

**CITY OF DERBY
BOARD OF ALDERMEN
MARCH 26 2009
CITY HALL**

MINUTES

Call to order Meeting called to order at 7:00 p.m.

Pledge of Allegiance All rose and pledged allegiance

Roll Call Present: Anthony Szewczyk, Beverly Moran, David Lenart, Ronald Sill and Kenneth Hughes- President

Also present: Mayor Anthony Staffieri

Absent: James Allaire, James Benanto, Joseph Bomba and Scott Boulton.

There is a quorum.

Additions, Deletions, Corrections to the Agenda:

Mr. Hughes had a new item, (as 9a) Resolution for the Department of Economics and Community Development for the State of Connecticut. Under item **#21**, Arlene DeFeo will be added for a five (5) year term and George Porter an alternate for a three (3) year term. Under item **#24** a new item: Planning and Zoning Commission – the appointment of David Rogers and Steven Jalowiec five (5) year terms. New item **#25**, the re-appointment of Michael Stahl, David Ahearn and Bill Steeves for the Lake Housatonic Authority, Executive Session will be item **#26**, and then adjournment item **#27**. **A MOTION** to accept the agenda with the additions by Mr. Hughes, second by Mr. Szewczyk, all in favor, motion carries.

Public Portion:

Dan Waleski – 25 Elm Street. He wants to thank Ron Culmo and his department for installing a Caution Children at Play sign at Chapel and Burtville Street. Also, it is good to see the Administration giving the Board of Ethics its consideration. There are a good number of citizens who would do the board justice; Reverend Moffat from the Christian Community Church is a good example among others. One suggestion for consideration, he is not happy with Mr. Cota being put on this committee.

Marc Garofalo – 95 Academy Hill Road. Mr. Garofalo wanted to know why the Charter Revision questions were not put on the same referendum on April 21, 2009.

Attorney Coppola explained the statutory deadline was missed. It has to be done again.

Mr. Garofalo said under Section 7-91 of the CGS subsection © of the Charter, the proposed charter amendments shall be submitted for approval at the regular elections or at special elections, not later than 15 months after the approval of the questions. This should be looked at.

Mr. Garofalo also said a copy of the agenda was not posted outside the meeting room. Mrs. Wabno stated yes, there was a copy posted, went to check and it was missing. It was replaced immediately.

Mr. Garofalo also noted there are some employees listed as appointees for the Ethics Board and that may not be a good idea, because they will be looking at other employees.

Mr. Garofalo wondered if the public would have an opportunity to speak about the stimulus money for the City.

Approval of Minutes: Regular meeting – Feb 26, 2009

A MOTION by Mr. Lenart to approve with a second by Mr. Hughes, all in favor. Motion carried.

Committee Reports: Community Relations

The committee met today and recommends that 77 Minerva Street and 145-147 MT. Pleasant Street be added to the blight list.

There was a discussion of Gilbert Street; to temporarily help alleviate the situation would be to have a trap put together to keep debris from clogging the storm sewer.

Also for consideration, someone from the public recommended for historical reasons the old name of Derby Milford Road be changed to its original name of Derby Hill Road.

A MOTION to put 77 Minerva Street and 145-147 MT. Pleasant Street on the blight list by Mr. Hughes with a second by Mr. Lenart, all in favor. Motion carried.

Mr. Hughes read a letter into the record from City of Bridgeport, Office of Emergency Management & Homeland Security,

Subject: City of Derby OEM-Vincent Vizzo:

Dear Mayor Tony Staffieri:

On behalf of the City of Bridgeport Office of Emergency Management & Homeland Security I would like to extend my sincere thank you to the City of Derby especially the Office of Emergency Management & Director Vincent Vizzo for your support, contribution and your expertise in assisting us throughout the past year as it relates to our emergency operations and management system.

I especially would like to take this opportunity to thank Vincent Vizzo for his leadership and his guidance in helping the City of Bridgeport in its overall implementation of our comprehensive emergency management system. His leadership has provided a vision that both large and small municipalities should always work together in making sure there is a mechanism in place for support and the relationships are established prior to all types of hazards.

It is because of these efforts that we are able to continually move forward in assisting each other in areas of communication, preparedness and response. Your City and your OEM Division are truly an outstanding asset and we wanted to be sure to acknowledge your efforts.

**Sincerely,
Scott T. Appleby, Director-CEM, CHS III**

Department Reports:

- a. Board of Education Report – no report
- b. Cultural Commission Report – no report
- c. Public Works Report –
Mr. Culmo said they are having an on-going problem policing the river walk.

Mr. Sill read into the record his comments on this subject:

For a long time now we have been hearing many comments about the ongoing problem with dog poop on the greenway. The Board of Aldermen have tried an all out ban of dogs on the greenway, and then have gone back to allowing dogs. This board also realizes that most dog owners clean up after their dogs. But the problem persists, even recently again making the TV news cast.

I am sure all of the people sitting up here are still receiving many complaints no matter where they happen to travel around the city. Just last week I received a call from a woman who is afraid of dogs and for that reason she says she cannot enjoy the greenway.

In order to strike what I feel would be a compromise instead of another all out dog ban, I propose the following for this board to consider, discuss, and vote on at the next board of aldermen meeting. That all dogs be banned on the greenway stretch from Division Street to Route 34/Main Street, but be allowed from the route 34 overpass to the Derby Shelton bridge.

Thank you,
2nd Ward Alderman Ron Sill.

This proposal is echoed by Mr. Culmo as well, as a possible solution. The street sweeper will start next Monday in east Derby and will go through the whole town.

- d. Building Report- no questions on the report
 - e. Facilities Inspector Report – no questions on the report
 - f. Fire Marshall Report – Mr. Hawks applied for and received a \$500.00 grant for the purchase of a digital camera.
 - g. Fire Department Report – no report
 - h. Police Report – Chief Mascolo is looking for authorization to dispose of the property presented to the board if no other city department wants anything. **A MOTION** to approve the disposal list as presented by Mr. Hughes with a second by Mr. Szewczyk, all in favor. Motion carried.
 - i. Parking Authority Report – no questions on the report
- **Resolution of the Legislative Body regarding the Connecticut Department of Economic and Community Development**

This is an agreement between the State of Connecticut – Department of Economic and Community Development and the City of Derby for \$800,000.00 for the access road on the DOT parcel. This is funding from the Connecticut Manufacturing Assistance Act that our Economic Development Director/Grant Writer applied for. It is a match to a federal grant from the U.S. Economic Development Administration (EDA). For \$1,000,000.00 which Ms. O'Malley has applied for and we have received. Ms. O'Malley received word March 20th that EDA has preliminarily approved the City of Derby's grant application for \$1,000,000.00. This grant

requires a 50% match which came from the State - \$800,000.00. A previous grant for \$200,000.00 was used to develop an architectural drawing for the road. The match has been met.

Mr. Hughes read the resolution into the record:

Certified, a true copy of a resolution duly adopted by the City of Derby at a meeting of its Board of Aldermen on March 26, 2009 and which has not been rescinded or modified in any way

WHEREAS, pursuant to Manufacturing Assistance Act CGS 5881 Sec. 32-220 to 32-244a the Connecticut Department of Economic and Community Development is authorized to extend financial assistance for economic development projects; and **WHEREAS**, it is desirable and in the public interest that the City of Derby make an application to the State for \$800,000.00 in order to undertake the Division Street Infrastructure Project and to execute an Assistance Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE City of Derby Board of Aldermen:

1. That it is cognizant of the conditions and prerequisites for the State Assistance imposed by Manufacturing Assistance Act CGS 5881 Sec. 32-220 to 32-244a
2. That the filing of an application for State financial assistance by the City of Derby in an amount not to exceed \$800,000.00 is hereby approved and that Anthony Staffieri, Mayor, City of Derby is directed to execute and file such application with the Connecticut Department of Economic and Community Development, to provide such additional information, to execute such other documents as may be required, to execute an Assistance Agreement with the State of Connecticut for State financial assistance if such an agreement is offered, to execute any amendments, decisions, and revisions thereto, and to act as the authorized representative of the City of Derby.

A MOTION to accept the resolution by Mr. Hughes, second by Mr. Sill, all in favor. Motion carried.

Aquifer Protection Area Mapping, Milone & MacBroom, Discussion and possible action:

Mr. Joyce of Milone and MacBroom addressed the board. On February 27th the City was notified by the DEP to get the Aquifer Protection Area. The first step is to identify the boundary. The next step is for the City to adopt and assign the responsibility to a certain agency in the City. **A MOTION** to adopt an Aquifer Protection responsibilities to Planning and Zoning by Mr. Hughes with a second by Mr. Sill, all in favor. Motion carried.

Refund of Excess Taxes thru - \$2,618.47 – Cinda Buchter.

A MOTION to approve the refund of excess taxes as submitted by Cinda Buchter by Mr. Hughes with a second by Mr. Sill, all in favor. Motion carried.

School Building Committee Invoices; Discussion and Action.

A MOTION to approve the Middle School invoices by Mr. Hughes with a second by Mr. Lenart, all in favor. Motion carried.

Greenway Use – June 20 2009 – St. Mary St. Michael's School Marathon Duck Race: Discussion and Possible Action.

A MOTION to approve the greenway use by Mr. Hughes with a second by Ms. Moran, all in favor. Motion carried.

Greenway Use – Boys/Girls Club of Shelton – Road Race – May 17, 2009 – Sign Placement, Discussion and Possible Action.

A MOTION to approve by Mr. Szewczyk with a second by Mr. Sill, all in favor. Motion carried.

Fee Waiver: Irving School – May 29, 2009 (rain date 6/5/09) Picnic Grove – Natalia DiDente-Dunleavy.

A MOTION to approve by Ms. Moran with a second by Mr. Lenart, all in favor. Motion carried.

Fee Waiver: North Star – June 21 2009 – Coon Hollow Park, Picnic Grove

Mayor Staffieri read the request into the record:

Good Morning, I am writing to you on behalf of my group North Star. We are a community organization for families of children with special needs.

The past three summers you have kindly allowed us the use of Coon Hollow Park for our annual picnic. We are requesting the use of the park again for Sunday June 21 2009.

Our past picnics have been wonderfully successful due to the location of your park & its facilities. We know this year will be equally successful.

Thank you for your continued support for these very special children & their families.

All the best,
Natalie DiDente-Dunleavy.

A MOTION to approve by Mr. Sill with a second by Ms. Moran, all in favor. Motion carried.

Fishing Derby – Witek Park, April 25, 2009 – Reservoir closure to public fishing once the reservoir has been stocked for the rodeo and the fishing derby has started. Discussion and possible action.

A MOTION to approve by Mr. Lenart with a second by Mr. Szewczyk, all in favor. Motion carried.

Derby Greenway Picnic Area – Scout Project, Tyler Stankye – Discussion and Possible Action

My name is Tyler Stankye. I'm a 15 year old life scout in Troop 3 Derby. I live in Derby on David Humphreys Road with my mother and father Sue and Chuck, and my brother, Eagle Scout Chuck Stankye. I am currently working on becoming an Eagle Scout as my grandfather, father, and brother before me. I have completed all the merit badges and other requirements for my Eagle with the exception of my Eagle Scout Service Project.

The project I would like to do is clear an area and make a small picnic area on the Derby Greenway. I have gone down onto the Greenway and found a perfect location. The location is flat and a perfect spot for a small picnic area. The area I have in mind is just below Route 8 by the river bank----just before the New World Church garden. It is across the greenway from one of the benches. This would be a perfect spot as it is flat, level and dry. It overlooks the river as well as East Derby and St. Michael's Church.

What I plan to do is dedicate this area to the brave members of the Derby Fire Department. I plan on having scouts build four picnic tables. I will place them securely in the ground in the picnic area. They will be secured by being bolted to a post cemented in the ground by each table. I plan on getting the wood for the tables donated by each of the four Derby Fire Houses. Prior to putting in the tables, we will remove the grass and put

down processed stone to make the square picnic area. I plan on getting the stone from local contractors. This project would be of no cost to the City of Derby.

The area would be a perfect place for families to have a small picnic off the greenway and enjoy the beautiful area. People can also access the river at this spot for fishing. They would enjoy further use of the greenway. I am asking permission of the Board of Aldermen to carry out my project.

If you have any questions, please call me at 736-9539 or e-mail me.

I thank you in advance for your help,

Tyler Stankye
Eagle Scout Candidate----Troop 3 Derby

A MOTION to give permission to develop that spot for a picnic area by Mr. Lenart, with a second by Mr. Sill, all in favor. Motion carried.

The area must be checked into first for "Call Before You Dig".

Increase Assistant Building Official/Electrical Inspector Vehicle Allowance from \$800.00 to \$1200.00, Already approved in 08/09 Budget. Discussion/Action

A MOTION to approve by Mr. Lenart with a second by Mr. Hughes, all in favor. Motion carried.

Lincoln Housing – Payment in Lieu of Taxes Agreement – Discussion and possible action.

Mr. Robertson said there was an agreement which was signed in 2004 by the former Mayor.

Attorney Coppola along with the attorney for Lincoln Housing Authority developed a current agreement and is asking the board to give the Mayor the authority to sign the new agreement.

Attorney Coppola said once this is authorized by the Board of Aldermen and the agreement signed the property comes off of the grand list and put on a pilot program list.

A MOTION to approve by Mr. Lenart with a second by Mr. Szewczyk, all in favor. Motion carried.

**PAYMENT IN LIEU OF TAXES AGREEMENT
(PILOT)**

THIS AGREEMENT is made on _____ 2009, by and between the City of Derby, of 1 Elizabeth Street, Derby, Connecticut, 06418, a municipality organized and operating under the Laws of the State of Connecticut, its Board of Alderman and its departments, (the "CITY") and Lincoln Senior Housing, Inc., a non-profit corporation organized and operating under the Laws of the State of Connecticut, with an office located at 187 Minerva Street, Derby, Connecticut , (the "OWNER");

WHEREBY, the parties agree to enter into this Agreement in the spirit of Connecticut General Statutes Sections 8-215, 8-216a, 8-119gg and Section 202 of the Federal Housing and Urban Development Act, to establish a method of determining the payment in lieu of real estate taxes for the property located at 187 Minerva Street, Derby, Connecticut known as the “Lincoln Senior Housing” based on the terms and obligations contained herein;

WHEREBY, the OWNER commenced to operate “Lincoln Senior Housing” as low income housing for the residents age sixty-two years (62) and older on June 6, 2006;

WHEREBY, in order to make it economically feasible to operate the project as elderly low income housing, it is necessary for the CITY to accept a payment in lieu of taxes for said property;

WHEREBY, the payment in lieu of taxes is conditioned upon the execution of this Agreement binding the OWNER, and its successors and assigns, to limit the occupancy of the property solely for low income housing to the elderly to allow a monthly rental charge consistent with such income levels and to provide housing of better design and quality than is usually available for such projects;

NOW THEREFORE, for valuable consideration and the obligations contained herein, the CITY and OWNER agree:

1. The OWNER shall limit occupancy in said Premises solely to elderly with income levels which meet the eligibility requirements of the Section 202 program administered pursuant to federal law by the U.S. Department of Housing and Urban Development (“HUD”), as such income levels are determined and promulgated by HUD.

2. The OWNER will use the savings realized as a result of making payments in lieu of taxes as hereinafter provided to allow a monthly occupancy charge for its tenants consistent with such Section 202 income levels established by HUD and to provide housing of better design and quality than would otherwise be available at such rental occupancy charges.

3. The OWNER shall make payments in lieu of taxes under this Agreement commencing as of June 6, 2006, the date of the issuance of the certificate of occupancy. This Agreement shall terminate forty years after the date of its execution, or at such sooner time as the OWNER shall fail to abide by the terms of this Agreement. The OWNER agrees to pay to the CITY in lieu of taxes, an amount equal to ten percent (10%) of the total rent paid by its tenants in accordance with the HUD Section 202 Program in each calendar year. The OWNER shall provide the CITY, no later than May 15th of each year, a statement of gross rental income for the twelve month period ending December 31st of the previous year as certified by the OWNER’S

auditor. The CITY will utilize such information to compute the amount of the payment in lieu of taxes and will issue a bill to the OWNER in the same manner as bills are issued for real estate taxes, or in any other manner the CITY shall reasonably adopt. The payment in lieu of taxes so computed will be due July 1st of each year and past due and subject to interest at the statutory rate imposed on delinquent real estate taxes on August 2nd of each year.

4. The OWNER shall keep full and accurate records regarding the utilization of housing on the subject property including such data as is required by HUD, the rent paid for each dwelling unit, the yearly income and occupation of each tenant of each dwelling unit, the number of rooms in each dwelling unit, and the number of persons residing in each dwelling unit.

5. The CITY shall have the right to inspect all records kept by the OWNER regarding the operation and management of the property as may be reasonably necessary to accomplish the purposes of this Agreement.

6. The OWNER will, at such times as the CITY may reasonably request, furnish periodic reports, statements and documents pertaining to the purposes of this Agreement, provided that the release of such information is permitted by federal law and regulation and does not violate the privacy rights of tenants.

7. The parties agree that the payment in lieu of taxes on the Grand List of 2005, which for the purposes of this Agreement covers the period from June 6, 2006 through December 31, 2006, is \$6,507.70. The parties agree that the payment in lieu of taxes on the Grand List of 2007, which for the purposes of this Agreement covers the period from January 1, 2007 through December 31, 2006, is \$15,577.10. The OWNER shall supply the information required under Paragraph 3 of this Agreement to the CITY by May 15, 2009, in order to permit the CITY to calculate the payment in lieu of taxes on the Grand List of 2007, covering the period from January 1, 2008 through December 31, 2008. The payment in lieu of taxes so calculated will be due and payable on July 1, 2009, and past due and subject to interest at the statutory rate imposed on delinquent real estate taxes on August 2, 2009.

All amounts previously paid by the OWNER to the CITY by way of real estate taxes, interest and lien fees will be applied against the amounts due under this Paragraph 7.

8. The parties further agree that unless otherwise herein provided, the amount computed to be the payment in lieu of taxes in accordance with paragraph 3 of this Agreement shall in no event be less than \$15,577.10, regardless of the gross rental income received by the OWNER during any reporting period.

COMPLIANCE

9. The OWNER warrants that it has complied, and shall continue to comply, with all pertinent provisions of local, state and federal laws, regulations and requirements in connection with the operation of this project. Any non-compliance with said laws shall be deemed a breach of this Agreement.

NON-DISCRIMINATION

10. The OWNER agrees that it will not discriminate nor permit discrimination against any person or group of persons on the ground of race, color, religion or national origin, sex or physical disability or marital status in any manner prohibited by law, and further agrees to provide the Commission on Human

Rights and opportunities with such information requested by that Commission concerning its employment practices and procedures.

11. The OWNER agrees that it will rent housing on the subject premises without regard to the race, color, religion, national origin, sex or marital status of the prospective tenant.

TERMINATING PILOT

12. Notwithstanding any other provision of this Agreement, the CITY may terminate the PILOT Agreement upon the occurrence of any of the following:

a. The OWNER shall have made material misrepresentation regarding its obligations under this Agreement or under its application for Section 202 benefits, or with respect to any documents provided pursuant to this Agreement;

b. The OWNER shall be in violation to any municipal or State of Connecticut housing or building code or ordinance for more than forty-five (45) days after notice;

c. The OWNER shall have failed to make the payment in lieu of taxes as required pursuant to this Agreement;

d. The OWNER fails to provide financial information reasonably requested by the CITY or pursuant to this Agreement for more that thirty (30) days after requested;

e. The OWNER fails to comply with the elderly low income obligations as defined herein and pursuant to the guidelines set forth in Section 202.

f. The OWNER or its successors or assigns ceases to operate the property as a low income housing for the residents age sixty-two years (62) and older.

IN WITNESS WHEREOF, pursuant to the Resolution of the Board of Alderman of the City of Derby, the City shall execute this Agreement through its Mayor, and the parties shall hereunto set their hands and seals:

CITY of DERBY

By: Anthony Staffieri
Its: Mayor

Witness

Witness

STATE OF CONNECTICUT)
) SS. DERBY _____, 2009

COUNTY OF NEW HAVEN)

On this date, before me personally came Anthony Staffieri, the Mayor of the City of Derby, and as such duly authorized to act on its behalf, and who has the authority to execute this Agreement on its behalf, acknowledged that he and it fully understands its contents and meaning and duly executed the same as the free act and deed of the City and for the sole consideration therein expressed.

Notary Public
Commissioner of the Superior Court

Lincoln Senior Housing, Inc.

By:
Its:

Witness

Witness

STATE OF CONNECTICUT)
) SS. DERBY _____, 2009
COUNTY OF NEW HAVEN)

On this date, before me personally came _____, the _____ of the Lincoln Senior Housing, Inc., and as such duly authorized to act on its behalf, and who has the authority to execute this Agreement on its behalf, acknowledged that he and it fully understands its contents and meaning and duly executed the same as the free act and deed of Lincoln Senior Housing, Inc., and for the sole consideration therein expressed.

Notary Public
Commissioner of the Superior Court

**Signed copy of the above agreement is on file in the Finance Office and the Tax Collector's Office.*

Derby Middle School – Placement of sign for musical production “The Music Man”

A MOTION to approve by Mr. Hughes with a second by Mr. Szewczyk, all in favor. Motion carried. Mr. Lenart felt there should be another area better suited than near the war monument.

Board of Ethics Five (5) Year Terms: Bill Steeves (R), John Saccu* (D) and Andy Cota*(U) and Arlene DeFeo (R) - *Waiver needed for City of Derby employee. Alternate: Darryl Coffey* (D) and George Porter (R).

A MOTION to approve by Mr. Hughes with a second by Mr. Lenart, all in favor. Motion carried.

A MOTION to approve the waiver for two City employees: Mr. Saccu and Mr. Cota by Mr. Hughes with a second by Mr. Sill, all in favor (the following votes were in favor of by proxy: Mr. Allaire, Mr. Benanto, Mr. Bomba and Mr. Boulton). Motion carried.

Parking Garage Authority: Re-appointment of Delphine Krezel – Five (5) year term.

A MOTION to approve the re-appointment by Mr. Hughes with a second by Mr. Szewczyk, all in favor. Motion carried.

Redevelopment Agency – Re-appointment of Glenn Stevens for a Five (5) year term.

A MOTION to re-appoint by Ms. Moran with a second by Mr. Sill, all in favor. Motion carried.

Planning and Zoning – Re-appointment for a Five (5) year term; David Rogers and Steven Jalowiec.

A MOTION to approve by Mr. Hughes with a second by Mr. Sill, all in favor. Motion carried.

Lake Housatonic Authority – Re-appointments of Mike Stahl, David Ahearn and Bill Steeves.

A MOTION to approve by Ms. Moran with a second by Mr. Hughes, all in favor. Motion carried.

Executive Session: **a. Transfer Station, DEP Notice of Violation/Remedies**
 b. Beyond Distributor’s Litigation

A MOTION to go into Executive Session at 8:04 p.m. and invite Corporation Counsel Joseph Coppola and Attorney Radshaw and representatives of Annex Associates without action and subject to adjournment by Mr. Hughes with a second by Mr. Lenart, all in favor. Motion carried.

Respectfully submitted

Denise Cesaroni
Recording Secretary

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