

TO: Honorable Mayor James E. Dyer - Mayor of the City of Danbury.

SUBJECT: Minutes of the Special Meeting of the Common Council, held on July 9, 1980.

The Meeting was called to order at 7:30 O'Clock P.M. by his honor Mayor James E.Dyer who led the assembly in the Pledge of Allegiance to the Flag.

The Prayer was offered by Councilman James E. Ryan.

Roll Call was taken by Assistant City Clerk Mary Rickert, in the absence of the City Clerk, with the following members being recorded as:

PRESENT: McManus, Gallo, Walsh, Rinder, Scialabba, Repole, Kennedy, White, Ryan, Visconti, DaSilva, Boynton, Butera, Evans, Fabiano, Torian. Councilman Delsin arrived after Roll Call.

ABSENT: Councilmen Cassano, Murray, Turk, Burke.

17 Members Present -- 4 Members Absent.

It was reported that Councilmen Murray and Turk were out of town.

NOTICE - Re: Special Meeting of the Common Council to be held July 9, 1980 at 7:30 O'Clock P.M. at City Hall, for the purpose of acting upon the following:

RESOLUTION - To set the date for a Referendum on the Budget Appropriations Ordinance for the fiscal year of 1980-1981.

RETURN OF SERVICE - Delivery of Notices by Police Officers of the Danbury Police Department, to the Twenty-one members of the Common Council.

A motion was made by Councilman James Ryan and seconded by Councilman Fred Visconti that the Notice and Return of Service be accepted. Motion carried unanimously.

RESOLUTION - In the absence of the City Clerk Corporation Counsel Theodore H. Goldstein read the following Resolution being submitted:

WHEREAS, the Common Council of the City of Danbury on May 14, 1980 enacted AN ORDINANCE MAKING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 1980 AND ENDING JUNE 30, 1981, and

WHEREAS, at least 15% of the Electors of the City of Danbury have submitted petitions requesting a referendum on said Ordinance pursuant to Section 3-11 of the Charter of the City of Danbury, and

WHEREAS, the signatures of those who have signed the petitions have been duly verified by the Town Clerk of the City of Danbury,

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF DANBURY THAT:

1. The Town Clerk of the City of Danbury is hereby instructed to warn the Voters of said City to meet in the several voting districts of the City on 1980 beginning at six O'Clock A.M. in the morning to approve or disapprove the Ordinance enacted by the Common Council on May 14, 1980 making appropriations for the fiscal year beginning July 1, 1980 and ending June 30, 1981, in accordance with the warning hereinafter set forth.

2. The warning to be issued by the Town Clerk shall be in substantially the following form:

WARNING

NOTICE OF SPECIAL CITY MEETING

The Voters of the City of Danbury entitled to vote at a Special City Meeting of the City of Danbury upon a Budget Appropriation Ordinance are hereby warned and notified to meet in the several voting districts of the City where such voters are entitled to vote on the \_\_\_\_\_ day of \_\_\_\_\_, 1980, at six O'Clock a.m., in the morning, for the purpose of approving or disapproving the following Question, to wit:

Shall the Ordinance enacted by the Common Council on May 14, 1980 making appropriations for the fiscal year July 1, 1980 and ending June 30, 1981 be approved?

The Polling Places of the various districts for the City referendum to be held on said \_\_\_\_\_ day of \_\_\_\_\_ 1980 are as follows:

- 1st District: Danbury High School, Clapboard Ridge Road
- 2nd District: Hayestown School, Hayestown Avenue
- 3rd District: Broadview Junior High School, Hospital Avenue
- 4th District: Shelter Rock School, Shelter Rock Road
- 5th District: War Memorial Building, Rogers Park, 137 South Street
- 6th District: Park Avenue School, 82 Park Avenue
- 7th District: Mill Ridge Intermediate School, Mill Ridge Road

The Polls of said Districts shall be opened from Six O'Clock A.M. in the morning to Eight O'Clock P.M. in the evening on \_\_\_\_\_ 1980. To be signed by Michael R. Seri, Town Clerk.

3. The Provisions of the Resolution shall take effect on its passage.

Councilman White was recognized by Mayor Dyer. Mr. White asked the Corporation Counsel T. Goldstein what the earliest date was that we can hold this referendum.

Attorney Goldstein replied "The Referendum can be held 30 days after the publication of this Warning in the local paper".

Mr. White asked if this publication had been printed yet, to which Attorney Goldstein replied that there has been no action taken on the Resolution.

Councilman Scialabba, through the chair spoke to Attorney Goldstein stating that he "sees no provision for absentee ballots in this Resolution - how come?".

Mayor Dyer explained that State Law provides for the absentee ballots.

Councilman DaSilva asked of Attorney Goldstein the "latest up-to-date definitive opinion from the Office of the Corporation Counsel on the legal position of the City of Danbury, with the referendum coming up - if it prevails or if it is defeated - if the present budget prevails in the referendum - if the budget is defeated in referendum."

Attorney Goldstein replied " If the referendum as the question is posed, is supported then that completes the legal obligations of the City of Danbury, under its Charter. The other aspect which you mentioned, The Charter of the City of Danbury provides that if" -- (At this point Mayor Dyer had to quiet the members in the audience). "It is the opinion of the Corporation Counsel at this time," Mr. Goldstein continued, "that should the referendum result in a negative vote, that the Charter of the City of Danbury directs us in the first instance to implement the Budget as submitted by the Mayor of the City of Danbury to the Common Council, which was submitted I believe in March of this year."

Councilman Boynton asked the Corporation Counsel who would be exactly entitled to vote in the referendum, strictly registered voters or registered voters and property owners?

Attorney Goldstein replied " With reference to the Charter of the City of Danbury, the electors of the City of Danbury who are registered voters may petition when any ordinance is sought to be acted upon. Voters as defined in Section 7-6 of the General Statutes are a different breed. They include both electors and taxpayers of the City of Danbury owning property having a value of One-Thousand Dollars or more."

C Councilman Delsin spoke, addressing the Corporation Counsel stating that if the referendum of the Budget Ordinance is defeated, -according to the City Charter "the way I read it", there is no Budget, there is no Ordinance".

Mayor Dyer stated that he would follow the ruling of the Corporation Counsel and that if the Referendum question is defeated he would implement his original Budget.

A motion was made by Councilman Ryan and seconded by Councilman Delsin to suspend the rules to facilitate debate between the Corporation Counsel and members of the Common Council. Motion carried unanimously.

speaking to Atty. Goldstein, Councilman Delsin then continued/stating that apparently "we have a different point of views - on how I read the Charter and how you read the Charter". "I thought if the Ordinance was defeated, there is no budget".

Attorney Goldstein - "I can only tell you Mr. Delsin that Section 7-4 and the various sections under Chapter 3 provides first for the enactment of an Ordinance and then subject to 3- (inaudible) the Ordinance does not become effective until first, it is published and then subject to a referendum. In my view we do not have an ordinance, a budget appropriation ordinance until in fact both have taken place - the publication has been of course taken place and the vote on the referendum which has yet to take place. If the referendum is voted in the affirmative, then we have an Ordinance, if it is not voted in the affirmative, we do not have an Ordinance because it has never become effective. Therefore, we go back to 7-4 which provides in my view that the Budget as submitted by the Mayor to the Common Council, then becomes the Budget of the Common Council and the Mayor has the right to affix the mill rate and proceed with the business of collecting taxes."

Councilman Walsh referred to Section 1-5 of the Ordinances. Attorney Goldstein read the heading of this Ordinance Section -- which captioned 'Effect and repeal of Ordinances'. Attorney Goldstein stated as he had indicated before that this was not a repeal of an Ordinance because the Ordinance never became effective.

Mr. Goldstein continued that the Ordinance did not become effective because it was subject to the provisions of 3-10 which says every Ordinance after enactment, within 10 days shall be published in the newspaper and shall become effective 30 days after publication, subject to the provisions of 3-11 which provides that during that time, within the thirty days, one may petition for a referendum and until that referendum is acted upon that Ordinance still does not become effective."

In reply to a question from Councilman Walsh as to why the Mayor had the Tax Bills sent out, Attorney Goldstein stated that there was no Referendum pending at that time and that as Chief Executive, the Mayor had an obligation to render tax bills at the commencement of the fiscal year. The Town Clerk has now certified to the Mayor and Common Council the petition of the 15% of the Electors, for a referendum. At the time the bills were prepared and submitted, there was in fact, no referendum pending at that time. It was incumbent upon the executive officer of the City to submit the bills to the taxpayers."

Councilman Ryan asked the Corporation Counsel if he could compute the earliest possible date to conduct a referendum.

Attorney Goldstein stated that the earliest possible date, taking into consideration the referendum date must be published not less than 30 days, would be August 18th. The forty days would provide for any delay in publication, delay in preparing the absentee ballots in getting them out to the public.

A motion was then made by Councilman Ryan and seconded by Councilman Delsin that the rules be reinstated. Motion carried with Councilman Scialabba voting Nay.

A motion was made by Councilman Ryan and seconded by Councilman White that the Resolution as submitted be adopted with the date of August 19th to be set as the date for the Referendum.

An amendment to that motion was made by Councilwoman Constance McManus and seconded by Councilman Fabiano to set the Referendum on the date of September 3, 1980.

Under discussion, Councilman Fabiano stated the date of September 3rd would help the turnout because people would be back from vacations after Labor Day

Councilman White stated that he comes from a district that represents a lot of people who only live in the City of Danbury during the summer periods and who pay taxes year round. That particular time might be a hardship for them to come out and vote.

Councilman DaSilva then asked if there are absentee ballots available for this referendum, for anyone who would be on vacation during this time.

Attorney Goldstein advised that such ballots will be provided. State Statutes mandates that we provide them.

Councilmen Evans remarked that the people who live here year round are the ones who will be effected by the services, or lack of services. They are the ones we should think of in this case. There is nothing wrong with the people living here in the summer - they have as much right to vote as anybody else, but we want to have as many people who live here year round, be heard, and that would be in September.

Councilman Delsin spoke against the September 3rd date because on Sept. 9th there is to be a primary in Danbury and the people will have to be going back and forth to the polls. Could not see the delay on such an important issue.

After further discussion on the date of the Referendum, a roll call vote was taken on the amendment made and seconded setting the date for Sept. 3, 1980.

The Amendment was passed by a roll call vote of 10 Ayes - 7 Nays - 4 members absent.

Councilmembers - McManus, Gallo, Repole, Kennedy, Visconti, Boynton, Butera, Evans, Fabiano, Torian, voted Aye (10 votes)

Councilmembers - Delsin, Walsh, Rinder, Scialabba, White, Ryan, DaSilva, voted Nay (7 votes)

Councilmembers - Murray, Cassano, Turk and Burke were absent.

Councilman Walsh then questioned the wording of the question to be placed on the voting machine.

Attorney Goldstein stated that Section 9-369 of the General Statutes requires that we place the question in an affirmative form generally preceded by the word 'shall'

Councilman Scialabba objected to the word Warning in the Notice of the Special City Meeting.

Mayor Dyer explained that this is prescribed by State Statutes or by custom, in that the word Warning has appeared on the Notices for the past ten years.

Councilman Boynton asked if the dollar figures should be on the question.

Attorney Goldstein, referring to Section 9-369 of the State Statutes provides that the Town Clerk place a 3 x 5 inch label on the voting machine and it would burden the language to put the entire ordinance in there.

A Roll Call vote on the Resolution as amended to include the date of September 3, 1980 was taken with the following results:

Councilmembers - McManus, Gallo, Repole, Kennedy, Rinder, Ryan, Visconti, DaSilva, Boynton, Butera, Evans, Fabiano, Torian, voted Aye (13 Ayes).

Councilmembers - Delsin, Walsh, Scialabba, White, voted Nay (4 votes).

Councilmen - Murray, Cassano, Turk and Burke were absent.

The Resolution was adopted as amended. 13 Ayes - 4 Nays - 4 absent.

Mayor Dyer then announced that in accordance with Section 3-4 of the Charter of the City of Danbury, the Council, at each meeting, shall reserve at least <sup>8</sup>/<sub>10</sub> one-half hour period prior to adjournment for the expression of views and opinions by residents and taxpayers of the City on the matters before the Council at such meeting. The only matter before the Council this evening is to set a date for referendum. If members of the public wish to address the Council they are invited to do so specifically and only on the date for the referendum".

Mr. Pat Cicala asked and was informed that the State Statute quoted on the wording of the question on the ballot, was 9-369.

Mr. Cicala also questioned as to why the Resolution which was also petitioned for, was not included in the Resolution passed this evening.

Councilman DaSilva on a point of order objected to the question as it had nothing to do with the matter on the floor and asked the chair to consider Mr. Cicalo out of order.

Mayor Dyer explained that the meeting was called to set a specific date for the referendum and that is what the Resolution addresses.

Councilman Walsh stated that it was Mr. Cicala's prerogative to speak on the question as it was part of the Resolution.

Mayor Dyer quoted the Call for this Special Meeting which was to set the date for the Referendum. This was the only agenda item. Mayor Dyer asked Mr. Cicala what his specific question was.

Mr. Cicala asked "Does the wording in the Resolution follow the petitions that were signed by 7000 people in the City of Danbury. They signed a petition against the mill rate and the budget.

Mayor Dyer explained that we did not accept petitions on a resolution.

Mr. Cicala remarked that the "Mayor, City Clerk, Treasurer, and the Tax Collector - if you don't do this in time, you people will be held responsible" - "personally responsible", for any losses the City has in the taxes - if you delay the referendum and have to go to Court.

Mayor Dyer replied that to date the referendum has not cost the City any additional funds. If we had to borrow money, it would.

Mr. Cicalo continued to discuss sending out the tax bills.

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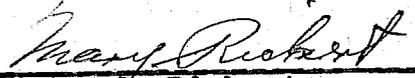
Mr. Edmund Tomey spoke, objecting to the Resolution stating that 6700 people signed petitions for nothing. Further discussions ensued with Mayor Dyer speaking to inform the people in the audience that they were out of order in speaking and shouting from their seats in the Chambers.

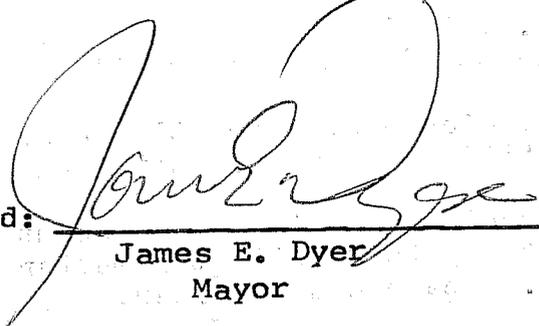
Mr. Tomey spoke against the September 3rd date indicating that it would all end up in Court.

Lynn Taborsak spoke thanking the Council for setting the date for the third of September. At that time she will have three children back in school; she has received her tax bill and on Sept. 3rd she will be very much aware of why she is going to the polls to vote.

There being no further business to come before the Common Council, a motion was made by Councilman White and seconded by Councilman Fabiano to adjourn at 8:29 P.M. Motion carried.

Respectfully submitted

  
Mary Rickert  
Assistant City Clerk

Approved:   
James E. Dyer  
Mayor

7/9/80