

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

RE: Minutes of the Special Common Council Meeting held May 22, 2006

The meeting was called to order at 7:00 P.M. The Pledge of Allegiance and Prayer were offered. The members were recorded as:

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

**ABSENT** – Calandrino and Esposito

18 PRESENT – 2 ABSENT – 1 VACANCY

Mr. Esposito was on vacation.

**NOTICE OF THE SPECIAL MEETING** – There will be a Special Meeting of the Common Council on May 22, 2006 at 7:00 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 Ms. Diggs. Motion carried unanimously.

### **PUBLIC SPEAKING**

Lynn Waller, 83 Highland Avenue – spoke regarding the Police Reorganization Ordinance. Section (L) has been removed which eliminates Sections (A) (B) and (G). She believes that all employees should have a high school diploma and be United States citizens.

(At 7:10 P.M. Mr. Calandrino arrived and was marked present)

Vincent Nolan, 12 Hillandale Road – endorsed Shay Nagarsheth to fill the vacancy on the Common Council in the First Ward caused by his resignation. He encouraged the Council to support Joseph Cavo for President and to give him their full support. He thanked the Mayor, Eric Gottschalk, Jimmetta Samaha, Mary Saracino, Tom Saadi and several other Council Members for their help and support.

1 – COMMUNICATION – Appointment to Fill First Ward Common Council Vacancy

Letter from Republican Town Committee Chairman Wayne Baker recommending that Shailesh Nagarsheth be appointed to fill the vacancy on the Common Council in the First Ward. Mr. Cutsumpas made a motion to receive the communication and appoint Mr. Nagarsheth to fill the First Ward vacancy. Seconded by Mrs. Basso. Motion carried unanimously.

2 – Appointment as Common Council President

Mr. Seabury moved to place the name of Joseph Cavo in nomination for President of the Common Council. Seconded by Mr. Johnson. Under discussion Mr. Saadi stated that although Mr. Cavo is a nice guy he could not support him for President because based on his actions Mr. Saadi feels that Mr. Cavo will not be an independent leader of the Common Council. However, Mr. Saadi said, actions speak louder than words and he hopes Mr. Cavo proves him wrong. Motion carried with the Members voting as follows:

YES – McMahon, Nagarsheth, Johnson, Trombetta, Calandrino, Cavo, Basso, Diggs, Teicholz, Cutsumpas, Riley, Saracino, Seabury and Stanley

NO – Perkins, Visconti, Chianese, Saadi, Rotello and Taborsak

14 YES – 6 NO

### 3 – RESOLUTION – Neighborhood Assistance Act

Ms. Saracino asked that this be deferred to public hearing. Mayor Boughton so ordered.

### 4 – REPORT & ORDINANCE – Police Reorganization Ordinance

Mr. Cavo submitted the following report:

The Common Council Committee appointed to review the Police Reorganization Ordinance met on May 9, 2006 at 6:05 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Cavo, Basso, Cutsumpas, Saracino and Saadi. Also in attendance were Assistant Corporation Counsel Les Pinter, Chief of Police Alan Baker, Superintendent of Schools Eddie Davis, Chairman of the School Board Joan Hodge and Council Members Calandrino, Chianese, Diggs, McMahon, Seabury and Teicholz, ex-officio.

Mr. Cavo asked Chief Baker for a brief history of the reorganization ordinance. Chief Baker said he is trying to reorganize the Police Department consistent with the 21<sup>st</sup> Century. It is more specific to provisions and number of people within the divisions. He is trying to create flexibility for himself and for future chiefs to organize the department and make the ordinance reflect Connecticut State Law.

Mr. Cutsumpas asked the Chief about his thinking in removing the moral turpitude clause. The Chief said it was redundant and he is trying to modernize the ordinance to reflect how the department works. An application is given to everyone and there are enough safeguards in place with language governing civil service rules and regulations.

Regarding the removal of the moral turpitude clause, Mr. Saadi said that it has been stated that the current civil service regulations adequately address applicants convicted of crimes and that the moral turpitude provision is not needed. He said that this is an inaccurate reading of the civil service regulations. The regulation leaves the determination to the discretion of the civil service commission. There is no mandatory disqualification of any applicant under the regulations for the commission of any crime, even a felon. He said that the regulation stated the Commission may refuse to examine or disqualify an applicant if they are convicted of a crime and the crime bears a significant relationship to the duties of the position for which the examination is held. He stated that he understands that the current structure of the moral turpitude text is not practical as it contemplates a pre-application background check, which the department does not do.

Mr. Saadi offered amended language, which will maintain the moral turpitude prohibition, avoid the discretion inherent in the civil service regulations and update the language to reflect the needs of the department. Mr. Saadi offered the following friendly amendment, "Applicants who have been convicted of a crime involving moral turpitude shall be ineligible for examination or, after examination, shall be disqualified from eligibility for appointment."

Ms. Saracino asked if there had been any discussion regarding the Union's position? Chief Baker said there are two areas of concern. There are some areas where he can make changes and other areas must be negotiated with the Union. Certain organizational changes are not covered by contract. He will follow the advice of labor counsel. Ms. Saracino asked about transferring the school crossing guards to the Board of Education. She asked why this was done and if there were any communications with the Board of Education? Chief Baker said the rationale behind it was that the department

is short of manpower. He said there had been no contact with the Board of Education regarding this change.

Ms. Saracino asked Dr. Davis to speak to this issue. Dr. Davis said that in the same way this is burdensome to the Police Department, it would be twice as burdensome to the Board of Education. He would be low in the pecking order and who would be responsible for the children. He relies on a transportation system that this contracted. He does not hire bus drivers. He relies on the police to cover streets, traffic control, etc. His first recommendation is that this should remain with the Police Department. If not, it cannot happen in September. He would need at least a full school year. It is not just a question of money; it is personnel also. He does not have the infrastructure to take over this responsibility. Ms. Saracino asked Dr. Davis if he has had any discussion with the Police Chief or the Mayor on how this would be arranged? Dr. Davis said the first he heard about it was at the Common Council public hearing on the budget. Mrs. Hodge stated that she is very opposed to this. She stated that crossing students seems like a simple matter, but it should not be a low priority. Our children need to feel safe. It is a very critical job for a police officer.

Mr. Saadi stated that removing the crossing guards from the Police Department and putting them under the Board of Education is like putting the cart before the horse. He stated that all references to crossing guards appear in the traffic control statutes so this would be contradictory to start statutes. Attorney Pinter said that where the department has jurisdiction they are responsible for the behavior of the crossing guards. Where a transfer has occurred, then that department would be responsible. Mr. Saadi said that the School Board is not ready for this responsibility or liability. This may be a long-term process that needs to be negotiated. Dr. Davis said his most pressing concern is the ability to know how this operates.

Mr. Saadi stated that while he understands that the civilianization in the plan is intended to free up officers for greater patrols throughout the City, something he supports, without negotiating the Minimum Manpower Requirements, there is no guarantee that the number of officers on patrol will increase and, if increased, will be maintained. He asked Chief Baker what guarantee do we have that replacing some officers with civilian employees would result in an equal increase in the number of officers on patrol? Chief Baker said he is not necessarily going to increase the number on patrol.

Ms. Saracino stated that she is in favor of modernizing, but she is concerned that this has not been vetted. Many items have been stricken, but other things have not been added in. Without discussion with Union leadership, the Chief may be setting himself up for failure. She is concerned that the School Board was not consulted and there is no provision for a transition. Chief Baker said there is no concept on where we want to take this. Vision 2009 is the strategic plan. As far as impact on the Union, two vacant captain positions were filled with three sergeants.

Ms. Saracino made a motion to recommend approval of the ordinance. Seconded by Mr. Cutsumpas. Mr. Saadi offered an amendment to proposed Section 15-17(G) stating, "Applicants who have been convicted of a crime involving moral turpitude shall be ineligible for examination or, after examination, shall be disqualified from eligibility for appointment." Seconded by Ms. Saracino. Motion to amend carried unanimously.

Ms. Saracino offered a further amendment to change the effective date of the crossing guards from July 1, 2006 to July 1, 2007 to allow for a transitional plan. Seconded by Mr. Saadi. Motion carried with Mr. Cavo voting in the negative.

Main motion, as amended, carried with Mr. Saadi voting in the negative because more vetting should have been done.

Mrs. Basso made a motion that the report be received and the ordinance adopted, as amended. Seconded by Mr. Johnson.

Ms. Taborsak stated that under union guidelines some changes or allowed and others are not. Mayor Boughton told Ms. Taborsak to keep her discussion to proposed ordinance changes, not negotiations. Chief Baker said there are two types of changes; both kinds are in the plan. Ms. Taborsak asked Chief Baker to tell her about the 2009 plan. She asked if there are copies of the plan? Mayor Boughton said it was on the power point presentation at the budget meeting. Ms. Taborsak said she is asking for a written plan. Chief Baker said there is a written chart and a summary. Ms. Taborsak asked who worked on it? Chief Baker and he did, along with Deputy Chief Shanahan and the Captains. Ms. Taborsak asked if he had input from the Union? Chief Baker said he had input informally.

Ms. Taborsak asked if he consulted Dr. Davis on the crossing guard issue? Chief Baker said he did not and it was his mistake. Ms. Taborsak asked if after year, the crossing guards would be the responsibility of the School Board? Chief Baker said it would. Ms. Taborsak asked if the crossing guards derive their authority from the Police Department? Chief Baker said that would be a legal question. Attorney Gottschalk stated that State Statutes describe the function of the crossing guards to the Police Department. Violations are punishable in the same way. There is nothing specified in the Statutes as to who hires, etc. There will continue to be a relationship between the Police Department and the Crossing Guards. They derive their authority from State Statutes.

Mr. Riley stated that all references to crossing guards in traffic control may be an error in jurisdiction. He hopes the one-year extension will be enough. The principals are at their worse time at the end of the day. It will take solid negotiations to make this work.

Mr. Johnson made a motion to move the question. Seconded by Mr. Seabury. Motion carried unanimously.

Main motion carried with Council Members Perkins, Visconti, Chianese, Saadi, Rotello and Taborsak voting in the negative.

14 Yes – 6 No.

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

THAT Chapter 15 of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows:

## **CHAPTER 15 POLICE**

Sec. 15-1. Composition of department.

Consistent with the provisions of the charter of the city, the police department of said city shall comprise of the chief of police, a deputy chief and such other officers and employees as may be required to fulfill the mission of the department.

Sec. 15-2. Organization of the department.

The police department shall be organized in four (4) separate divisions as follows:

- I. The patrol division.
- II. The investigations division.
- III. The administrative services division.

IV. The professional standards division.

Sec. 15-3. General duties of members of the department.

All members of the police department shall obey all lawful orders of the mayor of the city, as conservator of the peace of said city, and of the chief of police, concerning their behavior and duty. They shall guard the city day and night and preserve the public peace therein, report to the chief all violations of law and all suspicious persons, places and activities. They shall perform all lawful duties that are required of them by the mayor, the chief of police or by the enactments of the common council.

Sec. 15-4. Oath of members of department.

Before entering upon the discharge of the duties of his office, every member of the police force shall make an oath or affirmation before some competent authority that he will support the Constitution of the United States and of the State of Connecticut, and will faithfully discharge the duties of his office, and shall cause a certificate of such oath or affirmation to be lodged with the city clerk.

Sec. 15-5. Conflict of interest.

Any full-time employee of the police department of the City of Danbury, including but not limited to the chief, officers, police officers and clerks, who shall act as any other officer of said city or who shall engage in any business interfering at all with his or her duties, shall be deemed to have tendered his or her resignation, and the same shall be accepted by the mayor and his or her office shall be declared vacant and filled as provided in the charter of the city.

Sec. 15-6. Gratuities prohibited.

No fee or compensation other than the regular pay shall be charged or received by any member of the police force, nor shall any member of the force receive any present or reward for services rendered or to be rendered by him, unless with the consent of the common council.

Sec. 15-7. Duties of chief.

The duties of the chief of police are set out in section 6-9 of the charter of the city. He shall be in overall command of the police department at all times except when relieved from duty in accordance with law; and he shall be answerable to the mayor, as the chief executive magistrate and conservator of the peace of the said city.

Sec. 15-8. Duties of the deputy chief.

The deputy chief shall be second in command of the entire department and, in the absence of the chief of police, shall assume all of the duties and responsibilities of the chief. He shall perform all duties assigned to him by departmental regulations or lawful order of the chief.

Sec. 15-9. Command of Department.

The overall command of the police department shall, in the absence of the chief of police, devolve upon the deputy chief. In the event that both the chief and the deputy chief are absent from duty, the overall command of the department shall pass in the manner designated by the chief.

Sec. 15-10. Headquarters.

Police headquarters shall be kept open at all hours, and one or more police officers shall be on duty in such headquarters at all times.

Sec. 15-11. Badges and uniforms.

Each member of the police department shall carry at all times the badge furnished to him identifying him as a police officer and signifying his grade.

All members of the uniformed divisions while on duty shall wear the prescribed uniform and display the aforesaid badges as fully described in departmental regulations unless otherwise specially ordered by lawful authority.

Sec. 15-12. Special patrolmen.

All special police officers shall be under control of the chief of police and shall, when on duty, conform in all respects to departmental regulations and general orders governing regular police officers. The chief of police shall call any or all of them for duty as occasion may require, and when on duty, they shall wear the uniform and distinguishing badges prescribed for regular members of the department.

Sec. 15-13. School crossing guards.

Effective July 1, 2007, school crossing guards shall be under the control of the board of education.

Sec. 15-14. Appointments.

- (A) All applicants must be citizens of the United States.
- (B) All applicants must have a high school diploma or an equivalent education certified by the state board of education.
- (C) Every applicant shall have reached his or her twenty-first birthday.
- (D) The vision of each applicant shall be at least 20/50 in each eye, correctable to 20/20 in each eye.
- (E) Every applicant shall have normal hearing without the use of any hearing or other aids.
- (F) The weight of each applicant shall be consistent with and in proportion to his or her height and age.
- (G) Applicants who have been convicted of a crime involving moral turpitude shall be ineligible for examination, or, after examination, shall be disqualified from eligibility for appointment.
- (H) Each applicant must pass a thorough physical examination, including drug screening, an examination of physical agility and a psychological evaluation conducted by a physician or physicians or other qualified persons as designated by the City of Danbury.
- (I) Any applicant who is a member in good standing of the Danbury special police shall, after attaining a passing grade on the civil service examination, be credited with two (2) additional points for each full year of service as a special police officer, but in no event shall said credit exceed ten (10) additional points, and provided that no additional points shall be credited to an applicant unless:
  - (1) The applicant otherwise qualifies under other provisions of this section; and

- (2) The chief of police certifies that the applicant has during his term as a special police officer:
- (a) Been qualified with his or her duty weapon as required by department regulations,
  - (b) Conducted his or her duties, followed all lawful orders given, and conformed to all department regulations and general orders governing regular police officers without reprimand.
  - (c) Attended a majority of the instructional classroom sessions made available by the chief of police for the purpose of police officer training.
  - (d) Performed at least one hundred sixty (160) hours of service as a special police officer for the City of Danbury during each year for which the applicant claims a credit for purposes hereof.
- (J) All appointments to the regular police department shall be for a probationary period of one (1) year, during which time the probationary police officer shall successfully pass the basic police officer certification course as prescribed by the State of Connecticut, Police Officers Standards and Training Council (POST). If he fails to pass the course of training, he shall not be appointed a regular police officer and shall be relieved of his duties as a probationary police officer. The provisions of this paragraph relative to the course of training may be waived by the appointing authority if the applicant has previously completed a course of training required by the State of Connecticut. In addition, no person shall be permitted to assume the duties of a police officer unsupervised unless he shall have completed field training and in-service requirements, as prescribed by the State of Connecticut, Police Officers Standards and Training Council (POST).
- (K) All appointments shall be based upon merit as the result of competitive examinations conducted under the auspices of the civil service commission of the City of Danbury. The civil service commission shall avail itself of professional testing services for the written portion of the examination.

Sec. 15-15. Promotions.

- (1) All applicants must have a certificate to show that they have successfully passed a course of training as prescribed by the State of Connecticut, Police Officers Standards and Training Council (POST).
- (2) All promotions with the exception of chief shall be based on merit as the result of competitive written and oral examinations conducted under the auspices of the civil service commission of the City of Danbury. The civil service commission shall avail itself of professional testing services for the written portion of the examinations.
- (3) All applicants for promotion to sergeant or detective sergeant shall have either a minimum of four (4) years as a regular Danbury police officer or three (3) years as a regular Danbury police officer, but have at least an associate degree in police science and administration or the equivalent thereof from an institution accredited by the State Department of Education.

- (4) All applicants for promotion to lieutenant or detective lieutenant shall have served a minimum of one (1) year as sergeant or detective sergeant and also have completed at least six (6) years of service in the regular police department.
- (5) All applicants for promotion to captain or detective captain shall have served a minimum of one (1) year as a lieutenant or detective lieutenant and also have completed at least eight (8) years of service in the regular police department.
- (6) All applicants for promotion to deputy chief shall have completed a minimum of one (1) year of service as a captain or detective captain or three (3) years as a lieutenant or detective lieutenant and have completed at least ten (10) years of service in the regular police department.

Sec. 15-16. Preferment of charges against police officers.

The willful breach of any law of this state or ordinance of the city, neglect of duty, inefficiency, intoxication, insubordination, frequenting saloons or other places where liquors are exposed for sale, or drinking spirituous or intoxicating liquors, or playing at games therein, or any other disgraceful or improper conduct which will bring discredit on the police force or impair its usefulness, shall be considered sufficient cause for the preferment of charges against the officer so offending under the provisions of the charter of the city and the departmental regulations.

Sec. 15-17. Private duty assignments, authorized; salary rates.

- (a) Police and Purpose. On many occasions members of the Danbury Police Department are called upon to perform work under special assignments where requests are made for private police duty. To ensure the health, morals, safety and welfare of the community, such assignments are hereby authorized upon proper requests of the police department.
- (b) Authorization. The chief of police of the police department of the City of Danbury or his duly designated representative be and he is hereby empowered and authorized to make such assignments for private duty under such rules, regulations and conditions as he may deem just and proper.

Motion carried with Council Members Perkins, Visconti, Chianese, Saadi, Rotello and Taborsak voting no.

14 Yes – 6 No.

There being no further business to come before the Common Council a motion was made by Ms. Saracino at 8:05 P.M. for the meeting to be adjourned.

Respectfully submitted,

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JIMMETTA L. SAMAHA, Clerk

ATTEST:

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MARK D. BOUGHTON, Mayor

