

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

RE: Minutes of the Common Council Meeting held December 6, 2005

The meeting was called to order at 7:30 P.M. The Pledge of Allegiance and Prayer were recited. The members were recorded as:

PRESENT – McMahon, Johnson, Trombetta, Calandrino, Cavo, Esposito, Perkins, Visconti, Chianese, Saadi, Nolan, Basso, Rotello, Diggs, Teicholz, Cutsumpas, Riley, Saracino, Seabury, Stanley, Taborsak

21 PRESENT

PUBLIC SPEAKING

Christine Halfar, 8 Settlers Hill Road – spoke regarding item 2. The two provisions should be separated. Regarding CCBD there is an inequitable hookup fee.

Paula Cardinale, 18 Hawley Road Ext. – supports City sewers on Hawley Road Ext.

Walter Sidus, Shelter Rock Road – spoke regarding item 2. He opposes commercial rates for condominiums.

Ted O'Neill, 15 Hawley Road Ext. – supports City sewers on Hawley Road Ext.

Joanne Knowles, 85 Highland Avenue Ext. – represents Scalzo Realty and they are in favor of changes to water rates and the tier price structure should be done away with.

Lynn Waller, 84 Highland Avenue – supports tax breaks for veterans. She is not in favor of the early retirement program. Too many knowledgeable people could be lost and fifteen years is too short a time to have early retirement.

Rocco Correo, Pembroke Road – He is in favor of sanitary sewers on East Pembroke Road and Wood Street.

MINUTES – Minutes of the Common Council Meeting held November 1, 2005. Mr. Nolan made a motion to accept the minutes as presented and waive the reading. Seconded by Mrs. Basso. Motion carried unanimously.

CONSENT CALENDAR – Mrs. Basso submitted the following items for the Consent Calendar:

4 – Receive the communication and adopt the resolution authorizing Mayor Mark D. Boughton to execute a contract with the Connecticut Department of Social Services to receive \$100,858.00 in grant funding for the purpose of operating the Emergency Shelter.

6 – Receive the communication and adopt the resolution authorizing Mayor Mark D. Boughton to apply for and execute all documents necessary to receive grant funding from the Connecticut Department of Transportation in the amount of \$39,600.00 for the 2006 Expanded DUI Program with a local match of \$13,200.00 to be drawn from the Police Department Overtime Budget account.

14 – Receive the communication and adopt the resolution authorizing the Office of Corporation Counsel an extended period of time to June 1, 2006 to acquire the necessary properties to complete the Phase II Senior Center expansion.

15 – Receive the communication and adopt the resolution authorizing the Office of Corporation Counsel to acquire the necessary easements to facilitate the Old Farm Road sanitary sewer project.

16 – Receive the communication and confirm the appointment of Christopher M. Jowdy as a member of the Youth Commission; and Carl Wolk, Rebecca Jowdy and Jennifer Dakin as Youth Advisors to the Youth Commission.

18 – Receive the communication and confirm the appointment of Joel M. Urice as an alternate member of the Planning Commission

27 – Receive the communication and authorize the transfer of \$25,0000 to the Fire Department Special Services Account.

30 – Receive the communication and authorize the donation of the Fire Department's 1981 Aerial Platform Ladder Truck to the State of Connecticut Fire Academy in exchange for seven (7) placements in the recruit training program offered by the fire academy valued at \$23,100.00.

35 – Receive the communication and accept the sewer and water easements for the Poplar Park, LLC project on Division Street and Park Avenue.

36 – Receive the report and take no action.

38 – Receive the report and adopt the Ordinance eliminating the sunset provision on the Veterans Tax Exemption benefit.

40 – Receive the report (including those items contained in agenda item 8) and adopt the resolution approving the final assessment for Candlewood Terrace water main extension.

41 – Receive the report and authorize the Engineering Department to move forward with the East Pembroke Road and Wood Street sewer extension project.

43 – Receive the report and approve the committee recommendations regarding acceptance of the donation of land to Tarrywile Park.

Ms. Saracino made a motion to adopt the consent calendar as presented. Seconded by Mr. Cavo. Motion carried unanimously.

1 – ORDINANCE – 2005 Retirement Incentive Program

Mrs. McMahon asked that this be deferred to public hearing. Mayor Boughton so ordered.

2 – ORDINANCE – Water & Sewer Rates & Connection Fees

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

3 – RESOLUTION – Non-Union Employees

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, there are many officers and employees of the City of Danbury who are not represented by unions or collective bargaining associations and whose rights, privileges and benefits of employment are therefore not established by collective bargaining agreements; and

WHEREAS, in recognition of their dedication to the City of Danbury and the spirit of excellence with which they perform their service to the public a corresponding commitment to them is in the best interests of the City of Danbury.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF DANBURY THAT all officers and employees not represented by unions or collective bargaining associations shall retain all of the rights, privileges and benefits that they presently enjoy, such as, but not limited to, sick time, compensatory time, vacation time and retiree medical benefits effective December 1, 2005 through November 30, 2007.

Ms. Saracino made a motion to receive the communication and adopt the non-union employees resolution as presented. Seconded by Ms. Teicholz. Motion carried unanimously.

4 – RESOLUTION – Emergency Shelter

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut Department of Social Services has made available a grant in the amount of \$100,858.00 for the operation of the Emergency Shelter; and

WHEREAS, the grant period is October 1, 2005 through September 30, 2006; and

WHEREAS, no local match is required.

NOW, THEREFORE, be it resolved that Mark D. Boughton, Mayor of the City of Danbury, is empowered to execute and deliver in the name and on behalf of the City of Danbury a certain contract with the Department of Social Services of the State of Connecticut for this Emergency Shelter Grant and to affix the corporate seal.

The communication was received on the consent calendar and the resolution authorizing Mayor Mark D. Boughton to execute a contract with the Connecticut Department of Social Services to receive \$100,858.00 in grant funding for the purpose of operating the Emergency Shelter adopted.

5 – RESOLUTION – Highland Avenue Park

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the State of Connecticut Department of Environmental Protection has made available to the City of Danbury a grant for improvements to Highland Avenue Park;

WHEREAS, the purpose of this grant is to complete improvements to the park to enhance recreational facilities for use by the public;

WHEREAS, the amount of the grant award is \$60,000.00 with no local match and is to be used to complete the improvements within 5 years of contract execution;

NOW, THEREFORE, BE IT RESOLVED THAT Mark D. Boughton Mayor of the City of Danbury is hereby authorized to apply to the State of Connecticut Department of Environmental Protection for said grant funds and to accept the award if offered; and

BE IT FURTHER RESOLVED THAT Mayor Mark D. Boughton is hereby authorized to take any and all actions necessary to effectuate the purposes hereof.

Mr. Cavo moved to receive the communication and adopt the resolution. Seconded by Mrs. McMahon. Motion carried unanimously.

6 – RESOLUTION – Driving Under the Influence Enforcement Grant

WHEREAS, the State of Connecticut Department of Transportation, Division of Highway Safety has made a grant available in the amount of \$39,600.00 for the 2006 Expanded Driving Under the Influence Enforcement Program; and

WHEREAS, a 25% local cash match in the amount of \$13,200.00 is required in order to reach the total cost of the program, which is \$52,800.00.

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 execute all documents necessary to receive grant funding from the Connecticut Department of Transportation in the amount of \$39,600.00 for the 2006 Expanded DUI Program with a local match of \$13,200.00 to be drawn from the Police Department Overtime Budget account adopted.

7 – RESOLUTION – Buffer Zone Protection Program

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the U.S. Department of Emergency Management and Homeland Security has made grant funds available for the Buffer Zone Protection Program; and

WHEREAS, the purposes of this grant is to provide enhanced protection around Critical Infrastructure and Key Resource sites, specifically the Danbury Fair Mall; and

WHEREAS, the amount of the grant award is \$42,222.48 with no local match and is to be used to purchase tactical response and communications equipment to help in the development of preventive measures and effective response to terrorist activities.

NOW, THEREFORE, BE IT RESOLVED THAT Mark D. Boughton, Mayor of the City of Danbury is hereby authorized to apply to the State of Connecticut Department of Emergency Management and Homeland Security for said grant funds and to accept the award if offered; and

BE IT FURTHER RSOLVED THAT Mayor Mark D. Boughton, or his designee, Peter J. Siecienski, Fire Chief and Emergency Management Director is hereby authorized to take any and all actions necessary to effectuate the purposes hereof.

Mr. Nolan made a motion to receive the communication and adopt the Buffer Zone Protection Program resolution. Seconded by Mrs. Basso. Motion carried unanimously.

8 – RESOLUTION – Water Main Extension – Candlewood Terrace WITHDRAWN

9 – RESOLUTION – Assignment of Real Estate 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 grant list of October 1, 2002, October 1, 2003 and October 1, 2004 to ATF with Foothill Capital Corp. as a secured party, relating to the same properties covered by the tax liens previously assigned to ATF, would further reduce the administrative burden upon the Danbury Tax Collector for the benefit of the City.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF DANBURY that Mayor Mark D. Boughton be and hereby is authorized to accomplish the assignment to ATF, with Foothill Capital Corp. as a secured party, of additional liens filed by the tax collector to secure unpaid taxes on real property appearing on the grand list of October 1, 2002, October 1, 2003 and October 1, 2004 and having a value of \$494,642.69 (less any amounts paid on or after December 31, 2005) 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.

Mrs. Basso made a motion to receive the communication and adopt the resolution regarding the assignment of real estate liens. Seconded by Ms. Saracino. Motion carried unanimously.

10 – RESOLUTION – South Street, Coal Pit Hill and Triangle Street Intersection Improvements

Mr. Nolan asked that this be referred to an ad hoc committee, the Corporation Counsel, the Director of Public Work, the Police Chief, and the Traffic Engineer. Mayor Boughton so ordered and appointed Council Members Stanley, Trombetta and Esposito to the committee.

11 – RESOLUTION – Traffic Signal Improvements on Backus Avenue

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the City of Danbury issued a press release on Saturday October 22, 2005 and sent formal notices to elected and appointed officials as well as to other agencies informing them of the proposed Surface Transportation Program – Urban Transportation project that is known as Backus Avenue-Kenosia Avenue Traffic Signals Improvement – State Project No. 34-HO57; and

WHEREAS, community residents, as well as elected and appointed public officials were provided with an opportunity to provide comments regarding this project; and

WHEREAS, the Housatonic Valley Council of Elected Officials (HVCEO) has selected this project as a regional priority and has agreed to utilize Federal Highway funds for acquisition of right-of-way, preliminary engineering and construction activities; and

WHEREAS, the City of Danbury has agreed to be responsible for approximately Seven Thousand Dollars (\$7,000.00) in costs associated with the installation of emergency vehicles pre-emption devices that may be needed; and

WHEREAS, the Common Council of the City of Danbury finds that the proposed synchronization of traffic signals along Backus Avenue and Kenosia Avenue is in the best interest of the City in that it promotes the health, safety and general welfare of the public.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Danbury hereby fully supports the proposed project and authorizes the Mayor to seek appropriate resources and to execute whatever documents may be necessary for its implementation.

Ms. Saracino made a motion to receive the communication and adopt the resolution regarding traffic signal improvements on Backus Avenue. Seconded by Mrs. Stanley. Motion carried unanimously.

12 – RESOLUTION – Eagle Road Extension – White Turkey Road Extensions State of Connecticut DOT Access Agreement

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, development in the area of White Turkey Road Extension and Eagle Road has necessitated the reconfiguration of the highways in the area; and

WHEREAS, said reconfiguration included the construction of a bridge and accessways connecting the extension of Eagle Road with White Turkey Road Extension; and

WHEREAS, in order to complete said connection a break in the state's White Turkey Road Extension non-access line is required; and

WHEREAS, the state has offered to convey real property rights to the City allowing for this break in the non-access line; and

WHEREAS, the acceptance of the foregoing offer is in the best interests of the City of Danbury.

NOW, THEREFORE BE IT RESOLVED by the Common Council of the City of Danbury that Mayor Mark D. Boughton be and hereby is authorized to accept said conveyance and to take any additional action that may be necessary to effectuate the purposes hereof.

Mr. Cavo made a motion to receive the communication and adopt the resolution regarding the State of Connecticut DOT Access Agreement for Eagle Road Extension and White Turkey Road Extension. Seconded by Ms. Teicholz. Motion carried unanimously.

13 – RESOLUTION – Garfield Avenue Sidewalk and Access Easements

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, an existing safety condition at 98 Garfield Avenue will require sidewalk improvements and remediation of driveway access conditions; and

WHEREAS, in order to accomplish the work required, it is necessary that the City of Danbury acquire sidewalk and access easements across adjoining property at 96 and 98 Garfield Avenue; and

WHEREAS, in order to preserve an aged elm tree, remediate a safety hazard and improve driveway access, it is in the best interest of the City of Danbury to acquire, either by negotiation with the property owners or by eminent domain if such negotiations are unsuccessful, property identified in the attached Exhibits A and B.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Danbury through the Office of Corporation Counsel, be and hereby is authorized to acquire the easements set forth in Exhibits A and B 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 mortgages encumbering the properties, if any, by June 1, 2006.

Mrs. Basso made a motion to receive the communication and adopt the resolution regarding sidewalk and access easements on Garfield Avenue. Seconded by Ms. Teicholz. Motion carried unanimously.

14 – RESOLUTION – Acquisition of Properties: Senior Center Phase II

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the City of Danbury has received HUD financing approval through the HUD Development Block Grant Section 108 Program, for development of the proposed Senior Center Campus; and

WHEREAS, the development of the Campus will require the acquisition of several parcels of land in the vicinity of the existing Senior Center; and

WHEREAS, the properties to be acquired are described and identified in EXHIBIT A attached hereto; and

WHEREAS, said properties 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 properties and proceed with the Senior Center Campus project.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Danbury, through the Office of Corporation Counsel, be and hereby is authorized to acquire the properties 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 mortgages or other inconsistent interests encumbering the properties, if any, by June 1, 2002.

The communication was received on the Consent Calendar and the resolution authorizing the Office of Corporation Counsel an extended period of time to June 1, 2006 to acquire the necessary properties to complete the Phase II Senior Center expansion approved.

15 – RESOLUTION – Old Farm Road Sanitary Sewer

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the City of Danbury is proceeding with plans and designs to implement the Old Farm Road sanitary sewer project; and

WHEREAS, the properties to be acquired are described and identified in EXHIBITS A, B and Map No. 1644 attached hereto; and

WHEREAS, said easements and related rights 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 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 easements and related rights set forth on EXHIBITS A, B and Map No. 1644 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 mortgages encumbering the properties, if any, by June 1, 2006.

The communication was received on the Consent Calendar and the resolution authorizing the Office of Corporation Counsel to acquire the necessary easements to facilitate the Old Farm Road sanitary sewer project adopted.

16 – COMMUNICATION – Appointments to the Youth Commission

Letter from Mayor Boughton requesting that the appointment of Christopher M. Jowdy as a member of the Youth Commission for a term to expire on June 1, 2008 be confirmed; and the appointments of Carl Wolk, Rebecca Jowdy

and Jennifer Dakin as Youth Advisors to the Youth Commission also be confirmed.

The communication was received on the Consent Calendar and the appointments confirmed.

17 – COMMUNICATION – Appointments to the Environmental Impact Commission

Letter from Mayor Boughton requesting confirmation of the appointment of Shailesh “Shay” Nagarsheth as a member of the Environmental Impact Commission with a term to expire December 1, 2008 and requesting confirmation of Jon K. Fagan as a member of the Environmental Impact Commission for a term to expire December 1, 2008.

Mr. Nolan made a motion to receive the communication and confirm the appointments. Seconded by Mrs. Basso. After discussion pertaining to the political party balance on this board, Mr. Nolan moved to table this item so research could be done. Seconded by Mrs. Basso. Motion carried unanimously.

Mr. Nolan made a motion to remove this item from the table. Seconded by Mr. Cavo. After determining that the board is in compliance, Mr. Nolan made a motion that the appointments be confirmed. Seconded by Mr. Seabury. Motion carried unanimously.

18 – COMMUNICATION – Appointment as Alternate Member of the Planning Commission

Letter from Mayor Boughton requesting confirmation of the appointment of Joel B. Urice as a alternate member of the Planning Commission for a term to expire January 1, 2008. The communication was received on the Consent Calendar and the appointment confirmed.

19 – COMMUNICATION – Donations to the Department of Elderly Services

Letter from Director of Elderly Services Susan Tomanio requesting permission to accept donations in the total amount of \$250 for the professional services account. Mr. Cavo made a motion to receive the communication, accept the donations, credit the appropriate line item and send letters of thanks. Seconded by Mrs. McMahan. Motion carried unanimously.

20 – COMMUNICATION – Donation to the Ives Trail Greenway

Letter from Jack Kozuchowski requesting permission to accept a donation of a rustic wooden archway for the entry to the foundation section of the Ives Trail Greenway from Dreamscapers, Inc. Mr. Riley made a motion to receive the communication, accept the donation and send a letter of thanks. Seconded by Mr. Visconti. Motion carried unanimously.

21 – COMMUNICATION – Donations to the City Holiday Party

Letter from Director of Finance & Personnel Dena Diorio requesting permission to accept ten items from various businesses to be used as door prizes at the City holiday party on December 7, 2005. Ms. Diggs made a motion to receive the communication, accept the donations and send letters of thanks. Seconded by Mr. Riley. Motion carried unanimously.

22 – COMMUNICATION – Donations to the Fire Department

Letter from Fire Chief Peter Siecienski request permission to accept a donation in the amount of \$2,100 from Union Savings Bank to purchase a Sparky the Fire Dog costume; a donation from Wal-Mart in the amount of \$1,000 for training opportunities and equipment estimated at \$100,000 from

BRT. Mrs. Stanley made a motion to receive the communication, accept the donations, credit the appropriate line items and send letters of thanks. Seconded by Ms. Saracino. Motion carried unanimously.

23 – COMMUNICATION – Donation to the Police Department

Letter from Police Chief Alan Baker requesting permission to accept a donation for the Department's K-9 Unit. Mr. Cutsumpas 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.

24 – COMMUNICATION – Donation from Wal-Mart to the Police Department

Letter from Chief of Police Alan Baker requesting permission to accept a donation in the amount of \$1,000 from the local Wal-Mart for use in funding the Danbury Police Department's Community Services Division. Mr. Johnson made a motion to receive the communication, accept the donation, credit the appropriate line item and send a letter of thanks. Seconded by Mr. Nolan. Motion carried unanimously.

25 – COMMUNICATION – Donation to the Library

Letter from Library Director Elizabeth McDonough requesting permission to accept a donation in the amount of \$100 from Leah Levy. Ms. Saracino made a motion to receive the communication, accept the donation, credit the appropriate line item and send a letter of thanks. Seconded by Mr. Riley. Motion carried unanimously.

26 – COMMUNICATION – Donation of a Drawing to the City

Letter from Lewis Zurlo offering to donate a drawing of both sides of Main Street from White Street to West Street, which was commissioned by Mayor Dyer. Mr. Calandrino made a motion to receive the communication, accept the drawing and send a letter of thanks. Seconded by Mr. Trombetta. Motion carried unanimously.

27 – COMMUNICATION – Fire Department Special Services Account

Letter from Fire Chief Peter Siecienski requesting that the sum of \$25,000 be transferred into the Special Services Account due to ongoing events. The communication was received on the Consent Calendar and the transfer of funds authorized.

28 – COMMUNICATION – Police Department Special Services Account

Letter from Police Chief Alan Baker requesting that the sum of \$550,000 be transferred into the Special Services Account for the purpose of meeting salary demands for police private duty services through June 30, 2006. These funds are returned as generating revenue.

Mr. Cavo made a motion to receive the communication and authorize the transfer of funds. Seconded by Ms. Teicholz. Motion carried unanimously.

29 – COMMUNICATION – Request for Funding for Signage – WITHDRAWN

30 – COMMUNICATION – 1981 Aerial Platform Truck Disposition

Letter from Fire Chief Peter Siecienski requesting permission to give the 1981 Aerial Platform Truck to the Connecticut Fire Academy in exchange for seven seats at the Fire Academy at a value of \$23,100.

The communication was received on the Consent Calendar and the donation of the Fire Department's 1981 aerial platform ladder truck to the Connecticut

Fire Academy in exchange for seven placements at the fire academy authorized.

31 – COMMUNICATION – Park Maintenance Plan for Tarrywile Park

Mr. Riley asked that this be referred to an ad hoc committee, Tarrywile Park Executive Director, the Director of Planning, the Director of Public Works, and the Corporation Counsel. Mayor Boughton so ordered and appointed Council Members Saracino, Seabury and Perkins to the committee.

32 – COMMUNICATION – Park Maintenance Plan for Bear Mountain

Mr. Johnson asked that this be referred to an ad hoc committee, the Corporation Counsel, Chairman of the Conservation Commission, the Director of Public Works and the Director of Planning. Mayor Boughton so ordered and appointed Council Members Johnson, Trombetta and Rotello to the committee.

33 – COMMUNICATION – Request for Water Extension – 62-84 Federal Road

Mrs. McMahon asked that this be referred to an ad hoc committee, the Director of Public Works and the Planning Commission. Mayor Boughton so ordered and appointed Council Members Calandrino, Cavo and Chianese to the committee.

34 – COMMUNICATION – Petition for City sewers on Hawley Road Ext.

Mr. Trombetta asked that this be referred to the Director of Public Works for a survey after a constituents meeting has been held. Mayor Boughton so ordered.

35 – COMMUNICATION – Water and Sewer Easements – 40 Division Street

Letter from Attorney Steven Olivo that the City accept sewer and water easements from Poplar Park, LLC for utility service to the condominiums at Division Street and Park Avenue. The communication was received on the Consent Calendar and the sewer and water easements accepted.

36 – COMMUNICATION – Reports regarding King Street Volunteer Fire Company Insurance Coverage. The reports were received on the Consent Calendar and no action taken.

37 – COMMUNICATION – Reports regarding Danbury Volunteer Firemen's Council Workers' Compensation Issues.

Mrs. Saracino made a motion to receive the reports and take no action. Seconded by Mr. Nolan. Motion carried with Ms. Taborsak voting in the negative.

38 – COMMUNICATION & ORDINANCE – Veterans Tax Exemption

Mr. Nolan submitted the following report:

The Common Council met as a committee of the whole on November 14, 2005 in the Common Council Chambers in City Hall.

Mr. Urice made a motion to recommend that the ordinance be adopted as amended. Seconded by Mrs. Basso.

Mr. Urice said the removal of the sunset provision is well deserved. Mr. Riley said he is pleased for the veterans of Danbury. The City has always supported veteran's organizations and programs and he is glad the Common Council is moving ahead with this ordinance. Ms. Saracino asked about the

cap. Ms. Diorio said that it is \$52,100 for a single person and \$58,000 for a family. People need to apply every other year.

Motion carried unanimously.

Be it ordained by the Common Council of the City of Danbury:

THAT Section 18-15 of the Code of Ordinances of Danbury, Connecticut is hereby amended by deleting subsection (g) thereof.

The report was received on the Consent Calendar and the ordinance eliminating the sunset provision on the Veterans Tax Exemption benefit adopted.

39 – REPORT & ORDINANCE – Towing

Mrs. Basso submitted the following report:

The Common Council Committee appointed to review the towing ordinance met twice, first on October 25, 2005 and again on November 21, 2005. In attendance at the October 25th meeting were committee members Basso, Trombetta and Barry. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Police Chief Alan Baker, Police Sgt. Joseph Brunelli, Police Lt. Peter Gantert, Purchasing Agent Charles Volpe and Council Members Saracino, Teicholz and Urice, ex-officio. In attendance at the November 21st meeting were committee members Basso, Trombetta and Barry. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Chief of Police Alan Baker, Assistant Director of Finance Dan Garrick, Purchasing Agent Charles Volpe, Sgt. Joseph Brunelli and Council Members Saracino, McMahon and Nagarsheth, ex-officio.

The Police Chief stated that shortly after arriving in Danbury he was approached by several tow truck operators requesting that the towing ordinance be revised since it had not been updated since 1971. Sgt. Brunelli drafted the recommendations before the committee. Sgt. Brunelli said he received input from the operators and also took language from towing ordinances adopted by other cities.

Mr. Trombetta said the document is comprehensive and he looked at the liability limits. He would suggest at least a half million dollars in liability. Mr. Barry stated that the annual license fee of \$25 has been in operation for a very long time. The fee is too low and should be raised to \$250 per year. Mr. Barry also referred to Section 21-23 – Two Truck Driver Responsibility. He feels there should be a penalty if a tow truck operator removes a motor vehicle from the scene of an accident and leaves bumpers or other debris on the road. Sgt. Brunelli said a \$100 violation for each failure to comply would be appropriate. Mr. Barry also requested that under Section 21-24 perishable items should be removed from motor vehicles.

After further discussion regarding number of calls, number of vehicles, etc., Mr. Barry made a motion to recess the meeting to allow the Corporation Counsel to review the ordinance, make changes as necessary to include the suggestions regarding a penalty for not cleaning up an accident scene, to add removal of perishable items and add a fee of \$100 per vehicle up from \$25. Seconded by Mr. Trombetta. Motion carried unanimously.

The committee reconvened on November 21st at 7:40 P.M. in the Third Floor Caucus Room. Attorney Gottschalk submitted the revised ordinance.

Attorney Gottschalk said he made changes to the proposal on two bases. One is provision in State law. For purposes of explaining obligations of tow truck operators or owners, what Sgt. Brunelli prepared was fine. From a legal point of view, it is redundant to state in local law what is already in State law. Secondly, revisions concerned internal processes. It is his view of

the law that it is intended to conduct what happens outside of government. Procedures that are in place in the Police Department do not need to be in the ordinance. He did incorporate suggestions made at the last committee meeting.

He added an additional penalty for operators that do not clean up as well as how many wreckers you need to own. He added a provision that states that even though you have the right to call your own truck if you are involved in an accident, the police retain the right to have the rotation tower come in an emergency if traffic is being blocked.

Mr. Barry said his three issues were addressed which were an increase from \$25 to \$100, the next was over six months reducing the calls to four from six and two wreckers and two flatbeds have been changed to one and one and the removal of perishable items. Mr. Trombetta stated that his request for a two million dollar aggregate has been changed.

Responding to a question about the tow list, Attorney Gottschalk said he would clarify the language regarding the weekly tow list.

Mr. Barry made a motion to recommend adoption of the ordinance and defer it to public hearing. Seconded by Mr. Trombetta. Motion carried unanimously.

Ms. Teicholz asked that the report be received and the ordinance deferred to public hearing. Mayor Boughton so ordered.

40 – REPORT & RESOLUTION – Candlewood Terrace Water Main Extension – Final Assessment

Mr. Nolan submitted the following report:

The Common Council met as a committee of the whole on November 14, 2005 in the Common Council Chambers in City Hall.

Ms. Saracino made a motion to approve the final assessment for the Candlewood Terrace Water Main Extension. Seconded by Mr. Urice.

Mr. Buckley gave a background on the project, which began in May 2003. There is one assessment for one property. It can be paid in one lump sum or in nineteen equal payments. The property owner makes the decision.

The motion carried unanimously.

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the City of Danbury caused a water line to be extended known as the Candlewood Terrace Water Extension; and

WHEREAS, the General Statutes of the State of Connecticut require that assessments be made against property owners who benefit from said line; and

WHEREAS, the Common Council has determined the amount of said assessment, after public hearing, all according to law; and

WHEREAS, the Connecticut General Statutes Section 7-137c, 7-147d and 7-253 authorizes the installment payment of assessments levied as the result of benefits derived from the installation of water systems; and

WHEREAS, said installment method of payment is deemed to be in the best interests of the City.

NOW, THEREFORE BE IT RESOLVED THAT the Assessment of Benefits fixed herein shall be due and payable on or before February 1, 2006 provided, however, that said assessments may be paid in installments in accordance herewith; and

BE IT FURTHER RESOLVED THAT the Tax Collector of the City of Danbury is hereby directed to file the appropriate Certificates of Notice of Installment Payment of Assessment of Benefits in the Land Records of the City of Danbury; and

BE IT FURTHER RESOLVED THAT the following provisions shall apply to installments of water benefit assessments in connection with the Candlewood Terrace Water Extension:

1. The payment of any benefits by installments hereunder shall be in not more than nineteen (19) equal annual payments.
2. The minimum annual installment payment shall be Nine Thousand Fifty Eight Dollars (\$9,058.00).
3. The interest on any deferred payments hereunder shall be due at a rate per annum of five percent (5.00%). Any person may pay any installment for which he is liable at any time prior to the due date thereof and no interest on any such installment shall be charged beyond the date of such payment.
4. The Town Clerk shall record on the Land Records of the City of Danbury a certificate signed by the Tax Collector of said City in a form substantially as attached.
5. A listing of the foregoing assessment shall have been filed in the Town Clerk's Office on December 12, 2005. An appeal to the Superior Court from such assessment must be taken within sixty (60) days of such filing.

The foregoing amounts are hereby laid upon the properties owned wholly or in part by the party named, in the amounts and for the sums indicated for the expense of constructing the water and appurtenances in the Candlewood Terrace Water Extension project as follows:

CERTIFICATE OF NOTICE OF INSTALLMENT PAYMENT OF ASSESSMENT OF BENEFITS

The undersigned Tax Collector of the City of Danbury in the County of Fairfield, State of Connecticut, hereby certifies from the date hereof an installment payment plan is in effect for payment of an assessment of benefits for the installation of a water system, in favor of the City of Danbury, upon real property situated in said City, which real property is more fully described in the City Land Records in:

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The notice of such assessment of water benefits herein certified is to Candlewood Terrace (owner of property), the principal of which is \$172,093.00 due to said City of Danbury, together with legal interest fees and charges thereon assessed on December 6, 2005, in the name of The Candlewood Terrace Water Association, Inc., and the same becomes due on February 1, 2006 and may be paid in annual installment payments of Nine Thousand Fifty Eight Dollars (\$9,058.00) each plus interest at the rate of five percent (5.00%) on the unpaid balance and continuing to _____.

This certificate is filed pursuant to Sections 7-137c and 7-253 of the General Statutes, as amended.

The property assessed is:

Lot_____

Street_____

Item No._____

Tax Collector

Received_____

At _____m.

Recorded in the Danbury Land Records

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Town Clerk

AND BE IT FURTHER RESOLVED THAT the Assessments of Benefits by virtue of the construction of the water project are hereby fixed as attached.

The report was received on the Consent Calendar (including those items contained in agenda item 8) and the resolution approving the final assessment for Candlewood Terrace Water main extension adopted.

41 – REPORT – Proposed Sanitary Sewer Extension – East Pembroke Road and Wood Street

Mr. Nolan submitted the following report:

The Common Council met as a committee of the whole immediately on November 14, 2005 in the Common Council Chambers in City Hall.

Mrs. Basso made a motion to proceed with the sanitary sewer extension project on East Pembroke Road and Wood Street. Seconded by Mr. Riley.

Mr. Buckley described the project and the assessment formula as outlined in the Code of Ordinances. He stated that he would have an on-call engineering firm start the design which should be completed in three or four months. Construction will begin next summer and be completed by the end of 2006.

Motion carried unanimously.

The report was received on the Consent Calendar and the Engineering Department authorized to move forward with the East Pembroke Road and Wood Street sewer extension project.

42 – REPORT – Request to Change Smoke Hill Road to Pondfield Drive

Mr. Nolan submitted the following report:

The Common Council Committee appointed to review the request to change the name of Smoke Hill Road to Pondfield Drive met on November 22, 2005 at 8:05 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Nolan and Trombetta. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Director of Planning Dennis Elpern, Patrick Sniffen from the Fire Department, the petitioner Kim Carr, Mr. Doyle and Council Members Saracino, Stanley, McMahon, Nagarsheth and Teicholz, ex-officio.

Mr. Nolan said that Mr. Doyle was included because this decision may affect him. The change was made in 1995 unbeknownst to many of the residents of that area. It was reviewed by leadership under reports by the Planning Department and it appeared that this was just a case that Mrs. Carr did not

know her street name had been changed. It had all been done properly and according to procedure.

Mr. Nolan made a site visit and discerned that a mistake had been made. The portion of Pondfield Drive where Mrs. Carr resides runs directly into Pondfield Drive and remains Pondfield Drive since New Fairfield never intended to change that portion. On October 19, 2005 the Planning Commission issued a negative recommendation regarding the name change. This was clarified by the Planning Director in a subsequent report after a site review determined that there was no need to make this particular change when the City did.

Mr. Elpern stated that he is not sure what happened but he feels that the name should revert back to Pondfield Drive. Street numbers would have to be assigned. Mr. Nolan stated that in discussions with Ms. Reed and Mr. Elpern, it was indicated that if we decided to change the name we should renumber the Carle property. The number assigned should be 35. Mr. Elpern said he would take the numbering system coming down from New Fairfield. The Doyle situation is that he is on Bittersweet Drive. The name you receive is where the driveway comes out, not where your house faces. His driveway comes out on Pondfield. Mr. Trombetta said continuity would dictate keeping Mr. Doyle's address as Bittersweet because EMS would see the number one; three is empty and then five. It would be much easier than looking for a driveway on Pondfield.

Mr. Trombetta made a motion to rename that portion of Smoke Hill Road back to Pondfield Drive, to keep the continuity of 5 Bittersweet Drive and add the number 35 to Mr. Carle's Pondfield Drive address. Seconded by Mr. Nolan. Motion carried unanimously.

Mr. Cavo made a motion to receive the report and adopt the committee's recommendations. Seconded by Mrs. Basso. Motion carried unanimously.

43 – REPORT – Donation of Land to Tarrywile Park

Ms. Diggs submitted the following report:

The Common Council Committee appointed to review the request to donate land to Tarrywile Park met on November 14, 2005 in the Third Floor Caucus Room in City Hall. In attendance were committee members Diggs, Nagarsheth and Barry. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Director of Public Works William Buckley, Executive Director of Tarrywile Park Authority Sandra Moy, the petitioner Ralph Sergi and Council Members Stanley, Seabury, Teicholz and Cutsumpas, ex-officio.

Ms. Diggs noted the positive recommendation from the Planning Commission. Mr. Buckley noted the report he submitted and he pointed out the property on a map. The dam has been upgraded and he recommends acceptance of this parcel, as it would help to maintain the pond.

Attorney Gottschalk pointed out some issues in Mr. Buckley's report that need to be addressed. Mr. Buckley proposed the preparation of a survey map and Attorney Gottschalk feels that this is a good idea. Mr. Buckley pointed out a possible driveway encroachment that would need to be addressed and Attorney Gottschalk recommends that the acceptance of this land be subject to a satisfactory title search.

Ms. Diggs asked how long this process would take. Attorney Gottschalk stated that after the final vote by the Common Council he would begin the work and if there are no problems he will then complete the transaction. He will return to the Common Council if there are problems.

Mr. Nagarsheth made a motion to recommend that the Common Council accept the donation of land pending preparation of a survey map, resolution

of the driveway encroachment issue and subject to a satisfactory title search. Seconded by Mr. Barry. Motion carried unanimously.

The report was received on the Consent Calendar and the committee's recommendations regarding acceptance of the donation of land to Tarrywile Park approved.

44 – REPORT – Candlewood Park Extension of Public Water System

Mr. Cavo submitted the following report:

The Common Council Committee appointed to review the request for the extension of the public water system to Candlewood Park met on November 22, 2005 at 7:00 P.M. In attendance were committee members Cavo, Calandrino and Esposito. Also in attendance were Director of Public Works William Buckley, Deputy Corporation Counsel Eric Gottschalk, Attorney Neil Marcus, the petitioner Charles Ruskouski and Council Members Saracino, Nagarsheth and Stanley, ex-officio.

Mr. Cavo noted the positive recommendation from the Planning Commission. Mr. Ruskouski said that a sewer line down McKay Road has already been approved and they would like to run a water line down the same route. They want to have an emergency water line available in case wells dry up.

Mr. Buckley stated that he provided a report regarding this petition on September 16, 2005. He would recommend approval of this request subject to conditions similar to those upon which the planning approval is contingent. A ninth step should be added stating that this extension will only serve the 202 mobile homes that are in the park as it now exists. The reason is that the proposed area is outside the service area identified by the Water Department. It should be noted that this is for emergency purposes only. If they want to make it permanent by individual meter they would have to come back to the Common Council. McKay Road is not a City road so ownership rights would have to be resolved. That would be an extension up to the point where they interconnect with the City.

Mr. Calandrino made a motion to recommend that the Common Council approve the request for an emergency water extension to include a ninth step that the line will serve only the 202 mobile homes that are in the park as it now exists. Seconded by Mr. Esposito. Motion carried unanimously.

Mrs. Basso made a motion to receive the report and approve the committee's recommendations. Seconded by Ms. Teicholz. Motion carried unanimously.

45 – REPORT – Request to Purchase City Land on Daley's Lane

Mr. Riley submitted the following report:

The Common Council Committee appointed to review the request to purchase land on Daley's Lane met twice, first on October 19, 2005 and again on November 21, 2005. In attendance at the October 19th meeting were committee members Riley, Saracino and Visconti. Also in attendance were Director of Public Works William Buckley, Deputy Corporation Counsel Eric Gottschalk, Tax Assessor Colleen Burke, Rev. Larry Jensen, Mark Chory, Ken Ackell and Diane Debonis from St. Anthony's Church, Bob Yamin and Council Members Saadi and Barry, ex-officio. In attendance at the November 21st meeting were committee members Riley, Saracino and Visconti. Also in attendance were Director of Public Works William Buckley, Deputy Corporation Counsel Eric Gottschalk, Rev. Larry Jensen and Council Members Nagarsheth, Saadi and Teicholz, ex-officio.

Mr. Buckley said that Daley's Lane is a 15-foot wide strip of land that extends from White Street to Osborne Street. It is not clear who owns the land, which is commonly covered with debris. The City found a quitclaim deed

from Alexander White dated in 1892. He gave whatever interest he had to the City. The City does not maintain the property. It is not passable and there is no benefit for the City to retain it. He has no objection to the City transferring its rights to the church. He would like to get rid of the whole road. A line could be drawn down the center, divided up and given to abutting property owners. The road behind the church could be given to the church.

Attorney Gottschalk stated that determining the status of a road is a difficult proposition. The law is complex and it is heavily dependent on facts that become historical facts since lives do not stretch back far enough to tell us what occurred. We do not know what the significance of the deed is. It is not sufficient to file a deed. If you assume the correct process was followed, there would be an offer. He had not gone back into the records of 1890 to determine what action was taken. There are two possibilities. One is that the City accepted Daley's Lane and, if so, the City owns the property and to dispose of it the City would have to declare it surplus and dispose of it by deed. If Daley's Lane was not formally accepted, the road can be discontinued by formal action of the Common Council, which occurs when title is not vested in the City of Danbury.

The property owners on both sides own to the center line of the road and can pass and repass over the road. They have the right to install drainage, utilities, etc. Private properties are bounded on three sides by property of others and the fourth side is the road. The law presumes that they own to the center. We do not know if the road was ever accepted. The City can discontinue the road and quitclaim to abutting property owners. The charge of this committee is to address the request by the church. If you want to solve this problem you can address Daley's Lane and in the course of doing that you can address the church's request.

Ms. Saracino moved to continue the committee at the call of the chair, pending a legal opinion by the Deputy Corporation Counsel as to who owns it and how it can be disposed of. Seconded by Mr. Visconti. Motion carried unanimously.

The November 21st meeting was called to order at 7:00 P.M. in the Third Floor Caucus Room. Attorney Gottschalk gave an overview of the October 19th meeting. After doing so, Attorney Gottschalk said it is still not clear who owns the property. He research minute books from 1890-1894. He found nothing indicating that the City accepted the property.

Attorney Gottschalk stated that the Common Council could choose to discontinue the road on the assumption that it has been accepted through use or it could convey, by quitclaim, to each of the abutting property owners. These are the only actions that are available. The remaining problem is that the statutes give abutting property owners the right to pass over discontinued highways. He is not sure if it would apply to other people who have access to the highway. The reason this is an issue is due to the intention to fence a portion of Daley's Lane. A neighbor could object to their right of passage being denied.

Mr. Buckley said Daley's Lane would continue to be a problem if the Common Council does not do anything. He has never seen anyone drive on Daley's Lane. He feels that there is a very limited risk in giving it away or fencing it off. Mr. Riley said it seems to come back to the main issue of selling surplus land and there is a good chance that the City does not own it. Ms. Saracino said that rather than sell the land we should quitclaim all the rights we have. Attorney Gottschalk said that is allowed by statute. It would help by not making it a road.

After further discussion, Ms. Saracino made a motion to deny the petition to sell the land pending the outcome of a public hearing held to discuss the

recommendations made by the Deputy Corporation Counsel. Seconded by Mr. Visconti. Motion carried unanimously.

Mr. Nolan asked to receive the report and defer it to public hearing. Mayor Boughton so ordered.

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

Mr. Nolan made a motion to receive the reports and waive the reading as all members have copies. Seconded by Mr. Cavo. Motion carried unanimously.

47 – COMMUNICATION – Grenier Property – Airport Related Condemnation and Related Matters (Executive Session).

48 – COMMUNICATION – Metcalf & Eddy Litigation and Related Matters (Executive Session).

Mr. Nolan made a motion to enter into executive session at 9:07 P.M.

The Common Council reconvened in public at 10:00 P.M.

47 – Mr. Nolan made a motion to accept the recommendation as made by the Corporation Counsel. Seconded by Mr. Chianese. Motion carried unanimously.

48 – Mr. Nolan made a motion to accept the recommendation as made by the Corporation Counsel. Seconded by Mrs. Basso. Motion carried unanimously.

Mayor Boughton made the following substitutions on committees:

Item 21 from November – Mr. Esposito will replace Mr. Urice
Item 19 from October will be continued
Item 23 from January – Mr. Esposito will replace Mr. Barry

There being no further business to come before the Common Council a motion was made by Mr. Nolan at 10:05 P.M. for the meeting to be adjourned.

Respectfully submitted,

JIMMETTA L. SAMAHA, Clerk

ATTEST:

MARK D. BOUGHTON, Mayor