

DERBY BOARD OF ALDERMEN REGULAR MEETING

DERBY CITY HALL – JANUARY 22, 2009 - 7:00 P.M.

MINUTES

PLEASE NOTE THAT DUE TO THE POOR QUALITY OF SOUND ON THE TAPE THE PUBLIC PORTION SECTION IS NOT VERBATIM AND IS DERIVED FROM THE RECORDING SECRETARY'S NOTES.

The Honorable Mayor Anthony Staffieri called the regular meeting to order at 7:00 p.m. All rose and pledged allegiance to the flag.

Roll Call

Present: Kenneth J. Hughes, James Allaire, James J. Benanto, Jr., David M. Lenart, Ronald M. Sill, Joseph M. Bomba, Scott M. Boulton, Anthony Szewczyk (arrived at

Absent: Beverly Moran

Also Present: Chief Eugene L. Mascolo, Derby Police Department
Ron Culmo, Director, Public Works Department
Philip A. Hawks, Fire Marshal
Leo Moscato, Jr., Executive Director, Derby Parking Authority
Carolyn Duhaime, Chair, Board of Apportionment & Taxation
Sheila Parizo, Board of Education
Rich DeCarlo, Cultural Commission
Laura Wabno, Town & City Clerk
Joseph T. Coppola, Corporation Counsel

ADDITIONS/DELETIONS/CORRECTION TO AGENDA

Mr. Hughes said he has some changes and additions to the agenda:

- Add approval of minutes of the November 20, 2008 meeting
- Move #9 – Review of existing Transfer Station fees and charging procedures – Discussion & Possible Action to Item 6.5
- Add “Discussion & Possible Action” to Item #9a – “Discussion regarding General Permit for the Transfer Station”
- New Item #15 – Schedule a Special meeting regarding the re-adoption of the Chapter 53, Article V regarding Adult Oriented License Ordinance
- Adjournment now Item #16

A MOTION was made by Mr. Hughes with a second by Mr. Benanto to approve the agenda as amended. **Motion carried.**

PUBLIC PORTION

Mayor Staffieri read the following into the public portion for public comment:

In order for the meeting to be conducted in an orderly fashion I ask that if you wish to speak in public portion that you please clearly state your name and address. Please

address the board for your comments and limit questions to items on the agenda. Public portion will not be a question and answer session; however the board will note your questions and attempt to discuss the issues when the board is reviewing and discussing an agenda item. And also please keep your comments down to two minutes and this was adopted by past administrations – it's nothing new. So nothing that we started. So I would like to open up the public portion.

Marc Garofalo, 95 Academy Hill Road, Derby, CT – Mr. Garofalo stated that he wanted to correct a statement from last month's meeting. He objects to what was said about time limits and noted that there were no time limit restrictions imposed during the Public Portion when he was in Office. He asked for more clarification regarding the Redevelopment Agency report. He also noted that since it is an election year and with the new President curtailing campaign financing that local campaigns follow suit and not accept donations from any contractor or firm that does work with the City. Mr. Garofalo said he would also like to receive more information regarding the "Town Development Act." He could not obtain anything further since the minutes of the meeting were not on file. He also suggested since we have fallen on tough economic times that the two positions at the Public Works Department not be filled.

Dan Waleski, 21 Elm Street, Derby, CT – Mr. Waleski commented on the previous speaker's comments and he would just like to say that he has the opposite views.

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 THE DECEMBER 18, 2008 REGULAR MEETING

A MOTION was made by Mr. Hughes with a second by Mr. Sill to approve the minutes of the December 18, 2008 regular meeting as presented.

DISCUSSION ON MOTION

Mr. Allaire stated that there a correction needs to be made on page 10 under the yearly schedule. The date should read "April 23, 2009" not "April 28, 2009."

MOTION CARRIED.

APPROVE MINUTES OF THE NOVEMBER 20, 2008 REGULAR MEETING

A MOTION was made by Mr. Hughes with a second by Mr. Bomba to approve the minutes of the November 20, 2008 regular meeting as presented. ***Motion carried.***

REVIEW OF EXISTING TRANSFER STATION FEES AND CHARGING PROCEDURES. DISCUSSION AND POSSIBLE ACTION

Mr. Hughes noted that there have been some questions raised from the public regarding the fee schedule at the Transfer Station. He has been in touch with Annex, who is currently at the Transfer Station and he has a copy of the fee schedule. He would like everyone to know that the fee schedule has been in place at least since 1988 – that it is nothing new; however it is now being enforced. Mr. Hughes informed the board members that a member of Annex Associates is present this evening to give the board a brief presentation and they would also be happy to answer any questions.

Rich Antonucci, from Annex Associates, told the board members that he has checked on the fee schedules of surrounding towns. He stated that Derby seems to be the best deal in the Valley. The City of Shelton is \$15.00 to \$20.00 no matter what you bring. In Ansonia it is \$99.00 a ton. For the Town of Orange you must receive a sticker and then you pay annually every year. Seymour is \$100.00 a ton. The City of Derby charges \$60.00 ton and \$2.00 for tires. He noted that the money goes to the City.

Mr. Hughes said it is very important to understand that the money is going to the City. Mr. Antonucci said the first three weeks that they were up at the Transfer Station they didn't charge City residents anything. He said everybody now pays and there isn't any favoritism. They charge whatever the fee schedule states. He said that it is costing the City absolutely nothing for them to be there. Mr. Hughes said that he would have the fee schedule posted to the City's website.

CORRESPONDENCE

There was no correspondence to be reviewed.

COMMITTEE REPORTS

Community Relations – Mr. Szewczyk said they have an on-going discussion regarding the creek that goes from Witek Park to the Housatonic River and especially the flooding that occurs on Gilbert Street. He said they (himself, Mr. Culmo, Mr. Sill, Mr. Lenart) are still gathering information on the problem and noted that it also includes State regulatory agencies. Mr. Szewczyk said they have been in contact with the residents on Gilbert Street to let them know that they are diligently working on the problem.

- **Vendor Permit: Humpty Dumpty Ice Cream – Joseph Kevalis**

A MOTION was made by Mr. Hughes with a second by Mr. Allaire to approve the Vendor Permit Application for Humpty Dumpty Ice Cream. **Motion carried.**

DEPARTMENT REPORTS

- **BOARD OF EDUCATION REPORT – (Sheila Parizo, Board of Education)**

Mrs. Parizo informed the board members that Dr. Tracy apologizes for not being present this evening. She remarked on how pleased the Board of Education is with the progress being made on the new Middle School. Mrs. Parizo also noted that they have begun work on the upcoming budget and they hope that any cuts that need to be made will not have an impact on the classrooms.

- **CULTURAL COMMISSION REPORT – (Rich DeCarlo)**

Mr. DeCarlo informed the board members that the Cultural Commission is currently working on a few events – a Farmers' Market, Derby Day – noting that Derby Day is scheduled for Saturday, June 20th. Report placed on file.

- **PUBLIC WORKS DEPARTMENT REPORT – (Ron Culmo, Director)**

Mr. Culmo asked if anyone had any questions on his report. Mr. Hughes thanked Mr. Culmo and his department on the fine job during the last two snowstorms. Mr. Szewczyk

complimented Mr. Culmo on handling the situation on Gilbert Street, noting that they recently met on at the site on Saturday. Report placed on file.

- o **BUILDING DEPARTMENT REPORT – (David L. Kopjanski, Building Official/Zoning Enforcement Officer)**

Mr. Kopjanski was not present for the meeting. Mr. Hughes commented on the increase in permit fees collected stating that it is a true testament to the work that is going on in the City. Report placed on file.

- o **FACILITIES INSPECTORS' REPORT**

Neither of the Facilities Inspectors were present. There were no questions raised. Report placed on file.

- o **FIRE MARSHAL REPORT – (Philip A. Hawks, Fire Marshal)**

Mr. Hawks asked if anyone had any questions regarding his report. Mr. Hughes stated that he was happy with the way that the inspections are progressing. Mr. Hawks informed the board that he is working on the stairwell project at the High School and also the installation of the temporary propane gas line for the new Middle School. Report placed on file.

- o **FIRE DEPARTMENT REPORT**

Mayor Staffieri informed the board members that Commissioner Kelly Curtis dropped off his report, which is self-explanatory. The Mayor congratulated the new Chief James Butler and thanked the out going Chief Charlie Sampson for his hard work. Report placed on file.

- o **POLICE DEPARTMENT – (Chief Eugene L. Mascolo)**

Chief Mascolo asked if there were any questions on his report. Hearing none he directed the board members to item 20 on his report noting that he needs to make a correction – there are two new recruits that are in the Field Training Program who will be graduating in February and three will be graduating from the Academy in May. Report placed on file.

Mr. Hughes informed Chief Mascolo that he has received compliments on the new officers.

- o **PARKING AUTHORITY REPORT – (Leo Moscato, Jr., Executive Director)**

Mr. Moscato submitted a CD Rom (attached to minutes) prepared by Szeker Engineering, Inc. regarding the structure survey for the municipal parking garage. He informed the board members that the Derby Municipal Parking Authority recently conducted a structural engineering study parking garage and that the study shows that the garage is in need of major repairs. The repairs are needed to add years of service to the garage. Mr. Moscato said that the City and the Parking Authority can no longer avoid the necessary repairs noting that the garage is a vital part of the business and resident district in downtown Derby. He said the garage accommodates approximately 6,000 vehicles on a monthly basis and they anticipate a 10% increase in usage during the coming year due to economic growth in the downtown area. Mr. Moscato informed the board members that the City of Derby and former administrations entered into contracts with several residents, commercial and governmental entities and that the authority is obligated to provide 60 spaces for Derby Manor, located at 33 Roosevelt Drive until the year 2047. The Courthouse is allocated

an additional 90 spaces until 2025. He noted that the contract for Derby Manor has inadequate escalation costs and the contract for the Courthouse contains no escalation cost. Mr. Moscato stated that the City's Planning & Zoning regulations mandates that all new businesses in the downtown area provide adequate parking and that 20 downtown entities currently use the garage on a daily basis. The success of downtown Derby's economic growth relies heavily on the ability to provide parking for new businesses as well as residents. The City must realize that the garage is a vital part of our thriving downtown. The garage is now 34 years old and is nearing the end of its life span. In closing Mr. Moscato said the Municipal Parking Authority is asking the City for assistance through its Office of Development in helping secure available funding for their "shovel ready" renovation project.

Mr. Moscato informed the board that Herman Szeker of Szeker Engineering is present this evening to discuss the structural study. Mr. Szeker stated that there are a lot of structural issues regarding the municipal parking garage. In his report he has offered two plans to address the problems – an immediate solution that involves shoring up the floors and the other is a complete overall plan.

Mr. Hughes asked if there was already a structural report on the garage. Mr. Moscato stated that URS conducted a study years ago. Mayor Staffieri noted that the lack of maintenance over the years has led to this situation. The board members will review the new study.

DISCUSSION REGARDING GENERAL PERMIT FOR THE TRANSFER STATION

Atty. Coppola informed the board members that he and Mr. Hughes met the first week in January with the DEP and Annex Associates regarding one major violation at the Transfer Station. In 1996 the City obtained a certificate to construct a Transfer Station with the certificate being good for one year. The plan was to finish the construction and then obtain a general permit, which we have never done. The Transfer Station is currently operating without the general permit. He said the purpose of the meeting was to get an understanding as to how we can continue operating the Transfer Station. Atty. Coppola said he was informed that we could apply for a general permit. He informed the board that a Site Plan would be needed and he believes the City's engineer could handle that aspect. He said the Site Plan would also include where the facilities are actually going to be constructed. The City would also have to engage a professional to handle the environmental data. Atty. Coppola said if we intend to continue to operate the Transfer Station then he has approximately 60 to 90 days to file the application so he needs to know what is the consensus of the board regarding the Transfer Station. He said the board motions him tonight to move forward with this he would approach the Board of Apportionment & Taxation.

A MOTION was made by Mr. Hughes with a second by Mr. Bomba to authorize Corporation Counsel to pursue the General Permit for the Transfer Station. **Motion carried.**

REFUND OF EXCESS TAXES REQUESTED THROUGH 1/15/09

A MOTION was made by Mr. Hughes with a second by Mr. Bomba to approve the Refund of Excess Taxes paid through 1/15/09 in the amount of \$2,426.45 as per the request from Cinda Buchter, Tax Collector. **Motion carried.**

NEW DERBY MIDDLE SCHOOL INVOICES – DISCUSSION & ACTION

Patty Finn, Recording Secretary for the Middle School project informed the board members that Keith McLiverty, Chair of the Middle School Building Committee, apologizes for not being present this evening. She noted that the Middle School Building Committee is also meeting this evening and the meeting is running longer than expected. Ms. Finn informed the board members that earlier this evening the Middle School Building Committee members voted to approve the payment of the three invoices before the board this evening:

- FIP Construction, Inc. – Invoice #08001.10 - \$959,132.00
- Bianco Giolitto Weston Architects – Invoice #14 - \$24,945.00
- GNCB – Invoice #17100 - \$2,661.60

A MOTION was made by Mr. Hughes with a second by Mr. Sill to approve payment of the FIP Construction, Inc. Invoice #08001.10 - \$959,132.00; Bianco Giolitto Weston Architects Invoice #14 - \$24,945.00; and GNCB Invoice #17100 - \$2,661.60. **Motion carried.**

2010 CENSUS PARTNERSHIP PROGRAM – PRESENTATION BY SHERRI L. WOOD

Sherri L. Wood from the 2010 Census Partnership Program briefly outlined the process for the upcoming 2010 Census. She explained that they would be hiring individuals to perform certain tasks for the 2010 Census and supplied information packets, which she has asked the City to have on file to distribute to interested parties. The information packets will be held in the Town Clerk's Office for anyone wishing them.

CAROLINE STREET PARKING LOT – JURISDICTION TO DERBY PARKING AUTHORITY – LEO MOSCATO, JR., DIRECTOR – DISCUSSION AND POSSIBLE ACTION

Mr. Moscato stated that the Municipal Parking Authority is looking to take over jurisdiction of the Caroline Street Parking Lot and to make improvements to the lot to help alleviate parking in that area. He stated they would clean out and repaint the lot to make it suitable for residents with permit stickers to park in the lot.

A MOTION was made by Mr. Lenart with a second by Mr. Bomba to transfer jurisdiction of the Caroline Street Parking Lot to the Derby Municipal Parking Authority. **Mr. Szewczyk recused. Motion carried.**

"TOWN DEVELOPMENT ACT" – SCHEDULE PUBLIC HEARING – DISCUSSION AND ACTION

Mr. Hughes said he takes offense when he hears comments that the board is not transparent. He explained that the "Town Development Act" and how the process of scheduling a Public Hearing was explained in depth at the last special meeting. He said he doesn't see how the board could be anymore transparent in their actions.

Atty. Coppola stated that on January 14, 2009 the City invited Bond Counsel Douglas Gillette to explain and breakdown the legislation regarding the "Town Development Act." At that meeting it was decided to schedule a Public Hearing at this evening's meeting. Atty. Coppola said although there are some complications to the Act he doesn't feel that the City should shy away from it. He said it is a tool that the City could use for certain projects. He said the Act helps alleviate the deterioration of municipalities by preserving and expanding employment opportunities in the tax base of a municipality by undertaking or assisting in the financing, development or construction of housing, industrial, commercial, parking, retail, office, hotel, warehouse,

recreational or transportation facilities or any combination thereof and any service facilities related thereto or supportive thereof. Atty. Coppola said in the event that a project comes before the Board of Aldermen and if one of the requests is to have the Aldermen approve the bonds or notes issued underneath the Act for that particular project the bonds and notes issued under the Act are Special Obligations of the municipality and not payable nor charged against any funds other than the revenues that are pledged for the payment that comes specifically from that project. It does not go against our full faith and credit – it is not an obligation of the municipality – it doesn't affect our bond rating – it has nothing to do with the municipality. Atty. Coppola said the costs associated with this is the referendum. He said once the City enacts the Act it can just sit there – the City has five years to approve any project under the Act – there is no mandatory use of the Act.

Atty. Coppola said if the City decides this is something that they would like to do the next step is to have a Public Hearing on the Act. Notices will be posted in the paper for the Public Hearing and the public will be invited to ask as many questions as they like. He said Bond Counsel will also be present to answer those questions. Atty. Coppola said if the City decides on having a Public Hearing there will be a Resolution with the date of the Public Hearing. That Resolution will be posted at City Hall and also advertised in the newspaper. At the Public Hearing the City's Economic Development Director, Sheila O'Malley, will be present with the data that is required to be submitted. After that meeting the board will then have to make a decision whether or not to send this to Referendum.

A MOTION was made by Mr. Hughes with a second by Mr. Bomba to schedule a Public Hearing regarding the "Town Development Act" with discussion and possible action for Thursday, February 19, 2009 at 7:00 p.m. at Derby City Hall, Aldermanic Chambers.

Motion carried.

Mr. Hughes then read the resolution into the record:

**RESOLUTION OF THE BOARD OF ALDERMEN
OF THE CITY OF DERBY
INTRODUCING RESOLUTION MAKING FINDINGS REQUIRED TO INVOKE THE
POWERS GRANTED UNDER THE PROVISIONS OF THE CONNECTICUT CITY
AND TOWN DEVELOPMENT ACT, CHAPTER 114 OF THE CONNECTICUT
GENERAL STATUTES AND SCHEDULING A PUBLIC HEARING ON SAID RESOLUTION**

RESOLVED,

- a) That the resolution entitled "Resolution of the Board of Aldermen of the City of Derby Making Findings Required to Invoke the Powers Granted Under the Provisions of the Connecticut City and Town Development Act, Chapter 114 of the Connecticut General Statutes," as presented to this meeting is hereby introduced; and that the full text of said resolution shall be attached to or recorded in the minutes of this meeting.
- b) That in accordance with the provisions of Chapter 114 of the General Statutes of Connecticut, Revision of 1958, as amended, and the Charter of the City of Derby, prior to action on the foregoing resolution a public hearing be held on the resolution in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby,

Connecticut on Thursday, February 19, 2009 at 7:00 p.m., and that the Mayor, the Town/City Clerk and other proper City officers and officials are authorized to take such actions as are necessary or desirable to call such public hearing.

SCHEDULE A SPECIAL MEETING REGARDING THE RE-ADOPTION OF THE CHAPTER 53, ARTICLE V REGARDING ADULT ORIENTED LICENSE ORDINANCE

Atty. Coppola said he has been collecting data regarding how to regulate the adult establishments. He said we have a current Ordinance and he would like to finish collecting the data and present it to the board for their review. He said based on the data presented the board can support the regulation as to where these adult establishments can be located within the City of Derby.

A MOTION was made by Mr. Hughes with a second by Mr. Benanto to schedule a Special Meeting to discuss the data regarding the re-adoption of the Chapter 52, Article V Ordinance regarding Adult Oriented Licenses. **Motion carried.**

EXECUTIVE SESSION (IF NEEDED)

No Executive Session was required.

ADJOURNMENT

A MOTION was made by Mr. Sill with a second by Mr. Bomba to adjourn the meeting at 8:30 p.m. **Motion carried.**

Respectfully submitted,

Patricia Finn
Recording Secretary

THESE MINUTES ARE SUBJECT TO THE APPROVAL OF THE BOARD OF ALDERMEN AT THEIR NEXT REGULARLY SCHEDULED MEETING.