

**CITY OF NORWALK
COMMON COUNCIL ORDINANCE COMMITTEE
MARCH 16, 2010**

ATTENDANCE: Kelly Straniti, Chair; Andrew Conroy, Richard Bonenfant,
Nora King, John Tobin,

STAFF: Robert Maslan, Jr., Corporation Counsel; Hal Alvord (8:25 p.m.)

OTHERS: Diane Lauricella, Public Comment

CALL TO ORDER

Ms. Straniti called the meeting to order at 7:05 p.m.

ACCEPTANCE OF MINUTES

Approval of the minutes from the December 15, 2009

**** MR. BONENFANT MOTIONED TO APPROVE THE MINUTES FROM
THE DECEMBER 15, 2009 MEETING AS SUBMITTED**

**** THE MOTION PASSED UNANIMOUSLY.**

Public Participation

Ms. Straniti reviewed the procedure and rules for those who had signed up to speak, and asked those individuals to state their name, address or affiliation and to comment only as relevant to the agenda items, limited to a maximum of three minutes.

The following comments are not verbatim and represent a summary of statements made.

Public Comments

Mr. Diane Lauricella, 21 Blue Mountain Ridge Road, Norwalk stated that she was here as a city resident and environmental consultant to comment on the proposed storm water ordinance. She stated that she is pleased that the Committee is looking to preserve and protect the shellfish and the Long Island Sound, and while the proposed ordinance is very good she would like to have clearer language throughout the ordinance, and specific suggestions on the following sections:

Page 1 – Section 93-1a: She would like the use of clearer legal language.

Page 2 – Illicit Connections: The language implies the DPW Director has right to impact the issue, and she would like to have a better definition of impervious services.

Page 4 – 93-4: she would like to add the Conservation Commission's role and the Health Department responsibilities.

93-6: She presented a copy on an e-mail response forwarded by Tony D'Andrea from John Frank and read the following:

“Anything that has a real effect on reducing the water pollution is a good thing for the shellfish commission. Proposed ordinance sounds like a step in the right direction. Is it a conflict of interest for public works to be responsible for enforcement or the (AEA) of an ordinance proposed to provide for health safety and general welfare, doesn't that belong under the Health Dept.? There are already laws against water pollution, DEP has the authority, responsibility, and staff, for enforcement, but does an effective job. The benefit of this ordinance will be determined by how well it is enforced. Certain willful violations, such as dumping pollutants into storm drains, would still be subject to immediate criminal sanctions, enforced the police (BGS 22s-438) John Frank”

At this point, Ms. Straniti stated that comments were to be limited to three minutes and asked Ms. Lauricello if she could bring her comments to closure, as this was not the public hearing, just the public comment portion of the regular meeting agenda.

Ms. Lauricella stated that she thought this was a public hearing, and she apologized for taking up so much time, added that she would like to have the points listed in writing and addressed at the next meeting, and then went on to list her other comments:

Page 5 - 93-7 – Section A1: She would like to add Environmental Health Director in items 2-3 and a definition of “non-contaminating” included under section f.

Mr. Lauricella added that the Mayor's Water Quality Committee comments on enforcement should be added in concert with positions held by Tom Cluster and Alexis Kiriadis and not their names. She added that in section 93-10 Contractor yards, there are areas off Martin Luther King Drive that are not consistent with the ordinance.

There were no other members of the public present to speak for the public participation, and Ms. Straniti closed the public comments session ended at 7:45 p.m.

COMMENTS ON PUBLIC PARTICIPATION

In response to the public comment regarding the proposed storm water ordinance, Ms. Straniti stated that Mr. Lauricella made some very good points, and asked her to summarize her comments in writing for the next meeting. She added that this was not the public hearing, just the public comment portion of the regular meeting agenda, but that her points were very relevant and she would like to have them for the next meeting.

NEW BUSINESS

Proposed Storm Water Ordinance.

Ms. King asked if the previous changes were reflected in this version of the ordinance, and Mr. Conroy stated that his version does reflect the changes. Ms. King stated that it is really key to have Mr. Alvord present as the ordinance language gives too much power to the Director of Public Works. She added that throughout the ordinance, and especially under the notice of violation and enforcement measures sections, the language is too empowering and she wanted to have DPW and Corporation Counsel address how to revise the wording.

Ms Straniti stated that she would also like to have the Health Department, Conservation Commission, and Harbor Management Committee members present to field questions and comments regarding items that come under their purview.

Mr. Conroy stated that relative to the specific sections, he questioned 93-4, responsibility for administration, and under 93-15 the last sentence on the timing. Ms. King replied that 10 days was really short, especially if a resident was out of town, and Mr. Conroy clarified that the 10 days was changed to 15. Mr. Maslan added that the date of the appeal is added to prior 30 and 35-day notifications, and clarified that an ordinance does not have jurisdictional power, that is governed by stated statutes.

Mr. Conroy questioned section 93-16 and said the “take any and all measures” is out-dated wording that places DPW in the role of a law enforcement or sheriff-type of officer. Ms. King agreed and Ms. Straniti stated that she would like to have Mr. Maslan look into changing the language to be more consistent with state statutes.

Mr. Bonenfant asked about the letter from Mr. Maslan, and wanted to know how it fit in to the ordinance. Mr. Maslan stated that it was a position response to provide background on the ordinance, and was not intended to be an addendum to the ordinance, but just to provide Mr. Alvord with legal advice as requested members. Ms. Straniti stated that she felt it was important to provide the Committee members with his to assist them with the background and to explain the communication process.

After further lengthy discussion, Ms. Straniti stated that there were too many substantial changes to present this version for public hearing. Mr. Maslan stated that he would recommend this be circulated to City Departments with a cover letter requesting their input and recommended changes. Ms. Straniti asked if this would be done prior to the next meeting, and Mr. Maslan responded that he would provide a check list summary of the comments by e-mail to the Committee members prior to the next meeting so that they could review and be prepared for comment at the next meeting.

Mr. Alvord entered the meeting at 8:25 p.m.

Ms. Straniti asked Mr. Alvord if he was dealing with the emergency tree removal due to the storm, and he replied that he was defending his departmental budget with the Board of Estimate and Taxation. She then asked him for his input relative to the proposed ordinance and he stated that there were CT state statutes that cover violations from companies and that this was geared more for residents and individuals that were in violation. Ms. King stated that she was concerned that it does not protect those residents who were not aware that they were in violation, and gave an example of an elderly person that had lived in the home for 25 years that was just made aware that rust from old pipes was going into storm drains and contaminating the sound.

Mr. Bonenfant asked if there were guidelines on road salt and what the chemical ingredients were relative to water contaminants. Mr. Alvord replied that the ingredients contained in the salt purchased by the city are approved and safe for storm drain run-off.

Ms. Straniti re-stated for Mr. Alvord's benefit that there were too many substantial changes to present this version for public hearing, and that Mr. Maslan would be circulating this to the City Departments requesting their input and recommended changes. Mr. Alvord stated that it would be difficult to receive comments and input in time for next month's meeting, as he is awaiting input that was requested three months ago, but there have been more pressing issues for the departments.

Ms. Straniti stated that in summary, she is requesting further review and Corporation Counsel input on the language and CT state statute implications on the following areas: 93.4; 93.7; 93-14; 93-15; and 93-16. She added that after thorough review of the impending changes by the members at next month's, she would hold off on scheduling a public information/hearing session for now, and would take action after the next meeting.

Other Business

Mr. Bonenfant stated that following this week's storm, he has received many comments and questions from residents regarding property owner's rights on downed trees or any "acts of god" as it relates to trees falling on property. Ms. King stated that she thought it was the location of the base of the tree, and Mr. Maslan stated there is no property right on the location. He added that if a tree falls on someone's property it is up to the property owner to contact their homeowner's insurance company for coverage, and most likely, unless the house is damaged, there is no coverage for tree removal.

Mr. Maslan stated, that however, if there was prior complaint or notification that a tree was dead, rotten, and presented a safety hazard, there may be a case whereby the owner of the property where the tree was located, may be responsible for damages and for the tree removal expenses if it came down on another property. Mr. Tobin emphasized that there would have to have been a formal prior complaint and notification, as he has had neighbor his comment on his trees, but no formal or official complaint.

Mr. Bonenfant stated that he appreciated this clarification, as there have been so many fallen trees that the issue is a very timely one that he wanted to be able to answer. Mr. Alvord stated that it was announced that schools would remain closed for another day and there were 10 primary roads leading to schools that are still not accessible, and residents have not been able to get to their homes. Ms. King stated that Greenwich is a mess, and it was announced that schools in Greenwich will remain closed until next week.

ADJOURNMENT

**** MR. CONROY MOVED TO ADJOURN.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Marilyn Knox
Telesco Services