

Chairman Shay Nagarsheth called the meeting to order at 7:15 p.m. on Tuesday, July 22, 2008, in the Caucus Room, 3rd Floor, Danbury City Hall, 155 Deer Hill Avenue. Present was Committee members James H. Johnson and Duane E. Perkins. Ex Officio members: Benjamin Chianese, Warren Levy, Gregg Seabury, John Esposito, Louise P. McMahan, Paul Rotello and Fred Visconti. Also present were Laszlo L. Pinter, Deputy Corporation Counsel; David St. Hilaire, Finance Director; and members of the public.

Chairman Nagarsheth introduced everyone present at the meeting.

Chairman Nagarsheth explained the purpose of the evening's meeting was to review and consider approving the proposed property tax abatement to encourage open space and that the meeting was a continuation of the July 10, 2007 Ad Hoc Meeting.

Background: The main objective is to preserve open space. The intent of the law is to promote some form of open space conservation, preventing certain types of development and providing tax relief. Public Act 490 provides for the assessable value of the open space would be \$100 per acre. No other municipalities have adopted such an ordinance. Attorney Pinter reviewed the application process. The Planning Commission would receive the application and if the report of the Commission were negative, the Common Council would then be required to procure a two-thirds vote for approval. There may be some flexibility in crafting the ordinance, but the intent is that someone would be relinquishing development rights to the City, thus encouraging conservation. He further clarified that the Planning Commission would review the application, file a report, make a recommendation that would be reviewed by Corporation Counsel and after all appropriate departments have reviewed the report, it would then go before the Common Council. Mr. Johnson moved to continue upon receipt of a draft ordinance from Corporation Counsel. Mr. Perkins seconded.

At the continued meeting, Mr. Pinter offered additional background concerning the request before the Committee. He explained that Connecticut General Statute 12-129r is a new Statute which has yet to be utilized in Connecticut. The ordinance has been drafted and is entitled Section 18-29. In essence, what the ordinance states and what the legislation at the State level allows municipalities to do is in order to encourage the preservation of open space, individual property owners can decide to take some or all of their open space property, grant the City either easements, development rights or other vehicles of non-ownership to transfer the right to development the property to the City in exchange for a 10-year program of abatement. The 10-year timeframe was selected as that is what the State legislation provides. The abatement would be based upon a certified appraisal of the value of the asset to be transferred, i.e. the easement value. That would be the amount of the abatement to be waived in equal installments over ten years. The legislation hopes to encourage people to refrain from developing their property. After ten years, the property is prohibited from development forever. Danbury would be among the first to enact such an ordinance.

With regard to (d)(3)—“Any abatement granted pursuant to the provisions of this section shall be transferable to any other taxable property owned by the applicant and located within the City of Danbury”, Mr. Johnson ask for clarification. Mr. Pinter explained that the term is ten years; property B would get the benefit for the balance of the term but property A would run out at the ten-year mark. During the ten year, Chairman Nagarsheth asked if the property would be reassessed. Mr. St. Hilaire explained that the property would be reclassified and would not hold the same status because of the impairment that has been placed on the property. Chairman Nagarsheth asked if there was a limitation to the size of the property. Mr. Pinter said, at present, no such limitation is set forth in the Statute and none proposed in the ordinance. Mr. St. Hilaire pointed out that the request would still need to be reviewed by Planning because the property may not have a conservation purpose. If the land is not

developable, then there is no need to preserve it as open space, i.e. a cliff. Mr. Perkins asked what would happen in the event there are back taxes owed on a property being considered for the abatement. Mr. Pinter explained that the request would go before the Common Council and a recommendation would be made to refrain until the taxes are up to date. Mr. Seabury asked how the public would become aware of the program. Mr. Pinter explained that the ordinance would be published, possibly during a press release session and the Assessor's office might have a list of programs posted. Mr. Seabury asked what would happen if a property is granted the abatement, but during the 10-year timeframe the property owner decides to sell the property. Mr. Pinter said that the abatement is transferred to the new owner with the Council's approval. Ms. McMahon asked if there was a minimum lot size. Mr. Pinter explained that none was included in neither the Statute nor the ordinance. Mr. Rotello expressed concern with the 10-year timeframe. He did not feel it would entice people to participate because the program reduced the value of their property. He suggested possibly considering a 50-year or 75-year timeframe with the first ten years being abated. Then, at the end of that period, allow the property to be developed. Mr. Levy questioned why this particular program would be advantageous rather than another State or Federal program that currently offer large tax deductions. Mr. St. Hilaire pointed out that should a property be either wetlands or mountainous, while a home could not be erected, another type of structure could be built on the property or use for the property could occur that is not desirable to the surrounding property owners, i.e., recreational boating on swamplands or clear cutting trees on a mountain. Mr. Pinter pointed out that the ordinance is clear that the Common Council retains wide discretion with applications for this benefit. Mr. Pinter pointed out that the Planning Commission did not support the abatement program before the Committee.

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A motion was made by Councilman Johnson and seconded by Councilman Perkins that the Committee recommends to the Common Council that they approve the request for property tax abatement to encourage open space in exchange for the transfer of development rights to the municipality. The motion carried unanimously.

A motion to adjourn was made by Councilman Johnson and seconded by Councilman Perkins. The motion carried unanimously at 8:00 p.m.

Respectfully submitted,

Shay Nagarsheth, Chairman

James H. Johnson

Duane E. Perkins



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ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

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

THAT the Code of Ordinances of Danbury, Connecticut is hereby amended by adding a section, to be numbered 18-29, which said section reads as follows:

Sec. 18-29. Real property tax abatement on open space land in exchange for the transfer of certain rights to the city.

(a) Preamble, general findings and authority. Whereas, the Connecticut General Assembly has authorized municipalities to grant property tax abatements to owners of open space who transfer development rights, conservation easements, rights-of-way or any combination thereof to the city; and whereas promoting conservation and preservation of open space within the City of the Danbury represents an opportunity to further important goals deemed to be in the best interests of the city; now, therefore, pursuant to the provisions of section 12-129r of the Connecticut General Statutes, the City does hereby provide for the abatement of real property taxes in accordance with the further provisions hereof.

(b) Application and eligibility. An application to the City for an abatement of real property taxes due on open space, for a period of ten (10) years, may be made by the party owning any such property. Tax abatements granted pursuant to the provisions of this section shall be structured such that each annual abatement equals one tenth (1/10) of the fair market value of the rights, easements or restrictions granted to the city. In order for an applicant to be eligible for the benefits provided by this section the Common Council must find that:

- (1) The applicant's property is open space land. For purposes of this section, "open space land" means any area of land, including forest land, the preservation or restriction of the use of which would (A) maintain and enhance the conservation of natural or scenic resources, (B) protect natural streams or water supply, (C) promote conservation of soils, wetlands or beaches, (D) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (E) preserve historic sites, or (F) promote orderly urban or suburban development.
- (2) The applicant proposes to transfer development rights, conservation easements, rights-of-way or any combination thereof with respect to the open space land to the city, for non development and preservation purposes.
- (3) The applicant has provided a certified appraisal of the property proposed for abatement both with and without the rights, easements or restrictions that the applicant proposes to convey to the city.

(c) Application procedure.

- (1) All applications shall be submitted to the Danbury Planning Director on forms supplied by the Director.
- (2) The Planning Director shall review each application with the Tax Assessor, Tax Collector and any other municipal official that the Director deems appropriate and shall forward each such application to the Common Council within 30 days of receipt, together with a report indicating whether or not the application meets the eligibility criteria contained in this section. Each such report shall include specific reasons in support of the findings expressed therein

(3) Upon receipt of an application and report from the Planning Director, the Common Council shall approve the application, reject the application, or return the application to the Director for further information. If an application is rejected, the Common Council shall state its reasons for rejection upon the record. The applicant may file a revised application with the Director that addresses the reasons for its rejection by the Common Council.

(d) Miscellaneous provisions.

(1) In the event that an application is approved, the Common Council shall adopt a resolution fixing the amount of the annual tax abatement to be granted and the period of time during which the abatement shall be in effect, authorizing the Mayor to accept the transfer of the rights, easements or restrictions that the applicant proposes to convey to the city.

(2) A copy of the resolution adopted pursuant to paragraph (1) of this subsection shall be forwarded to the Tax Collector, who shall adjust the tax records of the city accordingly.

(3) Any abatement granted pursuant to the provisions of this section shall be transferable to any other taxable property owned by the applicant and located within the City of Danbury.

(4) The granting or denial of applications filed pursuant to the provisions of this section, as well as the specific terms thereof, shall be within the sole and absolute discretion of the Common Council of the City of Danbury and shall not be subject to appeal.

(5) This program shall be applicable to assessment years commencing on or after October 1, 2008.