

To: Mayor Joseph H. Sauer, City of Danbury, Connecticut.

Re: Minutes of the Common Council Meeting held November 1, 1988.

The Meeting was called to order at 8:00 P.M. by the Honorable Joseph H. Sauer, Jr., Mayor who led the assembly in the Pledge of Allegiance. The Prayer was offered by Councilman John Esposito. Roll Call was taken with the members being recorded as:

PRESENT - Bourne, Connell, Gallo, Moran, Renz, Esposito, Godfr Flanagan, Zotos, Cresci, Nimmons, Fazio, Shaw, Charles, Bundy, Butera, Danise, DaSilva, Eriquez, Regan.

ABSENT - Cassano.

20 Present - 1 Absent.

**CONSENT CALENDAR** - Mr. Shaw presented the following items for the Consent Calendar:

- 3 - Resolution - Grant for Welfare Department for Counseling Services
- 4 - Communication & Resolution - Grant from the Governor's Local Substance Abuse Prevention Council
- 6 - Communication - Appointment to the Transit District Board of Directors
- 7 - Communication - Appointment to the Library Board of Directors
- 8 - Communication - Appointment to the Candlewood Lake Authority
- 10 - Communication - Appointment to the Cultural Commission
- 11 - Communication - Appointment to the Commission on Aging
- 16 - Communication - Transfer of Funds for Department of Elderly Services
- 23 - Communication - Offer to sell land to the City for Mall Expansion
- 30 - Communication - Disposal of Demolition Debris and Management of Recycling Facility
- 38 - Report & Ordinance - Amendment to Subsection 18-16(a) Property Tax Exemption
- 39 - Report & Ordinance - Danbury Housing Partnership
- 43 - Report - Discount for Paying Taxes in Full Advance
- 44 - Report - Request for Extension of Time for Sewer Extension on Boulevard Drive
- 46 - Report - Assistant City Clerk's Position
- 47 - Report - Agreement between the Redevelopment Agency and H. M. Zotos
- 48 - Progress Report - Update on City's Garbage Disposal Position
- 50 - Progress Report - Ice Skating Rink
- 51 - Progress Report - Request for Water Extension - Meadowbrook Road

Mr. Connell made a motion to accept the Consent Calendar as presented. Seconded by Mr. Moran. Mr. Zotos noted that he was abstaining from item 47. Motion carried unanimously.

1 - **RESOLUTION** - Beaver Street Apartments Tax Abatement.

RESOLVED, by the Common Council of the City of Danbury:

WHEREAS, it is desirable and in the public interest that the City of Danbury abate taxes under Section 8-215, Connecticut General Statutes, as amended, on the property owned by Beaver Street Apartments, Inc. located at Beaver Street and Rose Street in Danbury, known as Beaver Street Apartments; and

WHEREAS, the City of Danbury has approved abatement of up to 100% of the real property taxes on the subject property by resolution of the Common Council of the City of Danbury, adopted on October 3, 1973, and has executed a Tax Abatement Contract with Beaver Street Apartments (9-25-73) and a Tax Abatement Assistance Agreement with the State of Connecticut on September 30, 1973; and

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

1. That the City of Danbury hereby abates up to one hundred percent of the ad valorem taxes applicable to the property described above for a period of not more than forty (40) consecutive years;

2. That the Mayor of the City of Danbury is hereby authorized, directed and empowered in the name of and on behalf of the City of Danbury to execute the Tax Abatement Contract described above and to execute any amendments, revisions and recisions of said contract in the name of and on behalf of the City of Danbury;

3. That the real property taxes abated on the subject property are \$31,500 for the Grand List of October 1, 1987;

4. That the Tax Collector of the City of Danbury is hereby directed and empowered to list the total amount of the said lawful abatement into the Rate Book and other records and files, together with the name of the owner against whom such tax, so abated, was levied and the reason for such abatement, and the Tax Collector is further directed to record these facts in his Annual Report in accordance with the provisions of Section 12-167 of the Connecticut General Statutes, as amended;

5. That the Tax Collector of the City of Danbury is also directed to immediately file a certified statement as evidence of said abatement with the Commissioner of the Department of Housing;

6. That the Tax Collector of the City of Danbury is also directed to refund all tax payments received from Beaver Street Apartments, Inc. or its representatives in connection herewith to the extent that said funds are reimbursable by the State of Connecticut through its Department of Housing.

Mr. Gallo made a motion that the resolution be adopted. Seconded by Mr. Eriquez. Motion carried unanimously.

2 - RESOLUTION - Grant for Student Assistance Program at Danbury High School.

RESOLVED, by the Common Council of the City of Danbury:

WHEREAS, the prevention of and early intervention in cases of alcohol or drug abuse among high school students is in the best interests of the City of Danbury; and

WHEREAS, the City of Danbury wishes to continue the Student Assistance Program at Danbury High School for that purpose; and

WHEREAS, the State of Connecticut is authorized to make grant funds available for said purpose; and

WHEREAS, the City of Danbury wishes to obtain a grant in an amount not to exceed \$5,350.00 to cover the costs of continuing said program; and

WHEREAS, it is in the best interests of the City of Danbury that said funds be authorized for use by and provided to the Midwestern Connecticut Council on Alcoholism by virtue of an agreement with the Danbury School System for purposes of effectuating this program; and

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor of the City of Danbury be and hereby is authorized to make application for said grant and to enter into and amend any necessary contract with the State of Connecticut if such a grant is offered to the City of Danbury; and

BE IT FURTHER RESOLVED THAT the Mayor of the City of Danbury be and hereby is authorized to take any additional action necessary to accomplish the purposes hereof.

The Resolution was withdrawn.

3 - RESOLUTION - Grant for Welfare Department for Counseling Services.

Resolved, by the Common Council of the City of Danbury:

WHEREAS, pursuant to Chapters 133 and 300a of the Connecticut General Statutes, the Commissioner of Human Resources is authorized to extend financial assistance to municipalities and human resource development agencies; and

WHEREAS, it is desirable and in the public interest that the City of Danbury make application to the State in such amounts as may be made available for undertaking a Counseling Program and to execute a Grant Action Request therefor;

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

1. That it is cognizant of the conditions and prerequisites for State assistance imposed by Chapter 133 and 300a of the Connecticut General Statutes;

2. That it recognizes the responsibility for the provision of local grant-in-aids to the extent that they are necessary and required for said program;

3. That the filing of an application by the City of Danbury is hereby approved and that the Mayor of the City of Danbury is hereby authorized and directed to execute and file such application with the Commissioner of Human Resources, to provide such additional information as the Commissioner may request, to execute a Grant Action Request with the State of Connecticut for state financial assistance if such an agreement is offered, to execute any amendments, recisions and revisions thereto, and to act as the authorized representative of the City of Danbury.

The Resolution was adopted on the Consent Calendar.

4 - RESOLUTION - Grant from the Governor's Local Substance Abuse Prevention Council.

Resolved, by the Common Council of the City of Danbury:

WHEREAS, the prevention of and early intervention in cases of alcohol or drug abuse among high school students is in the best interests of the City of Danbury; and

WHEREAS, the City of Danbury wishes to continue the Student Assistance Program at Danbury High School for that purpose; and

WHEREAS, the State of Connecticut is authorized to make grant funds available for said purpose; and

WHEREAS, the City of Danbury wishes to obtain a grant in an amount not to exceed \$5,350.00 to cover the costs of continuing said program; and

WHEREAS, it is in the best interests of the City of Danbury that said funds be authorized for use by and provided to the Midwestern Connecticut Council on Alcoholism by virtue of an agreement with the Danbury School System for purposes of effectuating this program; and

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor of the City of Danbury be and hereby is authorized to make application for said grant and to enter into and amend any necessary contract with the State of Connecticut if such a grant is offered to the City of Danbury; and

BE IT FURTHER RESOLVED THAT the Mayor of the City of Danbury be and hereby is authorized to take any additional action necessary to accomplish the purposes hereof.

The Resolution was adopted on the Consent Calendar.

5 - COMMUNICATION - Appointments to the Police Department.

Letter from Mayor Joseph H. Sauer appointing the following people to the Police Department:

James S. Brown, Butternut Lane, Danbury  
Anthony A. Caserta, 820 Plattsville Road, Trumbull  
Harold F. Evans, Pound Sweet Hill, Bethel  
Michael W. Farrell, Buckskin Heights, Danbury  
Jeffery A. Lagarto, 64 Old Ridgebury Road, Danbury  
James P. Marino, 34 Middlebury Road, Danbury  
Russ J. Milana, 98 Sampson Avenue, Albertson, New York  
Sebastian D. Strano, 8 Henso Drive, Danbury  
Lars A. Wallin, 5 Fox Den Road, Danbury.

Mayor Sauer announced that he was withdrawing the names of Harold Evans and James S. Brown. Mr. Connell made a motion that the communication be accepted and the appointments confirmed. Seconded by Mr. Bundy. Motion carried unanimously.

6 - COMMUNICATION - Appointment to the Transit Board of Directors

Letter from Mayor Joseph Sauer reappointing Emanuel A. Merullo to the Transit Board of Directors for a term to expire 7-1-92. The appointment was confirmed on the Consent Calendar.

7 - COMMUNICATION - Appointment to the Library Board of Directors

Letter from Mayor Joseph H. Sauer reappointing Margaret Pastorino to the Library Board of Directors for a term to expire 1-1-91 and appointing Edward Moore, Sr. for a term to expire 1-1-89. The appointments were confirmed on the Consent Calendar.

8 - COMMUNICATION - Appointment to the Candlewood Lake Authority.

Letter from Mayor Joseph Sauer appointing Norman Tomey to the Candlewood Lake Authority for a term to expire 4-1-89 and reappointing Sally Conroy for a term to expire 4-1-91. The appointments were confirmed on the Consent Calendar.

9 - COMMUNICATION - Appointment of Towing Hearing Officer.

Letter from Corporation Counsel Robert T. Resha stating that Assistant Corporation Counsel John Jowdy would undertake the duties of the Towing Hearing Officer due to the resignation of Attorney T. Frizzell. Mrs. Bourne asked that this be referred to an ad hoc committee. Mayor Sauer appointed Council Members Bourne, Shaw and Butera to the committee.

10 - COMMUNICATION - Appointments to the Cultural Commission.

Letter from Mayor Sauer appointing Ruth Bouldes to the Cultural Commission for a term to expire 2-1-91 and reappointing Benjamin DaSilva and Edward Wicks for terms to expire on 2-1-91. The appointments were confirmed on the Consent Calendar.

11 - COMMUNICATION - Appointment to the Commission on Aging.

Letter from Mayor Sauer appointing Lorraine D. Warner, to the Commission on Aging for a term to expire 10-1-91. The appointment was confirmed on the Consent Calendar.

12 - COMMUNICATION - Donation to the Library

Letter from Betsy Lyke asking for permission to accept a donation of \$250 from the Lion's Club in memory of Bryon T. Johnson to purchase and plan a tree. Mr. Connell made a motion to accept the donation and send a letter of thanks. Seconded by Mr. Moran. Motion carried unanimously.

13 - COMMUNICATION - Request for Water Extension on Farm Street. Mr. DaSilva asked that this be referred to an ad hoc committee, Superintendent of Public Utilities, City Engineer and the Planning Commission. Mayor Sauer so ordered and appointed Council Members Bundy, Cresci and Zoto

14 - COMMUNICATION - Letter from Corporation Counsel Robert Resha asking for the sum of \$20,000 to be appropriated to his Outside Services Account. Certification attached. Mr. Godfrey made a motion that the communication be accepted and the transfer of funds authorized. Seconded by Mr. Flanagan. Motion carried unanimously.

15 - COMMUNICATION - Letter from John V. Valluzzo, Administrator of the Military Museum of Southern New England asking for approval of a Resolution that is needed to complete their application for a Grant from the Department of Economic Development. Mr. Godfrey asked that this be referred to the Corporation Counsel for a report back in thirty days. Mayor Sauer so ordered.

16 - COMMUNICATION - Letter from Leo McIlrath, Director of the Department of Elderly Services asking that the sum of \$1,600 be transferred from General Revenue to the Commission on Aging for the purpose of making monthly reimbursement to HART. The request was granted on the Consent Calendar.

17 - COMMUNICATION - Letter from Fire Chief Charles Monzillo requesting additional funding to finish out the current fiscal year for the overtime account. Mr. Eriquez asked that this be referred to an ad hoc committee, the Comptroller and the Fire Chief. Mayor Sauer so ordered and appointed Council Members Connell, Renz and Esposito to the committee.

18 - COMMUNICATION - Letter from Director of Parks and Recreation Robert Ryerson requesting that the sum of \$9,000 collected from rentals of Hatters Community Park be appropriated to the capital line item "Improvements at Hatters Community Park." Mr. Eriquez asked that this be referred to an ad hoc committee, the Comptroller and Mr. Ryerson. Mayor Sauer so ordered and appointed Council Members Cresci, Moran and Godfrey to the committee.

19 - COMMUNICATION - Letter from attorney Theodore A. Gemza asking for an exchange of right of way easements between the City and Tancy and Marcie Gemza covering property located off Tan Mar Drive and Spruce Mountain Trail. Mrs. Butera asked that this be referred to the Corporation Counsel, William Buckley, Jack Schweitzer and the Planning Commission. Mayor Sauer so ordered.

20 - COMMUNICATION - Report from City Engineer Jack Schweitzer regarding Lakeview Avenue, Lot 103, expressing the opinion that there is no value in the City owning this property. Mr. Renz asked that this be referred to the Corporation Counsel for a report back in thirty days. Mayor Sauer so ordered.

21 - COMMUNICATION - Letter from Attorney Robin A. Kahn asking on behalf of Sunrise Lake Associates that the City accept from Sunrise Lake Associates a parcel of land consisting of 4,652 square feet which is located at the intersection of Boulevard Drive and Kenosia Avenue. Mrs. Butera asked that this be referred to the City Engineer, and the Planning Commission for a report back in thirty days. Mayor Sauer so ordered.

22 - COMMUNICATION - Letter from Richard A. Dice requesting permission to lease land on the Airport for constructing hangars. Mr. Connell asked that this be referred to an ad hoc committee, the Airport Administrator and the Aviation Commission. Mayor Sauer so ordered and appointed Council Members Bundy, Connell and Cassano to the committee.

23 - COMMUNICATION - A letter from Muriel and Gerald Keeler offering to sell 68 acres of land to the City for expansion of the Mall. The communication was accepted on the Consent Calendar.

24 - COMMUNICATION - Letters from Mayor Sauer and Dominic Setaro outlining a new method of payment for delinquent taxes. Mrs. Butera asked that this be referred to an ad hoc committee, the Comptroller, the Tax Collector and the Corporation Counsel. Mayor Sauer so ordered and appointed Council Members Moran, Nimmons, and Charles to the committee.

**25 - COMMUNICATION** - Letter and Agreement from Attorney James M. Mannion regarding a sewer line through properties of Consolidated Rail Corporation located in the City. Mrs. Butera asked that this be referred to an ad hoc committee, the Corporation Counsel, William Buckley, Jack Schweitzer and the Planning Commission. Mayor Sauer so ordered and appointed Council Members Regan, Bundy and Butera.

**26 - COMMUNICATION** - Proposed Amendment to the Pre-Development Master Agreement. Mr. Eriquez asked that the two items be split and that the communication dated October 19th be considered as item 26 and the item dated October 26th be moved to the end of the agenda.

Letter from John J. Sullivan stating that since the agency is currently without an Executive Director, it is necessary to amend Section 19.C.(5) of the Pre-Development Master Agreement and asking Council approval of same. Mr. Godfrey made a motion to accept the communication and grant the approval. Seconded by Mr. Eriquez. Motion carried unanimously.

**27 - COMMUNICATION** - Letter from Mayor Joseph H. Sauer together with an Energy Analysis Survey seeking approval for the conducting of a survey in the Danbury schools. Mrs. Butera asked that this be referred to an ad hoc committee, the Superintendent of Schools, the Comptroller and Richard Palanzo. Mayor Sauer so ordered and appointed Council Members Nimmons, Renz and DaSilva to the committee.

**28 - COMMUNICATION** - Letter from Executive Director of the Parking Authority asking that a committee be established to review the Library Place garage project. Mrs. Butera asked that this be referred to an ad hoc committee, the Parking Authority, the Comptroller and the Planning Department. Mayor Sauer so ordered and appointed Council Members Renz, Nimmons and Flanagan.

**29 - COMMUNICATION** - Letter from Fire Chief Monzillo requesting that a committee be established to examine procedures to defray the cost of present and future ambulance services. Mrs. Danise asked that this be referred to an ad hoc committee, the Fire Chief and the Comptroller. Mayor Sauer so ordered and appointed Council Members Moran, Connell and Gallo to the committee.

**30 - COMMUNICATION** - Letter from Philip LoPresi regarding potential solutions for the problems relation to the removal, disposal and recycling of construction and demolition debris. The letter was accepted on the consent calendar.

**31 - COMMUNICATION** - Letter from Controller Dominic Setaro regarding the bids received for the fence repairs for Wooster Cemetery and stating that it is his determination that Public Buildings should take care of the repairs. Mr. Eriquez made a motion to accept the communication and authorize the appropriation from the Public Works budget to make the repairs. Seconded by Mr. Godfrey. Motion carried unanimously.

**32 - COMMUNICATION** - Letter from State Representation Barbara Ireland regarding Route 7 Aquifers. Mr. Godfrey asked that this be referred to an ad hoc committee, the Planning Department and the Coordinator of Environmental Services. Mayor Sauer so ordered and appointed Council Members Bundy, Danise and Godfrey to the committee.

**33 - COMMUNICATION** - Letter from Superintendent of Public Buildings Richard Palanzo asking that the bids be waived regarding replacing the heating system at the Police Department. Mr. Eriquez made a motion that the waiver be granted as long as the Board of Awards process is followed. Seconded by Mr. Moran. Motion carried unanimously.

**34 - COMMUNICATION** - Letter from Corporation Counsel Robert Resha asking for permission to hire outside counsel for the Garcia case. Motion carried with the members voting as follows:

Yes - Gallo, Esposito, Godfrey, Flanagan, Zotos, Cresci, Charles Bundy, Butera, DaSilva, Eriquez, Regan. No - Bourne, Connell, Moran, Renz, Nimmons, Fazio, Shaw, Danise. 12 yes, 8 no.

**35 - COMMUNICATION** - Letter from Assistant Corporation Counsel Eric L. Gottschalk clarify his previous memo regarding Capitola Road. Mr. Connell asked that this be referred to the previous committee on Capitola Road. Mayor Sauer so ordered. The committee consists of Council Members Connell, Gallo and Zotos.

**36 - COMMUNICATION** - Letter from Corporation Counsel Robert Resha stating that there is a conflict of interest with regard to a Tim Ralph of 20 Wintergreen Hill Road who has allegedly illegally been operating a limousine service from his home. Mr. Resha is asking for permission to hire outside counsel. Mrs. Butera asked that this be referred to an ad hoc committee and the Corporation Counsel. Mayor Sauer so ordered and appointed Council Members Bundy, Danise and Butera to the committee.

**37 - DEPARTMENT REPORTS** - Parks and Recreation, Public Works, Airport, Police Department, Health Department, Fire Chief, Fire Marshall, Building Department. Mr. DaSilva made a motion to accept the department reports and waive the reading of same as all members have copies which are on file in the Office of the City Clerk. Seconded by Mr. Connell. Motion carried unanimously. Mr. Zotos noted that the Police Department is doing an excellent job and drug arrests have increased substantially.

**38 - REPORT & ORDINANCE** - Amendment to Subsection 18-16(a) Property Tax Exemption.

Mr. Nimmons submitted the following report and ordinances:

The Common Council met as a committee of the whole, immediately following a public hearing on October 17, 1988 in the Common Council Chambers in City Hall. Mr. Eriquez made a motion that adoption be recommended to the full Common Council. Seconded by Mr. Charles. Motion carried with Mr. Shaw abstaining.

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

That subsection 18-16(a) of the Code of Ordinances of Danbury, Connecticut be and hereby is amended to read as follows:

- (a) Any person entitled to an exemption from property tax applicable to the assessed value of property up to the amount of \$3,000, as provided under Subdivision 17 of Section 12-81 of the Connecticut General Statutes, shall be entitled to an additional exemption from such tax in an amount up to \$2,000 of such assessed value, provided such person's qualifying income does not exceed the applicable maximum amount as provided under Section 1 of Public Act 87-404.

THAT subsections 18-15(b) and 18-15(c) of the Code of Ordinances of Danbury, Connecticut be and hereby are amended to read as follows:

- (b) Any veteran entitled to an exemption from property tax in accordance with Subdivision 19 of Section 12-81 of the Connecticut General Statutes shall be entitled to an additional exemption applicable to the assessed value of property up to the amount of \$1,000, provided such veteran's qualifying income does not exceed the applicable maximum amount as provided under Section 1 of Public Act 87-404.
- (c) Any veteran's surviving spouse entitled to an exemption from property tax in accordance with Subdivision 22 of Section 12-81 of the Connecticut General Statutes shall be entitled to an additional exemption applicable to the assessed value of property up to the amount of \$1,000, provided such surviving spouse's qualifying income does not exceed the maximum amount applicable to an unmarried person as provided under Section 1 of Public Act 87-404.

The Report and Ordinance were adopted on the Consent Calendar.

Mr. Nimmons submitted the following report and ordinance:

The Common Council met as a committee of the whole immediately following a public hearing on October 17, 1988 at 7:30 P.M. in the Common Council Chambers. Mr. Eriquez moved to recommend adoption of the ordinance to the Common Council. Seconded by Mr. Flanagan. Motion carried unanimously.

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

Findings of Fact. The Common Council of the City of Danbury hereby declares that a local housing partnership be formed, in accordance with P.A. 88-305, in order to develop ways to increase the supply and availability of affordable housing in Danbury.

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

Section 1. Housing Partnership Created. There is hereby created the Danbury Housing Partnership, appointed by the Mayor. The Partnership shall consist of the following members:

- (a) The Mayor of the City of Danbury;
- (b) Representatives of the planning commission, zoning commission, environmental impact commission, housing authority and any local community development agency, not to exceed 5 in number;
- (c) Representatives of the local business community, such as local bankers, realtors and developers, not to exceed 5 in number;
- (d) Representatives of public interest groups, such as housing advocates, members of the clergy, members of local civic groups and representatives of local nonprofit corporations, not to exceed 5 in number; and
- (e) Local urban planning, land use and housing professionals, not to exceed 5 in number.

Section 2. Responsibilities of the City of Danbury, in order to receive initial designation under the Connecticut Housing Partnership Program. The responsibilities of the City of Danbury, in order to receive initial designation under the Connecticut Housing Partnership program, shall include the following:

- (a) Submit evidence to the Commissioner of Housing that the Danbury Housing Partnership has been formed in accordance with P.A. 88-305; and
- (b) Submit evidence to the Commissioner of Housing that sufficient local resources have been committed to the Danbury Housing Partnership.

Section 3. Duties of the Danbury Housing Partnership, in order to receive development designation under the Connecticut Housing Partnership Program. The duties of the City of Danbury Housing Partnership, in order to receive development designation under the Connecticut Housing Partnership Program, shall include the following:

- (a) To examine and identify housing needs and opportunities in the community;
- (b) To explore the availability of any state, municipal or other land that is suitable for the development of affordable housing;

(c) To review applicable zoning regulations to determine whether such regulations restrict the development of affordable housing in the community;

(d) To identify any necessary changes to such regulations;

(e) To establish priorities and develop a long-range plan to meet identified housing needs in the community consistent with regional housing needs;

(f) To establish procedures for the development of a written proposal to achieve such priorities in accordance with said plan; and

(g) To start an activity, development or project designed to create additional affordable housing in Danbury.

Section 4. Conflicting Resolutions, Orders, Rules and Regulations Suspended. At all times when any orders, rules and regulations made and promulgated pursuant to this ordinance shall be in effect, they shall supersede all existing resolutions, orders, rules and regulations insofar as the latter may be inconsistent therewith.

Section 5. No Conflict with State or Federal Statutes. This ordinance shall not be construed so as to conflict with any State or Federal Statute, rule or regulation.

Section 6. Expenses of the Danbury Housing Partnership. No person shall have the right to expend any public funds of the City in carrying out any Partnership activities authorized by this ordinance without prior approval by the Common Council nor shall any person have any right to bind the City by contract, agreement, or otherwise without prior and specific approval of the Common Council.

EFFECTIVE DATE: This Ordinance shall take effect thirty days after adoption and publication, as provided by law and section 3-10 of the Charter of the City of Danbury, Connecticut.

The report and ordinance were accepted on the Consent Calendar.

**40 - REPORT & CERTIFICATION** - Mr. Moran submitted the following report. Certification attached.

The ad hoc committee appointed to review the resolution of the DEP order regarding the former salt/sand facility located in the King Street/Clapboard Ridge Road area met in the Fourth Floor Lobby in City Hall at 7:00 P.M. on October 13, 1988. In attendance were committee members Moran, DaSilva and Nimmons. Also in attendance were Daniel Minahan and Dominic Setaro.

Mr. Minahan explained the urgency of the matter. Failure to comply with this order subjects the recipient to penalties under Sec. 22A-438 and injunction under Sec. 22A-435 of the Connecticut General Statutes. This was entered as an order of the Commissioner of Environmental Protection on April 2, 1987 to the City of Danbury. Mr. Setaro stated that money in the amount of \$100,000 has been set aside to cover this expense.

Mr. DaSilva made a motion to appropriate the sum of \$99,429.61 to clean up the salt/sand problem on Clapboard Ridge as per the order from the DEP pending certification from the Comptroller and that the Mayor be authorized to enter into any agreement to achieve completion of the Order.

Mr. DaSilva made a motion that the report be accepted and the transfer of funds authorized. Seconded by Mrs. Butera. Motion carried unanimously.

Mrs. Bourne submitted the following majority report:

The Common Council Committee charged to review the Agreement, Willmorite's request for a drainage easement onto the City's Airport property, met for the final time on Tuesday, October 11th, at 7:30 P.M. in Room 432 of City Hall. In attendance were committee members Bourne (Chair), Connell and DaSilva. Ex-officio members present--Fazio, Shaw, Bundy, Regan, Danise & Moran. Also attending were: Atty. Driscoll, A. Friedrich, B. Zohn, D. Setaro, P. Estefan, Atty. Mannion, David Rice (Sear-Brown), B. Gawe, D. Boughton, J. Justino and others not recognized by the Chair.

### The Proposal

The Willmorite Corporation wants to add a fifth anchor store. They are short 150 parking spaces, and wish to fill in their ponds adjacent to the Sears side of the mall to create additional parking. They are requesting a drainage easement from the City to drain their water across the street onto Airport property. The easement, a perpetual easement, which according to *Black's Law Dictionary* means, "never ceasing; continuous; enduring; lasting; unlimited in respect of time; continuing without intermission or interval."

### The Property

The Airport property in question is labeled "wetlands" and is approximately 33 acres. The area would be completely cleared of all trees. According to Leon Cleary of Sear-Brown, the 33 acres would be divided as follows: pond - under 10 acres; the T-hanger area - 8 acres; and the remaining 15 +/- acres - the flood storage area.

### The Exchange

In exchange for the easement, under the negotiated agreement, listed below is what the City would receive and approximate dollar values (according to Mr. Friedrich):

- (1) Detention Pond/Flood Storage Area - \$2.8 Million
- (2) T-hangers - \$1,135,000
- (3) Lighting in T-hanger area - \$60,000
- (4) Salt Storage Building - \$145,000
- (5) Security Fence & Gate - \$90,000
- (6) Fill Placement for Future Adm. Bldg. - \$130,000
- (7) Backus Ave. Box Culvert - \$230,000
- Total Approx. - \$4.6 Million

At our committee meeting (7/19), Mr. Friedrich stated, "it is my belief that the actual cost that would be involved here would be somewhere between \$3,750,000 and approximately \$4,500,000." He went on to say that the realistic figure is approximately \$4 Million. However, there are no minimums or maximums. What this means is that the City will receive items 1-7 listed above whether the cost is \$1 or \$6 million.

### The Agreement

The agreement that was submitted to the Council for its June 27th meeting has been changed. Although the original document submitted to the Council does not say "draft," and was not presented to the Council as such, the Committee on July 19th was told that it was a draft. And although from its cover sheet, it gives the impression that it was submitted by the City's Corporation Counsel, the document was prepared by Willmorite's attorney's. The Chair stated in regards to the original document (June 16, 1988) "that in its present form the Agreement does not even come close to providing minimal protection for the City." The Chair pointed out that:

- There is no protection/recourse language for the City should the drainage system fail.
- There is no mention regarding maintenance/upkeep of the pond.
- No timetables are specified. I believe that the agreement should not allow the mall to drain onto the City's property until all conditions of the agreement have been met.
- Willmorite's contractors will be working on City-owned property. The Agreement is lacking an indemnification clause whereby there is agreement to hold the City harmless from any claims or liabilities from their working on the site.
  - There are no guidelines or warranties set forth in the agreement that certain specifications or standards should be applied/or should be met. Parameters must be specified in the agreement.
  - There is no mention in the agreement referencing liability insurance. Amounts, terms and conditions acceptable to the City should be spelled out in the agreement.
  - The agreement does not include anything about a performance bond.
  - The Chair asked that language protecting the City (as stated above) be added to the "draft" agreement. Mr. Friedrich agreed. A draft agreement dated July 27, 1988, was sent to Corporation Counsel incorporating the requested changes.

### Department of Finance

The Chair requested from the Acting Director of Finance, D. Setaro, (copy of response is attached dated 7/14/88) a five-year history listing Airport's expenses and revenues:

<u>Year</u>	<u>Revenues</u>	<u>Taxes</u>	<u>Expenditures</u>	<u>Deficit</u>
87-88	78,747	61,101	205,000	-65,152
86-87	73,156	69,760	200,409	-57,493
85-86	74,817	61,854	188,538	-51,867
84-85	46,122	56,759	175,311	-72,430
83-84	65,764	46,441	161,695	-49,490

(Note: The above figures do not include capital expenditures or City's match to federal and state grants. Also, 87-88 year is an estimate, not final figure.)

In Mr. Setaro's opinion, "if the City were to realize the projected rental rated from the T-hangers that Mr. Estefan has indicated to me could be charged, it appears that the airport could become self-sufficient." The total amount realized from the T-hangers and the offices (if fully rented) per month will be \$19,500, or \$234,000 per year. With the estimated revenue from the T-hangers a 5-year projection is as follows:

<u>Year</u>	<u>Revenue</u>	<u>Expenses</u>	<u>+ or -</u>
1	331,000	276,000	+ 55,000
2	347,550	298,080	+ 49,470
3	364,928	321,926	+ 43,002
4	383,184	347,681	+ 35,503
5	402,333	375,495	+ 26,838

The above assumes that the City's expenses will continue to rise approximately 8%, and revenues increase 5%.

#### The Airport Administrator (attach. )

Mr. Estefan is in favor of the agreement as it provides drainage improvements and financial income. An additional personnel, airport maintainer, is needed for this project, but no additional equipment will be necessary, according to Mr. Estefan.

#### The Engineering Department

The reports are attached.

#### The FAA

The FAA in a letter dated September 22, 1988, (copy attached) concurred with the proposed use of airport land, stating that the proposal is consistent with the Airport Layout Plan. It was stated in the letter "that any revenue from the lease would not have to be reimbursed to FAA." However, monies must be dedicated for airport operation and/or development. Monies cannot be used towards matching local shares or subsequent FAA grants. The FAA wants assurances from the City prior to their acceptance of the proposal as follows:

- a. all environmental permits can be obtained;
- b. final plans and specs for T-hangers and retention ponds to ensure compliance with FAA airport standards;
- c. A review of the lease documents; and,
- d. An assessment from a state wildlife agency concerning the potential bird hazards that might be created by the retention ponds.

#### The Committee

J. DaSilva moved to approve request to drain onto airport in exchange for benefits to the City of Danbury as specified in the negotiated agreement between the City of Danbury and the Willmorite Corporation, subject to any stipulations by the FAA. B. Connell seconded. The motion passed with Messrs. DaSilva and Connell voting yes. Committee Chair, Mrs. Bourne voted no.

The Chair stated that she would write both a majority and minority report and moved to adjourn.

#### The Planning Commission

The Planning Commission at its meeting October 19, 1988, voted a positive recommendation for the Department Store Expansion Agreement...for reasons stated in the Staff Report dated 10/13/88 revised 10/19/88.

Mr. Godfrey made a motion to accept the majority report and accept the request as stated in the negotiated agreement. Seconded by Mrs. Butera. Mr. DaSilva asked for clarification of the requirement of a two-thirds vote for acceptance of an easement. Mr. DaSilva stated that in all his years on the Common Council he could not remember an easement requiring anything but a simple majority vote. Mr. Resha stated that Section 3-17 of the Charter requires a two-thirds vote. Mr. DaSilva stated that he was still unclear on the necessity of a two-thirds vote. After a brief recess, Mr. Resha stated that he could interpret the Charter no other way than that a two-thirds vote is required. Mr. DaSilva moved to appeal the decision. In light of the confusion, Mr. Gallo moved to table the item until more research could be done on this subject. Seconded by Mrs. Butera. Motion failed with Council Members Gallo, Butera and DaSilva voting in the affirmative.

Mr. Regan stated that after discussions with the Airport Administrator, he is convinced that there is a need for this proposal.

Mr. Moran read from the Code of Ordinances regarding Wetlands and Water Courses and stated that he is against this proposal.

Mr. Bundy read a statement in favor of the proposal.

Mrs. Bourne then submitted the following minority report:

### The Property

On July 19, 1988, Council members Bourne, Connell, Danise and Bundy along with A. Friedrich, P. Estefan, and L. Cleary (Sear-Brown) took an on-site walking tour of the property in question. We walked the entire length of one side. I wore boots, expecting the property to be very marshlike and muddy. Even though there had been numerous recent rain storms, the boots were not necessary--the grounds were not muddy at all. The property is very lush with plantings and many trees. It is a very serene and beautiful parcel of land, caressed on one side by a small stream. We heard and saw birds and also a rabbit. All trees would be cut down and removed from the property if the Council votes favorably on this agreement. Furthermore, wildlife on the property would be displaced.

### The Proposal

I do not believe the proposal which has been negotiated is beneficial to the City. A look at whether improvements, purported to be worth \$4 million dollars is a fair trade for a perpetual easement to 25 acres (8 acres the City would use) is somewhat hampered or clouded by the present City-controlled land use description of the property. However, I can still draw forth some analyses to make comparisons:

- The State has recently (1988) settled with the City for land it took adjacent to the airport some years ago for \$237,000 per acre.
- The Wilmorite Corporation sold land across the street from the airport to Toys-R-Us for \$289,000 per acre.
- An Appraisal report (April 1988) valued airport land at \$261,000 per acre (x 25 acres = \$6,525,000).
- That same appraisal suggested a per acre lease price of \$8,700 per year (x 25 acres = \$217,500). Increases of \$.04 every five years per square feet of land (43,560 sq. ft. to an acre) would result in an increase of \$43,560 for a then yearly lease fee of \$261,061. Furthermore, the lessee may be required to pay real property taxes on the acreage.)
- A 1.03 acre parcel in the vicinity of the airport on Miry Brook Road sold recently for \$300,000.

Although Acting Director of Finance, D. Setaro, has stated that it is not a fair analysis (since at the end of five years leases could be adjusted), a ten-year projection based upon the exact revenue and expense projections that Mr. Setaro used in his analyses clearly shows that the agreement is a short-term solution to airport profitability. The ten-year projection shows that the airport would again be operating at a loss by the eight year.

Danbury Airport  
10-Yr Projection  
(based on 5-yr projection prepared by Acting Director of Finance Dominic A. Setaro)  
(letter dated 7/14/88 to L.D. Bourne)

	Year									
	1	2	3	4	5	6	7	8	9	10
<b>"T-Hanger Project"</b>										
Revenues*	234000	245700	257985	270884	284428	298650	313582	329261	345725	363011
Expenses*	52000	56160	60653	65505	70745	76405	82517	89119	96248	103948
Net	182000	189540	197332	205379	213683	222245	231065	240143	249476	259063
<b>"Normal Operations"</b>										
Revenues	97000	101850	106943	112290	117904	123799	129989	136489	143313	150479
Expenses	224000	241920	261274	282175	304750	329129	355460	383897	414608	447777
Net	-127000	-140070	-154331	-169886	-186845	-205330	-225471	-247408	-271295	-297298
<b>Overall</b>										
Revenues	331000	347550	364928	383174	402333	422449	443572	465750	489038	513490
Expenses	276000	298080	321926	347681	375495	405535	437977	473015	510857	551725
Net	55000	49470	43001	35493	26838	16915	5594	-7265	-21819	-38236

Notes: Revenues are projected to increase by 5% p.a. Expenses are projected to increase by 8% p.a.

## The Drainage Improvement

Mr. Estefan stated in his July 13, 1988, letter to the Chair that a drainage system is needed and that there are current drainage problems at the airport. At the July 19th meeting Mr. Estefan indicated that the proposed drainage system would not solve the entire airport's drainage problem, but only that area surrounding the proposed pond area. However, if the City were to resolve the drainage at the airport, the federal government would pick up 90% of the cost; the state 7-1/2%, and the City would contribute 2-1/2%.

## The Negotiation/Agreement

The City's Engineering Department, and the Finance Department were not a party to this agreement. Until the Controller's and Engineering offices were contacted by the Chair in July, they had not been called upon to provide any insight or opinion. Additionally, it was not until the Chair raised questions to the Corporation Counsel in July that it was discovered that the FAA had to review the documentation because "if a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects...leased, or funded property on or off the airport....and, "If it is not in conformity with the approved Airport Layout Plan, there is a possibility that the Secretary would make the City bear all costs of restoring such property (Airport and Airways Improvement, 49USCS Appx §2210(15).

## The Alternatives

- Build a parking garage; or
- Purchase additional land adjacent to the mall property such as the Keeler property or others, and use for drainage.

## The Wetlands

According to the City's own code of ordinances in following with State statute, "The inland wetlands and watercourses of the City are an indispensable and irreplaceable but fragile natural resource...." "The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water;...and to the existence of many forms of animal, aquatic and plant life."

"Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of deposition, filling or removal of materials...or the diversion...of water flow....

The City's own ordinance Sec. 23-5 states in essence that in granting a permit the Commission (EIC) must make and support in writing that no other location on the subject parcel or,...no other available location could be reasonably utilized....

## Summary

I reviewed all documentation on file in the Planning and Zoning offices regarding the Danbury Fair Grounds--Danbury Fair Mall materials. Willmorite has had approvals all along to have five (5) anchor stores. And they knew how many parking spaces were necessary to achieve that goal. When Willmorite sold its vacant land to Toys-R-Us for \$289,000 per acre, they made a business decision. Whether the City of Danbury was consulted, prior to their decision, I do not know. However, I do know that I will not be a party to the City allowing any developer to assault the property belonging to the City of Danbury.

When I voted in favor of the concept, I saw a cash settlement negotiation that could be used for City improvements such as a parking garage on the Jackson-Hansen site for downtown Danbury.

When Mr. Resha wrote to the FAA 8/24/88, he provided a value on the property which was compiled and estimated by the municipal assessor as follows:

- 16 acres @ primary unimproved land \$200,000/acre = \$3,200,000.
- 17 acres wetlands (residual) @ \$12,500 per acre = \$255,000.

Total 33 acre parcel estimate = \$3,455,000, or overall \$105,000 per acre.

We have allowed areas in Danbury to be built on wetlands. And where today is any acreage assessed at \$12,500 per acre? Not in Danbury!

I urge my colleagues to vote no to this agreement.

Mr. DaSilva make comments on the minority report and stated that the garage would be unsightly. Mr. Shaw stated that he agrees with the minority report and objects that this issue has become a political football. Mr. Cresci stated that he has received many calls from constituents and most of them are not in favor of transferring the land to Wilmorite. Mr. Eriguez stated that he supports the majority report and stated that he feels a garage would be unsightly; that the wetlands would be regulated; that selling the land would be a mistake and that the tax base would benefit. He also stated that he is appalled at the remarks directed at the Mayor regarding his efforts in negotiating this deal.

Mr. Flanagan stated that this is a very complex issue and is not convinced that this would best benefit the City. He also has spoken to many constituents who are not in favor of this proposal. He stated that all land need not be altered to benefit a developer. Mrs. Bourne moved the question. Seconded by Mr. Moran. Motion carried. The main motion on accepting the majority report failed with the members voting as follows:

**YES** - Connell, Gallo, Esposito, Godfrey, Zotos, Charles, Bundy, DaSilva, Eriguez, Regan. **NO** - Bourne, Renz, Moran, Flanagan, Nimmons, Fazio, Shaw, Butera, Danise, Cresci.

**42 - REPORT - Appointment as Solid Waste Manager.**

The committee appointed to review the request from Mayor Sauer to appoint Michael Cech to the position of Manager of Solid Waste met on Monday, October 24, 1988 at 8:30 P.M. in Room 432 in City Hall. In attendance were committee members Bundy, Regan and Flanagan. Also present were Director of Public Works Daniel Minahan, Coordinator of Environmental Health Services Jack Kozochowski, Superintendent of Highways David Gervasoni, Director of Personnel Manny Merullo, Acting Director of Finance Dominic Setaro, Mayoral Aide Michael Cech and Council Members Bourne and Danise, ex-officio.

Mr. Bundy discussed the Mayor's letter of September 27, 1988 wherein he expressed his desire to create a new position in the Public Works Department entitled Manager of Solid Waste. The garbage situation and its accompanying problems and possible solutions were outlined along with the urgency of the situation especially as regards the landfill.

Mr. Regan asked questions regarding the Table of Organization and how it would be affected if the new position was approved. Mr. Minahan explained that the position would be under his supervision and the person filling the slot would report to him. Mr. Bundy requested Mr. Minahan to clarify an apparent contradiction in the communication entitled "General Manager of Solid Waste Job Description". Specifically on page 3, paragraph 1 it is stated, "He would report directly to both the Public Works Director and the Mayor while on the schematic it is shown that the General Manager of Solid Waste reports only to the Director of Public Works. Mr. Minahan explained that the schematic was correct and the narrative was incorrect. Therefore it is established that the new position would report directly to the Director of Public Works.

Mr. Minahan elaborated on the need for a Manager of Solid Waste pointing out that the decision this City makes regarding the disposal of waste would be one that will impact all of us for the next 20 to 25 years. He went on to state that it is his feeling that Mr. Cech is well qualified and quite knowledgeable in the field, having participated on a daily basis in keeping abreast of the City's position on this issue. Mr. Cech has represented the City at meetings held by the HRRRA and the CRRA. He has participated along with Mr. Bundy in examining all alternatives in the garbage disposal industry having served on the Technical Advisory Team and the Mayor's Select Task Force for recycling.

Mr. Bundy produced for the committee's review a letter from Nick Nero, Civil Service Commissioner, which stated that the position of Manager of Solid Waste would be exempt from Civil Service. Mrs. Danise asked Mr. Cech if he felt uncomfortable in that he would not be protected by Civil Service and therefore be serving at the discretion of the Mayor. Mr. Cech responded that he felt that his performance would benefit the City and he had confidence that the job would only last four to five years. As far as Civil Service protection Mr. Cech advised that he personally requested the exemption so as not to create a position which could become permanent thereby burdening the City with the expense of filling a position which may become unnecessary five years from now.

Mr. Flanagan asked Mr. Cech as to why he felt this problem warranted a full time position and was not one that could be handled along with his other duties. Mr. Cech responded by stating that the position requires the full attention and resources of a qualified person due to its magnitude and potential impact on the community in the years to come. He went on to state that the landfill and its present conditions are approaching a critical stage and demands full time attention. The problem as regards resource recovery is its constantly changing technology that demands one to be on top of the situation. Mr. Cech further advised that the Mayor was the individual who wished to create a separate position for this problem basing his decision on the amount of work required to protect the City and to insure that its populace get the best available solution on board and working as soon as possible.

Mr. Setaro stated that the salary and accompanying benefits for the position would amount of \$63,967 and be certified that it would be paid out of the Landfill account.

Mr. Flanagan expressed concern over the legality of creating this position and wanted to be assured that it is within the scope of the Mayor's authority.

Mr. Bundy made the motion to recommend to the Common Council that Michael Cech be appointed Manager of Solid Waste for the City of Danbury with such position being a Mayoral appointment and subject to Corporation Counsel's written opinion stating that this appointment is within the Mayor's authority and within the scope of the City Charter and subject to certification of the October 4, 1988 communication entitled, "Landfill Fund Adjustments and Others" from Dominick Setaro to the Common Council. Seconded by Mr. Regan. Motion carried unanimously.

Mr. Godfrey made a motion that the report be accepted and the appointment confirmed. Seconded by Mrs. Danise. Mr. Flanagan asked the Corporation Counsel if the Mayor could create as many exempt positions as he cares to. Mr. Gottschalk replied that he must act within the confines of the Charter and the General Statutes. Mr. Gallo asked if the Council needs to confirm this appointment. Mr. Gottschalk replied no, but a transfer of funds is required. Motion carried unanimously.

#### 43 - REPORT - Discount for Paying Taxes in Full in Advance.

Mr. Charles submitted the following report:

The Common Council Committee appointed to review the possibility of giving a discount to citizens who pay their taxes in full in advance met on October 6, 1988 at 7:00 P.M. in Room 432 in City Hall. In attendance were committee members Charles and Nimmons.

A letter from Assistant Corporation Counsel Eric Gottschalk to Mayor Joseph Sauer was read. The letter stated that no statutory authority was available without an enabling act. Waterbury is the only City in Connecticut that has such an act. A letter from the Waterbury Tax Collector was read. It stated that a one percent discount was allowed if property taxes were paid in full. Taxpayers did not avail themselves of this discount since interest from banks was more attractive.

Mr. Nimmons made a motion not to recommend the discount. Seconded by Mr. Charles. Motion carried unanimously.

The report was accepted on the Consent Calendar.

**44 - REPORT** - Request for Extension of Time for Sewer Extension on Boulevard Drive.

Mr. Nimmons submitted the following report:

The committee appointed to review the above request met on October 18, in City Hall. Present were committee members Nimmons and Regan. Also, William Buckley, Jack Schweitzer and Nelson Podhauser. Mr. Schweitzer and Mr. Buckley agreed to the extension of time. Mr. Regan made a motion to approve the extension of time. Seconded by Mr. Nimmons. The report was accepted on the Consent Calendar.

**45 - REPORT** - Downtown Redevelopment Project - Financial Subject Matter.

Mr. Nimmons submitted the following report:

The Common Council Committee appointed to review the Downtown Redevelopment Project met on October 19, 1988 at 7:30 P.M. in Room 432 in City Hall. In attendance were committee members Nimmons, Eriquez and Flanagan. Absent were committee members Renz and Fazio. Mr. Fazio had a previous business commitment. Also in attendance were Council Members Shaw, Charles, Bourne, Connell, Bundy and Moran, ex-officio. Also, Jack Sullivan, A. Roberts, Barbara Susnitsky, John Turk, Boyd Lossee, Attorney Ward Mazzucco, Attorney Neil Marcus, Attorney Robert Resha, Dominic Setaro, Dr. Robert Fand, Scott Ziegler, Clarice Osiecki and others.

After a question and answer period between committee members and representatives of the Redevelopment Agency and Mr. Errichetti's company, Mr. Flanagan made a motion that the committee recommend to the Common Council rejection of the proposal to amend the Master Agreement. Seconded by Mr. Eriquez.

After an extensive response against the motion from Mr. Errichetti's representatives and additional responses in favor of the motion, there being no further discussion the Chair called for a vote. The vote was unanimous to reject the proposed amendment to the Master Agreement.

The Chair thanked everyone for their patience and cooperation, and he expressed the feeling to all present that at future committee meetings on the Downtown Redevelopment Project the same cooperation will continue.

Mr. Moran made a motion that the report be accepted. Seconded by Mrs. Danise. Mr Bundy offered the following amendment:

"I move that if the developer does not meet the requirements of the Master Agreement as regarding the provision of a letter of credit or performance bond as outlined in the Master Agreement within 30 days I request the Mayor to seek an opinion from the Corporation Counsel regarding the existance of a breach of agreement by the developer. The motion to amend carried with the Members voting as follows:

**YES** - Moran, Godfrey, Flanagan, Nimmons, Fazio, Bundy, Butera, DaSilva, Eriquez, Regan. **NO** - Bourne, Connell, Gallo, Renz, Esposito, Cresci, Shaw, Charles, Danise. Mr. Zotos abstained. Motion as amended carried unanimously.

**46 - REPORT** - Assistant City Clerk's Position.

Mrs. Bourne submitted the following report:

The Committee to review the above met on September 22 and October 24. At the 10/24 meeting in attendance were committee members--L. Bourne (Chair), B. Gallo, S. Flanagan, and B. Connell (A. Cresci was unable to attend due to a work commitment). Ex-officio members present--J. Esposito and A. Regan throughout; and at times, M. Fazio, R. Bundy, H. Moran and M. Danise. Also attending, City Clerk, Mrs. E. Crudington.

Discussion began with Mr. Gallo explaining why this item was proposed for review. The Chair in response read to the Committee Corporation Counsel's summation (P.4, copy attached). The Chair stated that there does seem to be ambiguity in the Charter. However, the Council cannot correct those ambiguities through an ordinance but only through a Charter Revision Commission (Council and voter approval of the change).

Mr. Flanagan moved to recommend no change to the Assistant City Clerk's position. Mr. Connell seconded. In discussion, Mrs. Bourne asked about the addition of "Legislative Aide" title. Noone supported a change as being necessary. The motion passed with Council members Connell, Flanagan and Bourne voting yes, and Gallo no.

The Chair moved to adjourn at 7:21 P.M.

The report was accepted on the Consent Calendar.

**47 - REPORT** - Agreement between the Redevelopment Agency and H. M. Zotos Realty.

Mrs. Bourne submitted the following report:

The Committee appointed to review the above met again on October 25, 1988, at 7:33 P.M. in Room 432 of City Hall.

In attendance were Committee members Bourne (Chair), Cassano and Fazio (arrived 12 minutes late). No ex-officio members were present. Others in attendance were: Assistant Corporation Counsel, Les Pinter, Attorney Fran Collins (representing the Zotos'), Michael Zotos, and Attorney Jim Maloney, representing the Redevelopment Agency.

#### The Appraisal:

At the Committee's August 30th meeting the Chair raised the question as to why no appraisal had been completed on the parcels in question. Committee member Fazio echoed the Chair's concerns as did Councilman Charles. Jack Sullivan, Atty's. Collins and Maloney agreed to an appraisal of the parcels. Robert N. Noce, SREA, CRE, SR/WA of Robert N. Noce Associates, Inc., completed the appraisal (copy attached). Mr. Noce, as detailed in his qualifications, has been active in the real estate business for thirty (30) years.

In analyzing whether or not there are any differences in value involved in this exchange of easements, Mr. Noce wrote, "There can be no construction on either easement area. This limits the use to the provision of access to the rear from Liberty Street. On this basis the differences in land area have no bearing on value. Each party is considered to benefit equally by the exchange. Therefore, an estimate of value for each of the easements is not considered necessary."

#### Corporation Counsel:

After reviewing the proposed agreement, Atty. Les Pinter had six areas of concern as addressed in his September 29, 1988, memo (copy attached) to the Chair. These items were discussed one by one and all have now been addressed in the Agreement to the satisfaction of Atty. Pinter.

### Planning Commission:

A positive recommendation was given on July 20, 1988 (copy attached).

### The Agreement:

The Agreement is quite extensive. Two areas that may be of interest to the Council are as follows:

- There is concern that the title held by Zotos may authorize other parties to use the easement. The Zotos' will be required to give security, in the form of title insurance, that the Agency will have complete and good title. Language specifying this provision is found in Section 1, E, of the Agreement.
- Under Section 11 (c), Liquidated Damages, the Zotos' will be liable to the Agency at a cost of \$250/day the project remains uncompleted beyond the scheduled completion date.

### The Maps:

Engineer-size maps showing the existing and proposed easements are on file in the City Clerk's office.

### The Committee:

Tony Cassano moved to recommend to the Council approval of the Agreement for the exchange of easements by and between the City of Danbury acting by and through the Redevelopment Agency of the City of Danbury and H.M. Zotos Realty Corporation. Michael Fazio seconded the motion. The motion passed unanimously.

The Chair moved to adjourn at 8:27 P.M.

The report was accepted on the Consent Calendar with Mr. Zotos abstaining.

### 48 -PROGRESS REPORT - Update on City' Garbage Disposal Position.

Mr. Bundy submitted the following report:

The Common Council Committee appointed to review an update report on the City's garbage disposal position met on Tuesday, October 18, 1988 at 7:00 P.M. in the Common Council Chambers in City Hall. In attendance were committee members Bundy, Regan, Flanagan, Fazio and Godfrey. Also in attendance were Council Members DaSilva and Esposito, ex-officio, Superintendent of Public Utilities William Buckley, City Engineer Jack Schweitzer and Mayoral Aide Michael Cech.

The purpose of the committee meeting was to hear a presentation by Reuter Resource Recovery, Inc. of Eden Prairie, Minnesota. Representatives from the Reuter Company included Dominick Machia, Sales Representative, Roger Davis, Director of Marketing and Anthony Laudano, Distribution Representative. It should be noted that Reuter is the company visited by representatives of Danbury City government as well as representatives of other towns who are members of the HRRA in March, 1988.

Mr. Davis addressed the assembly and reviewed the front end recycling system Reuter employs to produce Resource Derived Fuel (RDF) and Compost as well as recyclables. Mr. Davis stated that all but 10% of the waste is recycled leaving the residuals to be landfilled or burned. Reuter currently has one plant in operation located in Minnesota. The company is building an 800 ton per day (TPD) in Florida which will produce compost exclusively. Mr. Davis commented on the fact that Reuter had obtained the necessary licensing and permitting in Florida and does not anticipate problems in Connecticut although it could be a time consuming operation (9-11 months). A video tape of the operation as well as a slide presentation was shown at the meeting.

Mr. Davis stated that the fuel pellets (RDF) have been undergoing testing at the University of Texas and have so far been deemed to be cleaner than coal. The pellets were tested out as being 20% of the minimum standard on heavy metals and produce a good burn as regards an energy source. Reuter provides its own financing which would approximate \$40,000 to build a facility in Danbury. Reuter tipping fee would be approximate \$55 per ton with escalation based on the Consumer Price Index only. Mr. Davis stated that the company has the market to take all recyclable materials as well as compost. Guarantees that would be required are simply that the community guarantee the necessary garbage. There are host town benefits that can be negotiated with the City at the time of contract. Regarding land acquisition it can be assumed that if the City provides suitable property then the tipping fee would be lower.

Mr. Davis acknowledged the fact that the recyclable markets may become soft in the future. However, the operation bases its profit/loss on the tipping fee and compost/RDF not income from recyclables.

A more detailed analysis of the Reuter proposal will be forthcoming as the committee meets. Within the next month four more companies in the area will make presentations to the committee.

The Progress Report was accepted on the Consent Calendar.

**49 - REPORT** - Lease between the City of Danbury and New England Aircraft Sales.

Mrs. Bourne submitted the following report:

The Committee charged to review the above met again on October 13, 1988, in Room 432 of City Hall at 7:47 P.M. In attendance were committee members L. Bourne (Chair) and R. Godfrey. Mr. Shaw was in Arizona. Also attending were: Asst. Corp. Council, Les Pinter; Atty. David Bennett for Mr. Whalen; Ron Whalen, Aviation Commission members, Ron Scalzo and Robert Gawe, and F.B.O., Frank Giumarra.

As a reminder, this lease is for the airport's first "AIRPORT TENANT." The major differences Airport Tenant vs. an FBO is that the "tenant" can operate only in one category and leases less than five acres.

The major change in the lease from the Committee's Progress Report of September 2, 1988, is the term of the lease. After intense discussion a compromise was reached at 25 years and one fifteen (15) year renewable option, instead of 10 years.

Messrs. Pinter, Scalzo and Bennett all had high praise for the written document. Mr. Scalzo said that this lease would be a model for future airport leases.

After reviewing the lease in its entirety, Mr. Godfrey moved to recommend to the Council approval of the lease. Seconded by Mrs. Bourne. Passed Unanimously.

Mrs. Bourne moved to adjourn at 8:45 P.M.

Mr. Eriquez moved that the report be accepted. Seconded by Mr. Flanagan. Motion carried unanimously.

**50 - PROGRESS REPORT** - Ice Skating Rink.

Mr. Bundy submitted the following report:

The committee appointed to study "Development of an Ice Skating Rink met on Thursday, October 20, 1988 in Room 432 of City Hall at 7:30 P.M. In attendance were committee members Bundy, and DaSilva. Also in attendance were Director of Parks and Recreation Robert Ryerson, City Engineer Jack Schweitzer and Council Member Regan, ex-officio. Comptroller Dominic Setaro advised the committee in writing of his involvement with the project and his willingness to assist in any way possible.

Mr. Bundy requested information from the City Clerk's Office regarding Common Council activity regarding the ice rink. Mr. Bundy was assured by the City Clerk that the information given to him was all data regarding the issue. The following represents a synopsis of the activity:

March 4, 1985 - Presentation of a \$5.6 million recreational and cultural development plan requiring voter approval for bonding of which \$1,650,000 was included for ice skating rink (indoor) located at Hatters Park as part of the Town Park-Hatters Park linear recreational complex.

March 4, 1986 - Ad hoc committee regarding Cultural/Recreational Bond Issue met on January 15, 1986 and February 19, 1986. The committee which was chaired by Gene Eriquez proposed a \$5,264,000 Cultural/Recreational Bond Issue as one question to the voters. The bond included \$2,145,000 for the ice skating rink. The rink was to be completed in 1988.

December 15, 1986 - Ad hoc committee regarding request to amend the Recreational/Cultural Bond Referendum chaired by Joseph DaSilva met to consider changing the site of the ice skating rink. A question was raised as to adequate parking for the 1500 permanent seat facility. No action was taken due to the linear park concept previously accepted and "because this project has proceeded to a significant degree with funds expended for site plan and schematics.

Bonding and Ordinance Information - The following Ordinance was enacted at a meeting of the Common Council held May 6, 1986 and approved by the Mayor on May 7, 1986.

"An Ordinance appropriating \$2,909,000 for the planning, and acquisition and construction of an ice skating rink and authorizing the issuance of \$2,909,000 bonds of the City to meet said appropriations and pending the issue thereof the making of temporary borrowings for such purpose."

1. Acquisition and planning and construction of an enclosed ice skating rink in Hatters Park.
2. Pavement of the adjacent parking lot.
3. Purchase of related equipment including a zamboni machine.
4. Engineering and Architect fees.
5. Fees, interest, legal, administrative and other related costs.

Approved by Referendum on June 17, 1986.

Recreational/Cultural Bond Issue - \$5,264,000.

On September 12, 1988 Mr. Bundy had a meeting with Mr. Setaro to discuss the current status of the approved funding for the project. Mr. Setaro advised that the original proposal for the ice skating rink was made in March, 1985 and was estimated at \$2,909,000 which broke down as follows:

Construction	\$ 1,655,000
Architects	290,000
Equipment	200,000
Contingency	321,750
Bond Issue Expense	44,000
Bond Interest Expense	398,250
Total	<u>\$ 2,909,000</u>

The site selection of Hatters Park was, according to the Common Council correspondence based on the linear park concept which locates several recreational facilities in the same area. However, as early as December 15, 1986 there was concern that the site was inadequate to accommodate parking for a 1500 permanent seat facility. It is unclear where the 1500 number came from since subsequent architectural plans call for either a 750 or 1000 seat facility. In any case there is not adequate space at present for parking whether it be for 750, 1,000 or 1,500.

On January 16, 1987 a meeting was held at the Danbury Parks and Recreation Department. Present at the meeting were the following: Robert Ryerson, Leonard Sedney, former Planning Director, Basil Friscia, former Public Works Director, City Engineer Jack Schweitzer, Assistant Corporation Counsel Eric Gottschalk and others. Also present were the architects retained by the City. The purpose of this meeting was to review the schematic design progress. Drawings and a model were presented and generally approved. Discussion was held and several potential

\*Stecker, LaBau, Arneill, McManus  
problems were brought out. Specifically,

1. The issue of parking was discussed. The 160 cars shown on the site plan is the maximum for the site. However, it was noted that nearby parking areas could augment on-site parking. The architect suggested a comprehensive study of the entire recreational area could resolve some of the parking problems. The owner requested a proposal to design additional parking across Hayestown Road.

2. Water is available on Hayestown Road. The question of sewer is unresolved. The contract documents will call for a septic system although a sewer hook-up may be available by the time construction is complete.

3. It was noted that Northeast Utilities has flood rights to the 440' elevation which incorporates the entire site. A license is required to build below the 440' elevation. The architect will provide a preliminary site plan showing existing grades and the proposed floor elevation to expediate the process.

Subsequent to the January 16, 1987 meeting the architects submitted a "Cost Estimate At Design Development Stage, Revision I". This estimate was dated April 6, 1987 and totaled \$3,625,830. In August the architects submitted a report to the City from Purcell Associates regarding "Sewage Disposal Danbury Ice Rink". In essence, the report states that the cost for sewage disposal via a vis storage tanks and weekly pumping would range from a best case scenario of \$45,000 for tanks with a \$3,500 per week pumping fee to a worst case scenario of \$148,500 for tanks with a \$6,335 per week pumping fee. These costs are enormous add-ons when one considers the City has property available with the necessary sewer accommodations.

The cost to the City for the plans totaled \$327,000 and broke down as follows:

Schematic Design	\$ 61,000
Design Development	280,000
Contract Document	153,000
Construction Observ.	33,000
Total	\$ 327,000

As of November 5, 1987 all but \$33,000 (construction observ.) has been paid to the architects.

On March 10, 1988, City Engineer Jack Schweitzer sent a letter to the architects stating that the City did not want to incur any additional expenses except for Construction Observation. The architects had no other work tasked to them for which the City could have been billed at this time.

The proposal and plans submitted by the architects exceeded the approved referendum amount by nearly \$2,000,000 when one considers that the monies allocated for the construction, equipment, and contingency totaled \$2,176,750 and, the cost of their design was \$3,625,830 plus the sewage disposal costs. The design, it must be noted, contains no plans or costs for the parking facilities either. This would also lead to increased costs.

There is another proposal on the construction of an ice skating rink which was submitted by HONCO SYSTEMS, INC. in a letter dated March 28, 1988. This proposal includes all work and material needed to provide a fully functioning ice skating rink. However, the proposal excludes all work and materials beyond ten feet of the perimeter of the rink. The only work beyond this limit that will be undertaken by HONCO are the installation of septic tanks and one access to the site that will extend completely around the building. This proposed rink is not as elaborate as the one proposed by Stecker, LaBau, etc. However, even without some of the amenities HONCO's proposal is sufficient to meet the City's demands at a cost of \$2,191,800. Additional costs would still include parking facilities and sewage disposal facilities. It should also be noted that the cost of preparing architectural plans for the HONCO rink is \$75,000 as opposed to the \$327,000 sans \$33,000 that was charged by Stecker.

A major element not as yet addressed in any communications reviewed by Mr. Bundy surfaced for the first time in the HONCO letter of March 28, 1988. That is the fact that the ground may not have a sufficient compaction ratio to support the structure. The site works would entail compaction if the rink was to be constructed. The costs of such service would be approximately \$350,000 (additional).

During discussion, the committee discerned the following facts from Mr. Schweitzer:

1. As regards the Hatterstown Park site Engineering has found that soil conditions are insufficient to support the structure. Soil compaction at a cost of \$350,000 may solve this problem.

2. There are still no sewage disposal facilities in this area and the water is not owned by the City. A pumping station is planned but not yet constructed. It has been approved but the City still needs a sewer line at the site.

3. There is a problem with Northeast Utilities, specifically, the line.

Mr. Ryerson advised the committee that the proposal by Stecker, etc. was not requested or commissioned by him. He further advised that Mr. Sedney and Mr. Dyer were personally involved with the planning of the ice rink.

It has been determined that there is \$1,655,000 appropriated for the construction of this facility and \$290,000 appropriated for architectural expenses. The City has already spent \$294,000 to Stecker with another \$33,000 to be charged by them if their plan is selected. Quite obviously the City does not have the necessary funding available to pursue this project at the present time. At least not in the way it was originally proposed. To recap, the Stecker proposal would cost \$3,625,830 plus parking and sewage disposal (\$3,500 - 6,335 per week); HONCO's plan would cost \$2,191,800 plus parking and sewage disposal. The City has \$1,655,000 to spend under the present approved plan. It is clear that the City has underfunded this project even with a best case scenario in 1986. In the case of Stecker it amounts to -1,907,830 plus parking and sewage disposal and in the case of HONCO it amounts to -536,800 plus parking and sewage disposal.

It is the feeling of the committee that the City would need an additional \$1 - 1.5 million more to accomplish the original objective based on facts in this report. Since the referendum specified an amount and a site it is not within the power of government to change what has been voted upon by the electorate.

At this time the committee makes the following recommendations and charges to the Mayor's office:

1. To direct the Corporation Counsel to review the referendum on this issue specifically, what are the responsibilities of the Common Council as regards monies appropriated and if changes are necessary in financing and/or site location is a new referendum mandated. A report should be submitted to the committee chairman within thirty days.

2. To direct the Planning Director to examine the feasibility of locating the ice skating rink at the following locations: Danbury High School, Broadview Junior High School, Kenosia, Rogers Park Junior High School, City owned property on Osborne Street, Dryska Property, Tarrywile Park, Airport Property. The Planning Department should keep in mind that City sewer and water should be considered a primary requisite as well as soil compaction, ratio and parking. A report back within 60 days is required. It may be advisable to contact Schools Superintendent Anthony Singe for input regarding this matter.

The report was accepted on the consent calendar.

**PROGRESS**

51 - **REPORT** - Request for Water Extension - Meadowbrook Road.

Mr. Nimmons submitted the following report:

The Common Council Committee appointed to review the above request met at 7:30 P.M. on October 18, 1988 in City Hall. Present were Committee Members Nimmons and Regan. Also attending were City Engineer Jack Schweitzer, Superintendent of Public Utilities William Buckley and the petitioner, Frank Nazzaro.

On the recommendation of Mr. Schweitzer and Mr. Buckley, Mr. Regan made a motion to take no action until the petitioner receives further information and consults with Mr. Buckley regarding the water extension request. Seconded by Mr. Nimmons. Motion carried unanimously.

The report was accepted on the consent calendar.

52 - **COMMUNICATION** - Request for position of housing services coordinator and funding for same. - **WITHDRAWN**

26 - **COMMUNICATION** - Proposed Amendment to the Pre-Development/Master Agreement.

Letter from John Sullivan, Chairman of the Redevelopment Agency asking that the Pre-Development/Master Agreement be amended. Mr. Eriquez made a motion to accept the communication. Seconded by Mr. Godfrey. Motion carried unanimously.

53 - **REPORT** - Mobile Home Taxation. Mr. Eriquez made a motion that this report be added to the agenda. Seconded by Mr. Flanagan. Motion carried unanimously.

Mr. Shaw submitted the following report:

The committee was convened at 19:30, October 26th, 1988, with committee members Shaw and Moran, Mr. Da Silva was absent due to a prior commitment. Ex Officio member Charles. Others in attendance were mobile home owners, Mr. Dascano, Gibson, Roveto and Mrs. Dascano, Cutbirth, Di Mici, and Holohan. Attorneys Winslow and Currier were also in attendance.

Mr. Moran made a motion that we recommend to the Common Council that the taxes on mobile homes be frozen at the level of fiscal 1986-1987, until a more equitable formula of taxation may be established. Attorney Winslow said if this motion were approved, they would seek a court order ruling it null and void. Mr. Moran then withdrew his motion.

Mr. Shaw then asked the mobile home owners if they felt they were overtaxed last year, and unanimously they said no, but their attorneys were against this motion. I further stated we were only attempting to find a meeting of minds between the mobile home owners and the city.

The meeting was then adjourned with the next date to be kept in a court of law.

Mr. Moran made a motion to accept the report. Seconded by Mrs. Butera. Motion carried unanimously.

**54 - COMMUNICATION & RESOLUTION** - Rebuilding of the Main Runway at Airport. Mr. Godfrey made a motion to add this communication and resolution to the agenda. Seconded by Mr. Moran. Motion carried unanimously.

Letter from Airport Administrator Paul Estefan asking for approval to rebuild the main runway at the airport. Mr. Zotos asked that this be referred to an ad hoc committee. Mayor Sauer so ordered and appointed Council Members Bundy, Shaw and Cassano to the airport.

**55 - COMMUNICATION** - Reevaluation. Mr. Charles made a motion to add this to the agenda. Seconded by Mrs. Bourne. Motion carried unanimously.

Letter from Council Members Charles, Cassano and Gallo requesting the formation of an ad hoc committee to study the possibility of alleviating the tax burden placed on Danbury homeowners by the recent reevaluation. Mr. Godfrey asked that this be referred to an ad hoc committee. Mayor Sauer so ordered and appointed Council Members Charles, Gallo, Cresci, Shaw and Cassano to the committee.

#### PUBLIC SPEAKING

Gene Weiner, Wintergreen Hill Road - spoke regarding item 36 and stated that the Common Council should do something about enforcing existing laws and not refer everything to committee.

There being no further business to come before the Common Council a motion was made by Mr. Moran for the meeting to be adjourned at 11:04 P.M.

Respectfully submitted,

*Jimmie L. Samaha*  
JIMMETTA L. SAMAHA  
Assistant City Clerk

ATTEST:

*Elizabeth Crudginton*  
Elizabeth Crudginton  
City Clerk