

DERBY BOARD OF ALDERMEN REGULAR MEETING

DERBY CITY HALL – JULY 27, 2006 - 7:00 P.M.

MINUTES

The Honorable Mayor Anthony Staffieri called the regular meeting to order at 7:04 p.m. All rose and pledged allegiance to the flag.

Roll Call

Present: Anthony Szewczyk, James Benanto, Joseph Bomba, Kenneth Hughes, Matthew DeBarbieri, Scott Boulton, Beverly Moran (arrived at 7:06 p.m.)

Absent: Ronald M. Sill, Dennis Devonshuk

Also Present: John DeBarbieri, Interim Chief Administrator
Philip Robertson, Interim Finance Director
Chief Andrew L. Cota, Jr., Derby Police Department
David L. Kopjanski, Building Inspector/Zoning Enforcement Officer
Philip A. Hawks, Fire Marshal
Ronald J. Culmo, Director, Public Works Department
Martin Martino, Chair, W.P.C.A./Board of Apportionment & Taxation Member
Carolyn Duhaime, W.P.C.A./Board of Apportionment & Taxation Member
Richard T. Dunne, Redevelopment Agency Member
Robert Scarduzio, Board of Apportionment & Taxation Member
Jack Walsh, Director, Parks & Recreation
Joseph T. Coppola, Corporation Counsel

ADDITIONS/DELETIONS/CORRECTIONS AND ADOPTION OF AGENDA

Mr. Hughes said he would like to add the following items to the agenda:

- 21. a – Purchase of John Allen, et al Company Property (a/k/a Derby Jewelers)
Discussion and Vote
- 21. b – Review of Derby Public Library Contract
- 21. c – Resolution of the 2004 Department Emergency Management Homeland Security Grant Monies

A MOTION was made by Mr. DeBarbieri with a second by Mr. Szewczyk to add the items to the agenda and adopt the agenda as amended. **Motion carried.**

PUBLIC PORTION

Mayor Staffieri said there is a large contingency from the public, and I'm sure they would all like to speak; the rules are three (3) minutes per person, once around. Each speaker will be timed. The Board has a large agenda that they must get through this evening.

Carl Yacobacci, 10 Lombardi Drive, Derby, CT – First I want to thank everybody here to listen to what we have to say on the Eminent Domain issue. This issue is not just a Derby issue that we're bringing up. My wife and I have been fighting at the State level to get the State Legislature to pass some reform for a year and a half, two years now. But you all know that we had a small informational meeting – I shouldn't say small – we had a nice size informational meeting in downtown Derby at our store. I'm not going to speak on the Eminent Domain too much; you've already heard me. I just want to tell you that we have a couple of people here who are advocates for this reform. We have Christina Walsh who came up from Washington, D.C. – she works for the Institute for Justice. That's the organization that represented Suzette Kelo out of New London and also represented property owners in Ohio who just scored a major victory on a unanimous decision from the Supreme Court in Ohio to not let Eminent Domain for this economic redevelopment go through. They gave the property rights back to the property owners. We also have Susan Kniep, she's a former Mayor of East Hartford and she's also the president of the Federation of Connecticut Taxpayer Organizations – she is an advocate and she is up at the State also fighting for property owners, and tax rights, along with the Eminent Domain issue. And I have a special guest here too – Frank Cristofaro – he was with Suzette Kelo and they were the last two people that had to basically be forced to sell and he's going to say a few words about how the Eminent Domain threat even affects family, friends and whatever else that you have. We also have a bunch of people from the public – some I know – and actually most I don't know who came down to support the issue – to tell people that Derby has an opportunity also to become a City to lead the way in the State of Connecticut on protecting the property rights and the property of all of its citizens. Whether its in downtown, whether it's in the HALO District, whether it could be down at a waterfront piece of property – it doesn't matter. What we want to do is we have the ordinance being discussed tonight; it's a nice step, a nice start on the ordinance when we get around to discuss that. I do have some ideas on how we can all get together and possibly form a committee of aldermen and public people. The Institute for Justice has agreed to write an ordinance that can have some teeth in it for the property owners they protect; the City also for cases where it is blight – we're not asking for that. It's just that we're against the taking of a viable property and a viable business to give it to another person so that they can make a profit off of it.

Mayor Staffieri – Mr. Yacobacci if you could please finish because the time is up.

Mr. Yacobacci – I didn't hear a ding, sorry.

Mayor Staffieri – It doesn't ding.

Mr. Yacobacci – So that's what's on the agenda tonight. Some of these people came down and they came from far away so I would just ask a little bit of leeway. And also I'm remiss by – I didn't announce Dr. Scott Merrill – he is having a petition he would like to be the Independent gubernatorial candidate and he also will speak. As when Mr. Skolnick is up here with his engineers and people and they get to speak I'm just asking for a little leeway for these people who have come a long way to talk to you to try to explain to you what is happening and what the feeling is about this issue. Thank you very much.

Jeff Auerbach, Derby Garden Center, 4 Caroline Street, Derby, CT – As is done in Congress down in Washington I take my three minutes and I yield it to the lady from the Institute for Justice. And I hope others of you that don't want to speak yield your three minutes. Because never before were we limited; but tonight for some reason we're limited. So my three minutes go to the lady, please add it to her time. You may want to let others do the same thing before you speak.

Christina Walsh, Assistant Castle Coalition Coordinator at the Institute for Justice, Arlington, VA – The Castle Coalition is a nationwide network of grassroots activists committed to ending Eminent Domain abuse through outreach and activism. The Institute for Justice is a non-profit public interest law firm dedicated to defending the fundamental rights of individuals and protecting the basic notions of a free society. One of our main pillars is protecting people who are being abused by the power of Eminent Domain and overreaching governments such as the situation that may transpire in the City of Derby. Last year the United States Supreme Court issued its opinion in *Kelo v. City of New London*, a universally reviled decision declaring that Eminent Domain may be used for economic development on the mere promise of increased tax revenue or jobs. This (inaudible) served more of a beginning than an end igniting unprecedented nationwide property rights revolt that over a year later is still growing. Thirty States have taken it upon themselves to pass legislation in direct contradiction of what the Supreme Court said. Over seventy-five cities have done the same thing; reeling in their own powers of Eminent Domain. Consistently public opinion polls show over 90% of the public saying that this abuse of power is wrong. In fact just yesterday the Ohio Supreme Court (inaudible) was explaining ruled in favor of the homeowners in *Norwood v. Horney* saying that no, the Supreme Court was wrong and in the State of Ohio we are not going to allow the government to seize private property for private economic development. And this was the first State Supreme Court to hear this issue since the *Kelo* decision came down. So the tide was in the property owners' favor at this point. I personally work with home business owners like Suzette Kelo, the Cristofaro's and Carl and Arlene Yacobacci throughout the country to combat the use of Eminent Domain for private development. The Castle Coalition Institute for Justice have been closely following what has been transpiring in Derby and Carl is the one who invited me here today to speak to you. Clearly the Main Street business owners don't want to leave. They support the redevelopment; they've said that over and over again, but only as a result of private negotiations, not government force. You face a simple decision – you can either redevelopment through voluntary means and private sector cooperation, the way that development has occurred throughout the history of this country, and include the Main Street business owners in your plans or you can take their property through Eminent Domain for the project, which will invariably lead to controversy, litigation, delays, and a massive drop in public support for redevelopment in Derby. Consider New London's seven year controversy that just recently came to an end. It revolved around a single issue – the same issue that you are considering today – (inaudible) submit for private development. That issue can bring you the same lengthy years of controversy and delay if you don't take it off the table now. Redevelopment undoubtedly occurs without the use of Eminent Domain. When Scottsdale Arizona recently removed their redevelopment designations they saw an influx of billion dollars. The designations were lifted like all the threats that you have posed over this neighborhood – billions of dollars coming in. Another example can be found in Anaheim California where the city administration is perceived a market based approach redevelopment by prohibiting the use of Eminent Domain for private economic

development holding Home Improvement Holidays, where they have waived permitting fees for home renovation and overturning restrictive planning commission policies, the City of Anaheim has thrived. This is possible in Derby too. If you allow Eminent Domain for private development for this project you're also signaling to all the rest of Derby's home and small business owners that they're not safe. Once you declare that it's acceptable to seize properties so that you replace it with something that will possibly generate more tax revenue or jobs all property is on the chopping block because everyone is going to be replaced by something newer. There's no logical end to this abuse. The Institute for Justice has been and will continue to monitor this situation. Our very involvement indicates the vital importance of this issue. Not passing some sort of ordinance and keeping Eminent Domain on the table for this project will attract negative attention to Derby. National attention that can be avoided that will invariably arrive in the wake of such decision. Connecticut is the national face of Eminent Domain abuse. New London is one black eye; don't let Derby become the other. Thank you.

Brian Calvert, Calvert Safe & Lock, 40 Caroline Street, 37 Minerva Street, 33 Maple Street, Derby, CT – I just wanted to make a quick comment. You know most of the business that you're conducting is based upon the Preferred Developer Agreement that was sculptured with the developer. Now in a meeting in this very room last week a resolution was made to remove a paragraph in that particular document. The paragraph I believe is 1.13, which dealt with taking the D.O.T. property off of the table for negotiation and discussion. I now urge you gentlemen to look at that document as you set a precedent for changing that document just by a vote here in one evening, I urge you to look at the paragraph 1.14 and 1.15, which deals with the use of Eminent Domain. Maybe some of you are nervous and say well we already have this agreement how can we renege on the agreement? Well I don't think you will be renegeing on it. I think you will just be saying well we thought about it – we thought about it last week and we don't want a D.O.T. in this thing and now we've thought about it this week and we don't want the Eminent Domain in this particular discussion and we don't want to be using it. So it's very easy for you to say guys this is the way it is now. Mr. Developer glad you came to town, you have a fantastic plan and I hope it comes to fruition – and I think it will, I think it could. Mr. Developer I want you to say this – we're going to give you the twelve, fourteen acres and you can have it and you can develop this beautiful plan here, but get back to us when you own the other four businesses because we don't really want to get involved. I don't think the City should be involved in this. If you read that contract it does say that the City would only become involved if the contractor – if the developer cannot reach an agreement. The developer has not made any effort to do that. And I appreciate the Mayor – I think the world of the Mayor – and I think his intentions are honorable to get these people in to do all these kind of assessments and come up with prices and stuff I think is honorable. But you're out of line with that; this man should be doing it. He should be the one to come to us and we say okay this is what we want and then we settle with him – in the American way. Why are you involved at all? Tell Mr. Skolnick and the Ceruzzi Organization come back to us when you own that property and we'll give you the gift and all of everything else and we'll work with you. Not only that you'll have the gift of the six businessmen and all their families to work with you as well. We want to see this happen. But we also don't want to be sacrificed on the altar of this project and we're willing to move, we're willing to become a part of it, we're willing to do anything. All we ask gentlemen is you take away this sword that's been hanging over our heads for years now or you can do it quite easily – just say Mr. Developer do this in the American way

without threat. And I think that's the best way that you can do it gentlemen. Take that paragraph out of the Preferred Developer Agreement and let's all move on and get this thing done and all get excited about it. Thank you.

Mr. Hughes – Mr. Mayor just as a quick clarification – that paragraph in question was removed by the Redevelopment Agency, not by this board.

Mayor Staffieri – Thank you for the clarification – I was going to make the same clarification.

Mr. Calvert – That board is sanctioned by this board. It's a Board of Aldermen sanctioned committee. You know whatever they do one would think that you are going to agree with them. That board is (inaudible.)

Susan Kniep, Former Mayor of the Town of East Hartford and currently the President of The Federation of Connecticut Taxpayer Organizations, Inc. – As I stand before you this evening as an elective legislative body I certainly understand the difficulties that you face. I see the building that is across the street and I understand that is owned by the City and it has been I guess for sometime – I guess twelve to fifteen years – and I could be off on that. And I understand how difficult it must be to come up with the money to be able to revitalize the area, myself having served in politics. But of course the relevant question is the safety of that building and how it has been allowed to stand. And when you look at that building and then you look at the buildings that you want to take, or the threat of taking, because I don't think you've actually instituted Eminent Domain action against the property owners who wish to hold on to their small businesses, but just the threat of the possibility of Eminent Domain you see a definite concern. You see a concern where Eminent Domain and the interpretation of blight has been extended to areas and buildings, which are not blighted. Certainly the buildings that the property owners are fighting to maintain – their businesses – are not blighted. The buildings have they ever been cited by this body or by any agency of the town? We need changes in our State Legislature and certainly I have testified for those changes and will continue to do so. There is a disease in this country, which is called Eminent Domain. And ultimately it will be cured and it will be cured by voters in office when they support those candidates who support reforming Eminent Domain against those candidates who do not. So in summary, and certainly I support all that the Institute of Justice has said this evening and what they have done. They are to be commended for their position here in the State of Connecticut in safeguarding the interests of those in New London and now in Derby. But I ask that you give very, very careful consideration as you look to redevelopment. To yourselves stepping forward and speaking out in support of those small businesses, which are thriving and which are contributing to your tax base. I understand that the redevelopment project will include bonding where the tax dollars will not necessarily come back to the city or the taxpayers immediately. And hopefully over time they will. Of course as we stand here today and myself being in real estate we don't really know that because we know the market is very soft at this time. But in summary just let me say in Ohio, as I'm sure you're all aware of, the Supreme Court ruled in the interests of the homeowners in that area. I understand you have homeowners in Derby who could possibly be under the threat of Eminent Domain in the future as it relates to plans that you are discussing. And we would hope that you would support the property owners who wish to maintain their small businesses get behind them and not take their properties. And I thank you very much for allowing me to speak before you.

Rick Dunne, 241 Silver Hill Road, Derby, CT (Member of the Derby Redevelopment Agency)
I'm here to speak tonight in opposition to any change to the powers of Eminent Domain that currently the City utilizes. I'm not going to address any mischaracterizations of the law, the decisions or the agreements that have been made before you tonight; you all know what the agreements say. I will address the one issue – the section – of the Redevelopment Agreement – the Preferred Redevelopment Agreement. We did not amend the Agreement; we did not remove any section of the Agreement. The Redevelopment Agency made a decision in the case of a paragraph that allowed for the use of a relocation site – it may be used I think is the language in the Agreement. We decided that we were not going to use it; it was not amended. In terms of what impact this will have on the current project - it will have none. If we pass an ordinance limiting Eminent Domain it will not affect either the South Side of Main Street Project or the HALO Project at all. You are already under contract and committed to using the power of Eminent Domain in the Agreements that were passed by the prior Board of Aldermen. We will be sued for Breach of Contract if we refuse to use it in the way it is contemplated under that Agreement. It's that simple. This will not change anything in regards to those two projects. In regard to the powers of Eminent Domain and how they're used you have a responsibility to all the voters in this town. And clearly the vast majority of voters would benefit by such a proposal. Yes it's unfortunate that there will be some property owners whose properties will be acquired under this in some manner and used for the benefit of all. But the benefit clearly – the balance of that clearly is on the side of the majority of the taxpayers in this town. I would suggest that it would be an aberration of your fiduciary duties to all the taxpayers of the City to turn away new tax revenue based upon protecting four properties. It's not something that we should be doing. In terms of eliminating it I mean there may be an argument to limit the use of Eminent Domain in this country, but it has to be done nationwide. You can't do it on a State or local level. It amounts to unilateral disarmament when it comes to economic development. The ability to use all the powers that all other cities in this country have is critical to negotiating agreements and attracting developers. I said I wouldn't address anyone else's comments and I'm not going to. The powers that you have under Eminent Domain are there and have been supported by federal courts since the end of World War II consistently – not inconsistently. There have been state decisions that have lower court decisions that have gone in favor of the property owners. Without exception they're reversed by our courts. So I urge you not to make a change. If you want to hear what people have to say, consider the ideas – but the fact is two things: 1.) It will not change your current projects and 2.) It is bad thing – it puts the City of Derby in an anti-competitive situation when it comes to competing for new investment and new development. Thank you.

Dr. Scott Merrill, 6 Woodland Road, Norwalk, CT – I completely oppose everything he said. Let's go back in time – how did we get America? Did we get America by developers? It was John Adams' opinion about property rights. Property rights are the foundation of the cornerstone of every civil right each one of you guys and ladies enjoy. So what's John Adams' word? This is my opinion – the moment the idea is admitted into a society that property is not as sacred as the laws of God and there is not a force of law and public justice to protect it. Anarchy and tyranny commence. Property must be sacred or liberty cannot exist. That's John Adams, that's not a developer.

Mr. Hughes – Sir can you just address the Chair.

Dr. Merrill – Okay. So what I'm trying to say is we've got a unique country – we really do. We all enjoy a living standard that's way beyond the rest of the world; we get tremendous freedoms. What was Thomas Jefferson's opinion on how you should treat your citizens? With malice towards none and charity towards all. That includes your homeowners, that includes your small business people. Okay, the Cristofaro family has gone through a tremendous personal sacrifice fighting Eminent Domain abuses. So this is my personal message to you. I love the people a little bit smarter than me when I speak so I'm going to John F. Kennedy now. What is John F. Kennedy's opinion? He said that what really counts is not the immediate act of courage or valor but those who bear the struggle day in and day out not the sunshine patriots but those that are willing to stand for a long period of time. Now he was referring to the military but it applies to Suzette Kelo and the Cristofaro Family. Which one of you all, including our developer, is willing to sacrifice your home and your business for a project? I've never heard of anyone with using charity towards all and malice towards none I've never ever heard of one government official like our Supreme Court justices that are willing to give up their home. And they were trying to take Souter's home; he wasn't willing to sacrifice it. It's really just not the American way to do things. Economic development is really dependent on factories and industries. I grew up here in Connecticut and we used to have all the factories, we used to have all the industries. I grew up in Norwalk – we had Nash Engineering, we had Remington Rand – they've all disappeared. Economic development is bringing back the industries and changing our trade agreements and making it so we get to do all the business instead of giving it away to China and we get to do all the business instead of giving it away to Mexico. You're never really going to bring back these cities in the State of Connecticut like they used to be when I was a kid because prior to World War II we were the most industrialized state in the nation. That's where the economic opportunity really comes from. All you guys are putting in extra time, extra hours to make this town a better place. And our Legislators get involved in negotiating back and forth...

Mayor Staffieri – Sir could you please wrap up.

Dr. Merrill – All I'm saying is there's nothing we need in this country to take one person's home or business away from them. We can do it the right way – we can pay these people if we have to a premium to relocate. I think that's the American way. Thank you for your time.

Mayor Staffieri – For verification what are you a doctor of?

Dr. Merrill – Doctor of Veterinary Medicine. I operated on Ali Sheba and he set the world records. So I've had a fun life. Thank you.

Franco Cristofaro, Gills Ferry, CT (Plaintiff in the New London case) – What I'm hearing tonight sounds exactly like what we've been fighting for for the last thirty years. Yes I say thirty years again; this was our second home that was taken through Eminent Domain. The first home was under the redevelopment pretense of building a seawall – the City wanted to protect the City's residents. Nothing ever happened other than the area was leveled, commercial buildings were installed, a (inaudible) was installed and we have close to ten acres of land that's been undeveloped for thirty years. And nothing has improved the City

of New London. And the City of New London decided to do exactly the same thing under economic development Eminent Domain, which was not existing during the Civil War, let's not forgot why the Supreme Court made a decision here. It's for economic development. It is wrong, absolutely wrong, to be taking someone's property. Just picture yourself with your property and your politician telling you that your property is only worth "X" number of dollars – we don't care whether you have an attachment to it or whether you own it – we're going to take it and we're going to give it to another developer to make money. And that's what it boils down to, making money. It's all about money – we all know about that. That's the American way it seems. We can't lose sight of the fact that this is America. The reason why I'm even here – I'm an immigrant – I flag my flag of the United States of America and I'm proud of it. I went to school and they taught up all about the Constitution. But we seem to be using our rights. Think about it – we're losing our rights. And we're allowing it for the sacrifice of a dollar. So all I can ask you at this point is consider the ordinance and try to do what you're really here. You're put in here by the people – the slogan is by the people, for the people of the people. Not for special interest developers who are going to make a serious dollar. Even in New London I scratch my head – this developer is going to build a bunch of buildings. It's supposed to improve the City of New London with tax bases. It's built in the Enterprise Zone. The City of New London won't see taxes for eight years – eight to ten years. How is it going to improve? They did the same thing in my first neighborhood. They leveled it – Enterprise Zone. No taxes for a long period of time. No buildings on some of the acres. Is this the right thing? Again, I'm asking you to reconsider taking property by Eminent Domain and allow your resident to keep his building. Thank you.

Mayor Staffieri – I would like to clarify something. We were all elected about seven months ago and the number one topic was get this done. So it tells you where the majority of the people in this town live.

Mr. Cristofaro – Where are the majority of the people in this room?

Mayor Staffieri – That's right where are they?

Mr. Cristofaro – You know I had the same issue in New London.

Karen Getlein, 30 Clark Avenue, Derby, CT – I would just like to point out, because you just brought it up about your election, it was that long ago that you stood in 176 Main Street and with most of you here – most of you here got elected on the basis that you were going to fight Eminent Domain abuse. You were for the small business owner and now you just turned on all of them. When you go to sleep at night just think about that. Anyone of your homes can be taken at any time. Some of you live next to areas that aren't developed yet. I know Kenny for instance you live – there's a big field in back. What's to stop them from taking your older home and building a condo development back there because it will improve the tax base to the town? Well this project down here is not going to improve the tax base to this town in fact for about thirty years. So that's all I have to say.

Mr. Szewczyk – Clarification on that point. I don't have a crystal ball and I don't think anyone else does either. So I wouldn't make a blanket statement like you did.

Ms. Getlein – With respect to what excuse me?

Mr. Szewczyk – That all of us...

Ms. Getlein – I said some of you here...

Mayor Staffieri – Okay – thank you very much.

Andy Teitleman, Owner of old Porch & Patio Warehouse, Caroline Street, Derby, CT – We've owned that building for I don't know thirty, thirty-five years. But really that's not what I want to talk about. I want each one of you to put yourselves in Brian Calvert and his family's shoes. Here's a man that's been in business for thirty something years in this town. He's raised a family, he's paid his taxes, he employs twelve or fifteen people, he's an honest good man and he's getting stabbed in the back and he's getting his life's work and savings taken away from him if you guys let this Eminent Domain go through. Every one of you think about that for a second. How you would feel if you were Brian Calvert and his family and you worked for thirty something years and built up a business and built up equity and some guy wants to come from out of town and give him ten cents on the dollar for what he owes and put in to it. Just think about that.

Sid Teitleman, 588 Derby Avenue, Orange, CT – I bought that old warehouse building thirty-five years ago, forty years ago. It was very handy for us. I had a store on the Post Road in Orange and a store in Brookfield. It was a small warehouse but it was very handy. And we were there for many years and we got along fine – the town was great and everything worked fine. About five years ago the former Mayor called me up and said let's have lunch. I had never met him and I met him for lunch and he said what we would like to do is if we found a nice building would you be willing to move from where you are? We would buy a building from you, pay all the expense of moving. I said terrific – find me something. It doesn't have to be as many feet as I have here because (inaudible) with an elevator. We have a couple in mind and we will get back to you. I never heard from him again. Two years later I got a letter from the Town of Derby telling me that my building was condemned as a blight building. There were eight other buildings – I was the only one – I wanted to stay here the town was good, it was handy, I said I'm going to fix my building up. I put almost \$100,000 into the building. I had to take all the windows and frames out and put in Plexiglas windows. I had to rewire the whole building, I had to close the elevators – it was a big job. I spent close to \$100,000. A year or two later Mr. What's His Name called me up and said we would like to buy you a building. They gave me an offer to pay me \$142,000 I think for the whole building. I laughed at him and said forget it; I'm not going to sell it to you. It was handy and at that point I had moved to another warehouse and I had it rented. And I stayed there. The next thing that happened was I spent all the money fixing up the building and it worked out fine. Then I get a call from these developers, or the people handling it for them, and he said we would like to buy your building. Well I'm not going to sell it for that kind of money. He said how much do you want? I said I want \$300,000 for it (inaudible.) It's a 75,000 – 80,000 ft.² building with an elevator and it's worth the money. He said we'll we're not going to give you that kind of money. Well it's very simple don't buy it – you won't have to spend any money. Then they came back a month later – we have to have your building. So they told me they would give me \$300,000 for the building but they would only give me 5% down instead of 10%. So they gave me \$30,000 as a deposit and they wanted

5 years time for me to wait. I said I'm not going to wait 5 years – actually my kids own it; I gave it to them years ago. And I said I'll give you one year, which was six months ago. They've got to January 1, 2007 and they told me by then they'll either walk away or they'll give me the rest of the money. But the town has been playing games with me all this time. You can't depend on anybody. And to take away a business like my friends have here I think it's a crime – I've never heard anything like it. If it was me I would get a shotgun and shoot them before I would give them my building.

Mayor Staffieri – If you could please wrap up Mr. Teitleman your time has already expired a little while ago.

Mr. Teitleman – I could go on for three hours.

Mayor Staffieri – I know. Thank you Mr. Teitleman.

Dan Waleski, 21 Elm Street, Derby, CT – As a concerned citizen may I call attention to the misuses and abuses of Eminent Domain. This is a Statewide as well as a national issue. This is not an opinion or opinions but this is fact. If you read the papers it should be pretty obvious to all. It would be a keeping with Derby's historical tradition to be a leader in addressing and ensuring justice be done to the present status of Eminent Domain. Finally for the record my I disagree with Mr. Dunne and his principle observations. Also note the Board of Aldermen is the final authority in our City. They can do much if it has the will. Thank you Mr. Chairman.

Arlene Yacobacci, 10 Lombardi Drive, Derby, CT – Dear Mr. Mayor and members of the Board of Aldermen – the past administration and you, the current administration, have known our concerns and frustrations over our property downtown and our future. To this date the only visit to our business during this whole ordeal has been by the previous administration and that was to tell us that our property was going to be taken by Eminent Domain if we didn't take the developer's offer. For those who don't believe Eminent Domain is not an issue then why does the amended Preferred Developer Agreement have the words Eminent Domain twenty-nine times listed in that document. And when you Mr. Mayor say Eminent Domain is a last resort this is proof that Eminent Domain has been discussed and you've been told what to say. You also say you hope the downtown business owners are cooperative. What you really mean is you hope we all go away without a fight and without sticking up for our rights. And Mr. Dunne has just confirmed that the threat of Eminent Domain is real. I have some quotes from Mayor Staffieri from a Valley Gazette article that appeared January 4, 2006 that was titled "The Valley Greets 2006". "As far as municipal government is concerned the downtown redevelopment project that aims to construct condominiums, offices, stores, and restaurants and the riverfront area is the top priority. The developer will spend between \$30 million and \$50 million before any buildings are built. The City has signed contracts with Ceruzzi." Well Mr. Mayor this is not a government or public purpose. This is for the benefit of the developer. What should be a top priority is taking care of the citizens of this town. Is it just a coincidence that the \$30 million to \$50 million is in the range of what the Special Taxing District allows a developer to raise bond money for? So this is not coming out of his pocket but it's actually free money to the developer. And regarding those contracts we learned during the June Redevelopment meeting that the City does not have a signed contract with the developer. The only

document out there is the Preferred Developer Agreement. The City has chosen to ignore and abandon us in favor of a developer, which has no contract to do this project, who has not presented a Financial Impact Analysis, who has shown the City only a Concept Plan, and who has claimed to have the capital for a 100% of the plan but now needs Special Taxing District so he can receive \$45 million in (inaudible) money. We have voiced our concerns to our legislators; however our local legislators have also gone to bat for the developer and have chosen to ignore us. Perhaps it's because the developers fund their campaigns. Perhaps it's because the developers have the funds to pay for lobbyists. For those of you who think it is okay to use Eminent Domain how would you like to not know where you will be or if you will still be in operation in the near future? How would you like to have expansion plans put on hold? How would you have liked to have been in limbo for the last few years? How would like to be treated as a second class citizen? How would you liked to be insulted with low-ball offers? How would you like to take care of your buildings and the property only to have the City let its own buildings cave in and fall apart? How would you like to be classified as a blighted area even though your property is not blighted? How would you like it when the City is allowed to and perpetuates the blight but who do you complain to because the City is exempt and cannot be penalized for blight? How would like for your property values to be depressed because your neighbors, who happens to be the City, doesn't take care of its own property? How would you like to be told to go elsewhere because no one from the City is looking to keep you in business in Derby? So I ask you the elected officials please keep all these thoughts and questions in mind when you discuss instituting a ban on Eminent Domain. And also ask yourselves if we have been treated fairly. Eminent Domain is wrong when it gives the private property of one owner to give to another private property owner for their private own. Is this what America is supposed to be all about? Isn't this supposed to be the Constitution State? If you believe in the Constitution let's start upholding the Constitutional rights of the citizens of Derby. Let's uphold the right to own property without fear that your property can just be taken away from you. We're asking for your help. Thank you.

Mr. Hughes – Just a quick question. Has this administration made any offers to the existing business owners who spoke tonight?

Atty. Coppola – No.

Mr. Hughes – Okay. So when they say "low ball offers" prior administration?

Mayor Staffieri – Prior administration. Nothing to do with this administration at all.

NUMEROUS VOICES – Developer.

Mr. Hughes – Has the developer made any offers on the City's behalf since you've been Mayor?

Mayor Staffieri – Not on the City's behalf.

Mr. Hughes – Thank you.

Mayor Staffieri – It's a whole new administration.

Dave Loda, 234 Hebron Road, Bolton, CT – I'm actually kind of here to observe and learn. I'm a fairly new member on the Bolton Economic Development Commission. We're a little tiny town – about 5,000 people not counting livestock, and we're starting to work on an economic development plan in town and I'm just here to observe. Even though we don't have much to redevelop we certainly would love to have a fraction of some of the businesses that you all have here and we would like to try to attract folks. But I just have a couple of observations – I grew up in the Valley – I'm from Seymour originally and I come down here fairly regularly to visit family and friends and such and I'm just an observer too. I'm a bit of a history buff and I'm reading this book "Patriots – Men Who Started the American Revolution" and it's interesting to note that when you look at the problems that they had back in 1760 to 1776 when the breakaway with England was coming about it was all because of abuse of power. Abuse of power by Parliament, abuse of power by the King and basically the infringement of perceived rights on common Englishmen because at the time people don't realize that the American Revolution was really the first Civil War. It was an English Civil War. And it came about because of abuse of power in different areas. Those of us, you all are as elected officials, nice people like myself are appointed, we're all about representing the people and being able to – you know we have a sacred trust involved. And as I was reading through this book I was reading about well you read about some of the things in the Declaration of Independence and everybody knows the famous lines that Thomas Jefferson wrote, which was we all have certain unalienable rights that foremost among these are life, liberty, and the pursuit of happiness. Well actually Jefferson didn't write all of that. He didn't really write – the "pursuit of happiness" part was edited out by Franklin who was known for his pursuit of happiness – pursuits in general – and also the "certain unalienable rights" was originally the "natural rights of man", which was very much in discussion around 1750, 1760. And it goes back to a very brilliant lawyer in Boston about 1760 by the name of James Otis where Jefferson was referring to. And he wrote about – he was arguing a case against the crown, the power, where they had writs of assistance, which were actually open-ended search warrants. Anybody who was appointed by the King could go in and search anybody's house any time they wanted; major abuse of power. And what James Otis had argued where the certain natural rights of man or people foremost among those were life, liberty, and the ownership of property. And what Jefferson had originally written in the Declaration of Independence was not pursuit of happiness but natural rights of man – unalienable rights was what was changed – but it was the natural rights of life, liberty, and the ownership or property. So you know the decision was actually won by Otis as a result against the crown the writs were changed and those are the kind of mechanisms that when you step back and look at the power structure within and how we forge and evolve a democracy its because of the balance of power to prevent any kind of organization or institution to take over and infringe upon those natural rights of people where no creature on earth as Otis said has any right to take away a man's life, his liberty, or his property. And those are quotes from James Otis in 1760. And so I just ask you to consider that and those are just some of these observations that I've looked at and sometimes when we get into how things are today it helps sometimes to go back in history and see where the fundamental basis are. Not paraphrase that we all learned as school children but understanding the systems and the dynamic forces involved. And just an observation and I would like to thank you all for your time.

Robert Scarduzio, 15 Stephen Street, Derby, CT (Board of Apportionment & Taxation Member) – I love this City and it's got its problems. In the public library the history of Derby I was reading a few years ago and I'm not going to quote it verbatim – there was a farm at the north end of the City. The City was growing – the guy didn't want to sell the property. Boston continued to flourish guess what Derby stagnated. What happened to this guy's cow pasture? Eventually he sold it to somebody else. When we're talking about history this is Derby's history. We didn't steal people's property. The Indians who were here, the Native Americans, they were going to be slaughtered by Mohicans coming over. They loved when the Dutch and the English got here – that saved their lives. And they were more than happy to coexist with everybody – kind of a big happy family. You can't steal a guy's property. You know what – when I played football here, when I was a Red Raider, we took pride in everything we did; we wouldn't let anybody push us around. And these are my friends – they're our citizens here. Guys you can't steal it – it's downright un-American. And when the Supreme Court they had their ruling they ruled on Connecticut law saying it was just vague – straighten out the books. Our State reps they've got to tighten that up. We shouldn't act on this and steal it. If this developer says he's going to build 700 units – whatever it is – say he sells it for \$200,000 a unit – you're looking at what \$140 million, \$120 million. If this guy is worth \$2 billion in capital let him cough up some money to relocate people. We're looking at what – three, four businesses left. The guy he's got the money – we shouldn't steal it. Friends, neighbors, loved ones you can't do it. It's just not right. That's all I have to say.

Mayor Staffieri – Anyone else from the public who would like to speak.

Mr. Calvert – If there's another turn around I do. I say sir I please ask for a rebuttal. Mr. Dunne made a statement that you're bound by this Preferred Developer Agreement...

Mayor Staffieri – No. Sorry we're not going to go rebuttal, rebuttal. Mr. Dunne's not even here.

Mr. Calvert – I want to make a point to yourself because you said this is a whole new thing. Okay if this Agreement has survived the previous administration and come to you and the Chairman just tried to make a point of were there any offers made under this administration? No there haven't been but they were made under that Agreement, which has survived into this administration. And those offers were abhorrent. And so that becomes a part of your legacy whether you like or whether you don't like it. That's the only offers that have been made.

Mayor Staffieri – Thank you Mr. Calvert.

Mr. Calvert – And that's what I would like to make sir. This document survived that administration...

Mayor Staffieri – There's also bits and pieces of things that are being taken out of content also. But thank you very much.

Mr. Calvert – No they're not taken out of content Mr. Mayor.

Mayor Staffieri – Mr. Calvert we said from the beginning we weren't going in that direction. You're forcing us to go into a different direction – not for you or for anybody else. We're not looking to get out of control. Someone else that hasn't spoken yet.

Martin C. Martin, 46 Emmett Avenue, Derby, CT (Board of Apportionment & Taxation Member, WPCA Chair) (Proud citizen of the City of Derby) – Items #10, 11, and 18 deal with the Greenway. The Greenway is a gem of the City. I'm encouraging the board to act upon those. One is about an Eagle Scout – it's a great project. The other is about a river walk to support a good cause. And the last one is about improvements and updates on that and I encourage the board to keep those projects going and be a positive on that. Thank you very much.

Mayor Staffieri asked three times if anyone else would like to address the board.

Hearing no one else from the public wishing to address the board...

PUBLIC PORTION CLOSED

APPROVE MINUTES OF JUNE 29, 2006 REGULAR MEETING

Mr. Hughes said there is an error on page 12 of the minutes, first paragraph, third row – It should read “Mr. Lenart noted that two firefighters killed in the line of duty yet there is not one place in the City that honors their memory” not Mr. Hughes.

A MOTION was made by Mr. Bomba with a second by Mr. Benanto to approve the minutes of the June 29, 2006 regular meeting with the one correction. **Motion carried.**

APPROVE MINUTES OF JULY 12, 2006 JOINT BOARD OF ALDERMEN/BOARD OF APPORTIONMENT & TAXATION SPECIAL MEETING AND THE JULY 20, 2006 SPECIAL MEETING

A MOTION was made by Mr. DeBarbieri with a second by Mr. Bomba to approve the minutes of the July 12, 2006 Joint Board of Aldermen and Board of Apportionment & Taxation Special Meeting and the July 20, 2006 Special Meeting. **Motion carried.**

Mr. Hughes said he was going through past minutes and noticed an error on the June 15, 2006 minutes. On one of the motions in the meeting it states “Mr. Hubbard” made the motion. Ms. Finn said the Town & City Clerk brought the error to her attention. She re-listened to the tape and corrected the error; the motion should have been made by Mr. Hughes.

COMMITTEE REPORTS

Downtown Committee (Tony Szewczyk) – Mr. Szewczyk passed out a list that contains properties, which were reported as blighted on the web site. The items that are highlighted in yellow contain new properties over the past two weeks. Mayor Staffieri informed Mr. Szewczyk that he received a complaint of blight at the corner of 5th and Anson. It was noted that the number on the house is 34. Mr. Szewczyk said there is one property on the list that is on Caroline Street. He said he went past the house and there is now a dumpster and painters on the property.

DEPARTMENT REPORTS

Mayor Staffieri stated that Mr. Kopjanski, Mr. Hawks, Mr. Culmo, and Chief Cota are present and asked the board members if there were any questions on their submitted reports?

- Building Department – No questions raised – Report placed on file.
- Fire Marshal – No questions raised – Report placed on file.
- Public Works Department – No questions raised – Report placed on file.
- Police Department – No questions raised – Report placed on file.

REQUEST BY STAR SCOUT JAMES ANDERSON – PERMISSION TO WORK WITH DERBY GREENWAY COMMITTEE TOWARDS LIFE AND EAGLE SCOUT ADVANCEMENTS

Mr. Hughes read into the record the letter received from Star Scout James Anderson:

Jim C. Anderson
54 Academy Hill Road
Derby, CT 06418

To Whom It May Concern:

Good afternoon, my name is James C. Anderson, I am currently fifteen years old and I am a Star Scout in Troop #3 of Derby, CT. I am currently working on my Life Scout and Eagle Scout rank advancements. One of the most important jobs as a Life Scout is to plan, lead and successfully complete an Eagle Scout project. For my Eagle Scout Project I plan to get together with the Derby Greenway Committee and find desirable spots to anchor down benches. These benches will be anchored down to prevent vandalism. They will be donated by the Derby Garden Center. If possible I would like to position a flagpole in the center of the rotary. I will also use turpentine or paint thinner to remove the graffiti on the signs and if possible the concrete walls. I would like to meet with the committee to plan this task the way that it should be done. Plaques will also be made advertising the names of the businesses and individuals who made this project come to life. These plaques will be posted at the Division Street entrance of the Greenway. Please approve of this project and reserve it for me. Please contact me for any further questions. Sincerely, Star Scout James Anderson.

Mayor Staffieri informed the board members that James Anderson is present this evening. He noted that we definitely need more Scouts like Jim. The Board of Aldermen members enthusiastically endorsed the project and greeted Mr. Anderson with a round of applause. Mr. Walsh said the Greenway Committee looks forward to working with Mr. Anderson on this project. It should be noted that Mr. Szewczyk tried to obtain Mr. Anderson's services for help with the parking garage, should he be looking for any future projects.

A MOTION was made by Mr. DeBarbieri with a second by Mr. Szewczyk to approve the request of Star Scout James Anderson to work with the Derby Greenway Committee on his proposed project for his Life and Eagle Scout Advancements. **Motion carried.**

AREA CONGREGATIONS TOGETHER – PERMISSION TO USE RIVER WALK – SEPTEMBER 30, 2006 – 9TH ANNUAL WALK FOR THE HUNGRY & HOMELESS

Mr. Hughes read the request from Area Congregations Together into the record:

July 19, 2006

Derby Aldermen
Derby City Hall
1 Elizabeth Street
Derby, CT 06418

RE: September 30, 2006
9th Annual Walk for the Hungry & Homeless Permission for Use of Greenway

Dear Aldermen,

We are in the planning stages of this event and we respectfully request your permission for use of the Greenway, September 30, 2006 from 7:00 a.m. to 11:00 a.m. Our walkers will travel from the B.J.'s entry way and walk to the half way point and return to the B.J.'s entrance. We will have volunteers along the way also to guide the participants.

I will also be in touch with Derby Police Chief Andrew Cota upon confirmation of approval from your office.

I thank you for your support and attention. I look forward to your response.

Most Sincerely, Elizabeth Holcomb – Director of Operations

Mr. Hughes questioned whether or not this should be sent to the Greenway Committee. Chief Cota said in prior years they have used the Derby Green and they walked to Griffin Hospital and back. It noted that they have had Officers escort them in the past and it is always very successful with no problems. Mr. Walsh said the Committee did discuss this at their meeting last night and the only concern they saw was for parking. Mrs. Moran asked Chief Cota of the number of participants at past events. Chief Cota said it is 100±.

A MOTION was made by Mrs. Moran with a second by Mr. Hughes to approve the request of Area Congregations Together to use the Greenway Trail for their 9th Annual Walk for the Hungry & Homeless on September 30, 2006 from 7:00 a.m. to 11:00 a.m. on the condition that parking arrangements have been made. **Motion carried.**

Mayor Staffieri directed Ms. Finn to contact ACT with this request.

ROAD BOND BILL APPROVAL (RON CULMO, DIRECTOR – PUBLIC WORKS)

Mr. Culmo said they have finished Buckingham Road and they are about 90% complete on Silver Hill Road; there is still some drainage works that needs to be done. Hine Terrace, Krakow Street, Franklin Avenue, and Washington Street have also been completed. The top two bills, which are for O&G, are bills that came in after he submitted the initial group. Mr. Culmo requested that the O&G bills also be considered for payment.

Mr. Hughes asked Mr. Culmo why doesn't the City backfill curbs? Mr. Culmo said they don't have enough personnel to finish the work that they're doing right now. Two individuals have been out on comp for the last three months and over the last couple of months at three people have been out on vacation – it is finally lightening up. There used to be 18 people to Public Works and at that time the workload dramatically increased. Public Works is now done to 13 not counting people on comp and on vacation. He noted that they have some temporary help for the next six weeks to assist them. We have to work with the people that we have. Mr. Hughes stated that is one point that he never understood. We would sub out mowing the fields at Witek Park, however complaints were filed because they want to do the work but they don't have the manpower anymore. How do we deal with a situation like that? Mr. Culmo said he agrees wholeheartedly. Mayor Staffieri said he has been trying to discuss the Greenway with Mr. Culmo because due to the lack of manpower they have not been able to attend to the grass down there. We need to meet and form a strategy. Mr. Hughes questioned whether this would go back to the Union? Mayor Staffieri said with the shortage of manpower he doesn't see how they can argue. We're not laying them off and we're giving them hours – nobody is sitting around. Mr. Culmo said he does not understand why they complained about this. Why do they ask for jobs when we can't do it?

A MOTION was made by Mr. Szewczyk with a second by Mr. DeBarbieri to authorize the payment of the Road Bond bills as presented. **Motion carried.**

WAIVER OF PERMIT FEES FOR ASBESTOS ABATEMENT OF CITY OWNED BUILDINGS – SOUTH SIDE OF MAIN STREET (DAVID KOPJANSKI, BUILDING OFFICIAL/ZONING ENFORCEMENT OFFICER)

Mr. Kopjanski informed the board members that the Asbestos Abatement contractor has commenced work on the City owned buildings. The value of the work is approximately \$50,000.00. He stated that although permits aren't exempt from this process the fees could be. The permit fee for this, based on the fee schedule, would be approximately \$400.00. He said it really doesn't make any sense for the City to require a contractor who is going to work on City-owned buildings to pay permit fees since he is only going to charge that amount back to the City anyway since the Contractor would include the cost of permit fees in his price that he is charging the City. Mr. Kopjanski said the board should consider creating a policy for this since we are going to have this situation happening more and more as they continue work on those City-owned buildings. He would recommend waiving the permits fees for this asbestos abatement project. Mr. Martino, a member of the Board of Apportionment & Taxation, said the Tax Board considers that revenue – would this need to be approved by both boards? Mr. Kopjanski said the Board of Aldermen has the power to waive fees.

A MOTION was made by Mr. Hughes with a second by Mr. Boulton to waive the permit fees for the asbestos abatement of City-owned buildings on the South Side of Main Street. **Motion carried.**

APPROVAL OF AGREEMENT OF SETTLEMENT WITH NORESCO CO. - \$120,000.00

Atty. Coppola informed the board that the long drawn out battle with Noresco has finally come to an end. Their bill was approximately \$300,000 and we have decided to terminate our relationship with them and enter into a final agreement for payment of \$120,000 and they will waive any claim to the balance.

A MOTION was made by Mr. Szewczyk with a second by Mrs. Moran to accept the settlement with Noresco, Co. in the amount of \$120,000 with the understanding that Noresco also waives their claim to the balance.

DISCUSSION ON MOTION

Mr. Hughes asked if this is a fair settlement based on the circumstances and the work that wasn't done. Mayor Staffieri said we can opt to take them to court and if we lose we would have to pay the full amount and attorney fees.

Mr. John DeBarbieri said this is the best case scenario. He said Noresco was contractually wrapped up very well. He said our exposure was for the full \$380,000. They accused the City of Derby, one person in particular, that we disparaged their name and caused the problems and they wanted to escape the City of Derby. He stated this is a very fair settlement. Mrs. Moran asked where the money is coming from to pay for this. Mayor Staffieri said it is the Bond money. Ms. Duhaime, a member of Board of Apportionment & Taxation, asked if this would also cover Derby in any breach of contract. Atty. Coppola said it would. Mayor Staffieri said an agreement has been pledged by both parties. Mr. Bomba questioned who was the overseer of this whole project? Mayor Staffieri said it was the former administration.

MOTION CARRIED.

FEE WAIVER REQUEST – MANGIONE PROPERTIES (TED ESTWAN, CHAIR, PLANNING & ZONING COMMISSION)

Mayor Staffieri stated that Mr. Estwan is not present this evening. Mr. Hughes said there was a lot of confusion on the board's part at the last meeting when this was first brought up. He said all we are approving is basically the same thing we just did for the asbestos on our buildings. He said Mangione submitted an application to Planning & Zoning – Planning & Zoning recommended that Mr. Mangione take a different route and re-submit. Mr. Estwan and the commission is requesting waiver of that second application fee. Mr. Hughes then read the letter received from Theodore J. Estwan, Jr., Chairman of the Planning & Zoning Commission into the record:

July 26, 2006
The Honorable Anthony Staffieri, Mayor
City of Derby
City Hall
1 Elizabeth Street
Derby, CT 06418

RE: Mangione Properties, LLC – Application Fee credit
Commerce Street, Derby, CT

Dear Mayor Staffieri:

On February 17, 2006, Mangione Properties, LLC submitted a Zone Text change application to the Planning & Zoning Commission. During the discussion of the application the Commission suggested that the applicant withdraw his application and pursue a different

approach for their proposal. When the applicant withdrew his application on May 16, 2006, the Commission agreed that they would request that a credit of the original application be applied to a future application if submitted. The fee for the original zone text change application was \$1,000, which included a \$500 application fee and a \$500 initial review fee.

On June 12, 2006, Mangione Properties, LLC submitted two applications one for Zone Change with a fee of \$750 (paid) and another for Zone Text Change with a fee \$1000 (which has yet to be paid.) The Commission is willing to support a credit in the amount of \$500 to refund the original application fee only. Any review fees associated with the original application or current applications will be handled in the same manner as all other applications and in accordance with the established fee schedule and policies adopted by the Commission (see attached.)

Should you have any questions, please do not hesitate to contact me.

Very truly yours, Derby Planning & Zoning Commission – Theodore J. Estwan, Jr., Chairman

Mrs. Moran said she would like to hear Mr. Kopjanski's thoughts on this request. Mr. Kopjanski said this is the first time that he has heard the letter and the amount that they wish waived. He said knowing that the application fee for a Zone Text Change is \$1,000, which is broken down as \$500.00 for the application fee and \$500.00 for Review Fee. The \$500.00 for the Review Fee is money that the City has to spend towards the City's Planner, Milone & MacBroom, who keep track of their hours for a particular project and then applies their hourly fee for those hours. He said knowing that Mr. Mangione has already made an application for the same property for a Zone Text Change it seems fair that he would not be charged another application fee for the same property for the same type of application. He would however have to pay for the Review Fee. Mr. Hughes noted that it does state in the letter that any Review Fee associated with the original application or current application will be handled in the same manner as all other application. Mr. Kopjanski said in February Mr. Mangione paid \$1000.00 for the Zone Text Change; \$500.00 for the Application Fee and \$500.00 for the Review Fee. He said the Planning & Zoning Commission asked him to withdraw that application. At that time they also said to him that they would try to get the Application Fee waived for a new application that he could submit for this property. Mrs. Moran asked if we have ever done this before. Mr. Kopjanski said he does not recall it being done before on a non-City owned piece of property. In all fairness we haven't had the situation rise very often where an applicant is asked to withdraw an application and submit a new one.

A MOTION was made by Mr. Hughes with a second by Mr. Benanto to approve the fee waiver requested by the Board of Apportionment & Taxation in the amount of \$500.00 for the Application Fee for the Mangione Properties Application. **Motion carried.**

TRANSFER OF POLICE VEHICLE TO CIVIL DEFENSE (VIN VIZZO, DIRECTOR, CIVIL DEFENSE)

Mayor Staffieri informed the board members that Mr. Vizzo is on vacation this week and asked Chief Cota if he had any comments. Chief Cota said he spoke with Mr. Vizzo about the board's concern of increasing the fleet vs. keeping it at the same level. He said that a 1994 Ford Crown Victoria will be taken out of service and dropped from insurance and the transferred police vehicle would take its place, thereby not increasing the size of the fleet.

Mr. Hughes read the letter received from Vin Vizzo into the record:

To: Mayor Staffieri
The Derby Board of Aldermen

I would like to advise you that the 1994 Ford Crown Victoria assigned to Derby Emergency Management (Civil Preparedness) has been taken out of service and will be dropped from insurance coverage. This vehicle is 12 years old with 117,000 miles. The cost to repair this vehicle is estimated at \$1,200.

I can assure you that my intention is not to increase the amount of vehicles assigned to Emergency Management. The transfer of the retired police vehicle to Derby OEM will NOT increase the fleet. If the Board so desires the 1994 Ford Crown Victoria can be put up for sale or it can be removed and junked.

Thank you. Vin Vizzo, Director, Derby OEM

Mr. Szewczyk asked if we should try to sell this vehicle as opposed to junking it. Chief Cota said it is not worth it.

A MOTION was made by Mrs. Moran with a second by Mr. DeBarbieri to approve the transfer of the retired Police Vehicle to the Civil Defense. **Motion carried.**

RESTRUCTURING OF W.P.C.A. – INFORMATIONAL ONLY (MARTY MARTINO, CHAIR, W.P.C.A.)

Ms. Duhaime, a member of Board of Apportionment & Taxation joined Mr. Martino in addressing the Board of Aldermen.

Mr. Martino apologized for getting this letter to the Board of Aldermen members so late. He said he was not aware that they received their packets so early. He read the letter into the record:

Board of Aldermen Members,

As a member of the Board of Apportionment & Taxation I did not know I was automatically a member of the WPCA. I found this out after my election to the Board of Apportionment & Taxation 3 years ago. I served on this board in the past, but the WPCA was never a part of it. A member of the Board of Apportionment & Taxation serves as chairman and the Board of Apportionment & Taxation members act upon its needs.

The chairman is subject to election every 2 years and the potential for a new chairman and new members is also subject. This is an important and complicated board that takes time to understand. It carries a budget of over 1.7 million dollars, oversees miles of sewer pipe, the plant, its employees and the current and future needs of the City. All development in need of sewers is subject to the WPCA board and its assessment of those needs. Further, as part of the Board of Apportionment & Taxation any bonding for improvements could become the burden of all taxpayers and not just the users. Therefore I am asking your board to return the WPCA to an authority, who will have time to understand the workings and needs of the WPCA and bring this essential service in the direction it needs. This in no

means is to indicate that the current members of the Board of Apportionment & Taxation are not dedicated or capable. It is hope of improvement. Thank you for your time and any consideration. Martin C. Martino, Chairman of the WPCA

Mr. Martino informed the board members that the WPCA is not an authority, it is a commission. He said when you get elected to the Board of Apportionment & Taxation and they don't actually tell you that you have to also control the WPCA. There are a lot of things that one must learn about the WPCA – it is complex and technical. He also noted that in order to be on the WPCA you must be a member of the Board of Apportionment & Taxation. Should you not get re-elected for the Tax Board you can no longer be a member of the WPCA. Mr. Martino said when he was elected to the Board of Apportionment & Taxation in November and became the Chairman of the WPCA where he had to first prepare a \$1.7 million budget. He also had to learn all the workings of WPCA and then project that to the other members of the board. He said returning the WPCA to an authority you would have people that are not subject to election, but subject to the Board of Aldermen itself. This way you would have individuals who are intent on being involved. There are a lot of things, especially the downtown project that will require the WPCA. Mr. Martino said right now users pay the fees and they pay for improvements and they pay for any bonds. If for any reason the bond fails it now becomes the burden of the City – its taxpayers. So non-users would also have to pay for this and that would be illegal.

Mr. Martino said he hopes the Board of Aldermen review this situation and consider changing it to an authority. He said he would be more than happy to work with any committee or anyone designated to address this issue.

Ms. Duhaime said continuity on the board is really an issue with elections. Also we need to have a long range plan, which she feels could only be obtained through continuity on the board. She said specifically continuity on the board is needed to ensure compliance with state statutes regarding roof leader discharge into the sewer system. Compliance with that would also save the City money since rain water won't be processed as waste for the sewage treatment plant as it is now. Ms. Duhaime said there is a process that is starting to be in place to notify homeowners to remove roof leader discharge; however it is a pretty big step and it is a project that is going to have to be on-going. For continuity sake it is best to have the same individual through this project.

Mr. J. DeBarbieri said up until 2001 there was a permanent authority consisting of five people for five year terms. He said that is one of the legislative initiatives that corporation counsel and I have spoken about in late May, early April. Atty. Coppola is also working on the WPCA legislation. Mr. J. DeBarbieri said he agrees wholeheartedly with Mr. Martino and Ms. Duhaime that it has to be separated into an authority the same way the parking garage did in forming the parking authority. He said he feels it would be a function of the Operations Committee of the board to work with corporation counsel to re-establish the guidelines of the Authority.

Mayor Staffieri said he would like to set up a committee with Mr. Martino and anyone else that he suggests and also anyone from the Board of Aldermen that is interested to further discuss this matter. He said this is a very worthwhile endeavor for the City. Mr. Hughes asked if we should refer this matter to the Operations Committee. Mr. Martino said he feels

any committee that would be interested in addressing this issue would be fine with him. Mayor Staffieri asked the members of the Operations Committee if they would like to handle this. Two members of the committee said they would like to oversee this matter. Mr. Martino said the operations of the WPCA is actually secondary to the fact of the WPCA board that would operate the operations. When they changed this over there was unclear blending of powers. According to the Charter the employees are under the direct supervision of the WPCA Chairman but when they blended it there was no direct authority because we had no authority – we answered to the Board of Aldermen. Mr. Martino said he would like to be very clear on one thing – you have the ability to appoint persons, whether himself or someone else – that's not the issue. He said the issue is beyond him and the Tax Board members. As most people know the Board of Apportionment & Taxation meetings can go to 10:00 p.m., 11:00 p.m. and we actually just flip a hat from Board of Apportionment & Taxation member to WPCA member and you have to rely heavily on the person that actually has studied the information. He said if you appoint individuals who are truly interested in participating and representing the WPCA you would have a better situation.

Mayor Staffieri said he would like to refer this to the Operations Committee and have Mr. Martino attend to offer insight into the workings of the WPCA.

Mr. Szewczyk said if we are going to appoint five members he would suggest that we try to get people with some specialized knowledge – civil engineers, etc... Mr. Martino said he understands exactly what Mr. Szewczyk is saying. He wouldn't want to put an engineer on the board. He said we have people that have a lot of understanding and it's something that you can learn – he said he has learned a lot about chemicals and enzymes – really much more than he ever really wanted to know about that aspect. He noted that it is the final say of the Board of Aldermen and you can direct it any way that you want. He said he is just appreciative that the board would be interested in addressing this issue.

GREENWAY FOUNTAIN IMPROVEMENTS UPDATE (JACK WALSH)

Mr. Walsh said they had their meeting two weeks ago. He noted that we are now at the second phase of the project, which is the enhancement phase. He said they have moved the fountain from Founder's Commons to the entrance of the trail. The fountain has been cleaned up and realigned; however it is missing some parts. The Lion Heads are being replaced and should be ready by the fall. He said the nice thing would be to have the water flowing through the fountain again. They would also like to create a plaza where the fountain stands and turn it into the main entrance to the Greenway. He said they would like to take that section, which is currently all grass, and turn it into a brick-face plaza. The committee would propose selling bricks to the general public as memorial bricks where they can inscribe some kind of memorial and then use the proceeds from that to help pay for the full restoration of the fountain or set the money aside for maintenance and future enhancements to the Greenway. Mr. Walsh stated when the Derby Neck Library addition was opened they sold the memorial bricks and it was a great success. He said the committee is asking for approval for the sale of the bricks. Mayor Staffieri asked Mr. Walsh if he has a cost estimate for this work. Mr. Walsh said the cost of the plaza is basically landscaping, installing the bricks and benches for the Greenway. He said the bricks would range between \$50.00 to \$100.00. Mayor Staffieri said he would like to have Mr. Walsh get a cost estimate to create the plaza. The Mayor also questioned whether or not there is a

water line in place. Mr. Walsh said when they installed the fountain they put conduit in place. He said he doesn't know what it would take to connect to the water source. Mr. Szewczyk asked how big would the plaza be. It was approximately 12' x 12'. Mr. Walsh noted that the City Engineer, Michael Joyce, did prepare a concept rendering of the proposed site. He noted that there would also be additional signage installed. Mayor Staffieri said he would like to give Mr. Walsh a go ahead to gather more information on how to make this plaza become a reality. He said we would also need to set up a separate line item, as we did for the trees on Founder's Common, for the sale of the bricks. Mr. Hughes asked Mr. Walsh if he could prepare a set of guidelines for the purchase of the bricks. Mr. Walsh said a lot of the programs that deal with these fundraising items are prepackaged with all the information that is needed.

A MOTION was made by Mr. Benanto with a second by Mr. DeBarbieri to authorize the Greenway Trail Committee to proceed in gathering the necessary information required for Phase II of the Greenway Trail. **Motion carried.**

PARKS AND RECREATION DIRECTOR SALARY INCREASE (JACK WALSH, CHAIR, PARKS & RECREATION COMMISSION)

Mr. Walsh said this issue is something that we were not aware of in the past. Under the Charter the Parks and Recreation budget is approved by the Board of Apportionment & Taxation and includes salary increases. The salary for the Parks & Recreation Director is not covered. Although the Board of Apportionment & Taxation approves Parks & Recreation's budget the raise for the director is not in there. The money is in the budget, however he cannot receive the raise until the Mayor recommends his salary and the Board of Aldermen approve it. Last year Mr. O'Connell did not get a raise. This year the Board of Apportionment & Taxation did approve our budget. There is some money in there for a raise; however not the amount that they had asked for. Mr. O'Connell said he is asking that Mr. O'Connell get the raise for the amount that is in the salary item, which amounts to about a 3% raise over two years makes it about 1.5% a year. Mr. Walsh said Mr. O'Connell has done an excellent job as director. Although it is on a part-time basis and that is what he is paid for he is almost full-time with the amount of hours that he puts in. Mayor Staffieri said the money is already appropriated it just hasn't been approved. Mr. Walsh said only the Board of Aldermen can approve the salary increase for the Parks & Recreation Director. He said they approve the budget with the salary line item; however he is only paid at his current level until the Aldermen approve some change. Mayor Staffieri asked Mr. Walsh for the rate of payment now and with the increase. Mrs. Moran said he is paid \$13,500 and it would go to \$13,900. Mayor Staffieri said knowing what Mr. O'Connell does and that he didn't get an increase last year, he would recommend the increase. Mr. Bomba said there was a raise given in the previous budget but it was never doled out to the person who should have received it? Mrs. Moran said the Recreation Commission prepares a budget every year and the Board of Aldermen recommends that Mr. O'Connell gets a raise. The Board of Apportionment & Taxation approves the budget as presented. Due to the fact that Mr. O'Connell only works part-time it needs to come back to the Board of Aldermen in order to authorize the raise. Mrs. Moran said we need to study this item since it will be before us again.

A MOTION was made by Mr. DeBarbieri with a second by Mr. Hughes to approve the 3% raise for Dennis O'Connell, Parks & Recreation Director, beginning July 1, 2006. **Motion carried.**

ETHICS COMMITTEE – DISCUSSION

Mr. Hughes said when we were going door-to-door back in November a lot of people were interested in the re-formation of the Ethics Committee. He said he believes there was one in effect at one point. He feels that some research needs to be done in order to bring this committee back to life. He said he has done some investigating and he has found the list of current members and the current Ethics Code as well as minutes of an earlier Board of Aldermen meeting dated December 16, 2004 where the entire Ethics Code was changed for some reason. He said he has been unable to find the prior Ethics Code before the changes were made. He would like to know if this is something that we should consider looking into. Mayor Staffieri said it is his opinion to dissolve this past group that hasn't done anything and appoint five new members who actively want to get involved and actively want to contribute to the City. Mr. Hughes asked if we are allowed to dissolve committees. Mayor Staffieri said he would instruct Corporation Counsel to review this matter and report back to the board. Atty. Coppola said he would look into how we can revise the language and see what can be done about the board. Mr. Szewczyk said if it is found that we can't dissolve the board can we at least fill the vacancy. Atty. Coppola said some boards automatically dissolve for in action. He also believes the Ethics Commission doesn't meet unless there's a complaint – he said he would need to check into that. Mayor Staffieri said a couple of years there were some complaints but no board. And all of a sudden we have a board that was hastily prepared.

DISCUSSION ON BRIAN CALVERT ORDINANCE REQUEST

Mayor Staffieri said we will hear an opinion from Corporation Counsel.

Atty. Coppola – Let me first begin by saying that any discussion right now regarding Eminent Domain is very premature. There have been no steps by my office or the Mayor to commence Eminent Domain. So let me just bring the board up to date on what's been going on. The Redevelopment Agency approximately three or four months ago started to have bite on the redevelopment of downtown. There are two projects that they have underneath their belts. One is the downtown and the other is the HALO project. The HALO project is not as aggressive as the downtown project. The downtown project absolutely needs attention and it has been getting attention. As part of that process the City retained a relocation expert. As part of his process he's to contact the various owners that are sitting out in this audience to discuss with them what their needs are to discuss with them what is the financial calculation to help them relocate. Now during many meetings that I have sat up here I have listened to those in the public misrepresent what's actually going on. Sometime in the future it will be the City's turn to advise this board exactly what has happened. There's nothing underhanded going on. The second part was to engage the services of two appraisers; we have done that. The appraisals are completed and the next few weeks I will be contacting and the Mayor along with me will be contacting the owners that are in that downtown project to have discussions regarding their property. I will also advise the board that the developer has reached out to these owners. Some of these owners have accepted their certified letters; some have not. Some of them have promised to contact him. Apparently none of them have contacted the developer to sit down and

discuss. The developer has certain leeway that the City does not have. We have to service approximately 13,000 residents. As part of our service we're going to inquire as to whether or not these remaining home – property owners – sorry they are not home owners by the way; there are no homeowners involved in downtown redevelopment. There are homeowners involved in the HALO project but again it's a little premature to discuss what's going on with them and that area. So what we are talking about are commercial property owners with businesses that are actively operating in that location. So we are taking the steps to come up with an appraisal for the property. We're taking steps to come up with a value for business interruption, for relocation and so on. And I will sit down – let me correct myself – I will attempt to sit down with the owners. Of course two people need to negotiate so hopefully the owners will take our invitation and we will discuss it. As I said we serve the City. The law is that the City can offer Fair Market Value – that's what we offer. We can't offer premiums for property. We offer what an appraiser advises us. That is our duty to everyone in this community. We're in the process of getting ready to do that. We're not at the Eminent Domain question yet. So with that brief update let's get into the Eminent Domain question and the ordinance that someone has proposed for us to review. The first thing that the board should know is that the U.S. Constitution gives us certain rights and in the Fifth Amendment that portion of the language that involves us regarding a government “nor shall private property be taken for public use without just compensation.” If you look at you'll see some buttons that talk about Eminent Domain abuse. Well first you need Eminent Domain before you can abuse it and right now we're not abusing anything with regards to Eminent Domain. Going back to the Fifth Amendment our government is going to protect their rights. We are going to offer just compensation. The questions that have been raised regarding Eminent Domain are the need for improvement because there's a private developer out there is just not a correct summary of what is going on. Urban renewal is a valid public use – it is a valid public use. Some of the problems behind us are City-owned problems; we're going to correct them. Fortunately for the City's resident we require a number of property to make that project cohesive. We're not talking \$3 million, \$4 million. We're talking \$45 million to \$100 million. We are lucky to have a developer who is assisting the City in trying to raise those funds to do for the better good. So in getting back to this question of Eminent Domain we first need to go through the process of offering fair, just, compensation, which we are doing. The next couple of items that I want to address is one of the audience members stated that the developer here – the reason for the developer is for him to make money. I will turn that around to say any restriction of this municipality's statutory right to enforce Eminent Domain is for the increase of any funds that the owner may want to get. If you remove our rights of Eminent Domain you cannot entertain a purchase price unless the owner tells you what it is and that's not for public good. To remove Eminent Domain would mean that they can ask whatever price they want from whoever – whether it's the private owner or the City. That is not what government is here for. We are here to protect our citizens. I have to say the audience that I see concerned tonight are the owners that are in that development area. They're not people from across town; they're not people in the HALO project. They're the four citizens – 4 vs. 13,000 vs. this board. And once again I will say this – I am serving on behalf of the Mayor, the Board of Aldermen, the other boards, and the 13,000 residents. This board's attempt to restrict Eminent Domain in any way is forcing my office to look at whether or not you have the authority to do that because that's only for a select few. That's not what this board is about and that's not what our government is about. Keep in mind there were accusations of the former administration low-balling. Well I can't speak for them; I guess we're taking on their

problems. But this is what I will speak – we will not be low balled. We will be offering Fair Market Value. If someone doesn't like Fair Market Value that's not for us to decide. That's when you go up to your legislature and figure out that you must double Fair Market Value. But that's not up to us – that's not what we're in. We're in a Fair Market Value society – I'm sorry that's where we are. I must also point out to the board that we have two agreements. One party pointed out that Eminent Domain the two words are used twenty-nine times in our agreement. What you must realize is that we are contractually under obligation for two projects. And the keys to those two projects are for the cohesiveness of all the properties. If an owner does not turn over their property we are contractually obligated to look at our use under statutes. One of the uses is Eminent Domain. And the good news is in the very near future I will come before this board and I will tell you that I sat down with so and so or they refused to sit down with me. And in either case I will then say to you this is what the Fair Market Value is – it is “1X” and their counterproposal is “3X” you make your decision. Either the project fails because we can't obtain one property or the project goes forward – and then you decide. They're not attempting to relocate families. We are not attempting to take a slab and let it sit there for thirty years. Anyone who is involved with this project as myself, the Mayor, the Redevelopment Agency, and a few other members know that the wheels are turning. If we intended to keep a slab I can assure you we weren't staying up to 2:00 a.m. deciding whether or not the legislature is going to pass a \$45 million bond. Believe me I could have done something else. There's no reason to get that type of legislation passed unless we're real. We're real; we're ready to go forward. Again, you cannot be blinded by the few. You know our society – we are a society of sacrifice of the few for the good of all. I mean look what's happening overseas – we sacrifice young men for all of us. Unfortunately if they are not satisfied with their Fair Market Value this board has to discuss and the community has to discuss what are we going to do next. So the final thing I need to update the board is any type of restriction on our statutory rights, on the constitutional protection that they have, is going to be a breach of two agreements. And I know one, immediately after I'm done litigating this board's action, the developers are going to be right behind us and we will lose that. That is a part of our deal – is to present them with Title. Same thing with the HALO project. It is different in scope, it does have residential. When we get to that project, when we get to that problem we'll discuss it. But nobody is low balling, nobody is underhanded. Nobody's trying to not relocate someone. That is a misunderstanding. Unfortunately again for the owners the statutory rights of a relocated agent is to give them advise – give them advise. Not to pick them up and drive them to a new location and say here's your location. Not to build them a building and say here's your new building. That is not our statutory obligation and that's not our obligation to the City residents. We're not obligated to do that. So – I'm going over (inaudible) what I anticipated to do but that's a precursor of what's going to happen in a few months. I will be back to the board and I will give you an update and I will tell you factually what's going on. There's no backstabbing – no one is getting stabbed. So just with that said I'm open to the many questions that the board may have.

Mr. Szewczyk – The legality of the agreement between the City and the developers like if it's argued that we reneged on the developers because we did not use the power of Eminent Domain... the basic question is this...

Atty. Coppola – (Inaudible) I have to correct you that that is incorrect but go ahead.

Mr. Szewczyk – Okay – I keep hearing – I'm not clear like if we have to use – is Eminent Domain one of the tools that we have to provide for the developers – yes or no?

Atty. Coppola – No. What we have to do is obtain Title and transfer that Title at a number; that's our agreement. That number can only come through our powers. We don't have the power to double someone's Fair Market Value.

Mr. Szewczyk – Okay fine. When was this agreement signed?

Atty. Coppola – I mean the dates have changed – it's either May 2005 – that could be the Plan and then the Agreement could be September 2005.

Mr. Szewczyk – If it was made in 2005 then it would have been before the Supreme Court ruling, which might have nullified – might have been under the old rules.

Atty. Coppola – No. You have to understand the Supreme Court ruling to start with. That involves homes – residential homes.

Mr. Szewczyk – Well the Supreme Court the (Inaudible) Scott decision was a property case.

Atty. Coppola – Well I don't know which one you're talking about then. But again Mr. Szewczyk you're talking about Eminent Domain. That is more appropriate when I'm done explaining to you what has happened; we're not even there yet.

Mr. Szewczyk – Okay.

Mayor Staffieri – Just an interjection – on item #21 a. – purchase of John Allen/Derby Jewelers. We did two new appraisals and one of the appraisals Derby Jewelers jumped at; they were very happy. So what was done in the past is not being done in the future.

Mr. Szewczyk – I know that.

Mayor Staffieri – And nobody had to twist Derby Jewelers arm to accept the amount.

Mr. Szewczyk – I just don't want to be associated with what happened in the past. Because we weren't even here.

Mayor Staffieri – That's exactly it. We're not associating ourselves with the past. That's why we're not doing things on how they did it.

Atty. Coppola – I just want to say that what's interesting was that there were a couple of people in the audience that discussed protection of the owners when they're under contract to sell their building. It's not stopping anyone else. Just so you know that – they're under contract so I guess they can support and still sell.

Mr. Hughes – Mr. Mayor one of my biggest concerns and it's sort of my fault that I didn't do the research you know we heard an awful lot about the developer not reaching out to the business owners. You know basically ignoring the business owners and trying to get what he

wanted. The more meetings that I attended it seemed like that just wasn't true. From the last Redevelopment Agency meeting, if you don't mind, I just want to read a brief synopsis.

Mayor Staffieri – Say whatever you have to say.

Mr. Hughes – Okay – and this is coming from Mr. Skolnick, who is the Preferred Developer and this was the minutes taken from the last Redevelopment meeting. It goes on to say “I've met with all of the owners in the district that are here tonight. I welcome – I think they have my telephone numbers – I welcome their calls and in particular I've been waiting for Mr. Auerbach's call and his promise and pledge to me was that he would call me with the value of his property and I welcome the opportunity to sit down with you and negotiate for your property any time. I hope you have my phone numbers; I've left them at your office and I have handed them to you in person and I would say that for Mr. Calvert and Mr. Yacobacci that holds true. If there's information that comes up publicly at a session please feel free to call me. Whether or not there's a Redevelopment Agency meeting if there's information that you require or are unsure of I would be happy to sit down with you. I do – as many of you have heard are sometimes bothered by comments made that you're standing in the way of development. I feel similarly that comments are made that the developer is not talking to us. And the fact is I welcome it and I have talked to all of you in this room at one time or another and would like to continue that dialogue.” Then it goes on to say “Just in response to Mr. Yacobacci and what I hear is a general comment from the three owners that are present here today. I did meet with you – I suggested that we work together. I urged you to call me back and make a meeting or an appointment to discuss value and how we can work together to find a relocation property. I still welcome that call. Please, and I said it earlier, you all have my phone numbers – I've stopped by and I've shaken your hands at your places of business and see you each month here. I'm not unavailable. And I would welcome sitting down with any one of you or all of you.” Then I find out today that he also recently just sent a certified letter mailing to the property owners; once again reaching out and trying to bring it to the table. So is there something that I'm missing? Because I hear on one hand that they want to negotiate with the developer and I hear on the other hand that the negotiator wants to negotiate with them. Where is that lost?

Mayor Staffieri – And this was all set out in public, correct?

Mr. Hughes – So do we know what's breaking down?

Mayor Staffieri – Line of communication. You know people are saying that the developer doesn't want to talk and then in public the developers says to them let's talk and somewhere the marriage isn't happening. And what I've seen, I've been at all these meetings, the developer says to them I'm here let's talk and they don't go and talk. I mean we were there in the public.

Mr. Yacobacci – Mr. Mayor may we discuss this also.

Mayor Staffieri – No.

Woman's voice – Every other agenda item had public commentary.

NUMEROUS VOICES COULD NOT DISTINGUISH.

Mayor Staffieri – Quiet. Listen – it ain't going to happen; I'll have you removed. Who else?

Mr. Yacobacci – We'll remove ourselves thank you very much. But those were mistruths and they may be not mistruths they were down right lies.

Atty. Coppola – I did not lie about one thing.

Mayor Staffieri – All this is public record.

Mr. Bomba – It's not public portion – let's not argue here.

Mr. DeBarbieri – Mr. Mayor I have some thoughts I would like to share with the board and the public about Eminent Domain because it is a hot button issue and I want to assure people that we're not here trying to take someone's property and you know give them nothing for it or be unfair. Let me just read this statement into the record:

I started thinking about it and I came back to when my grandparents built the house on Sentinel Hill Road in about 1955. They chose the area because it was kind of farmland up there. They had been living downtown for (inaudible) years and they wanted to give their children a big yard to play in when it was still open space and very few neighbors. Today that area is lined with houses – many people have much the same idea that my grandparents did. I never once heard them complain that their neighbors were infringing upon their rustic setting even though they may have been less than thrilled about the development. They understood that progress brings population growth and that sacrifices must be made for the sake of that progress. For the sake of bringing money into the City's coffers so they can fund public works, education, government, and all the vital programs that so many of us in this country take for granted. When I approach the issue of Eminent Domain, which I have really not until now, I will try to keep their wisdom and acceptance of necessary sacrifices in my heart and mind. I do not want any of these business owners to leave Derby. Despite some remarks that have been tossed around at meetings and I would consider premature at best and rude at worse by those who feel they are threatened I still want them to ply their trades in Derby. But I have a charge and an oath – out of 12,000 people I have approximately 11,995 other constituents that I must make decisions on behalf of. I have 11,995 other people who want to see progress just because it may ease their tax burden in the long run. There are likely 11,995 people who feel that since they will be footing a portion of the bill for redevelopment they want their officials to negotiate a fair market price not an over-inflated one. It's important to me to keep these remaining business owners happy; but it is not my foremost duty. The needs of many do outweigh those of a few. I promise that I will support them in getting Fair Market Value for their properties, creating the data gathered from independent certified auditors. They will get what the buildings and relocation fees are worth according to statutes that have been upheld all the way to the Supreme Court. I can also promise that they will not get a blank check. This is a pledge that I make to 11,995 other people. If it costs me my aldermanic seat in the next election so be it. I say this now and I will say it after the next election win or lose – I believe what we are doing is fair and right. These owners must make way for the City and the developer. This developer is going to help our government revitalize a downtown that has

been neglected along Main Street for far too long by the City and the former owners of the buildings who let them fall into disrepair. There is a balance here that must be struck – we must do what is fair. If we must displace these owners we must give them what is fair according to legal guidelines and statutes. We must get Main Street off the ground. That is why I am not in favor of this particular Eminent Domain ordinance as written. I see no need for it and I believe it to be contradictory. For example in section a. it states “that the taking of a private parcel has a significant and logical connection to the safety, health, and/or welfare of its citizens.” But in section d. it states “that the mere showing that the City may enjoy a tax revenue benefit won't be adequate justification to proceed for an Eminent Domain proceeding.” Is not increasing revenue and improving infrastructure, business opportunities in an attempt to ease the tax burden concern the welfare of the people of Derby? I believe 11,995 people would agree with me. Let's put away this animosity and move this along quickly and fairly. Derby has been forced too long to wait for progress. Thank you.

Mayor Staffieri – Members of the Board of Aldermen based on the opinion of Atty. Coppola I don't believe we can consider the elimination of Eminent Domain. I don't think we would do the taxpayers of Derby justice by taking action, which we know will create legal action against the City based on another legal action that we just had to pay for. Legal action, which might be very successful. Legal action, which might cost the taxpayers millions of dollars. Therefore, I would recommend no action or rejection of Mr. Calvert's request. That is my opinion. What is the pleasure of the board?

A MOTION was made by Mr. DeBarbieri with a second by Mr. Bomba to reject the ordinance as written.

ROLL CALL VOTE

Mr. Szewczyk – Abstain
Mr. DeBarbieri – Yes
Mrs. Moran – Abstain
Mr. Benanto – Abstain
Mr. Bomba – Yes
Mr. Hughes – Yes
Mr. Boulton – Yes

4 Yes; 3 Abstain

MOTION CARRIED.

PURCHASE OF JOHN ALLEN, ET AL COMPANY PROPERTY (A/K/A DERBY JEWELERS – DISCUSSION AND VOTE

Atty. Coppola said two appraisals were conducted of the property. It also should be noted that Mr. Allen cooperated with the relocation agent. The City tentatively agreed to offer \$180,000 for the property. The lowest appraisal came in at \$140,000 the highest appraisal came in at \$182,000. The relocation amount is \$50,000. So the City is prepared to offer \$180,000 for the property and \$50,000 for relocation. Atty. Coppola said the developer is also offering an amount, which he feels we cannot make public. He said this is what our statutory duties are – to offer Fair Market Value.

Atty. Coppola informed the board that there is a City of Bridgeport case that just came out. The City of Bridgeport offered the low ball appraisal and the court said no. Other towns offered the medium – take the average – we're not doing that. We're offering the high amount. So that offer now has to be approved by this board.

Mayor Staffieri said his instructions have been the highest offer to the business owners. He said that shows that this administration is not pulling any punches – we're not trying to steal, we're not trying to find the middle of the road. We are trying to do what is right.

Atty. Coppola said just a point of clarification – he knows many appraisers, he did not know this group. He said the group was retained based on their license. We had no influence with what they came in at. He went on to state that he certainly has no influence on the numbers that Mr. Michalowski, the relocation agent, prepares. Atty. Coppola pointed out that Derby Jewelers security system has a cost of \$15,000 brand new. He said we can offer junk value for that but we didn't; we offered him a brand new system. He said we would need a motion to allow the City to offer the total amount of \$230,000 for the purchase of the property. He said after that there are terms that need to be straightened out. Then we can negotiate the timing – right now it seems that he would be ready to go within thirty days, which would allow the City to save more additional funds by letting us get into the building for remediation. Mayor Staffieri said that the Allen's are being very cooperative. Mr. Szewczyk said he's positive about this. Atty. Coppola said he is happy.

A MOTION was made by Mr. DeBarbieri with a second by Mr. Boulton to make the offer of \$230,000 for the purchase of the John Allen et al property a/k/a Derby Jewelers. **Motion carried.**

REVIEW OF DERBY PUBLIC LIBRARY CONTRACT (INFORMATIONAL ONLY)

Mr. Robertson said the public library was organized as a union in 2002. There have been on-going negotiations for years. The Mayor when he took office said he wanted this resolved. He said we have come up with a contract. He would suggest based on the state statutes that we have until the next meeting for approval. Mr. Robertson said he would create a summary of the contract and get it to all board members. Atty. Coppola said we have a timeline to approve this. Mr. Robertson said that Atty. Coppola's interpretation was we had fourteen days upon receipt of the contract and thirty days after that. It was noted that we could get this in for the next meeting; however Atty. Coppola stressed that we cannot go beyond that date. Atty. Coppola also advised the board that the contract is accept or reject – we cannot revise the language. He said it is his recommendation to accept. Mr. Robertson said if we do not reject and if we were not to act on it at the next meeting it takes effect.

Mr. Bomba had a question about the holidays. A lot of the holidays are days when the kids aren't going to be in school. Wouldn't it be nice to have a library that is open? Atty. Coppola said the full time employees get those days off. Mayor Staffieri asked how many full time employees are there. Mr. Robertson said two. Mrs. Moran said would the library be closed or are the off those days? It was noted that it would be closed. Mayor Staffieri said if anyone has any questions he asked that they be forwarded to Atty. Coppola or Mr. Robertson.

RESOLUTION FOR 2004 STATE HOMELAND SECURITY GRANT PROGRAM

Mr. Hughes informed the board that we actually approved this grant a few months ago but it was for a different year. This is the same exact grant.

AUTHORIZATION RESOLUTION OF THE CITY OF DERBY

CERTIFICATION:

I, Laura A. Wabno, Town Clerk, do hereby certify that the following is a true and correct copy of a resolution adopted by the Board of Aldermen at its meeting on July 27, 2006 at which a quorum was present and acting throughout, and that the resolution has not been modified, rescinded, or revoked and is preset in full force and effect.

RESOLVED:

That the Mayor, Anthony Staffieri, is empowered and authorized to act on behalf of the Board of Aldermen in executing a Memorandum of Understanding with the State of Connecticut, Department of Public Safety, for participation in the FY 2004 State Homeland Security Grant Program.

IN WITNESS WHEREOF: The undersigned has affixed her signature this 27th day of July 2006.

Laura A. Wabno, Town Clerk

A MOTION was made by Mr. Hughes with a second by Mr. Szewczyk to accept the Resolution as presented. **Motion carried.**

ADJOURNMENT

A MOTION was made by Mrs. Moran with a second by Mr. Benanto to adjourn the meeting at 9:46 p.m. **Motion carried.**

Respectfully submitted,

Patricia Finn
Recording Secretary

A TAPE RECORDING OF THIS MEETING IS ON FILE IN THE TOWN & CITY CLERK'S OFFICE