

DERBY BOARD OF ALDERMEN SPECIAL MEETING

DERBY CITY HALL – December 8, 2009 – 6:00 P.M.

MINUTES

The Honorable Mayor Staffieri called the public hearing to order at 6:00 p.m. All rose and pledged allegiance to the flag.

Pledge of Allegiance

All rose and pledged allegiance.

Roll Call

Present: Barbara DeGennaro, Stephen Iacuone, Beverly Moran, James Benanto, Joseph DiMartino, David Lenart, Joseph Bomba, Scott Boulton and Ken Hughes, President.

Also Present: Corporation Counsel - Joseph Coppola.

Public Portion

Tom Lionetti - 79 Sunset Drive. Mr. Lionetti would like to know if he can speak on the transfer station topic after it is discussed, so the public can have some input. Mayor Staffieri explained there would be no additional public portion. Mr. Lionetti states he does not understand why the board would want to close the station. It has never been closed prior to Annex. The former street commissioner kept the records impeccable. Mr. Culmo should be told to keep the records with the DEP. As a taxpayer he hopes it stays open because he will not be paying big money. Please do not close it and bring back the two employees.

Mr. Uliano - Bradley Terrace. He has heard stories that citizens will have to pay to dump in Ansonia. If that is true, he will take off his house taxes. He wants to hear from the Mayor.

Carl Yaccobacci - 10 Lombardi Drive. For the past year there has been a big fight with the employees at the transfer station and some of the members of this board and elected officials. It seems the policies are not being followed. The City breached the settlement agreement and violated it by not seeking to obtain approval of the union, etc. The Labor Board ordered the City to cease and desist. Over the last month Annex was still up there. This could cost the City money in additional legal fees. He asks the transfer station be kept open. This decision has to be made for the betterment of the 13,000 residents of Derby.

Chris Robinson - Hawthorne Avenue. If the dump gets closed, there will be a major problem in Derby. People will dump their garbage anywhere they can.

Bob Hyder - 51 Franklin Avenue. The State Labor Board issued a cease and desists order in September and the Board asked for clarification of that. He hopes the board did not have the ego to not start the process to get the proper permit required. In a Connecticut Post article it was stated in FY 06-07 Derby made \$12,392, in FY 07-08 Derby made \$13,858. With Annex running the dump, Derby made \$24,467. Also in the article it was stated Annex was keeping 85% of the profits. Mr. Hughes explained that it is 85% of recyclable materials which is separate from the fees in Derby.

Anita Duggato - Elizabeth Street. Derby pays to have recyclables picked up. Don't close the dump and go forward with the permit process.

Tom Lionetti - Mr. Lionetti thanked Mr. Hughes for answering a question.

Public Portion closed at 6:12 p.m.

Waiver per City Charter Sec. 14 - Dual Office Holding. (1) Scott Boulton, (2) Joseph DiMartino and (3) Stephen M. Iacuone

MOTION to approve Scott Boulton to the Board of Aldermen by Mr. Hughes, second by Mr. Bomba, all in favor, **motion carried.**

MOTION to approve Joseph DiMartino by Mr. Lenart, second by Mr. Benanto, all in favor, **motion carried.**

MOTION to approve Stephen Iacuone by Mr. Benanto, second by Mr. Hughes, all in favor, **motion carried.**

Placement of City Employees at the Transfer Station, without a permit to operate or to close the Transfer Station - Discussion/Possible Action

Attorney Coppola presented an overview to the board and the public of the past 18 months.

Sometime prior to July 2008, the City was notified a number of reports were missing at the DEP and the storm water testing wasn't completed. The City got on that to avoid being penalized.

During that process the City was notified it had received a notice to construct in 1996 and to have in completed in 12 months. This would be for buildings to secure the waste, refrigerators and so on. The City failed to do that and the DEP notified the City it was operating without a permit. The problems had to be fixed within a period of time.

The Board of Aldermen was notified and Attorney Coppola was directed to seek an independent reviewing company to see what violations were up at the dump. The violations were reporting requirements, storage of street sweepings, grass clippings, along with a number of other issues.

The board then retained the services of Annex Associates to document the problems, remove the operation from the Public Works department and see if we could get to a point where the DEP could explain to the City how to get a correction of the violations and get a general permit.

In October, the board decided since there were still violations and to continue with Annex.

As a result the labor union filed a grievance against the City for failing to go to the Union to negotiate the extension of Annex at which point the City attempted to discuss that. There was no discussions by the Union until there was removal of Annex, then they would discuss whether or not the City could negotiate.

On December 8th, all of the violations could not be corrected and we could not file for a general permit application and received a citation by the DEP for operating a solid waste facility without a permit to operate.

The City had 30 days to respond. Site visits were documented from August, September and in November at the transfer station, however, still received a notice of violation. There was a meeting with the DEP, Alderman Hughes and staff in January. It was explained the City could file an application for general permit utilizing some of the mapping and procedures in place in

1996, go to the Tax Board for the application fee and make an attempt to file the application, but could not do it in 30 days. DEP advised Attorney Coppola to file for an extension, which he did for another 30 days.

Attorney Coppola got the approval from the Tax Board and the Board of Aldermen and needed another extension for 30 days to finish all the paperwork.

Reports were not filed or daily logs maintained in accordance with the law since 2001. Prior to 2001, logs were done correctly. Since 2001 the daily logs were not done correctly and quarterly reports were missing for two or three years. We would have to use whatever tonnage received through the ADS contractor and would use that. Mr. Culmo finished the last years missing. We came into compliance with the yearly's, but not with the daily's or quarterly's.

The application and paperwork was filed. The City now had to update the mappings, etc. because the general permit application is different than in the 90's. At that time, the DEP was very clear the civil penalties could be up to \$25,000.00 per day for each day there was a violation. The City operated without a general permit, so upon a site visit, whatever violations there are, a certified operator and the City would get a notice. They could come and shut it down at any point, and the application was not granted. The DEP wants additional work; surveying approximately in the amount of \$35,000 and also to construct the buildings.

Cease and Desist: The actual language consists of cease and desist from continuing to operate the transfer station with Annex without negotiating with the union. The City attempted to negotiate with the union. The City discussed alternatives, the State Labor Board's opinion was that was not negotiations. Attorney Coppola filed a request for clarification that should the transfer station be closed, does Annex have to be removed, then negotiate, or put the employees up there. A statement was issued by the Board that the questions asked were not their obligations to answer and what is the confusion with cease and desist. So, cease and desist, failing to operate the transfer station with Annex without attempting negotiation with the union.

The leaf compost pile has been corrected. The operation of how to compact the garbage is working. How to keep the logs has been corrected. The street sweeping operation has been corrected. The building is not up and the engineering has not been done. The environmental testing has not been done.

The options are:

open the transfer station and return the employees, but we do not have a permit and there could be a possibility of violations up there, and DEP is well aware of the transfer station.

If we close the station we do not have the issue with violations. If we get violated it would be for existing violations.

The last option is to close it and bring our waste to another municipality. The City of Derby pays for the removal of our cans. That would be the same. If a resident comes in with demolition, etc. they do have to pay in Derby, it would be the same in another municipality. If you come to the Derby transfer station with rubbish and do not have to pay, you will not have to pay another community. The City would enter into an agreement where Derby would pick up the hauling costs.

Mr. Hughes stated the DEP did not bring the absence of a permit sooner because they had a lot of employee turnover. The responsibility of the transfer station belongs with the certified operator.

Executive Session: DEP Legal Enforcement, Discussion with Possible Action

The purpose of the executive session is to go over the violations and the enforcement by the DEP.

MOTION to go into executive session at 6:41 p.m. by Mr. Hughes, second by Mr. Bomba and invite Corporation Counsel, all in favor, **motion carries.**

MOTION to come out of executive session at 7:34 p.m. by Mr. Hughes, second by Mr. Lenart, second by Ms. Moran, all in favor, **motion carries.**

Placement of City Employees at the Transfer Station, without a permit to operate or to close the Transfer Station - Discussion/Possible Action

The decision tonight does not affect curbside recycling and trash pickup.

MOTION by Mr. Hughes to temporarily close the transfer station effective at the end of business, Friday December 11, 2009 while the City works on obtaining a permit to operate and to allow the Mayor's staff to negotiate with a neighboring municipality to accept our refuse while we pursue the permit, and to negotiate with the union, all within a timely manner, second by Mr. Bomba, all in favor, **motion carries.**

Adjournment

MOTION to adjourn by Mr. Lenart, second by Ms. Moran, all in favor, **motion carries** at 7:36 p.m.

Respectfully Submitted,

*Denise Cesaroni
Recording Secretary*

******These minutes are subject to approval by the Board of Aldermen at their next meeting.**