



BOARD OF ALDERMEN  
SHELTON, CONNECTICUT  
REGULAR MEETING  
THURSDAY, NOVEMBER 8, 2007

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**Call to Order / Pledge of Allegiance**

Mayor Mark A. Lauretti called the meeting of the Board of Aldermen to order at 7 p.m. All those present rose and pledged allegiance to the flag.

**Roll Call**

Alderman John F. Anglace, Jr., President - present  
Alderman John "Jack" Finn – present  
Alderman Stanley Kudej – present  
Alderman Kenneth Olin - present  
Alderman Christopher Panek - present  
Alderman John P. Papa – absent  
Alderman Jason Perillo - present  
Alderman Randy York - present

Administration:

Mayor Mark A. Lauretti  
Corporation Counsel Thomas Welch

There was a quorum present.

**Public Session**

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*Joseph Bienkowski, 403 Long Hill Avenue*

I'm here this evening to address your board concerning the location of the new Animal Control facility. As a municipal planner for Town of Fairfield and a resident of the City of Shelton I could not think of a less desirable location for this new municipal facility proposed on Riverdale Avenue.

I only recently became aware of the proposed location for this important City facility and did not have an opportunity to offer a more comprehensive report, but the following comments may be revealing.

1. The location is adjacent to a significant flood zone along the Housatonic River which is subject to both coastal and riverine flood events. During a flood event, City emergency services will be taxed to the limit, with 11 miles of riverfront, and may not be available for animal rescue, especially when the principal road leading to this facility has historically been under water.
2. The City allowed unsupervised dumping of hazardous materials - industrial demolition in fact - between our municipal Public Works yard and Riverdale Avenue, presumably for purposes of expediency after the B.F. Goodrich arson fire. This material should not be disturbed for obvious reasons and in fact should be isolated from future disturbance.
3. The facility should not be located in our downtown waterfront zone where the City has been working diligently to change the image of a pollution-scarred neglected urban neighborhood. The Riverwalk should be extended to Lafayette School in due time. This facility will detract from its tranquility as well as downtown development.

4. This location affords no opportunity for expansion in a rapidly-growing community.
5. The geographic location of this facility as well as the Public Works yard and garage, being only 150 yards from Derby city line and over seven miles from the Trumbull border, is all wrong for a rapidly-growing community. Residents and taxpayers should not be compelled to make a 14-mile round trip from the Trumbull town line to visit an important city facility.

When I was a city police officer I could recall many residents' requests during storm events for public works assistance in the form of road sanding, salting operations, and tree removal. For the aforementioned reasons our new Animal Control facility in fact should be located closer to the city's geographic center and plans should commence to relocate our public works yard for the obvious same reasons.

I have copies for the Board, as well as a copy of a report from the State of Connecticut concerning rising sea level, which I feel may impact this facility as well.

Mayor Lauretti stated, I think it would probably be appropriate for you to address the building committee that we established for the Animal Shelter and share your concerns with them. I'm sure that they want to hear them.

Mr. Bienkowski replied, I'll be happy to do that. Thank you.

Mayor Lauretti asked if any other member of the public wished to address the Board. Being none, he declared the public session closed.

### **Agenda Items**

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#### ***Add-On***

Alderman Anglace MOVED to add to the agenda Item 11.5, Executive Session, Land Purchase; SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 7-0.

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#### ***Minutes for Approval***

Alderman Anglace MOVED to waive the reading and accept the minutes of the Regular Meeting of October 11, 2007; SECONDED by Alderman Finn. A voice vote was taken and the MOTION PASSED 7-0.

#### **5.1 FINANCE COMMITTEE**

No items presented.

#### **5.2 PUBLIC HEALTH & SAFETY COMMITTEE**

No items presented.

#### **5.3 STREET COMMITTEE**

No items presented.

#### **REPORT OF THE MAYOR**

None presented.

#### **REPORT OF THE PRESIDENT**

Alderman Anglace stated, I have a report and would the courtesy of reading the report at the end of the meeting prior to the Executive Session.

## **6.0 LEGAL REPORT**

### ***6.1 CORPORATION COUNSEL BILLING***

Alderman Anglace MOVED to authorize a total payment of \$5,937.80 to Corporation Counsel Winnick, Vine, Welch, & Teodosio, LLC for services rendered per statement dated November 1, 2007 with funds to come from the following Legal Services accounts:

Legal Fees	001-1900-411.30-03	\$5,704.20
Foreclosure Fees	001-1900-411.50-01	\$233.60

SECONDED by Alderman Kudej. A voice vote was taken and the MOTION PASSED 7-0.

### ***6.2 ASSISTANT CORPORATION COUNSEL BILLING***

Alderman Anglace MOVED to authorize a total payment of \$595 to Assistant Corporation Counsel Ramon Sous for services rendered per statement dated November 1, 2007 with funds to come from the following Legal Services accounts:

Legal Fees	001-1900-411.30-03	\$560
Miscellaneous Services	001-1900-411.80-03	\$35

SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 7-0.

## **7 LEGISLATIVE - OLD**

### ***7.1 ITEMS FROM PUBLIC HEARING***

#### ***7.1 CHANGE ORDER #12 FOR WASTEWATER TREATMENT FACILITY EXPANSION AND UPGRADE PROJECT***

Alderman Anglace MOVED to approve Change Order #12 between the City of Shelton and C.H. Nickerson & Company for the Wastewater Treatment Facility Expansion and Upgrade Project in the amount of \$20,906 with funding to come from the wastewater collection systems referendum bond; and further,

MOVED to authorize Mayor Mark A. Lauretti to sign all documents and effectuate said agreement; SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 7-0.

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**7.2 LICENSE AGREEMENT FOR CENTER STAGE, LLC  
STORAGE AT 470 HOWE AVENUE**

Alderman Anglace MOVED to approve the 'License Agreement' between the City of Shelton and Center Stage, LLC for the temporary storage of theatre equipment at 470 Howe Avenue from October 1, 2007 and terminating on September 30, 2008 for the sum of One (\$1) Dollar per month; and further,

MOVED to authorize Mayor Mark A. Lauretti to sign any necessary documents; SECONDED by Alderman Kudej.

Mayor Lauretti explained, because of our re-entry into White Street they had to vacate and this was available space that we have empty, and we have offered it to them.

A voice vote was taken and the MOTION PASSED 7-0.

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**7.3 RCMS CONTROLS LICENSE AND INDEMNIFICATION AGREEMENT**

Alderman Anglace MOVED to approve the License and Indemnification Agreement between the City of Shelton and RCMS Controls, Inc. dated October 11, 2007; and further,

MOVED to authorize Mayor Mark A. Lauretti to sign all documents pursuant to the agreement and to effectuate said agreement; SECONDED by Alderman Kudej. A voice vote was taken and the MOTION PASSED 7-0.

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**8 FINANCIAL BUSINESS OLD**

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**8.1 NON-COLLUSIVE BID CERTIFICATE – BOARD OF EDUCATION**

Alderman Anglace stated, I've asked the Board of Education to come and make their comments.

**Tim Walsh, Chairman, Board of Education**

We are approaching you to ask for an exclusion of the exclusion. We have some difficulty meeting, and you'll hear more of it from Alan and Kathy, with the non-collusion ordinance that you passed, in the under \$5,000 category – our bids and quotations under \$5,000. It is costing us undue time, energy and I think you'll agree that the bureaucracy is just mind-boggling. I'd like to turn that over to Kathy Araujo and Alan Cameron to explain the details.

Mayor Lauretti stated, the City is subjected to the same thing. We go through the same aches and pains with this under \$5,000 limit, as does the Board. This issue is probably better served in a discussion with the Finance Committee. I don't think that the Board is prepared to take an action tonight.

Mr. Walsh stated, I don't know, Mr. Mayor, except that the President of the Board of Aldermen asked us to appear tonight.

Alderman Anglace stated, the action taken by the Board at last month's meeting, in response to the Board of Education's request for an opportunity to comment was to allow the Board of Education to take this month to evaluate the policy and to come tonight and make their comments to the Board, not to the Finance Committee.

Alderman Finn stated, I was under the impression that we did give them the extension on this. We approved it excluding the Board of Education but we expected something in a month's time to come back in writing, not discussion in the middle of a meeting. I'm in agreement with you, Mr. Mayor, that this should go back to the Finance Committee and it should be discussed there.

Mayor Lauretti stated, the only reason I suggested that was that I didn't think the Board would be prepared to draw any conclusions tonight with respect to making any changes.

Alderman Anglace stated, I don't think the Board is expected. We took an action as a full Board. That action flew in the face of the Board of Education's request for consideration and time to look this over. To send it back to the Finance Committee is only part of the Board. The full Board took the action; the full Board should hear the comments of the Board of Education. I think we ought to give them that opportunity to say their peace right now. Then we don't have to take an action. If there is something they don't like and want to recommend a change, then the Board can send it back to the Finance Committee.

Mayor Lauretti stated, as you know, full well, any discussion at the committee level gets forwarded and it's verbatim to the Board members so everyone has an opportunity to do it. We historically have avoided these types of debates at the full Board meeting in the interest of taking care of the City business and that really is the purpose of the subcommittees.

Alderman Panek stated, according to the Mayor's point, we spent many months working on this, three or four months it's been before committee, we all agreed to the final document subject to the review and comment by the Board of Education. I do think the Board of Education – we should listen to their opinions and comments – but regardless of what they say tonight I don't know if we will be prepared here and now to all of a sudden vote on something based on their comments. Board members are going to need time to review what they say, their thoughts, and then possibly change the document if the Board members see fit.

Mayor Lauretti stated, that was my point – why sit here and listen to a presentation tonight when you've got other business to take care of?

Alderman Anglace stated, one of the reasons why we should sit here and listen to the report is because we denied them the opportunity in the past to make that report. They've gone out of their way to come here tonight, they've done their research. If we don't give them the opportunity it's just another sleight. I just think we owe it to the Board of Education to listen to what they've got to say.

Mayor Lauretti stated, we don't want to sleight anybody, so let's get started with the presentation.

**Al Cameron, Finance Director – Board of Education**

Thank you. I'd like to say the same things that I said the last time. In principle we are supportive of the non-collusion administrative policy. Last time I was only speaking for myself. This time we have had the opportunity to review the documents internally and we've had the opportunity to bring the documents to the Finance Committee of Board of Education. The remarks that I'll be sharing with you tonight don't represent only my opinion, they represent the opinion of the staff of the Board of Education and the Finance Committee of the Board of Education.

We are supportive of the idea of a non-collusion administrative policy. It is something, a practice that we follow in bids that we've put through the City's Purchasing Agent, which would be transactions of more than \$5,000, for years.

We have had them in our cafeteria documents, in our student transportation documents, in our technology/computer acquisitions and wide area network, and we've had them in other requests for quotations where we've gone out with specifications that have been prepared by outside professionals. We haven't had them in every case, but in general, they have been a part of our documents. We support the idea. But with respect to the administrative policy, we have a big exception that we would like you to make. We would like you to delete all of paragraph 5 which refers to transactions between \$1,000 and \$4,999.

When we first read the policy, we were really alarmed. We thought we were going to need to get three affidavits for each transaction that was involved in that range of transactions. My clarification in conversation with Corporation Counsel Welch – he has clarified that is not the case. We would need to receive an affidavit only from the successful bidder. So before we would issue a purchase order we would request an affidavit. Nevertheless, in 2006-07 the Board of Education had 583 transactions in between \$1,000 and \$4,999. When you think about that and how that would impact how we do business, it will take an approach to business that is deliberately slowed to protect the taxpayers' money, and make it even slower, because in order to have a notarized affidavit, it has to be transmitted to us either personally delivered by the vendor, or it has to be mailed. As soon as you get into the notarized affidavits, you get out of the wonderful world of e-mail and faxes. Yet, all of you know, for transaction of this size, that is how business is done. It puts a big impediment into doing business on a day to day basis.

Paragraph 5 gives an exception, it does say, if it's unwise, impractical or impossible, a waiver could be granted. The example that's given, if you wanted to buy toner cartridges from Staples, and you go to Staples, you go to Office Depot, and you go to W.B. Mason and you get quotes back. Where the question becomes for those of us who would live with this every day is, in that case it's pretty clear, you would be able to authorize the purchaser to have a waiver and say, okay, that's not necessary. Then you would need to maintain a log of all the waivers that you granted and you would have to ask the purchaser to request in writing why they need to have a waiver, and you'd have to set up a little response mechanism where the purchaser could get back in writing why they got a waiver. Think of this. A year and a half later, somebody will walk in and say, 'where is your affidavit?' and you don't have one. Under Freedom of Information they want to know why. And if you don't have one, then you're violating procedure unless you have a waiver. To have the waiver you've got to go through this whole other little bureaucracy that I've just described. Think of that 583 times.

The Board of Education doesn't have a Purchasing Agent. Our Purchasing Agent doesn't have an assistant. Kathy Araujo is sort of our purchasing coordinator. She takes care of making sure that we get the best prices from the vendors. But how we solicit prices is, each of the cost center managers goes out and requests three quotes. A good example is the CAPT Breakfast. Every year Shelton High School has a reward for the students that perform at the very highest level with the State's standard test. They give them breakfast. It's an incentive to motivate the kids to do well on the test. They go out and have a little menu they put together and they go out to three local caterers and ask those caterers for a price. When they get the price, today the process is, they send a requisition to Kathy and on that requisition they say, we want to make an award to caterer A, he is the lowest of three bidders. And if that makes sense to Kathy, she processes a purchase order. In the new environment, we would need to say, do you have an affidavit of non-collusion from that vendor before we process it. If we don't, we need to find out, can they get a waiver, can we grant a waiver and then we'll have to maintain all of that paperwork.

The Army is Kathy and I. We have a lot to do already. So I guess what I'd like to say is that, first of all, we work very hard to follow the terms of the Charter under the purchasing guidelines that are there. We try to comply with all the rules and regulations and laws that are legislated. We are very conscientious about that. I've worked at the Board of Education for 12 years, and in the 12 years I've been there, I've never heard anybody allege that there was any collusion among our bidders. Please consider eliminating paragraph 5 from this. I think that the cure is worse than the disease. I think that it would put us in a position that we would be trying to do the impossible. Does anybody have any questions?

The Clerk stated, please add to your request that paragraph 5 be deleted not only for the Board of Education, but for the rest of the City departments as well.

Mr. Cameron stated, thank you Trish, because there was one point I forgot to mention. Before I came before you tonight, I checked with Lou Marusic, my counterpart in the City. I told him essentially what I was going to say. I said Lou, does this apply to you as well? And he said yes. Any questions?

Mayor Lauretti stated, thank you.

**Kathy Araujo, Service and Supply Manager, Shelton Board of Education**

I concur with everything that Tim Walsh and Alan Cameron have said. The one other point that I would make as far as timing goes for us, of the 583 purchase orders that Alan is speaking of that are between \$1,000 and \$4,999, 150 of those come in a three to four week span for us. The majority of our ordering, our flurry, our ordering season, comes at the end of June to the end of July. That is when all the teachers are ordering; that's when all those orders are processed. So 150 of the type of transactions Alan is speaking about come within that timeframe. So in addition to the fact that there is only, basically, me or Alan when it comes to purchasing, and we do a lot of other things – cafeteria, transportation, administer the financial system, all those things because we are very multi-talented at the Board of Education and good at multitasking, that would really create a hardship for us. Thank you for your consideration.

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**8.2 CITY HALL TWO-WAY RADIO ANTENNA SYSTEM REPLACEMENT**

Alderman Anglace MOVED per the recommendation of the Finance Committee, to approve the City Hall Two-Way Radio Antenna System with funding in the amount of \$1,600 to come from Contingency General Account #001-9900-900.99-00; SECONDED by Alderman Kudej. A voice vote was taken and the MOTION PASSED 7-0.

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**8.3 JONES FAMILY FARM APPRAISAL**

Alderman Anglace MOVED to approve the proposal (attached) for Bid #28-50 Jones Farm Appraisal dated October 17, 2007 with Vimini Associates Real Estate Services regarding Jones Family Farm; and further,

MOVED to authorize Mayor Mark A. Lauretti to execute any and all documents to effectuate same. Funding in the amount of \$7,775 to be taken from the Jones Family Farm bonding referendum; SECONDED by Alderman Finn. A voice vote was taken and the MOTION PASSED 7-0.

**9 FINANCIAL BUSINESS NEW****9.1 SEPTEMBER STATUTORY REFUNDS**

Alderman Anglace MOVED to approve the report of the Tax Collector relative to the refund of taxes for a total amount of \$4,446.50 and that the Finance Director be directed to make payments in accordance with the certified list received from the Tax Collector with funds to come from the Statutory Refunds Account 001-0000-311.13.00; SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 7-0.

**9.2 8-24 REFERRAL FOR PROPOSED NEW ANIMAL SHELTER, 50 RIVERDALE AVENUE**

Alderman Anglace MOVED to accept the 8-24 Referral of the Proposed New Municipal Animal Shelter, 50 Riverdale Avenue, issued by the Planning and Zoning Commission at their October 9, 2007 meeting and endorsed by the City Engineer per his letter dated October 9, 2007; SECONDED by Alderman Panek.

Alderman Finn asked, by accepting the 8-24 referral, are we basically saying that this is where we want the Animal Shelter to be located?

Mayor Lauretti stated, you're agreeing with the consensus, yes.

Alderman Finn stated, tonight we heard during the public portion where it was brought to our attention about the flood plain, etc. etc. to be going on at the Riverdale location and the gentleman was referred to the building committee itself to bring it to their attention. Can we table this and wait for that committee to get back to us before we act on the 8-24 referral?

Mayor Lauretti stated, well, you can do a couple of things. You can table it, you can approve it, and anything that is going to happen is still going to come back before this Board. They can't go to square one without coming back to the Board. I think they should have the discussions internally at the committee level and let them come back and make the presentation to the Board about the comments.

Alderman Finn stated, maybe we can go ahead and table this until we hear back from the building committee. There is no timeframe on this, when we have to approve it. Is there a time frame, 30 days, 60 days, 90 days, when we have to approve it?

Mayor Lauretti stated no, there's no timeframe. I just want to keep the thing moving.

Alderman Finn stated, so would I but I want to give the opportunity for the building committee, for the gentlemen to sit down and discuss it. They have a building committee meeting coming up before our December meeting. We can put it back on the agenda for December and we'll take action then.

What I understand is, the reason this is before us is so that if the building committee knows that we're in agreement with their selection thus far, and that could change, that would give them the opportunity to proceed to obtain the services of the architect and get it moving. I don't doubt that the building committee will listen very attentively to what was said during the public portion, and probably not make any decision to proceed, but if we say that we're tentatively in agreement, and that's what I think this motion says, it will allow them to move forward when they've reached their consensus among themselves as to where they want to settle on a site.

Alderman Panek asked, is it going to hold up the project or can it wait 30 days until the next Board meeting? I think the gentleman that spoke during the public portion brought up a lot of interesting and valid points. It will have to be addressed by the committee themselves. I don't have a problem tabling it if it's not going to hold up the project for 30 days.

Alderman Finn stated, their committee is in favor, still, of the site, I have no problem approving the site, but I want everybody to have the opportunity to read the documentation that was handed to us tonight. We haven't been able to review it ourselves, and also have the committee review that documentation and can take an action. Another 30 days is not going to hold it up.

Alderman Perillo stated, Mayor, is there anyone here who could answer the question as to whether or not our failure to act could hold up the project?

Mayor Lauretti stated, that would be more of a legal question I would think. As I said before, you can approve or table the 8-24 referral and everything can still continue to move. It doesn't stop anything; it shouldn't stop anything. If you approve it, as I said, before anything can happen down there they're going to come back before this board for approval for funding. So you've got another shot at it.

Alderman Anglace stated, we're not approving this site. We're only,

Mayor Lauretti interjected, you are approving the location from the 8-24 referral from Planning and Zoning and the request of the building committee. You are just saying that you agree with the location.

Alderman Panek stated, I haven't heard anybody on the Board making a strong argument against the location. I was prepared to vote in favor of the location tonight but I do think that he brought up some valid points that the committee could address. Again, as Alderman Perillo said, I don't want to hold up the process.

Mayor Lauretti stated, yes, but it doesn't really do anything I don't think. The committee members are here – what is your druthers – I know you'd like to see this thing go forward.

Committee member Linda Hooper spoke from the audience without the benefit of a microphone.

Mayor Lauretti stated, well nobody said that they're not going to agree to it. There were some questions that were raised, and I guess that has put some doubt in some people's minds. Not for me, but I do think that it's worth investigating the comments that were made today. The current location of the Animal Shelter has been there for 30 years. The flooding of the river hasn't impacted the site whatsoever. There is also an opportunity, if that's the case, to take it out of flood plain by putting some more fill on the site. The bigger issue for me was, is there contamination on the site? I don't know the answer to that. That is something I would be concerned about.

Alderman Finn stated, I can remember during the '55 Flood that B.F. Goodrich which was four stories tall, two stories were under water. That whole section was under water as well. I walked across the Commodore Hull Bridge into Derby with my father who was a State Representative and it was devastated in looking over to Derby and seeing what happened to Shelton during that '55 Flood. That can occur again. I'm sure none of us want to put any of those animals in danger where we can't get to them and get them out of that building if there ever is a flood like that.

Alderman Perillo stated, Mayor, of note is that many improvements have been made to the river since 1955 in terms of flood control.

Mayor Lauretti stated, you're talking about hypotheticals. We could have an earthquake 10 minutes from now and none of us could get out of here. At some point in time you've got to exercise a little common sense and say, the likelihood of things happening, yes, there is always a possibility of it.

Alderman Finn stated, I understand that flood control has been put in place, but all the other communities have them but Shelton.

Alderman Anglace stated, unless I'm misunderstanding everything here, I think we just made a major investment in that site right across the street at the Water Pollution Control Authority. That doesn't scare me, but I understand the contamination aspect.

Alderman Finn stated, well if you can guarantee me there is no contamination on that property tonight then I'd have no problem with the 8-24 referral.

Mayor Lauretti asked, you're not worried about the flood?

Alderman Finn stated, according to the paperwork you're going to have to build up to a 20-foot wall.

Mayor Lauretti stated, we just did a \$28 million upgrade of our Wastewater Treatment Facility and that's right on the river, and nobody was concerned about that at all. We spent \$8 million on the Riverwalk. Nobody was worried about that getting washed out by a flood.

Alderman Finn asked, and you're not worried about the contamination?

Mayor Lauretti stated, I didn't say that. We're talking about the flooding. I said that the contamination had raised a red flag for me.

Alderman Anglace stated, I think we should move with care. If it takes a little time to look into that, take the time to look into it. We can get by for another month or two. You have to just step back and take a minute. Some issues have been raised, take a look at them.

Mayor Lauretti stated, let me just make the point for the third time. By approving or not taking any action on the 8-24 referral really has no impact on the project. If you are saying that you agree with the site, then approve the 8-24 referral. Nothing can be done on the site until this Board approves the funding for it. So nothing will happen. There is still time to look at the flood issues, still time to look at possible contamination.

Alderman Anglace stated, as Chris said, he came here ready tonight to vote for this, and so did I. This is an acceptable site. It's a good site. It's not going to raise the feathers or the ire of anybody. It's not going to impact anybody. It looks like it's a very good site. We have never since I've been on this Board approved an 8-24 referral – we have overridden them, but never approved one. By our silence it doesn't mean we are for or against. I don't think we have to take that action. Just proceed and do what you have to do.

Corporation Counsel Welch stated, it seems a reasonable way to compromise it is to move the approval of the 8-24 with the understanding that the issues that have been raised this evening will be addressed and brought back before this Board. Because if it is determined at a later point that it's not an acceptable site, they're not going to build there anyway. I think the vote is saying that the site, if everything is like we think it is, is acceptable. If it is not, it's going to have to come back before you anyway.

If the Board's determination is just to give the committee a go ahead with the site, if all the criteria were satisfied is appropriate, then you could pass the motion saying the 8-24 is appropriate subject to satisfaction of all the issues raised.

Mayor Lauretti stated, well said Counsel.

Alderman Finn MOVED TO AMEND the MOTION as stated by Counsel:

"Move the approval of the 8-24 with the understanding that the issues that have been raised this evening will be addressed and brought back before this Board"

SECONDED by Alderman York. A voice vote was taken and the AMENDMENT PASSED 7-0.

A voice vote was taken and the MOTION PASSED AS AMENDED 7-0.

Mayor Lauretti stated, when we did the upgrades at the Wastewater Treatment Facility I had a knock-down drag-out battle with DEP over spending \$30,000 to do a hydrology study on the site right across the street. So I think that some of the things, Joe, the points that you raised tonight, would be or could be addressed in that hydrology study.

Mr. Bienkowski stated, Mr. Mayor, the situation after the '55 Flood that was mentioned this evening, if anything, the flood situation has been exacerbated. The flood dikes went into Derby; they didn't go into Shelton. So the channel of the river has been restricted. Housatonic Lumber is not going to get flooded in the next flood event. Our side of the river will be flooded. That is the point I was trying to make.

Mayor Lauretti stated, and I understood that the first time. There is a hydrology study, and perhaps the building committee would like to get a copy of that from Tom Sym, and that will guide you on that particular issue.

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### **9.3 NEW PORTION OF TUXEDO AVENUE AND POSTING OF MAINTENANCE BOND**

Alderman Anglace MOVED to accept the 120 foot extension of Tuxedo Avenue from the former temporary cul-de-sac at 47-48 Tuxedo Avenue to the new permanent cul-de-sac subject to items 1 and 2 contained in the Planning and Zoning letter to George Sender dated 9/26/07; SECONDED by Alderman Finn. A voice vote was taken and the MOTION PASSED 7-0.

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### **9.4 AWARDS FOR FIRE DEPARTMENT – WAIVER OF BIDS**

Alderman Anglace MOVED, per the recommendation of the Acting Purchasing Agent, to waive the bids for the purchase of awards/gift certificates for the Shelton Fire Department to be handed out at the December 4, 2007 Shelton Fire Department Awards Dinner; SECONDED by Alderman Perillo.

Mayor Lauretti stated, everybody understands that this is for equipment that they would use in the course of their duties – I thought it was actually a pretty good idea. We'll only pay the bill as submitted by the vendor, the amount of gift certificates that were actually used.

A voice vote was taken and the MOTION PASSED 7-0.

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**9.5 PURCHASE OF WASTE OIL BURNER – HIGHWAYS & BRIDGES DEPARTMENT**

NOTE: Alderman Panek recused himself from all discussion and action on this item.

Alderman Anglace MOVED to add and authorize the purchase of a Waste Oil Burner for the Highways and Bridges Department to the Capital Improvement Plan with funding in the amount of \$8,385 to come from LOCIP; SECONDED by Alderman Kudej. A voice vote was taken and the MOTION PASSED 6 Yes, 0 No, 1 Abstention (Panek).

**10. - LEGISLATIVE - NEW****10. 1 ITEMS TO PUBLIC HEARING**

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**10.1.A – WATER MAIN EXTENSION – HICKORY LANE**

Public hearing rescheduled for November 27, 2007 at 7 p.m. in the Auditorium at Shelton City Hall.

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**10.1.B AMENDMENT TO ORDINANCE #769 – OPEN SPACE REGULATIONS**

Public hearing rescheduled for November 27, 2007 at 7 p.m. in the Auditorium at Shelton City Hall.

**CITY OF SHELTON ORDINANCE #769  
OPEN SPACE ORDINANCE****CITY OF SHELTON ORDINANCE #769  
BE ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SHELTON:**

**Whereas** the Board of Aldermen of the City of Shelton desires to provide a safe and healthy environment for all residents wishing to enjoy the open spaces of the City of Shelton, and

**Whereas** the regulations herein are designed to provide uniform understanding of permitted uses and prohibitions on property that has been designated by the Board of Alderman as "City Open Space", it is therefore

**Resolved** by the Board of Alderman that the following regulations be adopted as an Ordinance of the City of Shelton:

1. The operation of any motorized vehicles or vessels is prohibited on any City Open Space area, except official vehicles engaged in maintenance, emergency activities, or for handicapped accessibility.
2. No person shall park or store any motorized vehicle, bicycle, trailer or personal property on any City Open Space area of the City of Shelton, except in those areas set aside and designated as temporary parking.
3. All City Open Space areas shall be open from dawn to dusk unless the Mayor or his designated representative has granted special permission to an individual or a group in writing to extend this time period.
4. Non-motorized vessels may be used only in City Open Space areas approved for that purpose. No motorized vessels are allowed in any waters of the City Open Space unless required for emergency rescue or maintenance operations.
5. Swimming is not allowed in any City Open Space watercourse, pond or lake except as may be designated by the Mayor or his designated representative.
6. Persons utilizing City Open Space areas shall be appropriately attired.
7. No person or organization shall camp overnight in any City Open Space area unless they have obtained written permission from the Mayor or his designated representative.

8. No person or organization shall erect tents, or construct shelters or other structures of a temporary or permanent nature or hold any sponsored gathering or function in any City Open Space areas without the express written permission of the Mayor or his designated representative.
9. No person shall light, kindle or use any fire on any City Open Space area except in receptacles installed for that purpose without the express written permission of the fire Marshal.
10. Hunting, trapping, archery, discharging firearms, paintball guns, air guns or use of any weapon on or into any City Open Space area is prohibited. Hunters crossing City Open Space areas to gain access to private or state property may proceed through City Open Space areas only with an unloaded firearm.
11. No person shall offer any article or thing for sale in any City Open Space area unless the Chief of Police issues a permit for such activity, except that this does not apply to established Parks & Recreation Dept. and Board of Education programs.
12. No person shall destroy, injure, herd, harvest or disturb any form of wildlife, plant life, or its habitat on any City Open Space area excluding state permitted fishing where specifically allowed.
13. No bottles, broken glass, cans, waste paper or other rubbish shall be left in any City Open Space area except in containers designated for that purpose. And, that no yard waste leaves or refuse, may be deposited on City Open Space areas. And further, that no residential or commercial dumping of any kind is permitted on City Open Space areas.
14. Ice-skating and ice fishing will be allowed upon those bodies of water expressly designated for that purpose by the Parks & Recreation Dept. and only after the safety of the ice has been confirmed by the Mayor or his designated representative.
15. Mountain bikes or other non-motorized vehicles may be used on designated City Open Space trails only and, at no time may mountain bikes be used off said trails.
16. Dogs must be leashed at all times while within the City Open Space areas and owners must abide by City Ordinance #716, "Pooper Scooper Ordinance".
17. No person shall deface, mar, remove or otherwise intentionally damage any City Open Space area's property or any improvement made thereon.
18. No person shall use any alcoholic and/or drugs on any City Open Space area.

Violation of any provision of this Ordinance shall result in a fine of ~~not more than one hundred dollars (\$100)~~ **two hundred and fifty dollars (\$250)** for each offense in addition to any other penalty provided by the City, State or Federal governments. Each violation of this article shall be a separate violation. The citation hearing procedure set forth in City Ordinance #583 (Code Section 1-11.1) shall be applicable to any violation of this article.

With passage of this Ordinance, Ordinance #711, "Use of City Water Areas for Recreation" is hereby repealed.

ADOPTED BY THE BOARD OF ALDERMEN FEBRUARY 13, 2003

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## ***10.2 PROPOSED CONVEYANCE OF OPEN SPACE TO THE CITY OF SHELTON – TWISTED VINE ESTATES SUBDIVISION***

Alderman Anglace MOVED per the recommendation of the Planning & Zoning Commission (and per the favorable review of Conservation Commission) to accept the proposed conveyance of open space to the City of Shelton at "The Twisted Vine Estates Subdivision" identified on the attached map as "Open Space" 20.5 acres; and further,

MOVED that the proposed Twisted Vine Open Space be accepted along with the appropriate deed restrictions as outlined by the Conservation Commission in the November 8, 2007 e-mail from Thomas Harbinson to John F. Anglace Jr. and attached documents which summarize the Conservation Commission's recommendations adopted at their November 7, 2007; SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 7-0.

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**10.3 REQUEST BY NEW CASTLE HOTELS TO ACCESS CITY PROPERTY FOR ENVIRONMENTAL TESTING**

Alderman Anglace MOVED to permit New Castle Hotels access to property owned by the City of Shelton located on Old Stratford Road, as identified on the attached map, for the purpose of conducting certain environmental testing to better characterize groundwater contamination observed on the former Lord Corporation facility located on the Site and as detailed in correspondence dated October 10, 2007 subject to New Castle Hotels providing evidence of insurance naming the city as an additional insured in an amount and company acceptable to the city; SECONDED by Alderman Perillo.

**David Buffam, CEO, New Castle Hotels**

New Castle Hotels is a hotel company that has been in Shelton for about 18 years up at the Corporate Towers project. With me is our licensed environmental professional in the State of Connecticut Senior Vice President of the Rizzo Tetrotech Company based in Hartford, John Adams.

We bought this property, which is the tangled mess of brush off of Exit 12 – it's about a five-acre property and we purchased it about six years ago from the Lord Corporation, which had operated chemical facilities on that property for 20 or 30 years as I understand it. In the course of doing that, they allowed contaminants to enter the soil and when they sold the property to us, they informed us that they had a licensed environmental professional assess the site and they were implementing a remediation process so that we would be permitted to develop the property having acquired it within a reasonable period of time.

We discovered after about two years of testing that the effective use of what their tests were was to determine if the groundwater was penetrating into the stream, but not to determine where the source of the contamination was, and I won't go into any more technical detail on this. We've been arguing with them for quite some time in an effort to get them to speed up the remediation so that we can build something on the site. We've talked to the City officials, development officials about doing something on this site for quite some time and we'd like to get moving, but we can't do it with the current condition, which remains mostly unknown as John will explain.

We basically have gotten to a point where we've entered a legal proceeding with them. We are now in the stage of mediation and we would very much like these tests to be completed to determine if in addition to the contamination on this site, which we think is significantly more serious than what they are planning to remediate, there may be additional contamination going underneath the bed of the Far Mill River and potentially contaminating property across the road, part of which is a City property that we desire to test.

Mayor Lauretti stated, I think it's important to tell the board, and correct me if I'm wrong, but it's my understanding that the property is under consent order by DEP for remediation.

Mr. Adams replied, not exactly. The property is in what's termed as the Connecticut Transfer Act, which means Lord Corporation is certified and is responsible for the investigation and remediation of the site. They should have completed their investigation within two years and began remediation within three, but they're still in the process of completing their investigation some five years after the sale of the property. What we want to do is to further characterize this. We have concerns that there is migration of this contamination under the river as it enters into the cracks and fractures in the bed rock, and as such, if that is the case, then it could travel

much further distances away from the site and potentially impact wells that might exist in the area. That is what we're really aiming to look at. Is it moving across the river, or is the river acting to intercept all of the groundwater that is migrating off of the site?

Mayor Lauretti stated, so even under the Transfer Act requirements, doesn't a consent order accompany that?

Mr. Adams replied, no, it's not a consent order. This particular site I don't think was ever under a consent order other than relating to its waste practices that occurred when the plant was operating. This plant itself,

TAPE ONE, SIDE TWO

performing the investigation, but the way that whole process is set up it's not until the very end of the process that DEP ultimately weighs in and says, 'yes you're done' or 'no you're not done.' That process could be 10 years from now at this point.

Mayor Lauretti asked, but DEP is involved in this process?

Mr. Adams replied, very limited. DEP determines when the transfer is made, whether they're going to keep control of the investigation or whether they're going to allow a licensed environmental professional to oversee the investigation and remediation. DEP determined that they would allow the licensed environmental professional to do that. Now should we find that there is migration under the river and that the contamination has spread much further than potentially they thought, DEP may ultimately take back this site and take back the control of investigation and remediation.

Mayor Lauretti asked, so you want to do some test borings on the City property just to confirm whether this migration is occurring or not.

Mr. Adams replied, right. Frankly, from New Castle Hotels perspective, they would hope that it doesn't extend underneath the river, because it would mean that it is contained to the site itself and wouldn't potentially impact properties that are on the other side of both the Far Mill River and Black Brook which is also adjacent to the property.

Alderman Finn asked, what are your intentions for the site, after the contamination has been cleared.

Mr. Buffam answered, we are in the hotel business, so our primary interest is to establish an upscale hotel at that location. We also have had deals in principle with national restaurant operators – Chili's was negotiating for this site for some time, but we couldn't get to the point of clarity with regard to the environmental issue with them, and as a result they went somewhere else. So, a restaurant and a hotel, those are the two things that we'd like to put on the site.

Alderman Panek asked, how long do you need access to the site for?

Mr. Adams replied, we would probably need access for approximately a week to put the wells in, and then come back at some point later for a one-day period to sample those wells. Should we find something or not find something, if there is a need to periodically sample those wells, it would be on a one-day basis over the course of some amount of time in the future. The department may determine that they would like to see these wells sampled periodically, so once installed they are there and available.

Mayor Lauretti stated, I would encourage the Board to approve this because I think it's important for us to know if any contamination has migrated to City property. We have a similar issue that is ongoing right now on the Housatonic River over on Canal Street, so this is not uncommon that we take that approach.

Alderman York asked, is this something you are picking up at your own cost, you will be paying for?

Mr. Buffam replied, yes, that is correct.

Alderman Finn asked, what length of time will these wells be in the ground? Once that expires, will you be filling them back in?

Mr. Adams replied, if at some point in time they become unnecessary, whether that be a month from now or 10 years from now, they would be abandoned in accordance with procedures outlined by the DEP.

Corporation Counsel Welch stated, this is similar to what we passed a few months ago with regard to Unum Provident and Long Hill Cross Road where Unum Provident had some contamination that has leached and you can see there are PVC pipes on the City property.

Alderman Panek asked, is the City property in question here used for anything? Is it just woods?

Mayor Lauretti stated, if my memory is correct it is in the wetland buffer area. It abuts the Far Mill River.

Mr. Adams stated, and I think you have a pump station on that property.

Alderman Panek asked, there is no other effect on the other abutting properties?

Mr. Adams stated, at present we really don't know. Our investigations have been in attempt to urge Lord to further their investigations of both the property and the adjacent properties. This is another attempt to help them to understand perhaps the severity of the issue so that they can ultimately take responsibility and remediate the groundwater on the site.

Alderman Panek stated, the work you have to do to get these wells in on this property isn't going to have an effect on the other property owners around in terms of accessing the property?

Mr. Adams replied no, absolutely not. Literally it's drilling a hole in the ground, putting a piece of PVC in the ground, and that well will be grouted in place so that groundwater can't seep in from the surface and so on and so forth. It's a pretty standard process that's an approved procedure by the department.

Mr. Buffam stated, we would like to have access to engineering plans for the pumping station so that we can understand where any underground piping exists and we are not in the vicinity of that.

Mr. Adams stated, if we could meet with your Public Works or Water Pollution Control Authority folks, whoever the appropriate folks would be.

Mayor Lauretti stated, that's not an issue.

Alderman York asked, if in fact the news isn't good, does DEP step in at that point to oversee what is going on and perhaps get more testing? Future plans of action?

Mr. Adams stated, this information would ultimately be made available to the Department and the Department could then make the determination as to whether or not they felt it was necessary for them to take back the site, take back control of the site. In that instance, DEP would dictate certain activities be completed and certainly further evaluation of how far the migration of this contamination has spread would be part of that scope of work.

Alderman Panek asked, all of your studies and findings will be given to the City?

Mr. Adams replied yes, absolutely.

Mayor Lauretti stated, one last point that Corporation Counsel Welch reminds me, it would probably be a good idea to have our Inland-Wetlands administrator be notified so he knows where everything is going – so he is in the loop, as well as the sewer administrator.

A voice vote was taken and the MOTION PASSED 7-0.

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#### ***10.4 PROPOSAL BETWEEN THE CITY OF SHELTON AND DECARLO AND DOLL FOR COMMUNITY CENTER***

Alderman Anglace MOVED to approve the contract between the City of Shelton and DeCarlo & Doll, Inc. for engineering services for the Shelton Community Center; and further,

MOVED to authorize Mayor Mark A. Lauretti to sign all documents pursuant to the agreement and to effectuate said agreement and further appropriate the sum of \$5,000 to be paid from Contingency General Account #001-9900-900.99-00; SECONDED by Alderman Kudej. A voice vote was taken and the MOTION PASSED 7-0.

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#### ***10.5 APPOINTMENT TO WATER POLLUTION CONTROL AUTHORITY***

Alderman Finn MOVED to appoint Mr. Richard Jager to fill the vacancy on the Water Pollution Control Authority; SECONDED by Alderman Panek.

Mayor Lauretti stated, note that the appointment is effective for the remaining portion of the current term and a reappointment starting December 11, 2007.

A voice vote was taken and the MOTION PASSED 6 Yes, 1 Abstention (Anglace).

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#### ***10.6 PLUMB MEMORIAL LIBRARY AGREEMENT FOR LONG RANGE PLANNING PROJECT SERVICES***

Alderman Anglace MOVED to approve the agreement between the City of Shelton and Elizabeth Mainiero d/b/a Cupolo Consulting for Long Range Planning Project services for the Plumb Memorial Library and Huntington Branch Library; and further,

MOVED to authorize Mayor Mark A. Lauretti to sign all documents pursuant to the agreement and to effectuate said agreement. Funding in the amount of \$9,984 is from the Long Range Planning Grant #162-LRP-08 granted by CT State Library Board; SECONDED by Alderman Finn. A voice vote was taken and the MOTION PASSED 7-0.

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**REPORT OF THE PRESIDENT**

I'd like to make a few comments. As President of this outgoing Board, I would like to conclude our two years of progress by thanking all the members for your hard work and dedication and attention to duty on behalf of the citizens of Shelton.

I also thank you for giving me the honor to have served as your President. Participation in City government at any level, and government at any level, is an honor. It requires a commitment of time away from family. It is a sacrifice that each of you have willingly made to ensure a better quality of life for all Shelton residents.

I'm sure our citizens appreciate all you have done on their behalf, and if they were present tonight, would give you a standing ovation. I congratulate those of you who have been re-elected and wish you well over the next two years.

Tonight will mark the last meeting for Alderman Christopher Panek and Alderman Randy York. As President of this Board I acknowledge their two years of service to the City, thank them for their contributions during that time and wish them well in their future endeavors.

With that, we close another chapter in the government of the City of Shelton. May it continue to exist and bring happiness and prosperity to all its citizens. Thank each of you for your service in the last two years.

**11 Executive Session**

At approximately 8 p.m. Alderman Panek MOVED to enter into Executive Session to discuss the following item:

- 11.1 City of Shelton v. Nesteriak
- 11.2 City of Shelton v. Kimberly Anglace
- 11.3 City of Shelton v. Louis Gherlone
- 11.4 Theodore Road

and invited Mayor Mark A. Lauretti and Corporation Counsel and Labor Counsel Kevin Blake to remain in the Auditorium; SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 7-0.

**Return to Regular Session**

At approximately 8:20 p.m. Alderman York MOVED to return to Regular Session; SECONDED by Alderman Finn. A voice vote was taken and the MOTION PASSED 7-0.

Mayor Lauretti noted that there were no votes taken in Executive Session.

**Motions from Executive Session**

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**11.1 City of Shelton v. Nesteriak**

Alderman Anglace MOVED to approve the voluntary agreement in the Heart and Hypertension case of Stephen Nesteriak as presented; SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 7-0.

**11.2 City of Shelton v. Kimberly Anglace**

No action.

**11.3 City of Shelton v. Louis Gherlone**

No action

**11.4 Theodore Road**

Alderman Perillo MOVED to authorize the taking of a permanent drainage easement, temporary construction easement and temporary easement for the installation and maintenance of a proposed culvert and to install and maintain sedimentation control system during construction regarding property located at 23 Theodore Road; SECONDED by Alderman Anglace. A voice vote was taken and the MOTION PASSED 7-0.

**Adjournment**

Alderman Anglace MOVED to adjourn; SECONDED by Alderman Perillo. A voice vote was taken and the MOTION PASSED 8-0.

The meeting adjourned at approximately 8:25 p.m.

Respectfully submitted,

Patricia M. Bruder, Clerk  
Board of Aldermen

Date Submitted: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_ BY: \_\_\_\_\_

Mark A. Laretti  
Mayor, City of Shelton