

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

Mayor Moccia called the meeting to order at 8:00 p.m. and led the assembly in the Pledge of the Allegiance. He also asked for a moment of silence for the passing of Judge Robert Callahan. Also, requested prayer for former Mayor Frank Esposito who was in the hospital.

**I. ROLL CALL
PRESENT**

15

**II. ACCEPTANCE OF MINUTES
ACCEPTED**

Regular Meeting:

December 11, 2012

III. PUBLIC PARTICIPATION

IV. MAYOR

A. RESIGNATIONS AND APPOINTMENTS

RESIGNATIONS:

APPOINTMENTS:

REAPPOINTMENTS: Mary C. Pugh, Library Board
ACCEPTED

Stanley M. Siegel, Library Board

ACCEPTED

MAYOR'S REMARKS: The Mayor thanked the speakers for their comments on the Washington Village complex redevelopment and he understands their concerns of Ryan Park. The Mayor stated that the main purpose of concern was that Washington Village was the oldest public housing complex in the state.

V. COUNCIL PRESIDENT

COMMON COUNCIL ACTION JANUARY 8, 2013
NORWALK, CONNECTICUT 8:00 P.M. EST. COUNCIL CHAMBERS

A. GENERAL COUNCIL BUSINESS

NAMING OF COUNCIL OFFICERS:

Sarah Mann

APPOINTMENTS: Michelle Maggio, Chairwoman of Health, Welfare & Public Safety Committee

ELECTION OF COUNCIL OFFICERS: Michelle Maggio, Majority Leader

REVISED COMMITTEE ASSIGNMENTS:
Committee, Chairman

Carvin J. Hilliard, Finance/Claims

Douglas E. Hempstead, Finance/Claims Committee

Nick Kydes, Finance/Claims

Committee

David T. McCarthy, Finance/Claims

Committee

Warren Peña, Finance/Claims

Committee

Matthew T. Miklave,

Finance/Claims Committee

John E. Igneri, Finance/Claims

Committee

Michelle Maggio, Health, Welfare & Public Safety, Chairwoman

Sarah Mann, Health, Welfare &

Public Safety

Jerry E. Petrini, Health, Welfare &

Public Safety

Carvin J. Hilliard, Health, Welfare & Public Safety

Bruce I. Kimmel, Health, Welfare & Public Safety

David A. Watts, Health, Welfare & Public Safety

Management, Chairman

Fred A. Bondi, Land Use & Building

Michael K. Geake, Land Use & Building

**COMMON COUNCIL
NORWALK, CONNECTICUT**

ACTION

JANUARY 8, 2013

8:00 P.M. EST. COUNCIL CHAMBERS

Management

Jerry E. Petrini, Land Use & Building
Management

Warren Peña, Land Use & Building
Management

Bruce I. Kimmel, Land Use & Building
Management

Anna Duleep, Land Use & Building
Management

Michael K. Geake, Ordinance Committee,
Chairman

Carvin J. Hilliard, Ordinance
Committee

Bruce I. Kimmel, Ordinance
Committee

Sarah Mann, Ordinance

Committee

David T. McCarthy, Ordinance

Committee

Warren Peña, Ordinance

Committee

Douglas E. Hempstead, Personnel
Committee, Chairman

John E. Igneri, Personnel
Committee

Nick Kydes, Personnel
Committee

Michelle Maggio, Personnel

Committee

Sarah Mann, Personnel
Committee

Committee

Matthew T. Miklave, Personnel

Committee

David A. Watts, Personnel

Committee, Chairman

Nicholas D. Kydes, Planning

Committee

Michael K. Geake, Planning

Douglas E. Hempstead, Planning

**COMMON COUNCIL
NORWALK, CONNECTICUT**

ACTION

JANUARY 8, 2013

8:00 P.M. EST. COUNCIL CHAMBERS

Committee
David T. McCarthy, Planning
Committee
Matthew T. Miklave, Planning
Committee
Warren Peña, Planning
Committee
Carvin J. Hilliard, Planning
Committee
David T. McCarthy, Public Works
Committee, Chairman
Fred A. Bondi, Public Works
Committee
John E. Igneri, Public Works
Committee
Bruce I. Kimmel, Public Works
Committee
Matthew T. Miklave, Public Works
Committee
Jerry E. Petrini, Public Works
Committee
David A. Watts, Public Works
Committee
Jerry E. Petrini, Recreation, Parks & Cultural Affairs
Committee, Chairman
Fred A. Bondi, Recreation, Parks & Cultural Affairs
Committee
Anna Duleep, Recreation, Parks & Cultural Affairs
Committee
Douglas E. Hempstead, Recreation, Parks & Cultural
Affairs Committee
John E. Igneri, Recreation, Parks & Cultural Affairs
Committee
Bruce I. Kimmel, Recreation, Parks &
Cultural Affairs Committee
Michelle Maggio, Recreation, Parks & Cultural
Affairs Committee

B. CONSENT CALENDAR VII.A.1, VII.A.2, VII.A.3, VII.B.1, VII.B.2a, VII.B.2b, VII.B.3, VII.C.1, VII.C.2.A, VII.C.2.B, VII.C.2.C, VII.C.3, VII.C.4.A, VII.C.4.B.

COMMON COUNCIL ACTION JANUARY 8, 2013
NORWALK, CONNECTICUT 8:00 P.M. EST. COUNCIL CHAMBERS

VI. REPORTS: DEPARTMENTS, BOARD AND COMMISSIONS

VII. COMMON COUNCIL COMMITTEES

A. FINANCE/CLAIMS COMMITTEE

1. Accept and Approve the Report of the Claims Committee dated:
November 8, 2012
December 13, 2012

ACCEPTED

2. For informational purposes only: Monthly Tax Collector's Report dated:
October 31, 2012
November 30, 2012

ACCEPTED

3. For informational purposes only: Narrative on Tax Collections dated:
December 13, 2012

ACCEPTED

B. LAND USE AND BUILDING MANAGEMENT COMMITTEE

1. Authorize the Mayor, Richard A. Moccia, to execute a Lease Agreement with the Child Guidance Agency of Mid Fairfield County for ±900 square feet of office space on the second floor of the Norwalk Health Department building for three years. Rental payment shall be \$14,400 per year.

AUTHORIZED

- 2a. Authorize, the Mayor, Richard A. Moccia, to execute an Agreement with Paul J's Construction, LLC for the renovation of the bathrooms at Norwalk Public Library, 1 Belden Avenue for a total not to exceed \$54,265.00.

Account: #09116210 5777 C0491, 09106210 5777 C0469

AUTHORIZED

- 2b. Authorize the Director of Library Technology to issue change orders on the contract for a total not to exceed \$8,194.00.

AUTHORIZED

3. Authorize the Purchasing Agent to issue a Purchase Order to Online Mooring, LLC for an online mooring management system to be utilized by the Norwalk Harbor Management Commission to administer, regulate and manage all boat moorings in the Norwalk Harbor. The terms for the services shall be as follows:

- Service fee shall be five dollars (\$5) per vessel;
- 3.25%+ \$0.30 per transaction charge to cover credit card processing; and
- Period of service shall be for one year with option to extend for one additional year.

Costs for online mooring management services will be incorporated within established mooring rates and will not affect amount to be paid by vessel owners.

Account: #0300002628

AUTHORIZED

C. RECREATION, PARKS & CULTURAL AFFAIRS COMMITTEE

1. Authorize the Mayor, Richard A. Moccia to enter into an agreement with Interstate Ford Project #3220 2012 Ford F550 w/Reading Panel body (\$44,517.00) and 2012 Ford F550 with Rack Body (\$38,054.000) for a sum not to exceed \$82,571.000.

Account #0913-6030-5777-C0486

AUTHORIZED

2. A) Authorize the Mayor, Richard A. Moccia to enter into an agreement with Team Mossman Inc. for the use of Calf Pasture Beach for the "Mini Mossman Triathlon" to be held Saturday, July 13, 2013 from 8:00 AM - 12:00 Noon. Set up to take place 12:00 Noon on Friday, July 12, 2013. Estimated attendance 200.

B) Authorize the Mayor, Richard A. Moccia to enter into an agreement with Team Mossman Inc. for the use of Calf Pasture Beach for the Mossman Spring Triathlon to be held Sunday, July 14, 2013 from 6:30 AM - 10:00 AM. Estimated attendance 650.

AUTHORIZED

C) Authorize the Mayor, Richard A. Moccia to enter into an agreement with Team Mossman Inc. for the use of Calf Pasture Beach for the "Mighty Moss Half Iron Triathlon" to be held Sunday, June 30, 2013 from 6:30 AM - 4:00 PM. Set up to take place at 12:00 Noon on Friday, June 29, 2013 with tear down no later than 11:00 AM on Monday, June 31, 2013. Estimated attendance 250.

AUTHORIZED

3. Authorize the Mayor, Richard A. Moccia to enter into an agreement with the Norwalk Karting Association for the use of Calf Pasture Beach for their Spring and Fall Racing Seasons. Estimated attendance 150.

Spring 2013

March 23, 30
April 6, 13, 20, 28 (no Saturday)
26
May 4, 11, 18 (no Sunday)
No Sunday Rain Dates on May 12 or May 19

Fall 2013

September 14, 28 (no Sunday)
October 5 (no Sunday), 12, 19,
26
November 2, 9, 16
No Sunday Rain Dates on
September 29 or
October 6

AUTHORIZED

4. A) Authorize the Mayor, Richard A. Moccia to enter into an agreement the Norwalk Hospital Foundation for the use of Calf Pasture Beach to hold their Whittingham Cancer Center Walk & Sally's Run to be held on Saturday, April 27, 2013 from 8:00 AM - 2:00 PM. Estimated attendance 2,000.

AUTHORIZED

B) Approve the use of the Show Mobile by the Norwalk Hospital Foundation for their Whittingham Cancer Center Walk & Sally's run to be held Saturday, April 27, 2013.

APPROVED

D. PLANNING COMMITTEE

1. Approve as to terms the referenced Day Street Option Agreement subject to final form as determined by

Corporation Counsel. Authorize the Mayor to execute the Option Agreement.

**REFER BACK TO
COMMITTEE**

VIII. RESOLUTIONS FROM COMMON COUNCIL

A Resolution in Support of Freedom of the Press

Sponsored by David Watts (District A) & Anna Duleep (At-Large)

Whereas. The First Amendment to the United States Constitution states: "Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Whereas. The Norwalk Common Council adopted the Code of Ethics (Section 32) on June 26, 2007.

Whereas. Section 32(1) of the Code of the City of Norwalk states, "The Common Council of the City of Norwalk shall be charged with the administration of the Norwalk Code of Ethics."

Whereas. Section 32-2(A) of the Code of the City of Norwalk states, "The public needs and deserves to have confidence in the integrity of the municipal government of our City."

Whereas. Section 32-4 of the Code of the City of Norwalk defines probable cause as "A state of facts constituting more than mere suspicion and establishing that a state of facts is more likely than not. To establish probable cause there must be facts and circumstances within the investigating panel members' knowledge, based upon trustworthy information, sufficient to justify the belief of a reasonable person that a violation of the Code of Ethics has occurred. The investigating panel shall be guided by established law in the State of Connecticut in making a determination of what constitutes probable cause."

Whereas. Section 32-23 (A) (1) of the Code of the City of Norwalk states that a violation of the Code of Ethics "By an elected officer shall be considered dereliction of official duty, and therefore a cause for censure, impeachment or removal from office under the Code of the City of Norwalk."

Whereas. Section 32-23(2) of the Code of the City of Norwalk states that the violation of the Code of Ethics "By an officer of an appointed board or commission shall be considered misconduct in the performance of duties and therefore a ground for censure or removal under the Code of the City of Norwalk."

Whereas. Section 32-23(3) of the Code of the City of Norwalk states that the violation of the Code of Ethics "By a employee of an agency shall be considered misconduct and therefore a ground for censure or discipline, including demotion in rank or grade, termination of a contract or discharge under the Code of the City of Norwalk and any applicable labor agreement."

Whereas. Section 32-13(B) of the Code of the City of Norwalk states, “Any individual who is found in violation of this chapter may be subject to a civil action by the City to recover damages, if any that are incurred by the City as a result of said individual's unethical conduct. The costs of the hearing process under this Code of Ethics shall not be included in the aforementioned damages and shall not be recoverable under the provisions of this subsection.”

Whereas. Section 32-16(B) of the Code of the City of Norwalk states, “The Law Department shall assist the Board of Ethics in implementing its responsibilities under this Code and shall serve as staff to the Board of Ethics and any hearing board appointed under this Code. The Board of Ethics in appropriate circumstances, as it shall determine, may retain independent counsel to represent the Board, any investigating panel or any hearing board.”

Whereas. Corporation Counsel serves as staff to the Board of Ethics.

Whereas. Section 63-2 of the Code of the City of Norwalk declares the Law Department to be “the sole legal representative of the municipal corporation.”

Whereas. Section 63-2(A) requires the Law Department to “Represent and advise the Mayor, Common Council, and all city officers, agencies, boards and commissions in all matters of law pertaining to their respective offices and/or duties.”

Whereas. Section 63-3(A) states, “The Corporation Counsel shall be the administrative head of the Law Department, and all attorneys and other personnel employed by the city as part of the Department shall be subject to his supervision.”

Whereas. Section 1-223 of the Code of the City of Norwalk states, “On the second Tuesday following his election, the Mayor shall appoint a Corporation Counsel for the term of two (2) years or until his successor is appointed and qualified, unless removed for cause.”

Whereas. Corporation Counsel is a member of the Ordinance List of employees of the City of Norwalk.

Whereas. The Mayor supervises all members of the Ordinance List of employees of the City of Norwalk.

Whereas. On June 26, 2012, a public meeting of the Common Council was held in the Jennie F. Cave Common Council Chambers.

Whereas. Mayor Richard A. Moccia declared a recess during this Common Council meeting.

Whereas. Members of the press routinely record meetings of the Common Council to ensure the accurate dissemination of information to the public.

Whereas . The City of Norwalk routinely records meetings of the Common Council for broadcast on public television for the purpose of disseminating a true record of actions taken during Common Council meetings.

Whereas . Mayor Richard A. Moccia allegedly walked to the press table during this recess and stood next to the digital recorder belonging to a member of the press.

Whereas . Mayor Richard A. Moccia allegedly conducted an impromptu negotiation with the heads of two unions while standing next to the visible digital recorder at the press table.

Whereas . The journalist's digital recorder was still on, although the journalist had left it unattended.

Whereas . The journalist's digital recorder allegedly recorded a true and accurate account of Mayor Moccia's conversation with representatives of two unions who deal with the Board of Education.

Whereas . On June 28, 2012, the journalist contacted Mayor Richard A. Moccia via electronic mail to present him with the following information:

"Mr. Mayor, As you know, Tuesday night you had an impromptu negotiation session with Tony Ditrio and Bruce Mellion during the Common Council meeting. What you don't know is that my digital recorder, which was sitting on the ledge where you were standing, was on. I walked away from my computer and forgot to shut the recorder off. It recorded a conversation that was held in a public venue, in a public space. I have listened to the recording several times. Although there is a lot of background noise I am confident that I have most of the conversation transcribed correctly. We have decided that this is a story, which will run in the morning. If you would like to complain **about the editorial decision, please call Christine Hall, who is filling in for the vacationing Matt..**If you want to talk about the conversation, call me... I will record the phone call for the protection of both of us."

Whereas . On June 28, 2012, the Corporation Counsel Robert Maslan, Jr. responded via electronic mail:

"Dear Ms. Chapman: Mayor Moccia forwarded your email to him regarding your recording of a private conversation involving the Mayor and others. Thank you for bringing your recording of the conversation to our attention before publishing a story about it. Please be aware of the following: Assuming that **your characterization of the conversation is correct--that it was an 'impromptu negotiation session'** with two collective bargaining representatives--the discussion was not a meeting as defined by the Freedom of Information Act. Accordingly, the conversation cannot be considered as public, even if it occurred in a public place. Recording a private conversation as you did, without the consent of the participants, constitute an invasion of privacy, and may also constitute a violation of the

eavesdropping statutes. Publication of the contents of the conversation would raise significant legal issues, and we are considering legal options. You did not have Mayor Moccia's consent to record his private conversation, and you do not have his consent to publish the contents of the conversation. Please call me as soon as possible to discuss this serious matter...Thank you. Robert F. Maslan, Jr. Corporation Counsel City of Norwalk P.O. Box 798 Norwalk, CT 06852-0798."

Whereas, The reporter was later contacted by the Connecticut State Police and interviewed regarding a complaint filed by Mayor Richard A. Moccia. This is currently a criminal investigation.

Whereas, On October 19, 2012, Mayor Richard A. Moccia allegedly used City-owned property to send the following electronic message to Robert Maslan: "Ok Bob start the civil lawsuit against Chapman she must have sent it to Watts."

Whereas, Mr. Maslan's dual roles as both Corporation Counsel to the City of Norwalk and as a private attorney representing the personal interests of Mayor Richard A. Moccia present a possible conflict of interest under Section 32 of the Code of the City of Norwalk.

Whereas, Corporation Counsel's status as a subordinate to be supervised -along with all other members of the Ordinance List- by the Mayor may make him vulnerable to influence by his supervisor, Mayor Richard A. Moccia.

Whereas, On October 24, 2012, Mayor Richard A. Moccia made the following statements to The Hour Newspapers: "Mr. Maslan is part time. He's my private attorney, also Moccia said. It is my own private choice if I decide to pursue any action."

THEREFORE, be it resolved by the Common Council of the City of Norwalk that the matter be referred to all appropriate agencies, both within and outside the City of Norwalk, to determine whether any violations of Section 32 of the Code of the City of Norwalk have occurred.

THEREFORE, be it resolved by the Common Council of the City of Norwalk that we shall consult with all appropriate government agencies and/or outside legal counsel to determine whether, and to what extent, the aforementioned actions may have left the City of Norwalk vulnerable to legal action.

THEREFORE, be it resolved by the Common Council of the City of Norwalk that the people of Norwalk shall be shielded from any judgments resulting from any subsequent lawsuits related to

COMMON COUNCIL ACTION JANUARY 8, 2013
NORWALK, CONNECTICUT 8:00 P.M. EST. COUNCIL CHAMBERS

the aforementioned events of June 26, 2012.

THEREFORE, be it resolved by the Common Council of the City of Norwalk that, in the event the City is determined to be liable for the actions of its Mayor, and is required to pay any money to plaintiffs whose cause of action stems from the events described above, the Common Council shall vigorously pursue reimbursement.

Adopted by the Common Council of the City of Norwalk on January 8, 2013

FAILED

IX. MOTIONS POSTPONED TO A SPECIFIC DATE

X. SUSPENSION OF RULES

XI. ADJOURNMENT 11:26 P.M.

APPOINTMENTS

REAPPOINTMENTS

LIBRARY BOARD

M/C

NWLK CODE

Mary C. Pugh (D)

APPROVED

Term Exp. 12/31/16

9 Outer Road

Norwalk, CT 06854

LIBRARY BOARD

M/C

NWLK

CODE

STANLEY M. SIEGEL (U)

APPROVED

Term

Exp. 12/31/16

1 Arnold Lane

Norwalk, CT 06853