

Common Council Actions

COMMON COUNCIL

ACTION

JULY 9, 2002

NORWALK, CONNECTICUT 8:00PM DST, COUNCIL CHAMBERS

ALL COMMON COUNCIL ACTIONS TAKEN AT THIS MEETING TO APPROVE EXPENDITURES AND CONTRACTS OR TO ACCEPT BIDS AND OTHER PROPOSALS REQUIRING THE EXPENDITURE OF CITY FUNDS ARE SUBJECT TO THE AVAILABILITY OF FUNDS.

The regular meeting of the Common Council of the City of Norwalk was held on Tuesday, July 10, 2002, in the Common Council Chambers, City Hall, 125 East Avenue, Norwalk, Connecticut. Mayor Alex Knopp called the meeting to order at 8:00 p.m. and led the assembly in reciting the Pledge of Allegiance.

I. ROLL CALL

Betsy Bain

Jeanette Olmstead-Sawyer

Kenneth Baker

Christopher Perone

Fred Bondi

Kevin Poruban

Barbara Hudgins

Judith Rivas

Bruce Kimmel

Douglas Sutton (absent)

William Krummel

Peter Wien

Joseph Mann

William Wrenn

Matthew Miklave

Fourteen (14) Members were present at Roll Call.

II. ACCEPTANCE OF MINUTES

A. Regular Meeting June 25, 2002

The following corrections were made to the minutes:

Page 2, Last Paragraph: Note: **Ms. Paladino presented and read a letter that had been written by Ms. Ann Artell.**

Page 3, 1st Paragraph: Delete the name "Toni Duquette" and insert the name "Toni Boucher". 2nd Paragraph, 4th Sentence should read: "Mayor Knopp stated that only a few months had gone by after taking office and he was recommending that **raises for the Corporation Counsel, City Clerk and Assistant to the Mayor be made effective one year after their appointments.**"

Page 4, Bottom of the page should read: **Consent to remove from table.**

Page 7, 6th Paragraph, Last Sentence: Delete the name "Mr. Carvalho" and insert the name "**Mr. Cavello**" as well as deleting the phrase "had been giving excellent service.." and inserting "**has been giving excellent service..**"

Page 8, Last Motion: Delete the name "Mr. Perrone" and insert the name "**Mr. Perone**".

** **MR. BONDI MOVED APPROVAL OF THE MINUTES.**

** **MOTION PASSED WITH THIRTEEN (13) IN FAVOR (MESSRS. KRUMMEL, MIKLAVE, BONDI, PERONE, WRENN, MANN, PORUBAN, WIEN, KIMMEL, MS. OLMSTEAD-SAWYER, MS. BAIN, MS. RIVAS AND MS. HUDGINS) AND ONE (1) ABSTENTION (MR. BAKER).**

III. PUBLIC PARTICIPATION

There were no speakers this evening.

IV. MAYOR

A. RESIGNATIONS AND APPOINTMENTS

Mayor Knopp announced that Mr. Seymour and Mr. Ventricelli had resigned from their respective commissions. He stated that he had made many appointments to fill a large number of vacancies and that he might call a special meeting for the Council to act on these appointments. He added that this issue would be addressed at the next Council meeting to give the Members a chance to review the documentation.

B. REMARKS

Mayor Knopp informed the assembly that he had appointed an advisory committee and he thanked the Members of The Polling Places Advisory Committee for their willingness to review the proposal from the Registrar of Voters with regard to perspective voting places. He mentioned that the Members of the Committee were the Honorable Fran Collier-Clemmons, the Reverend Jeffrey Ingraham, Donna King, Richard Moccia, Art Scialabba, Peter Thor and Jon Velez. However, he said that that the Council would make the final judgment in the end and he pointed out that the Council could act without any advice or recommendation from any other Body. Mayor Knopp remarked that since the Council Members were all Democrats he felt it would be good to hear all points of view on this issue but he stressed that in the end the Council would make the decision.

V. COUNCIL PRESIDENT

A. CONSENT CALENDAR

Mr. Mann moved the following consent items:

B. BOARD OF ESTIMATE AND TAXATION

1. RESOLVED, that a sum not to exceed \$16,445 be and the same is hereby transferred from Increased Estimated Revenues to the Police Department to recognize Federal Asset Forfeiture. (Account No. 01-3010-5661).
2. RESOLVED, that a sum not to exceed \$5,235 be and the same is hereby transferred from Increased Estimated Revenues to the Police Department to recognize State funds received for Use Tax Sharing for the Marine Division (Account No. 01-3010-5661).

COMMON COUNCIL COMMITTEES

A. ORDINANCE

1. Proposed amendment to Chapter 67A-1 "Indemnification" of the Code of the City of Norwalk.

A. PUBLIC WORKS COMMITTEE

1. Authorize the Director of Public Works to issue Orders on Contract to FGB Construction, Inc., for Project No. 4R 2002-1, 4R Paving 2002, to pave the parking lot and sidewalk at Taylor Farm along Canfield Avenue for a sum not to exceed \$25,100.

Account No. 09 01 60 30 5777 C0198

2. Authorize the Director of Public Works to reject the only bid received by Deering Construction for a sum of \$1,188,328.25 in connection with Project No. 102-299, Norwalk River Valley Multi-purpose to allow the department to further evaluate and analyze the bid documents and re-bid the project.

8. Authorize the Mayor, Alex A. Knopp, to execute an Amendment to the Agreement with Vanasse Hangen Brustlin, Inc. (VHB) to provide professional engineering services in connection with the 4R Pavement Management Program, for a sum not to exceed \$14,380.

Account No. 01 40 21 5571

9. Authorize the Director of Public Works to issue Orders on Contract to Star Construction, for Project No. RD 2002-2, Proposed Concrete Sidewalk and Curbs at Various Locations, for a sum not to exceed \$67,000 in connection with work to be performed for the Board of Education.

Account No. Board of Education

160 262 0045 060

2BB 221 3045 0BB

IX. MOTIONS POSTPONED TO A SPECIFIC DATE

B. OTHER GENERAL COUNCIL BUSINESS

Item tabled from Common Council meeting of June 25, 2002

1. Determination of location of polling places.

Designation of polling places pursuant to C.G.S. 9-169 and/or approval of voting places pursuant to Sec. 1-179 of the Norwalk City Charter.

CONSENT TO TABLE TO THE NEXT MEETING.

**** MR. MANN MOVED APPROVAL OF THE CONSENT ITEMS.**

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE.**

V. REPORTS: DEPARTMENT, BOARDS AND COMMISSIONS

A. CORPORATION COUNSEL EXECUTIVE SESSION

1. Authorization to Settle Claim: Steven Williams v. City of Norwalk

Mayor Knopp stated that there would be no need to go into Executive Session on this item.

**** MR. MANN MOVED APPROVAL TO SETTLE THIS CLAIM.**

Mr. Kimmel stated that several times in the past the City had to settle claims related to officers involved in automobile accidents. He went on to state that the Members had questions associated with this issue and he would like Chief Rilling to answer them.

Chief Rilling stepped up to the podium and stated that when the officers were appointed they had already been through 600 hours of training at the Police Academy and were given a fair degree of training behind the wheel with regard to slow speed and high-speed pursuits. He explained that once the officers left the academy there were not many programs available to further that training but there was a 12-14 week field training program, which included how to respond to various types of service. Chief Rilling remarked that most of the training, unless it was deemed necessary to send an officer for specialized training, was done at the academy and in the field. He commented that there were many documents that dealt with pursuit driving and normal driving and that all of the officers had been schooled in the various methods. He added that the procedures were reviewed periodically.

Mr. Kimmel stated that it was his understanding that it was a violation of Connecticut Law if any officer was in a pursuit situation and went through an intersection without stopping. Chief Rilling replied that just the fact that an officer was in an accident did not indicate that they were in violation of Connecticut Law. He noted that while in pursuit an officer could proceed through an intersection and they did not have to observe traffic

lights or stop signs but they did have to slow to proceed through with safety and they did have to have their lights and siren on. He pointed out that the officer could be traveling at 20-35 miles per hour and still be within the law.

Chief Rilling stated that if an officer were involved in an accident it would be investigated and a supervisor would review the findings. He went on to state that if an officer were found at fault they would be subject at the very least to a counseling session at the shift level. He explained that if the accident was more serious or was a second incident the matter would be brought to his office and there might be disciplinary action or a hearing. He added that the consequences might range from a disciplinary letter to suspension and that the officer might be held financially liable for damages. Chief Rilling pointed out that in extreme cases, such as gross negligence, an officer could be terminated. He explained to the assembly that the Department kept a record of all accidents and in addition to the materials that advised him of the details of an accident he also would receive the information of any other accident involving the officer. He went on to explain that in this way he could factor all the information into his decision.

Mr. Miklave commented that the officer involved in the accident was not the first responder to the emergency call. He asked Chief Rilling if there was a clear policy with respect to hot pursuit/first responders or if more training were needed. Chief Rilling replied that the Department had a pursuit policy that was more restrictive than the State Policy and they also had directives that governed other types of responses to emergencies. He remarked that they stress to the officers that unless they arrived at the scene of the incident they were of no value to the situation.

Chief Rilling explained that this incident involved an officer who was sent to backup another officer who had been called to break up a fight. He went on to explain that the officers were encouraged to focus on their driving first but there were many things that would be going through their minds on the way to the scene. He informed the assembly of how the officer would have to begin thinking of the approach they would use when they arrived at the scene. He commented that when an officer was involved in an accident they were spoken to by their supervisor and shown where they were at fault, if that were the case, and what they could have done to stay within the statute.

Ms. Olmstead-Sawyer asked how common officer related accidents were and Chief Rilling replied that there were probably 7-8 accidents a year in this type of situation where an officer responded to an emergency scene. However, he pointed out that the officers were not at fault in every case and probably 50%-60% of the time there was a contributing factor from the other motorist or the other motorist might have been completely at fault.

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE.**

B. PUBLIC WORKS COMMITTEE

1. Authorize the Director of Public Works to issue Orders on Contract to L&L Evergreen plant trees along South Main Street at the Hatch and Bailey site and plant trees along Henry Street for a sum not to exceed \$15,000.

Account No. 09 00/01 4021 5777 C0023/09 03 4021 5777 C0233

**** MR. PERONE MOVED APPROVAL OF THE ITEM.**

Ms. Rivas stated that she was pleased that they were moving forward with this issue and she commented that there was a situation in the area where Hatch and Bailey was located that they were moving to correct. She went on to state that there were many people involved in this cause and a wall was being built and sprinklers were being used on the property. She said that she hoped they could move this forward.

Mayor Knopp remarked that in his opinion this was a very useful part of the solution to the problem but he would like to review the Agreement that had been made with the neighbors. He commented that while this item would be approved tonight it would not be implemented until the Agreement was reviewed.

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE.**

2. Authorize the Mayor, Alex A. Knopp, to execute an Amendment to the Agreement with Oliver Associates to provide services in connection with the modification of the telecommunication equipment at the new Police Station, for a sum not to exceed \$15,000.

Account No. 09 00 40 31 5777 C0137

**** MR. PERONE MOVED APPROVAL OF THE ITEM.**

Mayor Knopp stated that one issue that arose from this proposal was the extent to which it went beyond the two issues. One issue being the relocation of the South Norwalk Railroad node to the new Police Department facility and the other issue being the fiber optic cable loop and bringing the power line to the new police station. He pointed out that no matter what these needed to proceed. He noted that he did not plan to execute the Amendment if in fact the Agreement exceeded these 2 items in the Agreement.

**** MOTION PASSED WITH THIRTEEN (13) IN FAVOR (MESSRS. KRUMMEL, BAKER, BONDI, PERONE, WRENN, MANN, PORUBAN, WIEN, KIMMEL, MS. OLMSTEAD-SAWYER, MS. BAIN, MS. RIVAS AND MS. HUDGINS) AND ONE (1) OPPOSED (MR. MIKLAVE).**

1. Authorize the Mayor, Alex A. Knopp, to execute an Agreement with the Department of the Army and the City of Norwalk for the Construction of Dredged or Excavated Material Disposal Facilities at the Norwalk Harbor Federal Navigation Project, for a sum not to exceed \$100,000 (city share approved in the FY 02-03 capital budget).

Account NO. 09 03 64 10 5777 C0281

**** MR. PERONE MOVED APPROVAL OF THE ITEM.**

Mayor Knopp stated that Dr. John Pinto and Mr. Dave Dunavan, Members of the Harbor Management Commission, were present this evening. Dr. Pinto remarked that Mr. Dunavan would like to address the Council and make some comments.

Mr. Dunavan stated that he was the Chairman of the Harbor Management Commission Dredging Committee and he added that Norwalk Harbor had last been dredged in 1980 and was in dire need of dredging at this time. He went on to state that the City was being asked to contribute to the \$6-\$7 million dollar cost the Federal Government would incur for the river to be dredged and the material to be taken up to New Haven to be disposed. He noted that it was required that a local sponsor participate in the process and incur some of the cost. Mr. Dunavan said that there was an area in the Norwalk River around the turnpike that was in serious condition.

Mr. Dunavan explained that the Department of Environmental Protection had agreed that the Confined Aquatic Disposal Cell (CAD Cell) that was being proposed was probably the best way to handle this situation. He went on to explain that as part of that process there were some additional costs to incur and they totaled approximately one million dollars. He advised the assembly that the Water Resources Development Act mandated that the City share in \$200,000 of that cost. He noted that \$100,000 was to be paid now and the other \$100,000 would be paid over a period of 30 years.

Mayor Knopp thanked Mr. Dunavan and Dr. Pinto and the other Members of the Harbor Management Commission for getting the City on the launching pad for the dredging project. He stated that this was a great testament to their effectiveness. He asked if it were possible that the cost of providing the CAD Cell could increase in the future should it turn out that it was more difficult to construct or if there were more contaminated materials at the site than expected. Mr. Dunavan replied that it were possible but he wouldn't expect the cost to double but they would not know the exact cost until the Army Corp of Engineers sent the project out to bid. He added that he felt it would not go way over the anticipated cost.

Mayor Knopp asked what the timing was regarding requests for proposals and Mr. Dunavan replied that they were hoping to know by September. Mr. Dunavan added that they were hoping that the dredging process could be accomplished this coming winter. He informed the assembly that the Commission had been in contact with Congressman Shays' and Senator Lieberman's offices and that both officials were in support of the project. He noted that if the dredging did not occur this winter it would be another year before it could begin. Mr. Dunavan advised the Members that the procurement procedure was described in great detail in the 33-page document he had submitted to them. He added that it also spelled out the sequence of events that were related to the dredging process. Mr. Dunavan advised that the document had to be signed by the City before any work could be accomplished.

Ms. Olmstead-Sawyer asked Mr. Dunavan to explain the type of contamination involved and Mr. Dunavan replied that the materials were heavy metals and hydrocarbons from the heavy industrial activity that took place in the late 18th Century. He noted that it was not from the hat factory because the contamination from the hat factory was typically mercury. Mr. Dunavan advised that the Army Corp of Engineers had reviewed previous testing that had been done 20-60 years ago and the concentrations had not changed much.

Mr. Wien asked if there was containment or if there was any leeching and Mr. Dunavan replied that the upper 3'-10' layer was confined to contaminants and the sides would slope but that would be the only containment there would be. He added that there was no leeching from the process that was done 20 years ago. He pointed out that this was a fairly standard way of handling this type of material and that this was not open water material.

Mr. Kimmel commented that this had been done 20 years ago in a different location and Mr. Dunavan replied that it had been done opposite Oyster Shell Park. Mr. Kimmel asked why other areas had not been looked at during that time. Mr. Dunavan replied that where the Army Corp of Engineers was proposing to build the CAD Cell was north of that area. Mr. Kimmel asked if there would still be contamination left when they were done and Mr. Dunavan replied that this process would remove and permanently bury some of the contamination. Mr. Dunavan explained that the sediment that had settled in that area since 1980 was contaminated but the sources upstream had been corrected. However, he added that it was still a problem.

Mr. Kimmel remarked that a piece meal system might be the cheapest way to handle this problem but it was not the most effective way. Mr. Dunavan commented that the contamination extended well beyond the boundary of

the Federal Channel. He said that they were talking about moving a small percentage that did not extend the full width of the river. He noted that to try to move all of the contamination would be a huge project.

Mayor Knopp remarked that use of barges eliminated many trucks from the highway. Mr. Dunavan informed the assembly that each barge that was used in transportation was equal to using 100-120 trucks. He added that one barge was used per day, which meant that they were performing the transportation services of over 30,000 trucks a year. He noted that there would be a serious impact to I-95 and the City streets if the barges were not used.

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE.**

Mayor Knopp thanked Mr. Dunavan and Dr. Pinto again.

2. Technical Correction to the Common Council action of May 11, 2002, Public Works VII.D.1, authorizing the Mayor, Alex A. Knopp, to execute an Amendment to the Agreement with Turner Construction to provide professional engineering services and to extend the period of the existing Agreement until November 1, 2002 (no increase in fee or change in scope of service).

Change to Authorize the Mayor, Alex A. Knopp, to execute an Amendment to the Agreement with Turner Construction to provide Construction Management Services related to the design and construction of the new Police Station in order to extend the term of the original agreement until November 1, 2002 with no increase in fee or change in scope of service.

**** MR. PERONE MOVED APPROVAL OF THE ITEM.**

Mr. Miklave recused himself from the vote on this item and left chambers.

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE.**

3. Authorize the Director of Public Works to reduce the retainage to ½% to the Shultz Corp. for Project No. HP 2000-2, Amphitheater Stage at Oyster Shell Park.

**** MR. PERONE MOVED APPROVAL OF THE ITEM.**

Mayor Knopp asked Mr. Grumman to speak on this item. Mr. Grumman stated that Shultz Corporation had successfully completed the deck north of the Maritime Aquarium

and the stage at Oyster Shell Park. He explained that the reason to hold back ½% of the remaining balance on the contract was to keep the contract open. He went on to explain that there were still some things the contractor could do if the City were able to secure the additional funds through Grants. He added that Mr. Overton was working on securing the Grants. Mr. Grumman commented that they were asking to keep this contract open with Mr. Shultz's consent and that the dollar value left on the contract was approximately \$2,000.

Mr. Kimmel asked if there was a punch list to complete and Mr. Grumman replied that the project had been successfully completed and there was no punch list. He explained that children were currently using this deck and he described it as an open gathering place. He said that it was a very attractive wood deck and that it was located at the beginning of Heritage Trail.

Mr. Miklave asked how keeping this contract open changed the process should Grant money be secured as opposed to closing this contract. Mr. Grumman stated that his Department liked the workmanship of this contractor and this type of project was not the usual project that the City put out to bid. He remarked that the workmanship was excellent and it would be helpful if this contractor could finish the stairways and the refined woodworking. He explained that if they closed this contract by paying the balance in full the City would have to put the work out to bid again and might not get the same level of skill. He remarked that this was a ploy to hold the contractor here.

Ms. Bain asked if there was an Agreement on the part of the contractor and Mr. Grumman replied that there was a verbal Agreement. Ms. Bain also asked if the other work they were hoping to perform was related to the amphitheater and the enhancement of the work that was already done. Mr. Grumman replied that it was.

Mr. Miklave asked how much the additional work would cost and Mr. Grumman replied that he would obtain the figures and advise the Members.

Mr. Kimmel stated that he had mixed feelings about this situation. He went on to state that he was concerned about the fact that it seemed the project had been completed and that additional work might be costly and should probably go out to bid. He commented that the proposed process was similar to having the contractor on retainer and he was not certain that this was a good policy in general.

Mr. Miklave stated that he agreed with Mr. Kimmel. He went on to state that given the fact that there was not an estimate of cost for an additional contract he was opposed to using this proposal to get around the bidding process. Ms. Bain interjected that when budgets were restricted projects had to be pulled back to stay within the financial confines. She noted that if the additional work were intended to complete the original project she would vote in favor to retain the original contractor.

Mayor Knopp asked if the additional work would have to come to the Council for approval. Mr. Grumman replied that it would.

Mr. Mann stated that he agreed with Ms. Bain and that he was not opposed to retaining the contractor in this manner. He noted that they were simply trying to keep the contract open until they knew they had the funds and had an estimated cost. He pointed out that if the cost were a significant amount the Council would have the opportunity to address it. Mr. Mann said that he did not see a problem.

**** MOTION PASSED BY VOICE VOTE WITH ELEVEN (11) IN FAVOR (MESSRS. KRUMMEL, PERONE, BONDI, PORUBAN, BAKER, MANN, WIEN, MS. OLMSTEAD-SAWYER, MS. BAIN, MS. RIVAS AND MS. HUDGINS) AND THREE (3) OPPOSED (MESSRS. KIMMEL, MIKLAVE AND WRENN).**

VIII. RESOLUTIONS FROM COUNCIL MEMBERS

There were none this evening.

IX. SUSPENSION OF THE RULES

There was none this evening.

XI. ADJOURNMENT

**** MR. BONDI MOVED APPROVAL TO ADJOURN.**

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE.**

The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Ann Marie DeLuca

Telesco Secretarial Services

ATTEST: _____

Pam Stark, City Clerk