMahon, Teicholz and Visconti, ex-officio and Bill Buckley.

Mr. Breitwieser stated that the project had already been started when they discovered they were in violation of the noise ordinance. He said this is a Bethel to Norwalk project. This is the underground portion and since it is a State highway, it is required that the soil be transported at night. They need the temporary variance to use the Yankee facility on Pahquioque Avenue.

Mr. Cavo asked how much of this project is on State roads and would CL&P expect to be digging every night? Mr. Towle said about 50% of the project is on State roads and they work Monday through Friday. Mr. Cavo asked if they are allowed to dig on roads during the day? Mr. Towle said it is a town-by-town decision. Mr. Saadi asked what times are needed and the duration

of the project. Mr. Towle said the requested time is between 8:00 P.M. and 6:00 A.M. and the duration is twelve months. Mr. Saadi asked if there are an estimated number of vehicle trips? Mr. Towle said approximately fifteen truckloads per evening. Mr. Saadi asked when would the soil testing be done at the facility? Mr. Towle said it would be done on a continuous basis during the day.

Mr. Nolan asked if there is any way to minimize the impact to the neighbors during the disposition of the load at the site? Mr. Towle said a fence would be installed and the drivers have been instructed to back slowly away from the piles. Mr. Cavo asked if the pay loader would move the soil at night? Mr. Towle said the soil would be moved the next day and the trucks would not be reloaded at night.

Mr. Saadi said the most important portion of the noise ordinance is the time of operation. His main concern is that any variance does not open the door to allow everyone to come in for a variance. He drew up some parameters of the existing law. Attorney Gottschalk said he has no objection of Mr. Saadi's wording. Mr. Nolan said he understands Mr. Saadi's intent. We do not want to set bad precedent. He looks at it as less is more. When something is this strictly codified, he thinks it invites other petitioners to seek variances. He would rather look at this as a single request citing the fact that it was State mandated by a public utility provider. Mr. Saadi said he provided great detail for the purpose of protecting the City in the future. CL&P is not a public agency, it is a private company. We need an expiration date and some sort of complaint procedure outlining who would enforce a violation. There should be no pay loaders at night, a deadline, and who the enforcing authority would be.

Attorney Gottschalk said that the Common Council establishes policy and it is up to the administration to carry out the Common Council directive. The administration would report to the Common Council. Mr. Saadi said it would seem that the enforcing authority should be the Police Department. Mr. Swan stated that a communication protocol has been established, including cell phones, web site, pagers, etc.

Mr. Cavo said there should be a sixty or ninety day trial period to be reviewed by the Common Council for problems. Mr. Nolan said the intent is critical and the intent is to accommodate a public utility company who is under State direction to do this work.

Mr. Visconti said Pahquioque Avenue is bordered on one side by a residential neighborhood and we are asking them to suffer through noise at night. The street is very narrow and safety concerns should be looked into. Mrs. McMahon asked if there is a site closer to the Norwalk area rather than coming to Danbury? Mr. Swan said they are using other sites, not just Danbury.

Mr. Nolan suggested a ninety-day initial variance to be revisited after sixty days. Mr. Swan said calls are logged in and reported to the siting council. Mr. Saadi asked if limited reloading is a problem. Mr. Towle said it is not.

Mr. Cavo made a motion to recommend that the Common Council grant CL&P a temporary variance of the provisions of the Danbury Noise Ordinance for a period expiring at the close of the November 2005 Common Council meeting. The variance is conditioned upon the obligation of CL&P to report progress and any complaints received through the CL&P hotline at the October Common Council meeting. Seconded by Mr. Saadi.

Under discussion, Mr. Saadi asked for two stipulations, one that the hotline be maintained by CL&P and second that the use of pay loaders be restricted.

Motion carried unanimously.

Ms. Saracino made a motion to receive the report and adopt the committee's recommendations. Seconded by Mr. Cavo.

Mr. Visconti stated that this is not a Danbury project. The Redding landfill is not in a residential area. The route if from I-84 to Exit 5, down Main Street to Liberty Street to Pahquioque Avenue. There will be spillage. There is no way dumping a load can be quiet. He asked what they are going to do with the fill? Is it going to be removed during the day? He cannot vote in favor of this variance.

Mr. Barry said he has severe reservations about the noise. There will be back-up alarms going off. He thinks that the Mayor's office will be overwhelmed with complaints.

Mr. Saadi made an amendment to prohibit reloading the pay loaders; to require that CL&P maintain a complaint hotline; and in writing to instruct its employees to minimize noise during the prohibited hours between 8:00 P.M. and 7:00 A.M. Seconded by Mr. Nolan.

Mr. Seabury asked if these were the parameters that Mr. Saadi submitted at the committee meeting? Mr. Saadi said yes, substantially they are.

Mr. Cavo said he feels this amendment is not necessary because these issues had been discussed with CL&P. There is a required 60-90 day review so they would be foolish to violate the agreement as the variance could be withdrawn at the October meeting.

The Mayor asked what the penalties would be if there are violations? Attorney Gottschalk that there is nothing in the ordinance concerning penalties if the ordinance is violated. It can be reflected in a motion. There could be a show cause hearing or it can remain silent. Mr. Saadi said the procedure was outlined in his parameters. There would be a show cause hearing. The variance could not be pulled without the process.

Mr. Nolan said it was his understanding that CL&P would instruct its employees on procedures. He has no problem with the amendment.

Mr. Trombetta asked if there is an alternate plan and what benefits will Danbury derive from this variance. Mr. Nolan said the alternative is to run down to Bridgeport. They have asked to do this at night because they have been compelled to. They need the Council's blessing to do so.

Mr. Saadi asked if it would be permissible to make the review 30-60 rather than 60-90. Attorney Gottschalk said that sounds like an amendment. Mr. Saadi made offered an additional amendment to require a progress report be submitted at the September meeting, for action to be taken in October. Seconded by Mr. Barry.

Mayor Boughton said he does not want to wait until September. If there are many complaints within two weeks, he wants to be able to shut it down.

Mr. Saadi withdrew both amendments, as did those seconding those amendments.

Mr. Saadi made a motion to amend by prohibiting pay loaders to load at night; to require CL&P to maintain a complaint hotline and to direct its employees to minimize noise during the prohibitive hours between 8:00 P.M. and 7:00 A.M. and authorize the executive branch to revoke the variance and a progress report shall be submitted for the September 2005 Common Council Meeting. Seconded by Mr. Urice.

Mr. Nolan said the stipulations are consistent with the discussion at the committee meeting and the ability for the executive branch to revoke the variance is important.

Motion to amend carried unanimously.

Main motion, as amended carried with Mr. Visconti voting in the negative.

There being no further business to come before the Common Council a motion was made by Mr. Cavo at 8:45 P.M. for the meeting to be adjourned.

Respectfully submitted,

JIMMETTA L. SAMAHA, Clerk

ATTEST:

MARK D. BOUGHTON, Mayor