

Common Council Actions

JULY 8, 2008

**NORWALK, CONNECTICUT 8:00 P.M. EST 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.

Mayor Moccia opened the meeting at 8:10 p.m. and led the assembly in the Pledge of Allegiance.

I. ROLL CALL

Ms. Roman called the roll.

PRESENT:

Fred Bondi Amanda Brown
Michael Geake Douglas Sutton
Steven Serasis Nicholas Kydes
Carvin Hilliard Rev. Phyllis Bolden
Kelly Straniti William Krummel
Laurel Lindstrom Douglas Hempstead
Richard Bonenfant Richard McQuaid

Andrew T. Conroy

Absent: None

Ms. Roman announced that all fifteen members were present.

II. ACCEPTANCE OF MINUTES

Regular meeting - June 24, 2008

**** COUNCIL PRESIDENT BONDI MOVED THE MINUTES OF THE REGULAR MEETING OF JUNE 24, 2008.**

**** THE MOTION TO ACCEPT THE MINUTES OF THE REGULAR MEETING OF JUNE 24, 2008 AS SUBMITTED PASSED WITH FOURTEEN IN FAVOR (BONDI, BROWN, GEAKE, MCQUAID, SUTTON, BONENFANT, SERASIS, BOLDEN, HILLIARD, KYDES, LINDSTROM, HEMPSTEAD, STRANITI AND KRUMMEL) AND ONE ABSTENTION (CONROY).**

III. PUBLIC PARTICIPATION

Let it be noted that the following comments and remarks by all speakers have been summarized and are not necessarily verbatim.

Atty. Franklin Mellzer came forward and said that he was representing 16-18 Merwin Street LLC, speaking in favor of agenda item #2. This is in the planned area of the Redevelopment area. Mr. Tomas has come to an agreement and Mr. Tomas is requesting a friendly condemnation in order to take advantage of the capital gains to be deferred to

the time when he sells the property that he is in the process of buying. Atty. Mellzer reviewed the tax laws regarding this type of condemnation. Because this is in area of redevelopment, there is the possibility of eminent domain and that if the property is taken then Mr. Tomas will be able to take advantage of the applicant.

Mr. Tomas came forward and said that he lives at 16-18 Merwin Street. He said that he was looking forward to seeing the project move forward. He asked the Council to please consider acting favorably on his behalf.

Mayor Moccia then asked if there was anyone else present who wished to address the Council.

Atty. John Louizi, of 666 Summer Street, Stamford, came forward and distributed copies of a letter to the members of the Council. He stated that he was representing Currie Tires and said that his client objected to the Redevelopment Agency request to go to the third party mediation. Mr. Douglas Adams had told his client that he would analyze the offers on June 4th and get back to the client. Instead, the Redevelopment Agency is now negotiating for a private developer at the taxpayer's cost. Atty. Louizi then pointed out that this would be a large step towards eminent domain. The involvement of the ombudsman is wrong because rather than negotiation, the issue goes directly to mediation. The negotiations were still ongoing. The client had not heard back from the developer. Mediation is the last resort.

Atty. Louizi then cautioned the Council about the rumors that have been flying about because the amounts have not been agreed upon.

Ms. Conti came before the Council and said that she was present to read a letter from Tony Savas. He said that he owns the property on Chapel Street. Regarding his negotiations with Seligson properties, he said that he had only met with Mr. Adams once.

This was at the instigation of Mr. Savas' attorney. Mr. Savas said that one of the contractual obligations was that the property would be returned to Mr. Savas's property if the project does not move forward. Mr. Savas said that he was concerned that there was the possibility that if the land is acquired, the project would be flipped. Mr. Savas said that he was concerned that Mr. Seligson is trying to find ways out of the agreement.

Mr. Keal Evans, 539 West Avenue, came forward and said that he owns a business, but that his name should be on the list of the possible condemnation. He then suggested that the Council get together with the land owners, the developer and the Council in a room before a third party negotiator is called in. He said that the newspaper reported that his property transaction was completed, but that this was news to him. Nothing has been signed at this time.

Ms. Diane Lauricella came forward said that she was representing the League of Women Voters, regarding the appointments to the various boards and commission. She said while the Mayor was charming and wise, that the League has a right to shine a light on the various processes. She said that it would be important to ask for civility, regarding asking for resumes publicly. She said that the League had offered to assist the administration in having more resumes come in but had never received a phone call requesting assistance.

The other civility remedy is that there are people who are afraid to come forward to serve on the Boards and Commissions. She said that she had contacted the former members of the Planning commission if they were given an opportunity to be reappointment and that they said that they would.

Ms. Lauricella said that she would like to see a clarification of the role of independent counsel's role in the reappointments. She said that the Council should have at least 2 weeks to review the appointments. It would be important to utilize the City Clerk or Assistant Clerk in this. She also suggested exit interviews for the members of the Board and Commissions for their input.

Ms. Nancy Esposito came forward and stated that she owns property at 4 Merwin Street. She said that while she is in negotiation with the developer, but has not reached an agreement. She said that she was bitterly disappointed regarding to those who were in redevelopment area and move to another location where the taxes were at least doubled or possibly tripled. She then reviewed the details of this issue. Ms. Esposito said that this could devastate various businesses. She added that many of the property owners are still in negotiations

The Mayor then asked if there was anyone else present who wished to address the Council. Hearing none, he then closed the public input portion of the meeting.

IV. MAYOR

A. RESIGNATIONS AND APPOINTMENTS

Resignations:

There were no resignations to consider at this time.

Appointments:

Richard Stumpf - Fair Rent Commission

**** MR. KYDES MOVED TO APPROVE THE APPOINTMENT OF RICHARD STUMPF TO THE FAIR RENT COMMISSION.**

**** MR. BONENFANT SECONDED.**

**** THE MOTION TO APPROVE THE APPOINTMENT OF RICHARD STUMPF TO THE FAIR RENT COMMISSION PASSED WITH FOURTEEN IN FAVOR (BONDI, BROWN, GEAKE, MCQUAID, CONROY, BONENFANT, SERASIS, BOLDEN, HILLIARD, KYDES, LINDSTROM, HEMPSTEAD, STRANITI AND KRUMMEL) AND ONE ABSTENTION (SUTTON)**

Victor Cavallo - Planning Commission

**** MR. CONROY MOVED TO APPROVE THE APPOINTMENT OF MR. VICTOR CAVALLO TO THE PLANNING COMMISSION.**

Mr. Conroy then gave a brief summary of Mr. Cavallo's accomplishments.

Mr. Krummel said that he did not know why Leigh Grant was not being reappointed to the Planning Commission. He said that Ms. Grant was an ex-officio of SWRPA and that Ms. Grant had done yeoman work to make the Master Plan workable. He said that when valuable people are not reappointed, the City suffers.

Ms. Lindstrom said that she had observed Ms. Grant at the Planning Commission and she was also a liaison at SWRPA. She said that it was disappointing to have Ms. Grant only serve one term. Ms. Lindstrom said, like Mr. Krummel, she had been shocked to discover that Ms. Grant was not reappointed.

Mr. Kydes then said that he was on the Planning Commission from 1999 to 2005 and also served with SWRPA. He said that he would hope that his fellow Council members would remember that he was not offered reappointment during the former administration. He said that it would be important to allow the Mayor in his infinite wisdom to choose whom to appoint to the various Boards and Commissions.

**** THE MOTION TO APPROVE THE APPOINTMENT OF MR. VICTOR CAVALLO TO THE PLANNING COMMISSION PASSED WITH ELEVEN IN FAVOR (BONDI, BROWN, GEAKE, MCQUAID, BONENFANT, BOLDEN, HILLIARD, KYDES, HEMPSTEAD, STRANITI, AND CONROY), TWO AGAINST (LINDSTROM AND KRUMMEL) AND TWO ABSTENTIONS (SERASIS AND SUTTON).**

Joel Zaremby - Planning Commission

**** COUNCIL PRESIDENT BONDI MOVED TO APPROVE THE APPOINTMENT OF JOEL ZAREMBY TO THE PLANNING COMMISSION.**

**** MR. KYDES SECONDED.**

Mr. Krummel said that Lee Levey wanted to continue serving and had only served for two years. He then repeated that Mr. Levey, who was an architect and well versed in historical aspect, was a valuable asset and a serious loss to the City.

Ms. Brown said that while the Mayor was most charming and wise, she would like to have the process clarified. She then asked why the Mayor had replaced Mr. Levey. The Mayor replied that his explanation for his actions would be made during his remarks.

Ms. Lindstrom said that she agreed with Mr. Krummel.

**** THE MOTION PASSED WITH ELEVEN IN FAVOR (BONDI, BROWN, GEAKE, MCQUAID, BONENFANT, BOLDEN, HILLIARD, KYDES, HEMPSTEAD, STRANITI, AND CONROY) AND FOUR ABSTENTIONS (SERASIS, SUTTON, LINDSTROM AND KRUMMEL).**

Reappointment:

Frances DiMeglio - Planning Commission

**** MR. KYDES MOVED TO APPROVE THE REAPPOINTMENT OF FRANCES DIMEGLIO TO THE PLANNING COMMISSION.**

**** COUNCIL PRESIDENT BONDI SECONDED.**

Mr. Kydes said that he has known Ms. DiMeglio for a long time and that she evaluates situations well.

**** THE MOTION TO APPROVE THE REAPPOINTMENT OF FRANCES DIMEGLIO TO THE PLANNING COMMISSION PASSED WITH FOURTEEN IN N FAVOR (BONDI, BROWN, GEAKE, MCQUAID, CONROY, BONENFANT, SERASIS, BOLDEN, HILLIARD, KYDES, LINDSTROM, HEMPSTEAD, STRANITI AND KRUMMEL) AND ONE ABSTENTION (SUTTON).**

Donald Nelson - Tree Advisory Committee

**** COUNCIL PRESIDENT BONDI MOVED TO APPROVE THE REAPPOINTMENT OF DON NELSON TO THE TREE ADVISORY COMMISSION.**

**** MR. KYDES SECONDED.**

**** THE MOTION TO APPROVE THE REAPPOINTMENT OF DON NELSON TO THE TREE ADVISORY COMMISSION PASSED WITH FOURTEEN IN N FAVOR (BONDI, BROWN, GEAKE, MCQUAID, CONROY, BONENFANT, SERASIS, BOLDEN, HILLIARD, KYDES, LINDSTROM, HEMPSTEAD, STRANITI AND KRUMMEL) AND ONE ABSTENTION (SUTTON).**

Richard Whitehead - Tree Advisory Committee

**** MR. HEMPSTEAD MOVED TO APPROVE THE REAPPOINTMENT OF RICHARD WHITEHEAD TO THE TREE ADVISORY COMMITTEE.**

**** COUNCIL PRESIDENT BONDI SECONDED.**

Mr. McQuaid said that in the previous administration, he had pointed out that Mr. Whitehead lives in Darien. Because of this, Mr. McQuaid said that he would not be voting for Mr. Whitehead. Mr. Krummel asked if the member has to be an elector. The Mayor said that Mr. Whitehead was the arborist for the Tree Advisory committee. Atty. Maslan said that the code did not address that issue.

**** THE MOTION TO APPROVE THE REAPPOINTMENT OF RICHARD WHITEHEAD TO THE TREE ADVISORY COMMITTEE PASSED WITH EIGHT IN FAVOR (BONDI, BONENFANT, HILLIARD, KYDES, LINDSTROM, HEMPSTEAD, STRANITI AND CONROY), FOUR AGAINST (MCQUAID, SERASIS, BOLDEN, AND KRUMMEL) AND THREE ABSTENTIONS (BROWN, GEAKE AND SUTTON).**

B. REMARKS

Mayor Moccia said that there had been some concerns expressed by the business owners and that he would request that there would continue to be civility. Regarding other concerns about the appointments, he said that he respected both Ms. Grant's and Mr. Levey's abilities and talents. He pointed out that Mr. Levey had been on the Library Board and he wished to serve on the Planning Committee. He said that the decision process that he used was the same one used by the previous Mayors. The City Clerk and Assistant Clerks know how to submit the resumes because this is part of their responsibilities and this is associated with running a major city in the State. He then reviewed his recent appointments and stated that he tries to appoint from a broad spectrum of political views.

V. COUNCIL PRESIDENT

A. GENERAL COUNCIL BUSINESS

Council President Bondi pointed out that the Council had just appointed three Democrats and two Republicans along with a member of the Arborists Party.

B. CONSENT CALENDAR:

** COUNCIL PRESIDENT BONDI MOVED THE FOLLOWING ITEMS ON THE CONSENT CALENDAR:

VI. REPORTS: DEPARTMENTS, BOARD AND COMMISSIONS

A. BOARD OF ESTIMATE AND TAXATION

2. RESOLVED, that a sum not to exceed \$11,679 be and the same is hereby transferred from Contingency to the Historical Commission to cover CAM charges for the Museum. (Account No. 01-6300-5620)

3. RESOLVED, that a sum not to exceed \$410,000 be and the same is hereby transferred from Contingency to the Department of Public Works to cover a projected shortfall in the Solid Waste Disposal Account. (Account No. 01-4042-5298)
CONSENT TO REMOVE

B. CORPORATION COUNSEL

1. Authorization to settle claim: Garzon v. City of Norwalk CONSENT TO MOVE TO THE END OF THE MEETING FOR EXECUTIVE SESSION

VII. COMMON COUNCIL COMMITTEES

A. FINANCE COMMITTEE

1. Accept and Approve the Report of the Claims Committee Dated: July 3, 2008.

2. For informational purposes only: Monthly Tax Collector's Report Dated: May 31, 2008.

3. Resolution appropriating \$1,500,000 for the Norwalk Harbor dredging and capping project, and authorizing the issuance of \$500,000 bonds of the City to meet the City's portion of said appropriation and pending the issuance thereof the making of temporary borrowings for such purpose. (Account #: Capital Projects to be assigned).

4. Authorize the Mayor, Richard A. Moccia, to execute general liability insurance placements for the FY 2008-09 fiscal year with Connecticut Interlock Risk Management Agency (CIRMA) for an amount not to exceed \$514,383. Account #168510-5418.

5. Authorize the Mayor, Richard A. Moccia, to execute property insurance placement for the FY 2008-09 fiscal year with the HD Segur Insurance Agency in an amount not to exceed \$206,166. Account #168510-5418

B. PLANNING COMMITTEE

3. Request Authorization permitting the City of Norwalk to apply for up to \$2,000,000 in funding from the State of Connecticut's Brownfields Municipal Pilot Program for use in undertaking environmental remediation at the surface parking area serving the eastbound side of the South Train Station (30 Monroe Street).

C. PUBLIC WORKS COMMITTEE

1. Authorize the Mayor, Richard A. Moccia, to execute an agreement with Milone and MacBroom, Inc. for the design of a culvert replacement on Rowayton Avenue at Woodchuck Lane for a sum not to exceed \$79,500. Account No. 090740215777 C0395 (FEMA grant)

2. Authorize the Director of Public Works to issue an Order on Contract to Deering Construction, Inc. on Project No. 4R 2007-1 in connection with providing a paved access entry to Cranbury Park for a sum not to exceed \$25,132.10. Account No. 09096030 5777 C0366

D. LAND USE AND BUILDING MANAGEMENT COMMITTEE

1. AUTHORIZE THE LAW DEPARTMENT TO DRAFT AN AGREEMENT BETWEEN THE CITY OF NORWALK AND FRIENDS OF NORWALK MUSEUMS TO OPERATE AND MAINTAIN THE NORWALK MUSEUM AND TO BE RESPONSIBLE FOR THE CARE AND DISPLAY OF THE NORWALK MUSEUM'S COLLECTION. CONSENT TO REMOVE FROM AGENDA

**** THE MOTION TO APPROVE THE CONSENT CALENDAR AS PRESENT PASSED UNANIMOUSLY.**

VI. REPORTS: DEPARTMENTS, BOARD AND COMMISSIONS

A. BOARD OF ESTIMATE AND TAXATION

1. RESOLVED, that a sum not to exceed \$61,270 be and the same is hereby transferred from Contingency to the Department of Public Works to pay a deficit in the Fleet Services Account. (Account No. 01-4045-5461)

**** MR. HILLIARD MOVED TO APPROVE THE FOLLOWING RESOLUTION:**

RESOLVED, that a sum not to exceed \$61,270 be and the same is hereby transferred from Contingency to the Department of Public Works to pay a deficit in the Fleet Services Account. (Account No. 01-4045-5461)

Mr. Hamilton came forward and explained that this was a year end clean up item and driven by increasing fuel costs. He then said that originally that at 10% increase had been assumed. The current prices are about a 30% increase.

Mr. Krummel asked about the locked in price of \$2.57 contract, which will expire in December 2008. Mr. Hamilton explained that typically the City would bid in November with a number of communities. He said that \$2.57 had looked high at the time, but now it was low.

Mr. Krummel said that when he looked at the fuel consumption, he had seen that the fuel consumption had been the same and that the City needed to reduce the consumption. The Mayor assured him that the staff was looking at fuel consumption. Mr. Krummel said that this confirmed the Mayor's far reaching wisdom.

Mr. Serasis had some questions about the police cruisers, which were running at various locations. Mr. Hamilton then reviewed the details of the contract, which is governed by the collective bargaining. Mr. Serasis asked when the contract would be up. Mr. Hamilton said that he believed that the City was in the second year of a four year contract. The Mayor said that the cars were only idling at night when the emergency lights needed to be run. During the day, the cars shouldn't be idling. Mr. Bondi said that he had checked with surrounding communities and that some communities charge the construction contractors for the use for the gas, others do not. Mr. Bondi said that most of the take home vehicles privileges had been discontinued.

**** THE MOTION PASSED UNANIMOUSLY.**

Mr. Kydes recused himself from the meeting for Agenda Items VI B1 and VI B2

B. PLANNING COMMITTEE

1. Authorize the Agency to undertake negotiations with private property owners listed on the attached exhibit A, provided that the State of Connecticut Property Rights Ombudsman is informed of such negotiations and each property owner is offered the opportunity for mediation conducted through the Ombudsman's Office forthwith.

2. Approve the public condemnation by the Redevelopment Agency of private property located at 16 & 18 Merwin Street located within the West Avenue Corridor Redevelopment Plan Area as granted pursuant to Public Act 07-141.

**** REV. BOLDEN MOVED THE FOLLOWING ITEM:**

1. Authorize the Agency to undertake negotiations with private property owners listed on the attached exhibit A, provided that the State of Connecticut Property Rights Ombudsman is informed of such negotiations and each property owner is offered the opportunity for mediation conducted through the Ombudsman's Office forthwith.

Mr. Sheehan came forward to answer questions. Ms. Brown then asked about the letter that had been distributed. Mr. Sheehan then reviewed the history of the West Avenue Redevelopment Plan. He pointed out that the Council did not allow the Redevelopment Agency to file any eminent domain takings without Council approval. Mr. Sheehan said that the Redevelopment Agency has been observing the negotiations. Mr. Sheehan said that the developer has determined that the negotiations are unlikely to reach a successful

conclusion. The Redevelopment Agency agrees. Mr. Sheehan said that the third party negotiation would have only been used if the property owner agreed.

Atty. Dwight Barry, from Robinson and Cole, came forward and said that this was an appropriate time for the Redevelopment Agency to become involved. He added that there were only three states in the Union that have ombudsman, Connecticut, Missouri and Utah. He then proceeded to discuss the role of the ombudsman, which is to be neutral. Atty. Barry said that the use of the ombudsman in Utah has cut the amount of litigation in half. Ms. Brown asked if the ombudsman needed to be involved in the process right now, or whether it could wait until a later time. Atty. Barry said that unless both the City and the property owner agree to the use of the ombudsman, the ombudsman would not be present.

Mr. Sheehan said that the agency was asking the Council to reauthorize the Agency to negotiate with the property owners. Mr. Sheehan then reviewed the process and said that the Agency would be sending a letter asking the property owner if they wished to involve an ombudsman.

Ms. Brown pointed out that some of the material had been submitted to the Council Members earlier in the day. She then asked whether the Redevelopment Agency would be able to condemn a parcel. Mr. Sheehan then reviewed the process and the time frames associated with the process.

Mr. Conroy asked how many property owners would be involved in the takings. Mr. Sheehan said that the list was not indicating eminent domain, but just a list of property owners who have not reached acceptable agreements with the developers. Discussion about this issue then followed.

Mr. Krummel said that he had spoken to another earlier in the day and the department head had stated that it was important to trust the department heads. Mr. Krummel said that as an elected official he was entrusted to perform due diligence. Mr. Krummel said that he understands that the Redevelopment was taking over the negotiations with the property owners, which he felt was wrong. However, these are the rules, and Mr. Krummel said that he hoped that the process would be transparent. Mr. Krummel said that he hoped that the Redevelopment Agency would have an independent appraiser review the parcels. Mr. Sheehan then said that the next step would be coming to an

understanding of what level of environmental inspections would be. Mr. Sheehan then reviewed the remaining steps of the process with Mr. Krummel. Mr. Sheehan said that the Council has indicated that the hurdle for eminent domain is exceedingly high.

Mr. Sheehan said that there are two developers involved and that the offer is above and beyond the fair market value.

Mr. Krummel asked if City money would be used. Mr. Sheehan said that there was a Land Acquisition fund in Redevelopment and no City funds would be used. The discussion then moved to whether the ombudsman could be called in to testify in litigation. Atty. Barry came forward to clarify the role of the ombudsman.

Mr. Krummel said that there were contracts that were not completed for two property owners that were not listed in the back up material. Mr. Sheehan said that the list was of those who were identified property owners where a successful conclusion was doubtful. Mr. Krummel said that he becomes uneasy when he feels information is being withheld. Mr. Sheehan said that the Agency was asking the Council for permission to go in and work on the negotiations.

Mr. Sheehan repeated that the Agency was not asking for eminent domain, but permission to try and facilitate negotiations. Atty. Barry came forward and reiterated the role of the ombudsman and what information would be available to the public, as subject to FOI regulations.

Mr. Bonenfant said that he represents the areas where this project is located. He said that he was torn. Mr. Sheehan said that when personal rights and property rights come together, it is a difficult issue and that it is important that all the parties are treated fairly. Ultimately, Mr. Sheehan said, he felt that the Agency had a major hurdle regarding eminent domain. He said that it was important for the Agency to know that the Council was in agreement with the Agency in this action.

Ms. Lindstrom said that she appreciated the participation of property owners earlier in the meeting, and that some of them said they wanted more time to negotiate with the developer. She asked if the developer could be present during a meeting with the

ombudsman if the property owner decided to meet with the ombudsman. Mr. Sheehan indicated that because the ombudsman position is new he does not know what the legal implications are but that he would find out. Ms. Lindstrom said that council members were put in a difficult position by not being part of the negotiations, hearing different things from different people and not knowing what was correct. Ms. Lindstrom asked if it would be possible for the council to meet with Mr. Sheehan in executive session often enough to be kept up to date on the negotiations. Mr. Sheehan agreed that executive session would be possible.

Mr. Hempstead asked about the time limit. Mr. Sheehan said that it was five years from the first taking. Mr. Hempstead then asked if the property owner could then go back and have the ombudsman's participation. Mr. Sheehan said that it would be possible to have the ombudsman enter into the negotiations at a later date.

Rev. Bolden said that the previous Council had put some very rigid demands on Redevelopment Agency about this. She said that those who had spoken earlier indicated that the negotiations were not finished. Rev. Bolden then asked if this would not be a situation where the developer takes his hands off the issue and allows the Redevelopment to act on his behalf. Mr. Sheehan agreed and said that the Agency pays for the professional staff. The funding would come from the Redevelopment Acquisitions account contributed to by the developer. Rev. Bolden said that it was unlikely that everyone would be happy, but that the final decisions should be fair.

Ms. Brown asked whether authorizing the friendly taking, that would start the clock for the Agency being able to complete all of its acquisitions within the next five years. Mr. Sheehan said that once the friendly taking was approved, then the Agency would be required to complete all the takings within the next five years. Ms. Brown then had another question about some of the details outlined in one of the letters.

Mr. Krummel said that there was an obvious conflict regarding the situation between the property owners and the developers. He then asked if it would be possible to have an executive session regarding these issues. Mr. Sheehan said that he would not have a problem with this, but the property owner and the developer would have to agree to allow the disclosure of the negotiation details.

Atty. Barry said that he had been asked to write a book with another attorney about eminent domain issue following Kelo vs. New London. He said that in researching the book, the level of public distrust of the government had risen dramatically. He said that using a mediator or ombudsman as a facilitator would allow the hidden agendas to come forward. He said that the City's process was commendable.

Mayor Moccia said that he felt that this was a wonderful debate and there was high level of respect. He then clarified that the City was not giving the developer 1.4 million dollars, but that the developer would be repaying the City. The Harbor project in Stamford has a TIFF project, which gives the developer something like 50% of the tax money back.

Mr. Geake commented that it was quite clear the negotiations were going slowly. He added that there was a clear distrust of having the ombudsman involved in the process because of the perception the property owners have that they believe that they will not be viewed as being cooperative. Mr. Geake pointed out that any property could request an ombudsman at any time.

**** Mr. Geake moved to amend the motion from:**

Authorize the Agency to undertake negotiations with private property owners listed on the attached exhibit A, provided that the State of Connecticut Property Rights Ombudsman is informed of such negotiations and each property owner is offered the opportunity for mediation conducted through the Ombudsman's Office forthwith

to:

Authorize the Agency to undertake negotiations with private property owners listed on the attached exhibit A.

RECESS

The Mayor called for a recess at 10:29 p.m., the Council reentered public session at 10:45 p.m.

**** MR. GEAKE MOVED TO WITHDRAW HIS MOTION TO AMEND.**

**** REV. BOLDEN MOVED TO AMEND THE AGENDA ITEM FROM:**

Authorize the Agency to undertake negotiations with private property owners listed on the attached exhibit A, provided that the State of Connecticut Property Rights Ombudsman is informed of such negotiations and each property owner is offered the opportunity for mediation conducted through the Ombudsman's Office forthwith

TO:

AUTHORIZE THE REDEVELOPMENT AGENCY TO GIVE ALL REQUIRED STATE NOTIFICATION AND FURTHER AUTHORIZE THE AGENCY TO GO BACK TO THE DEVELOPER AND DEMAND THEY MAKE A GOOD FAITH EFFORT TO NEGOTIATE OR RENEGOTIATE WITH EACH OUTSTANDING PROPERTY OWNER IN A FAIR, TIMELY AND ACCEPTABLE MANNER.

Rev. Bolden said that it was the feeling of the Council members that the developer was doing what they needed to do in terms of negotiations with the property owners.

Ms. Straniti said that this amendment was completely different from the original proposals. Rev. Bolden said that she has been on the Council since late 2005. She said that she was disappointed in what she was hearing from the property owners. Rev Bolden said she felt like we had the most competent Redevelopment Agency but she feels the developer has a responsibility to the property owners. Mr. McQuaid said that the Redevelopment was being asked to be the mediator.

The Mayor asked what would be considered a timely manner in the amendment. Rev. Bolden said that it would be evident. Mr. Geake said that there had been property owners had said that they had not contacted for negotiations with the developer. Discussion about this followed. Mr. Sheehan asked if the Council was looking for the Agency to go back and negotiate. Mr. Serasis said that he was hearing that the developer had not contacted the property owners about these negotiations. Mr. Sheehan said that the agency had heard the same thing, but the Agency has also heard the other side.

Atty. Maslan said that the discussion appeared to center on the word “timely” and what that entailed. He then read the statute and reviewed the role of the ombudsman, which is available to the property owners and to the developer.

Mr. Bondi said that he believed that the motion before the Council was written properly. He pointed out that every day that a developer delays before the project starts costs the developer money. Mr. Bondi said that he believed that the ombudsman was needed because right now, the developer and the property owners were at a stand still. He said that he did not believe that the Council wanted to see any property owner end up with eminent domain, but realized that the project also needs to go forward. Mr. Bondi concluded that the original motion was the proposal that would ensure that the process would move forward. Mr. Hilliard concurred.

Ms. Straniti then said that there were private negotiations that had been underway between the property owners and the developer, but bringing in a third party would be bring the process forward.

Mr. Krummel then said that he believed that the amendment was focused on the fact that there were conflicting opinions about what was going on. He said that he didn’t hear any clear definition of timely. He then said that he wanted to hear how the Council would have access to the information and how to move forward.

Ms. Brown said that she felt that the amendment would give the Redevelopment Agency the ability to be the neutral party. The Council does not want to get involved in this before the developer has exhausted his or her ability to move the project forward on its own.

Mr. Geake asked if there was a middle ground where the developer would be involved and have the Agency. Mr. Sheehan suggested that the Council table the issue and direct the Agency to come back to the Council with more information.

Mr. Hempstead asked if it would be possible to have executive session. Atty. Maslan said that if it was about potential acquisition of property it is exempt from FOI and can go into executive session because it's the proper subject matter for it. Atty. Maslan said he had a discussion with Mr. Grenier about going into executive session with the numbers, but there is no need yet since it is not close to the numbers.

Atty. Mark Grenier said that he was the attorney for the Redevelopment Agency and that he would be willing to enter into Executive Session. He said that he had concerns about the amendment that was on the floor and said that he felt tabling the motion would be appropriate.

**** MR. GEAKE MOVED TO TABLE REV. BOLDEN'S AMENDMENT TO THE NEXT COUNCIL MEETING.**

**** THE MOTION PASSED UNANIMOUSLY.**

2. Approve the public condemnation by the Redevelopment Agency of private property located at 16 & 18 Merwin Street located within the West Avenue Corridor Redevelopment Plan Area as granted pursuant to Public Act 07-141.

**** REV. BOLDEN MOVED THE AGENDA ITEM.**

Mr. Krummel said that legal information was forthcoming from the IRS about this tax issue. Mr. Sheehan said that Mr. Krummel wanted to have an opinion from the IRS, but that the proposal could be approved with the understanding that the Agency would not file the taking until the IRS letter arrives.

Mr. Bonenfant had several questions about the “friendly” taking. Mr. Sheehan then reviewed the details of the tax benefits and deferment.

Rev. Bolden then requested Atty. Maslan review the details of the deferment. Atty. Maslan did so.

Mr. Geake said that he had three problems, one being the deferment, the second with getting information from the IRS. Finally, Mr. Geake stated that he was philosophically against any takings via eminent domain.

**** MR. GEAKE MOVED TO TABLE THE ITEM.**

**** THE MOTION FAILED WITH FOUR IN FAVOR (GEAKE, SUTTON, SERASIS, AND KRUMMEL) AND TEN AGAINST (BONDI, BROWN, MCQUAID, BONENFANT, BOLDEN, HILLIARD, LINDSTROM, HEMPSTEAD, STRANITI AND CONROY).**

**** MS. BROWN MOVED TO AMEND APPROVE B-2 SUBJECT TO RECEIPT BY THE COUNCIL FROM COUNSEL’S OFFICE INDICATING THAT THE PLAN IS OPEN ACCORDING TO THE IRS REGULATIONS.**

Atty. Maslan said that his office would decline to give a ruling on IRS regulations.

**** Ms. Brown withdrew her PROPOSED AMENDMENT.**

**** THE MOTION TO APPROVE the public condemnation by the Redevelopment Agency of private property located at 16 & 18 Merwin Street located within the West Avenue Corridor Redevelopment Plan Area as granted pursuant to Public Act 07-141 PASSED WITH EIGHT IN FAVOR (MOCCIA, BONDI, BROWN, MCQUAID, BOLDEN, LINDSTROM, HEMPSTEAD AND STRANITI) AND SEVEN AGAINST (GEAKE, SUTTON, BONENFANT, SERASIS, HILLIARD, CONROY AND KRUMMEL).**

VIII. RESOLUTIONS FROM COMMON COUNCIL

There were no resolutions from the Council at this time.

IX. MOTIONS POSTPONED TO A SPECIFIC DATE

There were no motions postponed to this date.

X. SUSPENSION OF THE RULES

**** MR. KRUMMEL MOVED TO SUSPEND THE RULES TO CONSIDER THE MATTER OF A PUBLIC HEARING.**

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. KRUMMEL MOVED TO HOLD A PUBLIC HEARING BY THE DEPARTMENT OF PUBLIC WORKS ON JULY 17, 2008 AT 7:00 P.M. IN THE COUNCIL CHAMBERS ON SOLID WASTE.**

**** THE MOTION PASSED WITH TWELVE IN FAVOR (BONDI, GEAKE, MCQUAID, SUTTON, BONENFANT, SERASIS, HILLIARD, LINDSTROM, HEMPSTEAD, STRANITI, CONROY AND KRUMMEL) AND TWO ABSTENTIONS (BROWN AND BOLDEN).**

**** MR. CONROY MOVED TO SUSPEND THE RULES TO EXTEND THE COMMON COUNCIL MEETING UNTIL 12:30 A.M.**

**** THE MOTION PASSED UNANIMOUSLY.**

B. CORPORATION COUNSEL

1. Authorization to settle claim: Garzon v. City of Norwalk

**** COUNCIL PRESIDENT BONDI MOVED TO ENTER INTO EXECUTIVE SESSION TO DISCUSS LITIGATION.**

**** THE MOTION PASSED UNANIMOUSLY.**

The Council and Atty. Maslan entered into Executive Session at 11:50 p.m. They reconvened into public session at 11:56 p.m.

**** MS. BROWN MOVED TO APPROVE THE SETTLEMENT OF Garzon v. City of Norwalk.**

**** the motion passed unanimously.**

XI. ADJOURNMENT

**** COUNCIL PRESIDENT BONDI MOVED TO ADJOURN.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 11:58 p.m.

Respectfully submitted

Sharon L. Soltes

Telesco Secretarial Services

