



45

CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

COMMON COUNCIL

REPORT

December 6, 2005

Mayor Mark D. Boughton
Members of the Common Council

Re: Request to Purchase City Land on Daley's Lane

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.

Respectfully submitted,

ROBERT T. RILEY, Chairman

MARY SARACINO

FRED VISCONTI