

To: Honorable Mayor James E. Dyer - City of Danbury, Connecticut.

Re: Minutes of the Common Council Meeting held February 3, 1987.

The meeting was called to order at 8:00 P.M. by Council President Constance McManus, who led the assembly in the Pledge of Allegiance to the Flag.

The Prayer was offered by Councilman John J. Esposito.

Roll Call was taken by City Clerk Elizabeth Crudginton, with the following members being recorded as:

PRESENT: Council Members - Johnson, Sollose, Philip, DeMille, Godfrey, Flanagan, Zotos, Hadley, Rotello, Cassano, McManus, Gallo, Esposito, Charles, Boynton, Butera, DaSilva, Eriquez, Farah, Smith and Torian.

21 Members Present - None Absent.

NOTICES AND ANNOUNCEMENTS BY PRESIDENT McMANUS

The Volunteer Firemen's Ball will be held on February 21st. Waldenbooks will hold an autograph session at 1:00 P.M. on February 5th, around the nation, for the contributors to the Mayor's Cookbook.

There will be a Retirement Dinner for Vincent Iovino of the Public Utilities Department on February 6th.

Mayor Dyer will swear in the four new special police officers on February 9th, together with Lt. Roman and the captains.

The Heart Association will hold its annual luncheon on February 13th.

President McManus extended birthday greetings to the following:

February 3rd - Byron Johnson
February 9th - Councilman Gene Eriquez
February 14th - Former Mayor John Define.

CONSENT CALENDAR

Councilman Gallo submitted the following items for the consent calendar:

- 02 - Resolution - Meserve Fund Grant to the Department of Elderly Services.
- 03 - Resolution - Title III Grant for Interweave.
- 05 - Communication - Appointments to the Commission on the Handicapped.
- 06 - Communication - Appointments to the Library Board.
- 08 - Communication - Appointments to the Redevelopment Agency.
- 014 - Communication - State and Federal Projects Budget Increase.
- 015 - Communication - Drainage Easement - Sheridan Street.
- 018 - Communication - Dam Improvement Project.
- 028 - Communication - Storm Drainage Relocation - DeSoto Real Estate.
- 031 - Communication - Agreement between the City of Danbury and the Danbury Cemetery Association, Inc.
- 035 - Report and Ordinance - Tax Credit for Elderly Homeowners.
- 037 - Report - Bonding Procedures, City of Danbury.
- 038 - Report - Capital Line Item (Improvements at Hatters Community Park).
- 039 - Report - Affordable Housing Demonstration Project.
- 040 - Report - Hazardous Curve on Mountainville Road.
- 041 - Report - Sunset Review Committee.
- 042 - Report - Noise and Hearing Damage.

consent calendar continued:

- 043 - Report - Request for Teen Center.
- 045 - Report - Offer to purchase land at 36 Driftway Road.
- 046 - Report - Revocable License to Thomas A. Settle, Inc. for elevator at Old Library.
- 047 - Report - Request from IMS Group for lease at Tarrywile Park.
- 048 - Report - State Land at the corner of Virginia Avenue Ext. and Forest Avenue.
- 050 - Report - Police Alarm System.
- 051 - Report - Request for extension of water and sewer - First Danbury Properties, Wooster Heights.
- 052 - Report - Request for Extension of Sewer - Danbury Suburban Residential Corporation - Breezy Hill Road.

Councilman Charles moved that the Consent Calendar be accepted as submitted. Seconded by Mr. Boynton. Motion carried un-animously.

MINUTES - Minutes of the Common Council meeting held on January 6, 1987.

A motion was made by Councilman DaSilva and seconded by Mr. Boynton to waive the reading of the Minutes as all members have copies and are on file in the Office of the City Clerk for public inspection and that the Minutes be accepted as submitted. The motion carried un-animously.

01 - CLAIMS - 3 Brothers Restaurant, Veronica McLean, Alexander J. Palyo, Peter McManus, W. R. Voight, Kevin Corcoran, Sam Freundlich, Robert Easton Dawson.

Mr. Boynton referred the claims to the Corporation Counsel to report back in thirty days. Mrs. McManus so ordered.

02 - RESOLUTION - Meserve Fund Grant to the Department of Elderly Services.

WHEREAS, the Meserve Memorial Fund has authorized a grant to the Danbury Department of Elderly Services; and

WHEREAS, said grant is to be used over a 16 month period for the purposes of creating oral, written and visual presentations of the history of Danbury; and

WHEREAS, said funding for these purposes is in the amount of \$6,500.00;

NOW, THEREFORE, BE IT RESOLVED THAT the past actions of the Danbury Department of Elderly Services in applying for said grant be and hereby are ratified, and that any and all acts by the Danbury Department of Elderly Services and Mayor James E. Dyer necessary to effectuate the purposes hereof be and hereby are authorized.

The Resolution was adopted on the Consent Calendar by the Common Council.

03 - RESOLUTION - Title III Grant for Interweave.

WHEREAS, The Administration on Aging of the United States Department of Health and Human Services in accordance with Title III of the Older Americans Act through the Connecticut Department on Aging in accordance with Section 17-137(c) (d) of the Connecticut General Statutes and through the Western Connecticut Area Agency on Aging, Inc. have made available funds to public agencies; and

WHEREAS, the Danbury Department of Elderly Services has processed a grant application for Interweave, the Danbury Adult Day Care Center located at 198 Main Street, Danbury, Connecticut, for the period 2/1/87 - 12/31/87, in order that essential programs for the elderly be continued; and

WHEREAS, funds have been approved by the Western Connecticut Area Agency on Aging, Inc. in the amount of \$28,000 with a local cash match of \$20,027.00;

NOW, THEREFORE, BE IT RESOLVED THAT the past actions of the Danbury Department of Elderly Services in applying for said grant be and hereby are ratified, and that any and all additional acts by the Danbury Department of Elderly Services and Mayor James E. Dyer necessary to effectuate the purposes hereof be and hereby are authorized.

The Resolution was adopted on the Consent Calendar by the Common Council.

04 - COMMUNICATION - Promotions within the Police Department.

Letter from Mayor James E. Dyer making the following appointments within the Police Department:

Captains - Robert Lovell and Andrew J. Woods. The appointments will be effective as of February 9, 1987.

Mr. Gallo moved that the communication be accepted and the appointments confirmed. Seconded by Mr. Charles. Motion carried un-animously.

05 - COMMUNICATION - Appointments to the Commission on the Handicapped.

Letter from Mayor James E. Dyer making the following appointments to the Commission on the Handicapped:

Marilyn F. Dores, 179 South King Street, Danbury, for a term to expire on March 1, 1989. Marilyn Dores is the Executive Assistant at WeCAHR.

Lorraine Moran, 17 Valley Stream Drive, Danbury, for a term to expire on March 1, 1989. Mrs. Moran is active in many community activities.

The appointments were confirmed on the Consent Calendar by the Common Council.

06 - COMMUNICATION - Appointments to the Library Board.

Letter from Mayor James E. Dyer requesting confirmation of the following reappointments to the Library Board of Directors:

Gino J. Arconti, 22 Karen Road, Danbury
Betty Jane Hull, 187 Kohanza Street, Danbury
Mary D. Nahley, 20 Lindencrest Drive, Danbury

for terms to expire on January 1, 1990.

The appointments were confirmed on the Consent Calendar by the Common Council.

07 - COMMUNICATION - Appointments to the Parks and Recreation Commission - WITHDRAWN.

08 - COMMUNICATION - Appointments to the Redevelopment Agency.

Letter from Mayor James E. Dyer requesting the confirmation of the following appointment and reappointment to the Redevelopment Agency:

Appointment:

Robert L. Peat, 3 Dogwood Park North, Danbury for a term to expire on January 1, 1992. Mr. Peat is an attorney in Danbury.

Re-appointment:

Boyd O. Losee, Crestwood Drive, Danbury for a term to expire on January 1, 1991.

The appointment and reappointment were confirmed by the Common Council on the Consent Calendar.

09 - COMMUNICATION - Appointments to the Youth Commission.
WITHDRAWN

010 - COMMUNICATION - Request for Abatement of Interest.

A letter from William H. Craft requesting an abatement of the interest assessment of \$12.28 on a 1986 motor vehicle property tax, as the City did not send him a bill for this tax.

Mr. Gallo asked that this be referred to the Comptroller and the Tax Collector. Seconded by Mr. Boynton. Mrs. McManus so ordered.

011 - COMMUNICATION - Stipulation regarding prohibiting use of strip of land on Stadley Rough Road.

A letter on behalf of Mr. and Mrs. Otto A. Gravesen who wish to purchase a strip of land on Stadley Rough Road from the City.

Mr. Torian asked that this be referred to a committee and the Planning Commission. Mrs. McManus ordered that the committee shall consist of Council Members Cassano, Butera, DeMille and the Planning Commission.

012 - COMMUNICATION - Novo Laboratories, Inc.

A letter on behalf of Novo Laboratories, Inc. requesting a waiver to the regulations of the City requiring granite curbing for the reconstruction of Turner Road.

Mr. Hadley asked that this be referred to a committee. Mrs. McManus ordered that the committee shall consist of Council Members Cassano, Butera and DeMille.

013 - COMMUNICATION - Request for Committee to study concerns on Shelter Rock and Plumtrees Roads.

Letter from Councilman Farah requesting that a committee be appointed to review conditions of drainage, maintenance and traffic on Shelter Rock and Plumtrees Road.

Mr. Gallo referred this to a committee. Mrs. McManus ordered that the committee shall consist of Council Members Farah, Esposito and Godfrey.

014 - COMMUNICATION - State and Federal Projects Budget Increase.

Letter from Dominic Setaro requesting that the State and Federal Projects budget be amended from \$1,706,772 to \$2,061,234 which represents a \$354,462 increase.

This request was approved by the Common Council on the Consent Calendar.

015 - COMMUNICATION - Drainage Easement, Sheridan Street.

Letter from Eric L. Gottschalk and letter from John A. Schweitzer, City Engineer, stating that the proposed drainage easement is of benefit to the City, but several details must still be addressed before final approval can be given.

The communication was accepted on the Consent Calendar by the Common Council.

016 - COMMUNICATION - Request for new construction of taxiway and apron at Airport, and new security fencing.

Letter from Airport Administrator Paul Estefan stating the preliminary word from the FAA that his request to construct a new taxiway and apron and security fencing project may be funded this year.

Mr. Torian asked that this be referred to a committee. Mrs. McManus ordered that the committee shall consist of Council Members Sollose, Smith and Farah.

017 - COMMUNICATION - Request for Acceptance of Donation from John Errichetti.

Letter from Jerry Juretus, Redevelopment Agency Director requesting that the Common Council accept a donation of \$3,940.90 from John Errichetti, due to the fact that the Redevelopment Agency has allowed early start-up on Phase I of the Danbury Green. This donation is an amount equal to the taxes that would be charged on the property.

Mr. Gallo moved that the communication and the donation be accepted. Seconded by Mr. Boynton.

Mr. DeMille asked that by accepting this donation, would the City be setting a precedent of paying taxes before the fact?

Mr. Eriquez asked of the legality issues? He also asked for clarification that this donation is not being accepted in lieu of taxes and would there be any bearing on taxes when they are due and payable.

Mr. Goldstein stated that taxes are due and payable when the taxpayer owes the property and will start paying taxes when he has taken title to the property. Mr. Goldstein stated that this donation is a donation pure and simple.

Mrs. McManus asked if this is a flat out donation with no strings, and would not be applied to the purchase price. Mr. Goldstein stated that it is a flat out donation.

Mr. Gallo stated that the Tax Assessor had figured out what would have been owed and this is a simple donation.

Mr. Farah asked if a timetable has been set as to when the work will be done.

Mr. Boynton asked for a point of order and asked Mr. Goldstein if this question should be allowed as it was not pertinent to the item on the agenda.

Mrs. McManus stated that she would allow the question.

Mr. Gallo stated that there is a tentative closing date in April.

Mr. Flanagan stated that he felt the donation was a poor substitute for regular taxes and could be setting a poor precedent.

Mr. Goldstein was asked for an opinion on setting precedent? His opinion is that this does not set a precedent for early entry onto City property

Mr. Farah asked is there is a legal precedent for premature entry before signing of contract. Mr. Goldstein stated that a buyer can go onto the property until transfer is made. Has not happened before in Danbury, but has happened in other municipalities. Whether donations have been made in other municipalities he does not know.

Mr. Philip stated that he looked at the donation from Errichetti as a gesture of good will, that he is just being a good citizen and being responsive to questions that have arisen.

Mr. Goldstein stated that making the donation will have no effect on Errichetti and he will be obligated to pay his taxes after he buys the land.

Mrs. McManus then called for a roll call vote with the following members voting:

IN THE AFFIRMATIVE: Council Members Sollose, Philip, Zotos, Hadley, Rotello, Cassano, McManus, Gallo, Esposito, Boynton, Butera, DaSilva, Eriquez, Farah, Smith and Torian.

IN THE NEGATIVE: Council Members Johnson, DeMille, Godfrey, Flanagan and Charles.

Motion carried 16 Ayes, 5 Nays.

018 - COMMUNICATION - Dam Improvement Project.

Letter from Public Works Director Basil J. Friscia together with a consent order from the State Department of Environmental Protection outlining a work schedule update the five (5) major dams in the City of Danbury.

The communication was accepted on the Consent Calendar by the Common Council.

019 - COMMUNICATION - Request for Easement on Bank Street.

Letter from Dr. Walter S. Gurski, Jr. asking for an easement at 9 Bank Street.

Mr. Torian asked that a committee be appointed to review this matter. Mrs. McManus ordered that the committee shall consist of Council Members Hadley, Charles, Boynton and the Planning Commission.

020 - COMMUNICATION - Request for sewer and water extension at 6 South Street.

Request from Pelham Products, Inc. for extension of water and sewer lines at 6 South Street.

Mr. Gallo asked that this be referred to committee. Mrs. McManus ordered that the committee shall consist of Council Members Torian, Zotos, Eriquez and the Planning Commission.

021 - COMMUNICATION - Request that the City purchase additional grave sites for Veterans.

Letter from James L. Purcell, Jr., Graves Registrar requesting that the City purchase 100 new sites adjacent to the Veteran's Section 2 in Wooster Cemetery at a cost of \$365. each, which will include perpetual care.

Mr. Sollose asked that this be referred to a committee. Mrs. McManus ordered that the committee shall consist of Council Members Esposito, DaSilva and Smith.

022 - COMMUNICATION - Planned Parenthood - Request for Tax Exemption.

Letter from Assistant Corporation Counsel Eric Gottschalk stating that no exemption is currently provided under Section 3A-42 of the Danbury Code of Ordinances, but should the Council wish to do so an amendment could be adopted.

Mr. Gallo moved that this be deferred for public hearing. Mrs. McManus so ordered.

023 - COMMUNICATION - Maple Avenue Ext. Property.

A letter on behalf of John Ashkar stating his intent to acquire property on Maple Avenue Ext. from the City of Danbury.

Mr. Gallo moved that this be referred to a committee. Mrs. McManus ordered that the committee shall consist of Mrs. McManus, Mr. Gallo and Mr. Flanagan and the Planning Commission.

024 - COMMUNICATION - Request for water extension at Plumtrees Road.

Request from BRT Property Group for water extension at Plumtrees Road.

Mr. Eriquez moved that this be referred to a committee. Mrs. McManus ordered that the committee shall consist of Council Members Torian, Zotos, Eriquez and the Planning Commission.

025 - COMMUNICATION - Appointment of Off-Site Space Committee.

Letter from Mayor James E. Dyer appointing the following committee to assess our future needs and to review several options for acquisition of space for the City: Mounir Farah, Chairman, Bernard Gallo, John DeMille, Gene Eriquez, Edward Torian and Leonard Sedney.

Mr. Boynton made a motion to accept the communication. Seconded by Mrs. Butera. Motion carried unanimously.

026 - COMMUNICATION - Request for Easement on Bank Street.
WITHDRAWN

027 - COMMUNICATION - Safe Rides Program.

Letter from Mayor James E. Dyer requesting reactivation of funding for the Safe Rides Program.

Mr. Sollose asked that a committee be appointed to study this request. Mrs. McManus ordered that the committee shall consist of Council Members Hadley, Sollose and DaSilva.

028 - COMMUNICATION - Storm Drainage Relocation - DeSoto Real Estate.

Letter from City Engineer Jack Schweitzer stating that the above drainage relocation is acceptable to his office with conditions.

The communication was approved on the Consent Calendar by the Common Council with stipulations.

029 - COMMUNICATION - Designer Showhouse Lease.

Letter from Robert G. Ryerson requesting approval of a lease between the City of Danbury and the authorized personnel of the Charles Ives Center and the Danbury-New Fairfield Women's Club for the Designer Showhouse at Tarrywile Park.

Mr. Gallo moved that a committee be appointed to study the lease. Mrs. McManus ordered that the committee shall consist of Council Members Flanagan, Johnson and Rotello.

Mr. Eriquez asked if the appointing of the committee would effect the schedule for completion of the Showhouse. Mrs. McManus stated that it would not.

Mr. Eriquez asked if there was a time frame in which the lease must be approved.

Mrs. McManus stated that the committee would proceed as quickly as possible, but that they would need Planning Commission approval.

030 - COMMUNICATION - Danbury Bethel Interlocal Agreement - Shelter Rock Road Bridge Reconstruction.

Letter from Assistant Corporation Counsel Eric L. Gottschalk together with a proposed draft contract for an Interlocal Agreement for the Shelter Rock Road Bridge reconstruction.

Mr. Gallo moved that a committee be appointed to study this agreement. Mrs. McManus ordered that the committee shall consist of Council Members Gallo, Esposito, McManus and the Planning Commission.

Letter from Assistant Corporation Counsel Eric Gottschalk requesting approval of the following agreement:

This Agreement entered into this _____ day of _____ 1988 by and between THE CITY OF DANBURY, a municipal corporation acting herein by _____ (hereinafter called "City") and THE DANBURY CEMETERY ASSOCIATION, INC., a Connecticut corporation having an office and place of business at 20 Ellsworth Avenue, Danbury, Connecticut 06810, acting herein by its _____ (hereinafter called "Cemetery").

W I T N E S S E T H :

WHEREAS, the City owns two thousand and two (2,002) graves in the premises controlled and maintained by THE DANBURY CEMETERY ASSOCIATION and

WHEREAS, the City is desirous to contract with the Cemetery for the maintenance of said graves and the Cemetery is willing to provide said maintenance and

WHEREAS, the parties hereto desire to set forth terms and conditions under which maintenance will be provided as set forth hereafter.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Cemetery will maintain the two thousand two (2,002) graves owned by the City for the fiscal years commencing July 1, 1987 and July 1, 1988 and shall keep the lots in good repair and preservation, maintain the lots in a neat and clean condition, have the soil and turf properly attended to, the grass cut as often as necessary, and the access roads clear and in good repair, except when the cemetery is closed.
2. The City will pay the Cemetery the sum of Five Dollars and 30/100 (\$5.30) per grave or a total of Ten Thousand Six Hundred Ten Dollars and 60/100 (\$10,610.00) per year for said maintenance for the fiscal year beginning July 1, 1986 and the sum of Five Dollars and 55/100 (\$5.55) per grave or a total Eleven Thousand One Hundred Eleven Dollars and 10/100 (\$11,111.10) per year for the fiscal year commencing July 1, 1988. Said sum is to be paid during the month of July of each year in advance.

3. This Agreement shall be only for the period of the fiscal years commencing July 1, 1987 and July 1, 1988, but the Agreement may be extended for additional years by mutual agreement of both parties at whatever rates shall be agreed to between both parties at that time. This Agreement may be extended for additional years without the necessity of a preparation or execution of a separate agreement by a letter agreement between the parties setting forth the term of the new agreement and the cost thereof. The maintenance provided by the Cemetery in the event of such an extension of this Agreement shall be the same as set forth in this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of _____, 198

Signed, sealed and delivered in the presence of:

CITY OF DANBURY

By: _____

DANBURY CEMETERY ASSOCIATION

By: _____

The Agreement was approved by the Common Council on the Consent Calendar.

032 - COMMUNICATION - Agreement between the City of Danbury and Local 522 Painters Union.

Letter from Councilman Donald Sollose request the appointment of an ad hoc committee to propose an agreement between Local 522 and the City of Danbury.

Mr. Torian moved that a committee be appointed to study the request. Mrs. McManus ordered that the committee shall consist of Council Members Eriquez, Johnson and Boynton.

033 - COMMUNICATION - Request for funds from Airport for Overtime Account. WITHDRAWN

034 - DEPARTMENT REPORTS

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| Tree Warden | Airport Administrator |
| Parks Maintenance Division | Building Department |
| Police Department | Housing Code Enforcement Officer |
| Public Health Inspector/
Sanitation | Coordinator of Environmental and
Health Services |
| Danbury High Blood Pressure
Program | Public Works Department |

A motion was made by Mr. DaSilva and seconded by Mr. Boynton to dispense with the reading of the Department Reports as all members have copies which are on file in the Office of the City Clerk for public inspection. Reports to be accepted as submitted. Motion carried un-animously.

Mrs. McManus submitted a report that the Common Council held a public hearing on the proposed Elderly Tax Credit Ordinance on January 28, 1987 at 8:00 P.M. in the Council Chambers. The Council met as a Committee of the Whole immediately following the public hearing and unanimously recommends that the following ordinance be amended to include Section i and that the Common Council Adopt the amended ordinance:

ORDINANCE

Be it ordained by the Common Council of the City of Danbury:

THAT Section 18-12 of the Code of Ordinances of Danbury, Connecticut be amended to read as follows:

Sec. 18-12 Tax credit for elderly homeowners.

(a) The City of Danbury hereby enacts a tax credit for elderly homeowners, pursuant to Section 12-129n of the Connecticut General Statutes, for eligible residents of the City of Danbury on the terms and conditions provided herein. This section is enacted for the purpose of assisting elderly homeowners with a portion of the cost of property taxation commencing with the Assessment List of 1986.

(b) Any person who owns real property in the City of Danbury or is liable for the payment of taxes thereon, pursuant to Section 12-48 of the Connecticut General Statutes, and who occupies the property as a principal residence shall be entitled to a credit of up to two hundred and fifty dollars (\$250.00) if single, or to a credit of up to three hundred fifty dollars (\$350.00) if married, on the real estate tax bill, provided the following conditions are complied with:

(1) Such person is sixty-five (65) years of age or over at the close of the previous calendar year, or his or her spouse is sixty-five (65) years of age or over at the close of the previous calendar year and resides with such person, or sixty (60) years of age or over and the surviving spouse of a taxpayer qualified for tax credit under this section at the time of his or her death.

(2) Such person must have a principal residence located in Danbury and must have paid taxes in Danbury for one year immediately preceding his or her receipt of tax benefits hereunder.

(3) The property for which the credit is claimed must be the primary legal residence of such person and occupied more than one hundred eighty-three (183) days of each calendar year.

(4) Applications must be filed with the assessor's office between February 1st and May 15th in the year following the list year with respect to which benefits are claimed hereunder, in triplicate, one copy going to the taxpayer, one to the tax collector and one to the assessor. The applicant must reapply every two (2) years in order to continue eligibility for relief hereunder.

(5) The application must include an affidavit stating whether income, individually is below seventeen thousand dollars (\$17,000.00) or, jointly, if married, is below nineteen thousand, seven hundred dollars (\$19,700.00). "Income" is defined as total adjusted gross income, tax-exempt interest, realized capital gains, and social security payments, as determined under the Internal Revenue Code of 1954, earned during the calendar year preceding the fiscal year for which a tax benefit is claimed. An application for benefits offered pursuant to state tax relief programs for elderly homeowners may be accepted by the Danbury tax assessor as an application for benefits hereunder.

(6) No tax credits shall be given under this section to any persons who owe delinquent taxes to the City of Danbury. The applicant shall submit a certificate from the tax collector to the effect that no such delinquent taxes are owed.

(7) No property tax relief authorized hereunder together with any relief received by any such resident under provisions of the Connecticut General Statutes, sections 12-129b to 12-129d, inclusive, sections 12-129h, 12-129i and sections 12-170a to 12-170h, inclusive, shall exceed, in the aggregate seventy-five percent of the tax which would, except for said sections 12-129b to 12-129d, inclusive, 12-129h, 12-129i, sections 12-170a to 12-170h, inclusive, and this section, be laid against the taxpayer.

(c) The tax credit for real property as provided herein shall apply to only the residence itself and the lot on which the residence is located, but such credit shall not apply to more than the minimum lot size permitted by the zoning ordinances of the City of Danbury.

(d) The assessor shall determine whether each applying taxpayer is entitled to tax credit under this section and shall compute the amount of tax credit to which each qualified taxpayer is entitled and cause a certificate of tax credit to be issued in such form as to permit the tax collector to reduce the amount of tax levied against the taxpayer. The tax credit shall be applied proportionately to the tax payments.

(e) Only one tax credit shall be allowed for each parcel of land eligible for the tax credit under this section. In any case where title to such real property is recorded in the name of the taxpayer or his or her spouse, who are eligible for tax credit, and any other person or persons, the amount shall be prorated to allow a tax credit equivalent to the fractional share in the property of such taxpayer or spouse, and if such property is a multiple-family dwelling such credit shall be prorated to reflect the fractional portion of such property occupied by the taxpayer, as provided by state statutes, as they may be amended. Persons not otherwise eligible shall not receive any tax credit. No tax credit shall be allowed hereunder if such dwelling is used for more than four (4) families.

(f) The tax credit allowed hereunder shall not apply to any water rent, water use charge, water tax, sewer tax or sewer use charge which may be levied against real property in the City of Danbury.

(g) If a taxpayer has qualified and received tax relief under the provisions of this section and subsequently becomes disqualified for any reason, he or she shall notify the tax assessor on or before February 1st of the year in which he or she becomes disqualified and his or her exemption shall cease for such fiscal year and such disqualification shall continue until he or she becomes eligible again and has filed a new application.

(h) The total of all tax credits granted under this section shall not exceed for each fiscal year an amount equal to five percent (5%) of the total real estate property tax assessed in the City of Danbury during the preceding fiscal year; tax credits given to eligible applicants hereunder shall be prorated in such a manner so that the total amount of city tax relief hereunder shall remain within the limits fixed herein.

(i) If any person with respect to whom a claim for tax credit in accordance with this section has been approved for any assessment year transfers, assigns, grants or otherwise conveys in such assessment year the interest in real property to which such claim for tax credit is related, regardless of whether such transfer assignment, grant or conveyance is voluntary or involuntary, the amount of such tax credit shall be a pro rata portion of the amount otherwise applicable in such assessment year to be determined by a fraction the numerator of which shall be the number of full months from the first day of October in such assessment year to the date of such conveyance and the denominator of which shall be twelve. If such conveyance occurs in the month of October the grantor shall be disqualified for tax credit in such assessment year. The grantee shall be required within a period not exceeding ten days immediately following the date of such conveyance to notify the assessor thereof, whereupon the assessor shall determine the amount of tax credit to which the grantor is entitled for such assessment year with respect to the interest in real property conveyed and notify the tax collector of the reduced amount of tax credit applicable to such interest. Upon receipt of such notice from the assessor, the tax collector shall, if such notice is received after the tax due date in the municipality, within ten days thereafter mail or hand a bill to the grantee stating the additional amount of tax due as determined by the assessor. Such tax shall be due and payable and collectible as other property taxes and subject to the same liens and processes of collection, provided such tax shall be due and payable in an initial or single installment not sooner than thirty (30) days after the date such bill is mailed or handed to the grantee and in equal amounts in any remaining, regular installments as the same are due and payable.

The report and ordinance were adopted by the Common Council on the Consent Calendar.

036 - REPORT and ORDINANCE - Amendment of the Danbury Administrative Code - Section 13A-36 and 13-40.

Mr. Esposito submitted a report and proposed ordinance stating that the Common Council appointed to review amendment of the Danbury Administrative Code - Section 13A-36 and 13-40 met for the second time on January 27, 1987. In attendance were Council Members Sollose and Esposito. The Conservation Commission requested a meeting with the Mayor in regard to revising the ordinance concerning Bear Mountain Reservation. Mr. Sollose made a motion to accept the proposed amendments and submit the final draft of the ordinance for public hearing. Seconded by Mr. Esposito and so passed.

Mr. Gallo moved to defer the proposed amendments for public hearing. Mrs. McManus so ordered.

Mr. Esposito submitted the following report:

The Common Council Committee appointed to review the bonding procedures in the City of Danbury met on January 27, 1987 at 8:00 P.M. in City Hall. In attendance were Council Members Esposito, McManus and Gallo. Ex Officio was Donald Sollose. Also present were Assistant Corporation Counsel Eric Gottschalk and Comptroller Dominic Setaro.

Mrs. McManus asked what type of bond Ancher Coatings, Inc. had posted with the City before starting the roof repairs at Pembroke School. Rick Gottschalk stated this was a performance bond. He also stated that this was a very unusual situation and would probably never happen again. Not only did the contractor go bankrupt, but the insurance company did also. Mr. Gottschalk stated that 100% contract bonds are required and extend for the life of the contract. After the work is completed a percentage of the bond is kept for one year. We have \$21,000 secured from the contractor from the final payment of this project. Mr. Gottschalk stated that in the future the City is going to require the contract bidder to furnish the City with the name of their surety company so the City can evaluate them as part of the bid.

Mr. Setaro and Mr. Gottschalk stated that they are implementing steps to prevent this in the future and they do not expect this situation to arise again. Mrs. McManus moved to adjourn at 8:30 P.M. Seconded by Mr. Gallo.

The report was accepted by the Common Council on the Consent Calendar.

038 - REPORT - Capital Line Item (Improvements at Hatters Community Park).

The Common Council Committee met on January 14, 1987 in Room 432 of City Hall to review a capital line item (improvement at Hatter's Community Park) transfer of funds. In attendance were Council Members Smith, Sollose and Esposito. Also attending were Robert Ryerson, Director of Parks and Recreation and Richard Murray of the Parks Department.

Councilman Sollose asked where the \$17,000 came from. Mr. Ryerson explained that this money is revenue that was generated from Hatters Community Park Banquet Room and Bowling Alley rentals. Attached is a list of completed projects and future improvements for this year.

A motion was made by Councilman Sollose that the \$17,000 be appropriated to the capital line item improvement at Hatters Community Park. Motion was seconded by John Esposito and carried unanimously.

The report was accepted by the Common Council on the Consent Calendar.

039 - REPORT - Affordable Housing Demonstration Project.

Mr. Cassano submitted the following report:

The committee appointed to consider the petition for an Affordable Housing Demonstration Project (Agenda Item 015 of the January 6, 1987 Common Council meeting) met on January 20, 1987 at 7:30 P.M. in Room 432 in City Hall. Present at the meeting were committee members Cassano, Torian and Farah. Also present were Comptroller Dominic Setaro, Planning Director Len Sedney, Assistant Corporation Counsel Les Pinter, Assistant Director for Housing Paul Schierloh, Mayoral Aide Philip Capozzi and Chamber of Commerce President Clarice Osiecki.

Mr. Schierloh presented the two petition requests:

1. Designation of land on Garamella Boulevard for the Project and transfer of land to the Non-Profit Development Corporation of Danbury (NPDCD).

2. Approval to use unexpended funds set aside for payment to The Home Ownership Group.

Mr. Schierloh gave a brief history. In February, 1985, Danbury and the NPDCD started planning for projects involving both renovation of existing housing and construction of new housing. In April, 1986, the Common Council approved the choice of The Home Ownership Group as consultants at a cost of \$55,000. This contract has been terminated after expenditures of \$22,000 (\$33,000 unexpended funding). The first NPDCD proposal for new housing (75 units on Hospital Avenue) has been withdrawn. The next goal is a small demonstration project, to which the petition is addressed. Mr. Schierloh presented a Program Summary (copy attached) of this Demonstration Project.

In answer to Mr. Farah's question regarding deed restrictions, Mr. Pinter stated that the deed will include wording that will index the sales price of any unit to the original sales price, not to the market value. This effectively determines the future sales price of a unit and prevents speculation and windfall profits. The restrictions will be carried with the deed to any new owners. There also would be a clause giving NPDCD the right of first refusal if a unit goes on sale.

Mr. Pinter stated that if the Common Council grants the petition, Council responsibility from this point on would be minor. A lengthy discussion on Council responsibility followed. General agreement was reached that project decisions are, and should be, administrative, not legislative. The Council will continue to be responsible for approval of any necessary additional funding. The Council also will be responsible for approval of the project's water and sewer extension requests.

Mr. Sedney reviewed a preliminary site plan for the project. The site is bounded by Garamella Boulevard, East Franklin Street and Padanaram Brook. Two adjoining portions of land are privately owned. The entire parcel would be re-zoned CL-CBD. The preliminary plan showed 20 2-bedroom (1000 square feet) units with 54 parking spaces (including garage space). Access would be to/from East Franklin Street (no Garamella Boulevard access). Sewer and water is available on East Franklin Street. The project will require the following approvals:

1. Zoning Commission (re-zoning)
2. Planning Commission (site plan)
3. Common Council (sewer and water extensions)

Mrs. Osiecki spoke in favor of the project. The Chamber of Commerce supports it.

Mr. Farah believes that other uses for the land are possible and perhaps more desirable. He thinks that this type of information should have been presented to the Common Council prior to submission of the present petition. Further, Mr. Farah believes that providing housing is not a high-priority responsibility of government. Mrs. Osiecki mentioned that this project does not represent government subsidized housing. (However, the land is donated by the City).

Mr. Farah moved to recommend to the Common Council that the city-owned property between East Franklin Street, Garamella Boulevard and Padanaram Brook (as designated by the Planning Department and the Associate Director for Housing) be transferred to the Non-Profit Development Corporation of Danbury so that it may be used for the construction of affordable housing, and that \$33,000 be re-appropriated for this said purpose upon certification by the City Comptroller. Mr. Torian seconded the motion and there was unanimous approval.

The report was accepted by the Common Counsel on the Consent Calendar.

040 - REPORT - Hazardous Curve on Mountainville Road.

Mr. Cassano submitted the following report:

The committee appointed to consider the petition to review the hazardous curve on Mountainville Road (Agenda Item 031 of the December, 1986 meeting) met on January 20, 1987 at 9:10 P.M. in Room 432 in City Hall. Present were committee members Cassano, and Farah. Mrs. Butera was not able to attend. Also present were Comptroller Dominic Setaro, Director of Public Works Basil Friscia, City Engineer Jack Schweitzer and Council Member Gene Eriquez.

The committee reviewed the petition and the positive recommendation of the Planning Commission (letter of December 29, 1986). In response to a question regarding the availability of possible funding, Mr. Setaro stated that the contingency account is depleted and the general fund surplus must be used to cover expected costs resulting from labor contract negotiations and capital expenses. He recommended that any expenditures be put off until fiscal year 87-88 if possible.

The committee reviewed the history of the petition, as given by Mr. Eriquez. Ms. Ferreira petitioned the Common Council for road repair in 1985. The preliminary cost estimate at that time was \$50,000 to smooth the curve and widen the approach. This amount was included in the Mayor's proposed fiscal year 86-87 budget as a capital expense but was removed from the budget because of additional information received from area residents and other pressing needs for the funding. Ms. Ferreira resubmitted her petition to the Common Council at the December, 1986 meeting.

Mr. Schweitzer thinks that the \$50,000 estimate should be increased somewhat by inflation (to approximately \$55,000).

Mr. Farah moved that the committee recommend to the Common Council that serious consideration be given to appropriating funds for the improvement of Mountainville Road near the Nature Center (hazardous curve) in the City fiscal year 87-88 budget. Mr. Cassano seconded the motion and there was unanimous approval.

The report was accepted by the Common Counsel on the Consent Calendar.

041 - REPORT - Sunset Review Committee.

Mr. Philip submitted the following report:

The Sunset Review Committee met on January 12, 1987 at City Hall. Attending were Councilmen Peter Philip and Stephen Flanagan, together with public members Carole Torcaso and Joe Noonan.

This year the commission will review the Stanley L. Richter Park Authority and the Personnel Appeals Board. The committee agreed to send a letter to each commission requesting that they send the committee a report to demonstrate their public need. This report is due to the committee by March 2, 1987.

The committee also recommended to set up a procedure to add new commissions to the review process. Another recommendation was that a requirement that the commission being reviewed report on their list of members, number of meetings in the past twelve months and the number of members attending these meetings. These two subjects will be discussed with the Corporation Counsel at the next scheduled meeting.

The report was accepted by the Common Council on the Consent Calendar.

042 - REPORT - Noise and Hearing Damage.

Mr. Hadley submitted the following report:

The committee appointed to review Noise and Hearing Damage met on January 20, 1987 at 7:30 P.M. in the Council Chambers. (This meeting had been rescheduled from January 13, 1987 when neither Mr. Boynton nor Mr. Cassano could attend.) In attendance were committee members Hadley, Boynton and Cassano.

The committee discussed the pros and cons of continuing the work of drafting a Noise Control Ordinance and decided to move ahead with the project.

Attorney Pinter's comments and revisions of the proposed ordinance on noise control were presented as was Attorney Pinter's response to Mr. Cassano's questions with regard to the State statutes regarding noise control. In essence, state law is not in conflict with the proposal nor does it duplicate it.

After the session it was decided to hold another work session for the Council committee early in February and to involve the consultants at a later meeting in February if a date could be arranged.

The Report was accepted by the Common Council on the Consent Calendar.

043 - REPORT - Request for Teen Center.

The following report was submitted by Mr. Philip:

The Common Council Committee appointed to review the request of Jill Sperrazza for the City of Danbury to develop a Teen Center met on January 20, 1987. Attending were Committee Members Sollose, Philip and Hadley. The committee recommended that the request be forwarded to the Youth Commission. The Youth Commission should meet with Miss Sperrazza to discuss her idea and see if they can initiate a suitable program. We ask that the Youth Commission report back to the committee by March 23, 1987 so that we may prepare our final recommendation.

The report was accepted by the Common Council on the Consent Calendar.

Mr. DaSilva submitted the following report:

The committee to review a request for the authorization of a lease of the Jackson-Hanson site met at 7:30 P.M. on January 14, 1987. In attendance were committee members DaSilva, and Charles. Mr. Smith had another meeting at the same time. Also in attendance was Planning Director Len Sedney.

Mr. Sedney explained the request. The request is for 20-25 parking spaces to help alleviate the parking problem during the construction of the Redevelopment Project. This would be at the site of the old Jackson-Hanson Building which burned over a year ago.

Mr. Sedney stated that the Parking Authority was asked to take over the property but they refused, citing that it would be unprofitable. He further stated that the agreement would only be guaranteed until the end of June, 1987. After this time, a month to month tenancy would prevail. It would be expected that a date later than June 30 is probable. He also estimated that a cost of \$5,000 would be a likely figure to prepare the lot and improve the look of the site along Main Street with small trees and landscaping. A cost of \$337. per month rent is stipulated in the agreement. This amount covers the taxes paid by the owners of the property.

Mr. Charles moved to appropriate \$9,000 to cover cost of renovation and monthly rent through December, 1987. Mr. DaSilva seconded the motion. Motion passed unanimously. Any money not expended will be returned to the general fund. Meeting adjourned at 8:05 P.M.

Mr. Charles made a motion to amend the report as follows: Motion that all meter monies collected from the parking meters located on the Jackson-Hanson site be deposited into an Escrow Savings Account until said parking lot lease is terminated for construction purposes.

Furthermore, the escrow monies shall be applied to the City of Danbury's cost to construct said parking lot for use by the City of Danbury shoppers. Any monies remaining over the cost of constructing the parking lot shall be turned over the the Parking Authority for the use of its meters. Motion seconded by Mr. Boynton. Motion carried unanimously.

Mr. Philip stated that the owners were reluctant to clear out the debris from the burned out building. Since the City had to do this we now have a lien on the premises. He felt it was strange that we are paying rent for property on which we have a lien. Mr. Philip questioned if the money we are paying for rent can go against the lien.

Mr. DaSilva responded that he does not know if we can legally do this.

Mr. Boynton stated that property owners can build on property and all liens will be paid, but you cannot deduct rent.

Mr. Goldstein stated that building permits can be issued even if there are liens on the property.

Mr. Eriquez asked that if the parking meters are owned by the Parking Authority, would the revenue belong to the authority?

Mr. Goldstein responded that the Parking Authority might take a dim view of their meter monies being used for other things.

Mr. Setaro stated that by Ordinance all money collected in the meters goes to the Parking Authority.

Mr. Charles stated that there were 185 meters removed from the construction started by the developer. 28 meters will be installed in the lease lot. 28 meters x \$3.20 per day = \$89.00. 6 days a week = \$534.00 .

Mr. Boynton stated that the City and the Parking Authority should be able to come to an agreement.

Mr. Goldstein that in accordance with 19.37 and 19.47 of the Code of Ordinances the Parking Authority should have first claim. Therefore, the amendment appears to be illegal.

Mr. Boynton moved to add to the amendment that an agreement be drafted to allow parking meters that are not part of the parking zone to be turned over to the City of Danbury up to the cost of the renovations, then the remainder will be turned over to the the Parking Authority. Mr. Charles seconded the amendment.

Mr. Gallo asked if this was legal. Mr. Goldstein responded that it was.

Mr. Philip stated that he is against paying \$337. in rent without an automatic deduction going towards what is owned on the lien. He is for having additional parking downtown, but is against paying money to someone who owes the City money.

Mr. Gallo asked if the lien is against the property owners, not the lessee. Mr. DaSilva stated that this is correct.

Mr. Philip asked who pays the taxes and Mr. Setaro responded that he does not know.

The vote in favor of the amended report passed with 20 members voting in the affirmative and Mr. Philip voting in the negative.

045 - REPORT - Offer to purchase land at 36 Driftway Road.

Mr. Philip submitted a report stating that the Common Council Committee appointed to review the request of the Morey Real Estate Company for the City of Danbury to purchase the house and property at 36 Driftway Road met on January 20, 1987. Attending were committee members Torian and Philip.

The proposal was review and discussed. The property consists of 5.45 acres with a five bedroom house which is 58 years old. The property is for sale for \$555,000. The committee reviewed a report from the Planning Commission who met on December 31st and voted a negative recommendation on the request. Based on the number of parcels of property that the City currently owns, and the negative recommendation of the Planning Commission, the committee voted unanimously that the petitioner's request be denied.

The report was accepted by the Common Council on the Consent Calendar.

046 - REPORT - Revocable License to Thomas A. Settle, Inc. for elevator at Old Library.

Mr. Philip submitted the following report:

The Common Council Committee appointed to review the revocable license to Thomas A. Settle, Inc. met on January 20, 1987 at 7:30 P.M. at City Hall. Attending were Council Members John DeMille, Stephen Flanagan and Peter Philip.

The City of Danbury has an existing revocable license with Thomas A. Settle to use a passway between the old Danbury Library and the building in which the Settle Agency is located. The addition of a new elevator changes the amount of land available for the passway, necessitating that a new revocable license be prepared and agreed to by the City and Thomas A. Settle Agency.

The committee reviewed the new license. It requires the Settle Agency to insure the passway for \$1,000,000 for any accidents. It also stops usage of the passway for 3-6 months during the construction of the elevator.

Stephen Flanagan motioned that the new revocable license be approved as written. All voted favorably. The committee also recommended that if the Thomas A. Settle Agency does not accept the license, the City must take additional steps to protect its interests.

The report was accepted by the Common Council on the Consent Calendar.

047 - REPORT - Request from IMS Group for lease at Tarrywile Park.

Mr. Hadley submitted the following report:

The Common Council committee appointed to review the proposal by Stephen Daum for a long-term lease for an annual fair at Tarrywile Park met on January 21, 1987 at 7:30 P.M. in City Hall. In attendance were committee members Hadley, Cassano and DeMille. Also in attendance were Councilman John Esposito, Director of Parks and Recreation Robert Ryerson, Comptroller Dominic Setaro and the petitioner, Stephen Daum and two associates. together with several interested taxpayers.

After the group introduced itself and the purpose of the meeting was explained, the meeting was turned over to Mr. Daum who, with the aid of maps posted on the wall, explained his desire to lease 60 acres of Tarrywile Park for a ten day annual fair that would include agricultural exhibits, rides, cultural events including music, photography and art. Also included would be food and games, but no race track and nothing "offensive". The proposal has no on-site parking. Busing from various locations would be used.

Mr. Daum answered questions posed by the group on various topics including utilities, roads, electrical fixtures (Rizzo Electrical has the fixtures, etc. from the Danbury Fair and would be a principal in the venture if approved), and the need for more ecological information.

A letter was read from Councilman Stephen Flanagan opposing the proposed use of the land; he stated that the land was purchased for passive recreation, that a zone change is inappropriate, that the financial plan is not well elaborated and that the requirement that no similar event be held on the property was flawed.

Further discussion followed which generally pointed out the need for more information that Mr. Daum said he would supply if there was a possibility of the acceptance of the proposal. He also stated that none of his ideas were etched in stone and that he would try to meet the requirements.

After Mr. Ryerson explained the recommendation of the Task Force that the land be used for passive recreation, Mr. DeMille made a motion that no action be taken until Mr. Daum has a meeting with the Comptroller for a preliminary determination of the soundness of his offer and a meeting with Mr. Ryerson concerning the suitability of the proposal for Tarrywile Park. Seconded by Mr. Cassano and passed unanimously.

Mr. Setaro mentioned the enormous amount of time involved for a financial review and was assumed that a preliminary review was what was intended by the motion.

The report was accepted by the Common Council on the Consent Calendar.

Mr. Esposito submitted the following report:

The Common Council Committee appointed to review the request concerning state land at the corner of Virginia Avenue Ext. and Forest Avenue met on January 27, 1987 at 7:30 P.M. in the Fourth Floor Lobby in City Hall. In attendance were Council Members Esposito, Butera and Flanagan. Also in attendance was Basil Friscia, Director of Public Works.

Since the City of Danbury had initially indicated its disinterest, the State Department of Transportation offered the parcel to the abutting property owners. An acceptable bid of \$9,000 was submitted. However, in the event the City agrees to pay the State the aforementioned sum of \$9,000, they will reject the bid and process for the release of the parcel to the City of Danbury. A letter from John Schweitzer, City Engineer stated that it is in the City's best interest to obtain this property for needed future sight line and future intersection improvement purposes. Basil Friscia spoke in favor of the purchase.

A motion was made by Councilman Flanagan that the City purchase the property for the sum of \$9,000. Seconded by Council Member Butera. Motion carried unanimously.

The Report was accepted on the Consent Calendar by the Common Council.

049 - REPORT - Ward Reapportionment.

Mr. Torian submitted the following report:

The ad hoc committee appointed to review Ward Reapportionment for the City of Danbury met on January 30, 1986, May 28, 1986 and January 28, 1987. In attendance were Committee Members Torian, McManus, Torcaso and Councilman John Esposito who replaced former Councilwoman Torcaso as the third member of the committee.

In response to an inquiry from Councilman Godfrey pertaining to Ward Reapportionment for the City of Danbury, the committee reviewed maps and population data and excerpts from the 1980 census for the City of Danbury. The data under review showed the characteristics of population and housing units by city blocks. The 1980 census tract data showed Danbury's population totaling 60,270 people. Using the above information as a basis for our calculations, the committee was able to compile a detailed breakdown of the population of the City of Danbury into the seven (7) city wards - our figure totaling 59,959 - just short of the official city count by 321 people.

WARD COMPOSITION BY POPULATION

<u>WARD</u>	<u>POPULATION</u>	<u>PERCENTAGE DEVIATION</u>
1	9,356	9.25
2	8,241	-3.77
3	8,866	3.53
4	8,623	.69
5	8,561	-.04
6	7,274	-15.06
7	9,028	5.42

TOTAL 59,949

WARD NORM 8,564 (1/7th of Total Population)

As the figure seems to indicate, the city population

by wards did not differ that drastically in 1980. Since Ward Reapportionment has substantial significance in any municipality and particularly in Danbury, one of the fastest growing cities in this region, it is extremely important that the population be based on the most accurate information available. This fact is evident to the committee members and is also the view that is expressed by cognizant officials in the city administration (see letters attached).

Councilwoman McManus motioned that since the seven (7) wards seem to be divided fairly evenly, and given the areas of significant growth in the City of Danbury and the extreme difficulty involved in ascertaining the exact information that is necessary for accurate calculations involving ward reapportionment, that the committee recommend delaying ward reapportionment until the 1990 census data is available. Seconded by Councilman ~~Torian~~. The vote was unanimous. *ESPOSITO*

Mr. Gallo made a motion to accept the report. Seconded by Mrs. Butera.

Mr. Godfrey thanked the committee for coming out with the report and stated that he would oppose same. He then made a motion to refer this matter to the Corporation Counsel for a legal interpretation to report back on March 3, 1987 at 8:05 P.M. Seconded by Mr. Flanagan.

Mr. Torian then made the following statement: "Just because back in 1980 there existed a -15.06% percentage deviation in the 6th ward, is not the complete story. This situation in the 6th ward could possibly have stabilized itself since then. It is wrong for anyone to assume that the -15.06% deviation still exists in the 6th ward. Remember, the information in this report is based on the 1980 census data.

You haven't considered the growth pattern in the 6th ward since 1980. It is conceivable that the -15.06% deviation that existed back then in the 6th ward in 1980 no longer exists in 1987. So, don't overlook the growth patterns in the 6th ward. Sure, all wards have grown since 1980, some wards more than others, but there could have been shifts in the population where residents have moved from out of the other wards in the City (e.g. 1, 2, 3, 4, 5 and 7th wards) and relocated into the 6th ward and, at the same time eliminating at least in part, the -15.06% deviation, which would bring it to within the +10% rule of thumb that is recognized by the courts.

But no matter how much we might want to dramatize the results of this data, one thing is certain, this data is still 7 years old, that's for sure, its old data, it does not represent the true population of the City of Danbury today and it is ludicrous to consider using this data for reapportionment in the City of Danbury in the year 1987 with that amount of errors and flaws already in its makeup."

Mr. DaSilva: "Question and comment. My question what about this 10% variation?"

Mr. Godfrey: "Re Abate v. Mundt compute the deviation of the largest and smallest deviation by adding it together and if that sum is greater than 10% you have your constitutional suspect. Based on the 1985 figures, time and time again we are past the 10% rule of thumb. We are leaving the City of Danbury exposed to prolonged litigation."

Mr. DaSilva: "My comment - I would like a definite definitive statement tonight, a legal opinion, on the 10% deviation on each separate ward. Before I can vote I need to have from the Corporation Counsel a definite ruling stating whether we are following all federal mandates on reapportionment. Are we legal? That's what we have a legal department for. I respect all opinions, but I need a legal opinion."

Mr. Goldstein: "No definitive statement can issue tonight. Certainly it is a matter which requires considerable research. I even question whether with all the duties incumbent upon my office, if one can issue within the month. Based on those facts and law relevant to that, I certainly would not give an opinion now and when an opinion issues, when one is requested from the Corporation Counsel's office, it is not hardly going to be the last word. It will be the effort of considerable research that will go into this. Mr. Godfrey uses the Mundt case which I think he said is a 1971 case involving the Senator from North or South Dakota, I believe. That was 1971. What a court would rule in 1987, whether it will adhere to that precedent, if it was a precedent, I can't say. In a Presidential election, this would not be an issue. This would not be a problem in a Mayoral election. Councilmen at large, not a problem. The only problem will be with Councilmen from the several wards, and if in fact someone wins an election 2,000 to 500, I question whether the court would invoke circumstances of full return. We will make an effort to come up with as close to a bottom line determination as we can, but there is no guarantee that with which we come forward is absolutely the law of the State of Connecticut."

Mr. DaSilva: "I certainly understand that. But it would come close to what the law in the State of Connecticut is, I would certainly hope."

Mr. Farah: "We reapportion by ordinance, correct? How long does it take to pass an ordinance in the State of Connecticut?"

Mr. Goldstein: "I presume it is the same as any other ordinance"

Mr. Farah: "We may be into 1988 or close to it."

Mr. Goldstein: "You may have to determine that in fact some sort of survey has to be made on a current basis to determine how many people there are in each individual ward. The law is by population, the number of persons. Voters are used as a guide on occasion, but it is not voters that is the bottom line determination. You may have to decide that in order to really make it a viable reapportionment you have to do it in 1987 and not rely upon these 1980 figures. That may also be subject to constitutional suspicion, unless you do it on a current basis."

Mr. Farah: "My point is that if we set the machinery in motion soon, it may be 1988 before we have reapportionment."

Mr. Goldstein: "Correct".

Mr. Farah: "That will be two years from the decennial census and considering all the ramifications and the problems involved and the fact that you have to go by population and not voter registration which is another issue, we may be getting ourselves wrapped up in a long procedure when we are only two years from firm figures from the decennial census. I sympathize with Councilman Godfrey and I support his views, but I wish someone had come up with these 2, 3, or 4 years ago, but right now we are on the threshold of the decennial of 1990 and considering that, I would say that it is impractical to go ahead and start the process based on a dubious foundation of voter's registration just to take advantage of it for one election, that is 1989, because it is very likely that we may have the figure for the decennial census before 1991."

Mr. Boynton: "A couple of questions to the attorneys who would be required to come back with this report. Mr. Goldstein, you've indicated that you do not think that you could come back within 30 days as outlined in the motion on the floor. How long do you suspect it would take you to come back and I say you, I would also like you to elaborate on whether this is something you could do inhouse with your present legal staff, or whether it would be something with which you would have to go outside on a consultant's basis, and, if so, what would the cost be?"

Mr. Goldstein: "I anticipate that this could be done inhouse, and I anticipate that it could be done by April or May. I anticipate that we will be able to find the cases that Mr. Godfrey alluded to as well as others in that vein and we will also be able to find cases on the other side of the spectrum that say that you don't really have to

unless you find that certain circumstances exist."

Mr. Boynton: "If I can continue. Part of your comments, Attorney Goldstein, were that you did not think this was much of a problem in certain types of elections, but would only get into a very tight council seat election when it come to ward. Do you see the mechanism for arriving at a more up to date census outside of going through the normal national census of 1990? The cost factor involved - Do you see it to be a reliable alternative, a viable alternative for coming up with an ordinance?"

Mr. Goldstein: "The only way of coming up with a reliable one is taking a census of the City of Danbury in the same manner as the United States government takes the census of the City of Danbury."

Mr. Boynton: "I have no idea what the cost would be, but it seems to me to be considerable."

Mr. Goldstein: "Yes, there are very few volunteers."

Mr. Boynton: "In view of your comments, am I wrong to assume that you are saying that while the motion on the floor is indeed a good one, a good idea, perhaps it is not as critical as it sounds or am I misinterpreting what you said?"

Mr. Goldstein: "It is certainly critical. Number 1, I offered my opinion as to where the focus would be vis-a-viz the apportionment of the seven wards in Danbury. I believe the courts would follow that line of reasoning too. Obviously, regardless of how many people we have in an individual ward is not going to make any difference in a Presidential election, so I think the focus would be on merely a council seat election and this is important to council persons involved. It is significant that people involved get to cast the proper vote, but there are other things that have to be taken into consideration."

Mr. Boynton: "Then a more important one would be, Attorney Goldstein, if there is at any time a contest or a vote in the ward election of the Council, and that Councilman while under challenge was involved in any decision on the Council, how would the decisions on the Council be affected? Such as at budget time."

Mr. Goldstein: "Decisions made by that particular Councilperson if elected, would stand. If that election is challenged then it might well be that a court at that time, pursuant to motions or applications made to the court, might restrain that person from voting until the situation is clarified."

Mr. Boynton: "How about if, after an election and swearing-in ceremonies, 3 or 4 months go by before anyone challenges the election, or is there a timetable that we would know, or the Councilperson would know?"

Mr. Goldstein: "There is no timetable, nothing would adversely affect that individual until and unless a suit was instituted and a restraining order was sought."

Mr. Boynton: "It would not affect any motion or ordinance he or she might vote on?"

Mr. Goldstein: "That is correct."

Mr. Boynton: "Then I cannot see the extra delay. I am going to vote against the motion on the floor."

Mrs. McManus: "I would like to point out that the population of the City of Danbury according to the Connecticut Department of Health has grown by 7,000 people, and I would also like to remind you what it means when you change polling places. People always go to the wrong polling place and if they do, they very seldom correct themselves and go to the proper polling place. Any more comments?"

Mr. Godfrey: "Yes, just a few comments. Number 1 - the cost of an election is irrelevant as far as the courts are concerned. Number 2, Mounir, you are talking about six years as if it is tomorrow. Waiting for the 1990 census figures even if it comes out in the middle of 1991 when the 1991 election calendar has already started to run in the Spring you've gotten a letter from the Town Committee, who are already looking for candidates for this year, we all have, the election calendar has already started for 1987, so we are talking that the earliest 1990 census figures are going to be available would be 1993. That's a long time from now, from 1987."

Mr. Farah: "From 1989."

Mr. Godfrey: "I first proposed this in 1984. It's been three years now since this issue has been raised and we're told we should wait another six years - that's 9 years and the discussion on percentage deviation has certainly been enlightening but no one has addressed the question of can you wait 20 years for a new reapportionment and that's what we are suggesting, but waiting for the 1990 census figures. That's another issue that I would want the Corporation Counsel to address, not just the percentage deviation and how you estimate population but also can you wait 20 years. My concern also isn't just that we be worried about the letter of the law but (a) that we also be worried about the fairness. William O. Douglas, who is my favorite Supreme Court Justice, said, "the creation by law of favored groups of citizens, and to grant to them preferred political rights is the worst of all discrimination under a democratic system of government" and he was speaking in a reapportionment case, because he says when you have lopsided population figures as we do in the City of Danbury you are discriminating against some of the voters. That issue is high place in my mind. It is unfair, to the voters of the City of Danbury, and waiting until 1993 isn't going to make it any fairer. It's not going to make it any more just. And, lastly, I am also concerned about the City - any citizen of the City can take the City to court and the courts could wind up doing the reapportionment for us, then it would be completely out of our hands and I think that is wrong. I think that the Charter correctly says that it is the duty of the Common Council to do this and putting this off is just reneging on a duty that we owe, that is required, so I want to see this go to the Corporation Counsel, I want to see it get back. My goal all along has been to get this reapportionment in place by this year's election. That is way I was pushing last month, and why I am pushing this month and why I brought it up first in 1984 and why I did the research in early 1985 and why over a year ago it went to committee and why it has taken a year for the committee to meet 3 times and to come up with a negative report. So, I agree with you that it does take time, but we've had the time and we haven't used it. So I would like to get moving on this issue and I continue to support the move that we first get Corporation Counsel to comment on our legality of putting this off until the next census and go from there. Let's move, let's make it fair. One of the most basic rights in the Constitution of the United States is the right to vote. Why don't we give that to the City of Danbury as its present in 1987 the 200th birthday of the Constitution."

Mrs. McManus: "I think everyone in the City has the right to vote."

Mr. Godfrey: "An equal right to vote."

Mr. DaSilva: "Yes, I would just like to reaffirm my question to Mr. Goldstein considering his response that he could not be definitive now, but he doesn't know how definitive he could be with research. I think he should be given the opportunity to see how definitive he can be since he is not sure. And, certainly he cannot be definitive now and I certainly did not expect that, but I think were are just too many items that need to be ruled upon in opinion and I understand that it is opinion, but that's all I think legislators can rely on unless we go to court and get a ruling by a judge, we must rely on opinion and it is our legal office that must give us that opinion and I think that opinion must say that we are in no trouble or we may be in trouble. I think

we need that, especially in the light of what Mr. Goldstein said that it doesn't effect Presidential, Gubernatorial, elections, etc., but those of the Common Council. Well, that is the election that is coming up. At least 14 of the seats will be ward seats and that is the election that is coming up. If we were voting for the Presidential election, I would say it doesn't matter, take eight months to do your research, but that's what's coming up in the Fall. What happens in the Fall is someone who is running in either party says wait a minute, I am running for the Council in the 6th ward and I don't think its one man, one vote here. What happens then if someone challenges it in the Fall. Can a candidate who claims a disproportionate division of people in those wards, can he disclaim a discriminatory breakdown of the wards because its been 10 or 15 years. Can that person do something to affect the election? Not after the election as Mr. Boynton was saying, certainly not to enjoin it later, but before, can something happen, can we get an opinion on that? I think that's what we need."

Mr. Farah: "We do have an opinion, of March 3, 1986. Is the opinion going to be any different? I would like to find out if we are going to gain anymore incite than we have in this opinion and if we don't have it, can we make copies for everyone regarding the reapportionment? Another thing, I support and sympathize with the views that Councilman Godfrey has presented, but even the constitution allows unfairness when it is tempered with political reality. In the electoral college you have 1 elector representing about 170,000 people from the State of Delaware versus 1 elector representing nearly 600,000 people from the State of California. Unfairness, yes. I am pretty sure that if the late William O. Douglas were around to give an opinion on that he would have some choice words for that kind of fairness. However, political reality tempered the writers of the constitution to come up with a compromise to allow for 200 years, despite all the criticism we haven't changed it so unfairness, true, I don't want to see unfairness but if we are faced with a difficult situation, I think we may justify a wait of 2 or 3 or 4 years. After all, we have waited on the electoral college for 200 years and still it is there."

Mrs. McManus: "Are we ready to take the roll call?"

Mr. Farah asked if everyone had copies of the March opinion and Mrs. McManus stated that the report had been handed out to everyone and asked if anyone needed to read the report again.

Mrs. McManus asked for a vote on referring the report to the Corporation Counsel for a report back in thirty days on March 3rd at 8:05 P.M.

Council Members voting in the affirmative: Mr. Godfrey, Mr. Flanagan, Mr. DaSilva, Mr. Eriquez and Mr. Farah. Council Members voting in the negative: Mrs. Johnson, Mr. Sollose, Mr. Philip, Mr. DeMille, Mr. Zotos, Mr. Hadley, Mr. Rotello, Mr. Cassano, Mrs. McManus, Mr. Gallo, Mr. Esposito, Mr. Charles, Mr. Boynton, Mrs. Butera, Mr. Smith and Mr. Torian.

Amendment failed to carry 5 affirmative, 16 negative.

Mrs. McManus: "I will try your minds on accepting the committee report. Any discussion?"

Mr. DaSilva: "Yes, I have some discussion. I cannot support this report or any report without a ruling from the Corporation Counsel. The ruling by Mr. Gottschalk does not answer any of the questions I had, although I appreciate that opinion. How can anyone here vote when there are legal problems up in the air. How can anyone take a definitive vote if you don't know for sure in your heart that what you are voting for is truly legal or illegal, or non-legal or whatever term you want to call it. I cannot do that. I don't know, Mr. Torian may be 120% correct, or Mr. Godfrey may. I don't know that. How can I decide? I think we are charged with getting the best and total information that we can and that is not what we have. Mr. Goldstein said tonight, yes it is a serious matter that would take many months of deliberation and research, etc. If in fact it is that serious a matter, how can we vote

without an opinion. I don't understand that. I'm not saying it necessarily has to be March 3rd at 8:02 or whatever, but I think there has to be some sort of opinion definitive from our legal counsel."

Mr. Torian: "I just want to reiterate what Mr. Goldstein said. He did say a long and exhaustive research by his office would not prove to be final, plus he could find as many cases on the opposing side and he could find an equal amount of cases that would counteract that so -"

Mr. DaSilva: "Madam President, that was not Mr. Goldstein's statement. He said he might find some over here. I presume from Mr. Goldstein's statement that he has not yet research it and that was just conjective on his part, that he might find some on the other side."

Mr. Godfrey: "One last thing - the reapportionment case that took up reapportionment in Tennessee in the State Legislature who had last reapportioned in 1903 - 59 years - the courts had to step in to give a legislature who couldn't or wouldn't reapportion themselves. Unfortunately, politicians often override the needs of the voters, that's why the courts have been involved in that. I am very sorry to see that in the City of Danbury, the Common Council has not done its duty and is just going to postpone this for another half a decade."

Mrs. McManus: "Mr. Godfrey, I take exception to your statement that the Common Council has not done its job, the committee has worked very hard."

Mr. Godfrey: "We'll have to agree to disagree."

Mrs. McManus: "You can agree or disagree as you like, but the committee report stated that the committee of the Common Council felt that the data was too old and too unreliable to base any decision on it, and personally I do not appreciate you saying that the Common Council has not done its duty."

Mr. Godfrey: "Well, we will have to disagree on that because I continue to believe that the Common Council has not followed the Charter"

Mrs. McManus called for vote with the following members voting to accept the committee report:

Council Members Johnson, Sollose, Philip, DeMille, Zotos, Rotello, Cassano, McManus, Gallo, Esposito, Charles, Boynton, Butera, Farah, Smith and Torian.

The following members voted in the negative:

Council Members: Godfrey, Flanagan, Hadley, DaSilva and Eriquez.

The committee report is accepted on a vote of 16 affirmative and 5 negative.

050 - REPORT - Police Alarm System.

Mr. Torian submitted the following report:

The Common Council Committee appointed to review the Police Alarm Equipment and Service met on July 9, 1986 and again on January 12, 1987. In attendance at one or both of those meetings were committee members Torian and Farah. Police Chief Nelson Macedo, Lt. Arthur Sullo, Sgt. James Hulton and representatives from National Guardian Alarm Services and Guardain Systems, Inc.

Chief Macedo briefed the committee on the nature of his request. The Police Department is presently experiencing mechanical and service problems with the alarm system at Police Headquarters. The Police Department has experienced over 5,000 false alarms annually with the present alarm company, Guardian Systems, Inc. Most of the false alarms are due to faulty equipment and inadequate maintenance. The present alarm company charges a fee for every alarm that is connected with the City of Danbury. Guardian Systems, Inc. is not under any contract with the City. Chief Macedo worked with the Purchasing Department and received bids from two (2) companies and he has selected National Guardian Alarm Services to replace Guardian Systems, Inc. The City of Danbury will enter into a contract with National Guardian Alarm Services whereby National Guardian will assume the responsibility for purchasing and installing all of the necessary Varitech equipment with no charge to the City of Danbury.

Further, National Guardian will install and maintain additional Varitech equipment at National Guardians central station in Norwalk, Connecticut for the purpose of satellite monitoring of alarm signals within the City of Danbury. The monitoring equipment would be housed in a console which will be purchased by the Danbury Police Department with a \$10,000 gift from the National Guardian Alarm Services for this purpose. There will be absolutely no cost to the City of Danbury for this alarm system. There will, however, be a \$108. annual charge to other alarm companies who are tied into the console. The contract will cover a seven (7) year period 1987-1994. Attorney L. Pinter from the Corporation Counsel's Office reviewed the draft of the contract and was satisfied that the interests of the City are protected and the documents are in proper legal form.

Councilman Farah motioned that the committee recommend approval of the police alarm contract with National Guardian and the acceptance of the \$10,000 gift from National Guardian to be used for the purchase of the communication console by the Danbury Police Department. Seconded by Councilman Torian. The vote was unanimous.

The report was accepted on the Consent Calendar by the Common Council.

051 - REPORT - Request for extension of water and sewer - First Danbury Properties, Wooster Heights.

Mr. Gallo submitted the following report:

In attendance were Council Members Gallo, Zotos, Flanagan. Also attending Jack Schweitzer and Bill Buckley.

The Sewer & Water Extension committee of the Common Council has met and reviewed the above petition with the City Engineer and has also reviewed a recommendation for approval from the Planning Commission.

It is the recommendation of this committee that the petition be granted with the following conditions and restrictions:

1. The petitioner shall bear all costs relative to the installation of said sewer and water.
2. The petitioner shall submit as-built drawings of this extension, prepared by a licensed Connecticut Land Surveyor, for approval by the City Engineer.
3. Detailed Engineering Plans and Specifications are to be approved by the City Engineer and the Superintendent of Public Utilities prior to the start of construction.

4. If required, a Warranty Deed in a form satisfactory to the Corporation Counsel shall be executed by the petitioner conveying to the City of Danbury, all right, title, interest and privileges required hereunder and said Deed shall be held in escrow for recording upon completion of installation.
5. That upon completion of installation, title to said sewer and water line within City Streets, and any necessary documents be granted to the City in a form which is acceptable to the City Engineer and Corporation Counsel.
6. The petitioner shall convey ownership of and easements to all or such portions of the sewer and water lines as the City Engineer's Office determines are of potential benefit to other landowners in the City.

Should another, other than the petitioner hold title to any land involved in the approval, then consent prior to any installation or hook-up shall be furnished in a form satisfactory to the City Engineer and Corporation Counsel.
7. No Certificate of Occupancy shall be issued until the above requested forms, documents, plans, etc. are received and the City owns the extended sewer and water lines.
8. This approval shall expire eighteen (18) months following the date of Common Council Approval.

The report was accepted by the Common Council on the Consent Calendar.

052 - REPORT - Request for Extension of Sewer - Danbury Suburban Residential Corporation - Breezy Hill Road.

Mr. Gallo submitted the following report:

Members Present: Gallo and Zotos. Also attending Jack Schweitzer and Bill Buckley.

The Sewer & Water Extension committee of the Common Council has met and reviewed the above petition with the City Engineer and has also reviewed a recommendation for approval from the Planning Commission.

It is the recommendation of this committee that the petition be granted with the following conditions and restrictions:

1. The petitioner shall bear all costs relative to the installation of said sewer.
2. The petitioner shall submit as-built drawings of this extension, prepared by a licensed Connecticut Land Surveyor, for approval by the City Engineer.
3. Detailed Engineering Plans and Specifications are to be approved by the City Engineer and the Superintendent of Public Utilities prior to the start of construction.
4. If required, a Warranty Deed in a form satisfactory to the Corporation Counsel shall be executed by the petitioner conveying to the City of Danbury, all right, title, interest and privileges required hereunder, and said Deed shall be held in escrow for recording upon completion of installation.
5. That upon completion of installation, title to said sewer line within City Streets, and any necessary documents be granted to the City in a form which is acceptable to the City Engineer and Corporation Counsel.

- 6. The petitioner shall convey ownership of and easements to all or such portions of the sewer lines as the City Engineer's Office determines are of potential benefit to other landowners in the City.

Should another, other than the petitioner hold title to any land involved in the approval, then consent prior to any installation or hook-up shall be furnished in a form satisfactory to the City Engineer and Corporation Counsel.

- 7. No Certificate of Occupancy shall be issued until the above requested forms, documents, plans, etc. are received and the City owns the extended sewer lines.

- 8. This approval shall expire eighteen (18) months following the date of Common Council action.

053 - RESOLUTION - Counseling Services Program.

Mr. Gallo moved to add the following Resolution to the agenda. Mr. Boynton Seconded. Motion carried unanimously.

WHEREAS, pursuant to Chapters 113 and 300a of the Connecticut General Statutes, the Commissioner of Human Resources is authorized to extend financial assistance to municipalities and human development agencies; and

WHEREAS, the Common Council of the City of Danbury, on November 6, 1986, approved the filing of a Grant Action Request with the State of Connecticut Department of Human Resources in the amount of \$25,119.00 for the purpose of providing a Counseling Services Program; and

WHEREAS, the City of Danbury, pursuant to receipt of said funding, shall provide a local grant-in-aid where applicable under law; and

WHEREAS, the Department of Human Resources is willing to increase said funding from \$25,119.00 to \$26,141.00 and upon application by the City of Danbury;

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

The filing of an application by the City of Danbury in an amount not to exceed \$26,141.00 is hereby approved, and that the Mayor of the City of Danbury, The Honorable James E. Dyer, is hereby authorized and directed to execute and file such application with the Commissioner of Human Resources, to provide such additional information necessary in order to execute a Grant Action Request with the State of Connecticut for state financial assistance, to execute any amendments, recisions, and revisions thereto, and to act as the authorized representative of the City of Danbury.

Mr. Gallo made a motion to adopt the Resolution, seconded by Mr. Charles. Motion carried unanimously.

Mr. Boynton made a motion to add the following report to the agenda. Seconded by Mr. Gallo. Motion carried unanimously.

Mr. Torian submitted the following report:

The ad hoc committee appointed to review the request for sewer and water at Connecticut Health Care Associates, Inc., 52 Main Street, met on January 21, 1987. In attendance were Committee Members Torian and Cassano, City Engineer Jack Schweitzer and Superintendent of Public Utilities, William Buckley.

Attorney Ward Mazzucco representing Connecticut Health Care Associates, Inc. noted in his letter that the property would be used for a nursing home with congregate housing, totalling 90 units. Both Jack Schweitzer and William Buckley saw no problem in this petition, the property is located in downtown Danbury with existing sewer and water lines in the area and the Planning Commission has approved the request. Councilman Cassano motioned for approval of this petition subject to the eight (8) steps relating to sewer and water extension listed below. Seconded by Councilman Torian. The vote was unanimous.

1. The petitioner shall bear all costs relative to the installation of said sewer and water extension.

2. The petitioner shall submit as-built drawings of this extension, prepared by a licensed Connecticut Land Surveyor, for approval by the City Engineer.

3. Detailed Engineering Plans and Specifications are to be approved by the City Engineer and the Superintendent of Public Utilities prior to the start of construction.

4. If required, a Warranty Deed in a form satisfactory to the Corporation Counsel shall be executed by the petitioner conveying to the City of Danbury, all right, title, interest and privileges required hereunder, and said Deed shall be held in escrow for recording upon completion of installation.

5. That upon completion of installation, title to said sewer and water lines within City streets, and any necessary documents be granted to the City in a form which is acceptable to the City Engineer and Corporation Counsel.

6. The petitioner shall convey ownership of and easements to all or such portions of the sewer and water lines as the City Engineer's Office determines are of potential benefit to other landowners in the City.

Should another, other than the petitioner hold title to any land involved in the approval, then consent prior to any installation or hook-up shall be furnished in a form satisfactory to the City Engineer and Corporation Counsel.

7. No Certificate of Occupancy shall be issued until the above requested forms, documents, plans, etc. are received and the City owns the extended water and sewer lines.

8. This approval shall expire eighteen (18) months following the date of Common Council action.

Mrs. McManus asked Mr. Torian if all information for the site plan had been obtained and all other municipal approvals obtained. Mr. Torian responded that they had.

Mr. Boynton made a motion to accept the report, seconded by Mr. Charles.

Mr. Flanagan: "I realize that it usually is a formality for the Council after the approvals have been obtained to put its stamp of approval on these, and I think I've always been troubled with the idea that if we really have the grounds to oppose these things if all the requirements have been met, and it troubles me a lot. And it seems to me that the Council if for no other reason than it is the last court of appeals for the City of Danbury does have that right regardless of whether approvals for hook-ups or other things. If the Council had exercised more discretion in terms of these hookups we would not have been saddled with some of these problems. It does not seem appropriate to me for downtown Danbury with the complement of other buildings in the area, that there is a serious traffic problem in the area that would be greatly enhanced by this, people would be living there would have visitors, employees and more traffic in an already over-congested area of town. The South end of Main Street has seen tremendous growth in the last 5 years. One big housing project after another. Business have moved into that area, it has flourished, but tremendous problems have come along with that and this use seems to me to be plain wrong for that part of town, the wrong thing to be put onto Main Street, and therefore I will vote against this and I urge my colleagues to do the same."

Mr. Boynton: "I may be wrong, but I understand our responsibility in sewer and water extensions are limited to the fact if there is sewer and water capacity in the City of Danbury that would be effected by this project. If we were to vote on this issue based on traffic or density or any of the Zoning or Planning agency criteria, we would be overstepping our bounds and I think we would be in violation of the law. Therefore, I think the report stands for itself if they have approvals from the City Engineer and the City Water and Utilities, I see no problem with this, I see where we have no other obligation then to approve this project. I would like to caution that we cannot rule on the criteria that is beyond our scope and is the scope of the Planning Department and the Zoning Commission."

Mr. Eriquez: "Just a question, perhaps to Mr. Sedney through the Chair regarding is this particular use allowed within the existing zone or is it a special exception use? "

Mr. Sedney: " It was a special exception use."

Mr. Eriquez: "If I could through the Chair to Mr. Goldstein. Is Mr. Doynton's opinion correct?"

Mr. Goldstein: "It would certainly be suspect, yes. It could form the basis of a very good lawsuit."

Mr. Eriquez: "It is not within our jurisdiction to deny the request?"

Mr. Goldstein: "I would feel not." There is nothing of record that would indicate a reason in the contemplation of the parties who considered it not to have it approved."

Mr. Eriquez: "With all due respect, Ted, so the use for example that has been raised here, and this is interesting because this discussion we have had at other times without really getting an opinion, could we get some definitive word on that, again, if an individual had problems with the use and had gone through the approval cycle, planning, EIC, Zoning, whatever would have been required, and lastly the Common Council for sewer and water extensions and someone not liking whatever else had been done prior to that, would have no right to vote against the sewer and water extension if the availability of sewer and water was there?"

Mr. Goldstein: "In my opinion, that is correct and a member of the Common Council might even open himself up to civil rights litigation. You are depriving that person of his rights by taking that position."

Mr. DaSilva: "Just to clarify that further. When that comes to the Common Council, with other City agency approvals, and is deemed by the City Engineer to have proper capacity, the only option to an elected official of the City of Danbury is to vote yes or risk a suit for violating someone's civil rights?"

Mr. Goldstein: "It could come down to that, yes."

Mr. DaSilva: "There is no choice for an elected official but to vote yes?"

Mr. Goldstein: "Not true."

Mr. DaSilva: "That's how I interpret what you said."

Mr. Goldstein: "If there is a reasonable premise which is submitted in a course of the discussion -

Mr. DaSilva: "How about this, sir - if I look at the capacity and I say I am somewhat familiar with that, I think there are other things that are being developed down there that are straining that capacity and I think that there are other things that are coming there which will put that over capacity and that is the ground upon which I cast my no vote, I still am liable to suit?"

Mr. Goldstein: "Under those circumstances you're position would be stronger, but obviously anyone can be sued for anything, it doesn't mean that would wind up that way, but I would say that you would have to have a strong counterbalance before the Common Council to overcome that which went on before it."

Mr. DaSilva: "My comment, Madam President, is that why would this even come to the Common Council if a no vote with proper capacity could subject you to a lawsuit? Why would it even come here? Why would anyone want to vote on that? But think about it. If in fact this is true, and I'm not doubting our Corporation Counsel's opinion for one moment, that means you could only vote yes every time we get a report. That's like the contracts we get. We all moan and groan about that because we can only vote yes to appropriate the money and we moan and groan about that 3 times a year. Why do it, if you're elected by the people to say yes? That's nonsense."

Mr. Boynton: "Basically, what I think and what I think Mr. Goldstein reaffirmed was the fact that all this Council can argue is the availability of sewer and water and the effect on the system. We cannot use traffic, we cannot use usage. We cannot use density, high rise or any of the Zoning or Planning reasonings. If we do, I think we are suspect, but if we argue our case based on I don't believe we have the sewer and water capacity and you vote no on it, I don't see where anyone can sue you for that opinion, and it would be my position that's how I vote on these issues."

Mr. Farah: "We do have the right to say no. That we do not want to tax our water system to more than a 70 or 80% capacity or 65%. However, we can't turn around and grant sewer and water extensions to somebody else that comes later on. This is what becomes discrimination. So if we want to vote no, then we have to be prepared to vote no on other requests for sewer and water. So we do have the right, but we can't exercise it then turn around and grant somebody else water or sewer extension."

Mr. Flanagan: "I prefaced my remarks by saying that I am aware that if all the other criteria has been met it is only a formality. Obviously, it is a debatable point. It seems to me sometimes that there is a big difference between what is legal and what is right. It seems to me as Mr. Farah has suggested that if by voting no now that what we should do is vote no indefinitely into the future, then fine. Maybe a moratorium on all sewer and water hookups at this point is in order."

So we study our capacity and decide in the community what do we want for growth and have a little more logical plan instead of every piece of land that is left, let's see what we can cram on there while going is still good. So if we can be sued for violating someone's civil rights so be it and say its wrong and vote no."

Mr. Cassano: "Just to toss in a little thought. If we want to place ourselves as the Planning and Zoning authority of the City, then obviously we should be on the Planning and Zoning Commission and not on the Common Counsel."

Mr. Eriquez: "Yes, I concur with Mr. Cassano and since that's the case, I think what would be proper is to perhaps criticize the Planning Commission for allowing the special exception so if you don't agree with the use that was allowed that's perhaps where my criticism belongs. I certainly question the opinion here. I probably will vote for this sewer and water extension given the fact that I don't really care to be sued. However, I doubt that any developer would want what I own, 2 acres. . ."

Mrs. McManus then called for a roll call vote.

The following members voted in the affirmative: Council Members Johnson, Sollose, Philip, DeMille, Zotos, Hadley, Rotello, Cassano, McManus, Gallo, Esposito, Charles, Boynton, Butera, Eriquez, Farah, Smith and Torian.

The following members voted in the negative:

Council Members Godfrey, Flanagan and DaSilva.

The motion to accept the committee report carried with 18 votes in the affirmative, 3 votes negative.

055 - COMMUNICATION - Waiver of Bid for Welfare Department File Cabinets.

Mr. Gallo made a motion to accept the communication for the agenda. Seconded by Mr. Charles. Motion carried unanimously.

Letter from Purchasing Agent Warren Platz stating the equipment needed for the Welfare Department including desk and file cabinets come to approximately \$14,000. Since this amount is in excess of \$2,500, we must go out to sealed bid. The equipment will take approximately 7 to 10 weeks to be delivered if we have to go out to bid. If we take formal quotes, we will be able to reduce the delivery time to approximately 5 to 6 weeks.

Mr. Gallo made a motion to accept the communication and allow the waiver of bid. Mr. Flanagan seconded. Motion carried unaimously.

056 - COMMUNICATION - Danbury Sewage Treatment Plant.

Mr. Gallo moved to add this item to the agenda. Seconded by Mr. Boynton. Motion carried unanimously.

Letter from Assistant Corporation Counsel Eric L. Gottschalk stating that the City of Danbury is obliged by order of the Connecticut Department of Environmental Protection to update its facilities plan for renovation of the Danbury Sewage Treatment Plant. Accordingly, I have been asked by the Danbury Department of Public Works to request that a committee be appointed to review a proposed appropriation of funds, in an amount not to exceed \$92,000 from the Danbury Sewer fund.

Mr. Gallo asked that a committee be appointed to study the request. Mrs. McManus ordered that the committee shall consist of Council Members Cassano, DaSilva, Farah, Eriquez and McManus.

057 - COMMUNICATION - Request for Winter Road Maintenance of the Snug Harbor Community.

Mr. Philip moved to add this item to the agenda. Seconded by Mr. Boynton. Motion carried unanimously.

A letter from the Board of Directors of the Snug Harbor Association regarding winter road maintenance in that community.

Mr. Gallo made a motion to refer this letter to the Director of Public Works.

Mr. Philip asked if a committee should be appointed. Mr. Gallo stated that by referring it to the Director of Public Works, the work may be able to be done under a present maintenance contract and this would expedite matters.

Motion carried unanimously.

Mrs. McManus extended all existing committees who have not finished their work.

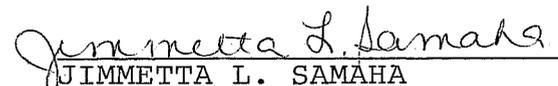
Mrs. McManus appointed the following members to the Education Budget committee:

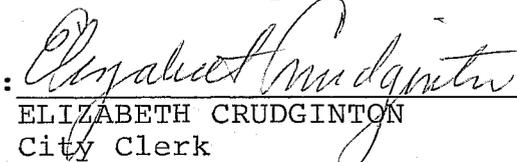
Mr. Farah, Mr. Torian, Mr. Hadley, Mr. Eriquez and Mr. Sollose

There were no members of the public wishing to address the Common Council.

There being no further buisness to come before the Common Council a motion was made by Councilman Godfrey to adjourn at 10:05 P.M.

Respectfully submitted,


JIMMETTA L. SAMAHA
Assistant City Clerk

ATTEST: 
ELIZABETH CRUDGINTON
City Clerk