

Common Council Actions

**SEPTEMBER 28, 2004
NORWALK, CONNECTICUT 8:00 PM DST, COUNCIL CHAMBERS**

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

The regular meeting of the Common Council of the City of Norwalk was held on Tuesday, September 28, 2004, in the Common Council Chambers, City Hall, 125 East Avenue, Norwalk, Connecticut. The Mayor Alex A. Knopp called the meeting to order at 8:00 pm and led the assembly into the Pledge of Allegiance.

I. ROLL CALL

Betsy Bain Bruce Kimmel
Kenneth Baker Richard McQuaid
Fred Bondi Matthew Miklave
Michael Coffey Jeanette Olmstead-Sawyer
Carvin Hilliard Kevin Poruban
Douglas Hempstead Douglas Sutton
William Krummel Peter Wien (absent)
Leona Williams

There were fourteen (14) members present at Roll Call.

II. ACCEPTANCE OF THE MINUTES

A. Regular Meeting – September 14, 2004

**** MR. KRUMMEL MOVED TO TABLE THE MINUTES UNTIL THE NEXT REGULAR MEETING WHEN THEY ARE CORRECTED.**

**** MOTION PASSED FOURTEEN (14) VOTES IN FAVOR WITH ONE (1) ABSENT**

III. PUBLIC PARTICIPATION

Mr. David Rene, representing the Connecticut Yankee Council Boy Scouts of America, stated that this evening the Common Council will vote on whether the Council will grant a permit to allow local Cub Scout Packs to use Shady Beach Park for a campfire and

recruitment program. The Connecticut Yankee Council Boy Scouts of America has urged the Common Council to recognize its obligations under the United States Constitution to approve the permit. He continued that the Boy Scout of America is one of the most inclusive youth organizations in the nation. Scouting includes boys of every race, ethnicity, religious denomination and economic circumstance, who are willing to accept the scout oath and law. Mr. Rene said that the principles of the oath and law teach scouts to be tolerant of others and show friendship, courtesy and kindness to all people. The BSA aims to allow you to live and learn as children and to enjoy scouting without immersing them in the politics of the day. It is well established that the First Amendment guarantees all citizens the right to use public parks for meetings and other express purposes. He further stated that the constitution does not allow the government officials to pick and chose which groups to allow in public parks and that the City of Norwalk allows all manner of organizations to use its parks for all sorts of gatherings. Then Mr. Rene listed the park requests on the Common Council's agenda for this evening, which included requests from the Greenwich Kennel Club and the Whittingham Cancer Center. He declared that the Constitution of America and federal law provide the BSA with the same rights to access and urged the Common Council to recognize its responsibility.

Mr. Joseph Bagen stated that he was there to lend support to the Boy Scouts. He said he was only there because of reading about it in the paper as an issue and he felt there were many more important issues for the Common Council to be concerned with. As well, Mr. Bagen commented he had read about the committee appointed by Mayor Knopp for the Youth Services Council and it seemed to him that appointing someone who would benefit the most, by the outcome of the committee's decisions, was not a good idea for the City of Norwalk.

Ms. Daisy Franklin said that she was there to support the Boy Scouts and she felt they should be allowed to have their campfire.

Mrs. Karen Lyons introduced Matthew Watson, who is her grandson and a Boy Scout. She noted that on the agenda was the use of public land by the Boy Scouts. It was her understanding that it was going into committee tonight. Ms. Lyons listed a number of varying organizations with differing beliefs that have been given permits to public parks in Norwalk. She said it was inappropriate to scrutinize one organization and disallow them use of city property because of their own beliefs. She said that the Common Council would be setting a precedent of scrutinizing organizations before they would approve organizations' use of public lands. She publicly thanked the Boy Scouts in the City of Norwalk for participating in the upcoming election as poll workers, serving the City of Norwalk for Democracy. She felt it would be terrible to disallow them use of public land.

Ms. Maria Bryant spoke for the Norwalk Preservation Trust and the Norwalk Historical Commission. She urged the Common Council to allocate funds, which are necessary funds for the farm properties than can eventually be sold for home ownership. The funds can then be cycled back into create a nature park.

Ms. Barbara Amodio introduced herself as the new chairman of the Human Relations Commission and said she supported First Amendment Rights for all people. She thanked them for supporting the rights as well.

IV. MAYOR

A. RESIGNATIONS AND APPOINTMENTS

1. Mayor Knopp announced the resignation of Ms. Linda A. Fallon, from membership of the Historical Commission.

2. Mayor Knopp stated that he put forward the name of Mr. Jerome Klein for reappointment as the Commissioner of the Transit District. Mr. Klein served for both Democrat and Republican Mayors and he served with Dedication.

**** MR. BONDI MOVED TO RE-APPOINT JEROME KLEIN TO THE POSITION OF COMMISSIONER OF THE TRANSIT DISTRICT.**

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE, FOURTEEN (14) FAVOR, ONE (1) ABSENT.**

3. Mayor Knopp put forward the name of Mr. Timothy Buzzee for appointment as Chairman of the Water Pollution Control Authority.

**** MS. BAIN MOVED TO APPOINT TIMOTHY BUZZEE TO THE POSITION OF CHAIRMAN OF THE WATER POLLUTION CONTROL AUTHORITY.**

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE, FOURTEEN (14) FAVOR, ONE (1) ABSENT.**

B. REMARKS

The Mayor hoped everyone received his or her invitation to the Second Annual Wall Street Celebration Day on October 2 from 10 a.m. to 2 p.m. It is planned as a family fun day to revitalize Wall Street. There will be samplings of international foods and announcements will be made about developments in the Wall Street area.

The Mayor commented that the federal government reversed its decision on regarding Sec. 8 rents in their area with how the rents are calculated. This was good news. He said he would distribute letters that he had written to Congressman Shays and the government.

The Mayor announced that the next day he would be attending the Connecticut Siting Council regarding routing the 345KV Cable to go from Norwalk to Middletown.

V. COUNCIL PRESIDENT

A. CONSENT CALENDAR

** MR. KIMMEL MOVED APPROVAL OF THE CONSENT CALENDAR AS FOLLOWS:

VI. REPORTS: DEPARTMENTS, BOARD AND COMMISSIONS

A. BOARD OF ESTIMATE & TAXATION

1. RESOLVED, that a sum not to exceed \$200,000 be and the same is hereby transferred from Contingency to the Police and Public Works Departments to pay for the operations of the new police station. (Account No. Various)
2. RESOLVED, that a sum not to exceed \$44,076 be and the same is hereby transferred from Contingency to the Information Technology and the Library Departments to pay for the Metropolitan Area Network (MAN).
Acct. # 01-6200-5258 & 01-0600-5258
3. RESOLVED, that a sum not to exceed \$16,000 be and the same is hereby transferred from Contingency to the Recreation and Parks Department to pay for repair and clean-up of buildings at Fodor Farm.
Acct. 01-6031-5585
4. RESOLUTION, appropriating \$118,087 for the 4-R Paving Program (Project No. 9044021-577-C0283).
5. RESOLUTION, appropriating \$931,446 for the South Norwalk Library Renovation (Project No. 09056210 5777 C0153) – CONSENT TO TABLE

B. NORWALK FACILITIES CONSTRUCTION COMMISSION

4a. RESCIND Common Council Action of March 9, 2004, Item VI.A.1. which authorized the following: "Authorize the Mayor, Alex A. Knopp, to execute an agreement with Klewin Building Company as the Construction Manager Constructor (CMc) for the South Norwalk Library Renovation Project. Terms of the agreement are provided in attached memo dated February 27, 2004.

Upon receipt of trade contractor's bids, a Guaranteed Maximum Price (GMP) will be established which will be based on the total trade contractors' bids, general conditions costs, CM fees, CM contingency and reimbursable expenses. GMP will be submitted to the Common Council for final approval.

Acct #0900/03/04-6210-5777-C0153 – CONSENT TO TABLE

4b. Authorize the Mayor, Alex A. Knopp, to execute any and all documents with AP Construction Company necessary to accept a Guaranteed Maximum Price for the South Norwalk Library Additions and Renovations Project for a total amount not to exceed \$3,450,000.00.

Acct. #0900/03/04/05-6210-5777-C0153 – CONSENT TO TABLE

4c. Establish an allowance for an Owner's Contingency for an amount not-to exceed \$335,000.00 – CONSENT TO TABLE

4d. Authorize the NFCC to issue change orders on contract for a total not to exceed the Owner's Contingency Allowance.- CONSENT TO TABLE

VII. COMMON COUNCIL COMMITTEES

A. RECREATION AND PARKS & CULTURAL AFFAIRS COMMITTEE

1. Authorize the Mayor, Alex A. Knopp, to execute an agreement with the Greenwich Kennel Club Inc. for the use of Taylor Farm Park for their 75th Annual AKC All-Breed Dog Show & Obedience Trial on June 11, 2005 from 8:00AM -7:00PM. Set up to take place 7:00AM June 9,2005. Breakdown on June 12, 2005 5:00PM. Estimated attendance 1000+

2. Authorize the Mayor, Alex A. Knopp, to execute an agreement with the Round Hill Highland Games Inc. for the use of Cranbury Park for the Annual Highland Games to be held on June 25, 2005. Set-up will take place 7:00AM June 23, 2005 and clean up by 5:00 PM June 26, 2005. Estimated attendance 1000+.

4. Authorize the Mayor, Alex A. Knopp, to execute an agreement with the Whittingham Cancer Center at Norwalk Hospital to use Calf Pasture Beach for their annual "Walk This Way ... With Us" to be held on Saturday May 14, 2005 from 6:00 AM - 3:00 PM. Estimated attendance 500+

6. Authorize the Mayor, Alex A. Knopp, to enter into an agreement with the State of Connecticut Department of Environmental Protection in providing funding under the Clean Vessel Act for the operation and maintenance of a Marine Sewage Disposal Facility for an amount of \$8,485.34 effective from December 1, 2003 through November 30, 2004

7. Authorize the Mayor, Alex A. Knopp, to extend the existing contract with the State of Connecticut Department of Environmental Protection and the U.S. Fish and Wildlife Service for the Boating Infrastructure Grant Program under Personal Service Contract 2003-3077. The one-year no cost extension will begin October 1, 2004 and terminate on September 30, 2005.

** MOTION PASSED FOURTEEN (14) VOTES IN FAVOR WITH ONE (1) ABSENT (WIEN)

Following the reading of the Consent Calendar items, Mr. Kimmel announced that on Sunday, October 3 there would be an Open House at the Fire House and on October 16th, DPW was having an Open House at their headquarters.

VII. COMMON COUNCIL COMMITTEES

B. RECREATION AND PARKS & CULTURAL AFFAIRS COMMITTEE

3. Approve the use of Shady Beach by the Connecticut Yankee Council of Boy Scouts of America for a City Wide Campfire & Recruitment Program to be held on Sunday October 24, 2004 from 5:00PM - 8:00PM. Estimated attendance 250.

**** MR. BONDI MOVED TO APPROVAL OF THE ITEM**

Mr. Kimmel requested to read an e-mail, from a Council member into the record, and was asked by Mayor Knopp to please not read it at the beginning of the discussion.

Mr. Hempstead said he was surprised that the Council would get involved with drawing a line in the sand with what organizations they would approve for use in the parks and recreation areas. He stated the issue is one of rights and they allow various religious groups and organizations usage. The right thing to do is to approve the item whether the Common Council agrees or disagrees with the Boy Scouts National Council. His experience with BSA has always been positive and he thinks it instills in children positive values.

Mr. Krummel referenced a comment he heard in the public presentation, which was that the Council Committee voted not to approve the use and he'd like to hear about what occurred at that meeting. The Mayor called upon Mr. Bondi to respond to this inquiry. The motion was that the Committee approved to send the item to the full council.

Mr. Kimmel stated that this is a very important item and although he respected what was said, his opinion was different. He referenced the Supreme Court decision of 5 to 4 in the Boy Scout case versus James Dale, an openly gay individual. Mr. Kimmel read from the opinion of Justice Stevens of New Jersey.

Mr. Coffey commented that as an elected member of the Common Council, he has to abide by the constitution and the Boy Scouts' rights are protected, just as other citizens' rights are protected.

Mr. Baker said that his decision tonight would be a difficult one. He doesn't believe the Boy Scouts are as inclusive as they say they are and he remarked that he is unsure if their statements are from ignorance, hypocrisy, or discrimination. He cited the case of a San Diego police officer, who ran an explorer program for five years through the police department. When the BSA learned the officer was gay, the officer was dismissed from the Boy Scouts, because he did not hold up their high values. Mr. Baker was unclear as to

which of the high values the police officer did not uphold. He stated that he understood the First Amendment Rights, but this instance was problematic for him and he felt the Boy Scouts of America should be called the Boy Scouts of Part of America.

Mr. Miklave said for him it was not a difficult question nor was it morally ambiguous. He felt that the large issues are in the hands of the higher courts for interpretation. In this capacity, he said he has the ability to cast a vote for what he believes is right for society. It has nothing to do with whether or not he believes in the BSA's policy, but the issue is whether any government has the right to reach in and look at a person's beliefs and based upon those beliefs make a decision. He said he doesn't think that this is the kind of society that we desire. He doesn't believe that one can say, your idea is a good idea, so you can use the park. In America, we have a fundamental right to believe what we choose to believe. Mr. Miklave said they must protect the rights of the unpopular, when it is difficult. He said he must protect the rights of the Boy Scouts without regard to what they think or believe.

Mr. Krummel commented that regardless of how the Council votes on this issue his personal feeling, about his colleagues on the Council, is that they find discrimination based on sexual preference reprehensible and not in the American tradition. He said that although they may vote in favor of this item, they do not vote in favor of discrimination. He hoped that the Boy Scouts would review their position on this issue and realize that discrimination based on sexual preference has no place in the Boy Scouts of America.

Mayor Knopp remarked that constitutional law requires the Boy Scouts of America to have the same rights as every other organization has. It is not whether they agree or disagree with the Boy Scouts on issue, but what is key is the important application of the First Amendment to this decision. He said that this decision is very different from the NJ decision. His view is that the item before them is a 9 to 0 decision. A public agency may not discriminate with granting a permit for a public forum. He supports the Boy Scouts request and by Common Council approving their request, the City of Norwalk would be asserting that the First Amendment is alive and well.

The Mayor then spoke to Councilman Kimmel regarding reading what had been written by Councilmen Wien. He said that it is a bad practice to read statements from council people who are absent, because other council members can't ask questions or debate it. He suggested that what Councilman Wien had written could be attached to the minutes or it could be a press release. He cited the Masons' Manual and read from 112 subsection 7, which stated that members do not have the right to read their own written speeches. Councilman Kimmel responded that he would very much like to read Councilman Wien's comments, because Mr. Wien had been very involved in this issue.

Ms. Olmstead-Sawyer voiced that she agreed with the Mayor and stated that sometimes the government has to step in and protect individual's rights, just as the government did with writing laws to protect African Americans. As well, she said she agreed with a comment made by a member of the public during the public presentation, which was that the Council has much more important things to discuss.

Mr. Kimmel then read Councilman Wien's statement. The statement reflected Councilmen Wien's position, which was a belief in constitutional rights, but that he was outraged with the Boy Scouts of America's point of view with their stance on homosexuality.

A roll call vote was requested.

**** MOTION WAS APPROVED BY A ROLL CALL VOTE OF TWELVE (12) IN FAVOR, ONE (1) OPPOSITION (KIMMEL), ONE (1) ABSTENTION (BAKER), AND ONE (1) ABSENT (WIEN)**

VII. COMMON COUNCIL COMMITTEES

A. RECREATION AND PARKS & CULTURAL AFFAIRS COMMITTEE

5. Authorize payment to Raymond Construction Company in the amount of \$4,450.00 and Tony Somma Mason Contractor in the amount of \$3,400.00 for the construction of the Storage Shed behind the Concession Building at Calf Pasture Beach as per terms of the Lease Agreement with Stew Leonards.
Acct. # 09026030 5777 C0069

Mr. Hempstead recused himself and left the Council Chambers.

**** MR. BONDI MOVED TO APPROVE THE ITEM.
** THE MOTION PASSED WITH THIRTEEN (13) IN FAVOR, ONE (1) ABSTENTION (HEMPSTEAD)**

Mr. Hempstead returned to the Council Chambers.

VI. REPORTS:DEPARTMENTS, BOARD AND COMMISSIONS

B. NORWALK FACILITIES CONSTRUCTION COMMISSION

1. Authorize the Mayor, Alex A. Knopp, to execute an agreement with Fletcher Thompson Inc. to provide architectural and engineering design services for the Norwalk High School Renovation and Expansion Project for a total amount not to exceed \$1,681,600.00.
Acct. 09045010 5777 B0310.

**** MR. KRUMMEL MOVED TO APPROVE THE ITEM.**

Mr. Krummel stated that this is the next significant step in the renovation of the remodeling of the Norwalk School System and that it would be the second largest project the city would be taking on, following the Brien McMahon High School renovation. Ms. Bain said that as Co-Chair of the Brien McMahon High School renovation their relationship with Fletcher Thompson has been excellent. Mr. Kimmel commented that

when they interviewed architects a number of years ago, he became familiar with Fletcher Thompson and endorsed this firm as an excellent choice.

Mr. Bondi asked if Fletcher Thompson would explore alternative energy plans. He listed a number of ways in which energy could be conserved and requested that an energy plan be utilized. He stated that the Brien McMahon High School project does not incorporate energy conservation. Mr. McQuaid remarked that he was happy to see the project move forward. It was stated at this time that West Rock Elementary School's certificate of occupancy was assured. Ms. Olmstead-Sawyer stated that she was happy to see forward movement and that their schools are looking great.

Mr. Krummel said he'd like to echo Mr. Bondi's comments to use green alternative sources for energy conservation. He said he attempted to bring alternative energy sources into the BMHS plan and that Fletcher Thompson conducted a study; however, the plan was rejected because of costs. There were other energy saving systems that could have been given more attention. He remarked that he didn't see anyone from Fletcher Thompson at the Council meeting and that he would like for them to know of the interest with energy conservation. Mayor Knopp said that the architect firm would be informed. He said the expansion and renovation is a big step forward into the 21st Century of technology. Fletcher Thompson had to go through a competitive process to obtain this contract. They were not chosen for the Kendall School project.

**** THE MOTION PASSED ONE FOURTEEN (14) IN FAVOR**

VI. REPORTS:DEPARTMENTS, BOARD AND COMMISSIONS

B. NORWALK FACILITIES CONSTRUCTION COMMISSION

2a Authorize the Mayor, Alex A. Knopp, to execute an agreement with AT&T Solution for the supply and installation of telephone system at Brien McMahon High School for a total amount not to exceed \$141,287.00.

Acct. #0902/03/04 5010-5777-C0237

2b. Authorize the NFCC to issue change order on contract for a total not to exceed \$5,000.

3a. Authorize the Mayor, Alex A. Knopp, to execute an agreement with AT&T Solutions for the supply and installation of telephone system at the New Police Station for a total amount not to exceed \$114,313..

Acct. #0903/04 0310-5777-C0137

3b. Authorize the NFCC to issue change order on contract for a total not to exceed \$5,000.

**** MR. KRUMEL MOVED THAT ITEMS VI.B.2a, 2b, 3a, AND 3b BE MOVED TOGETHER**

Mr. Miklave and Mr. Poruban recused themselves and left Council Chambers.

Mr. Krummel commented that this is the next progressive step with implementation of the City's technology program. He was delighted to see that the cost is under budget and for BMHS the implementation for the AT&T system is half of the what the budget allowed. Ms. Bain stated that she applauded the interview team for its work on the phone system. It was an exhaustive process and the interview team was vigilant with accurately comparing the bids. The Mayor acknowledged the good work of the Members of the ITT Committee with their efforts on the phone system bidding process.

** THE MOTION PASSED WITH TWELVE (12) IN FAVOR, TWO (2) RECUSED (MIKLAVE, PORUBAN)

VIII RESOLUTIONS FROM COMMON COUNCIL

There were no resolutions from Common Council.

IX. MOTIONS POSTPONED TO A SPECIFIC DATE

There were no motions postponed to a specific date.

X. SUSPENSION OF THE RULES

There was no suspension of the rules.

XI. ADJOURNMENT

** MR. KIMMEL MOVED TO ADJOURN THE MEETING.

** THE MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 9:05 p.m.

Attest: _____

Mary Roman, Assistant City Clerk