

**CITY OF NORWALK
ORDINANCE COMMITTEE
REGULAR MEETING
FEBRUARY 16, 2016**

ATTENDANCE: Eloisa Melendez, Chair; Douglas Hempstead, Tom Livingston, Bruce Kimmel, Michael Corsello, Travis Simms (7:15 p.m.)

STAFF: Atty. Brian McCann, Associate Corporation Counsel

OTHERS: Tony Mobilia, Harbor Commission; Police Chief Thomas Kulhawik, Mike Yeosock, DPW; Sgt. David Orr, Norwalk Police Union President, Police Officer Carl Smith.

CALL TO ORDER.

Ms. Melendez called the meeting to order at 7:03 p.m. A quorum was present.

PUBLIC HEARINGS

By-Laws of the Norwalk Harbor Management Commission

Ms. Melendez opened public hearing on By-laws of the Norwalk Harbor Management Commission at 7:03 p.m. She asked if there was any one present who wished to address the Committee regarding the Bylaws. No one came forward. She repeated her request. No one came forward.

Ms. Melendez closed the public hearing on the By-Laws of the Norwalk Harbor Management Commission at 7:04 p.m.

Taxation - Board of Assessment Appeals

Ms. Melendez opened public hearing on the Board of Assessment Appeals. She asked if there was any one present who wished to address the Committee regarding the Board of Assessment Appeals. No one came forward. She repeated her request. No one came forward.

Ms. Melendez closed the public hearing on the Board of Assessment Appeals at 7:05 p.m.

PUBLIC COMMENT.

No one wished to address the Committee at this time.

ACCEPTANCE OF MINUTES

January 19, 2016

**** MR. CORSELLO MOVED THE JANUARY 19, 2016 MINUTES.**

**** THE MOTION TO APPROVE THE MINUTES OF JANUARY 19, 2016 PASSED WITH FOUR (CORSELLO, KIMMEL, MELENDEZ AND LIVINGSTON) AND ONE ABSTENTION (HEMPSTEAD).**

PUBLIC HEARING DISCUSSION.

Mr. Hempstead asked about why the Harbor Commission Chairman would have two votes in case of a tie. Atty. McCann explained that the regulations only allow the Chairman to vote in a Committee meeting in the case of a tie. He indicated where the information was included in Article 2, Section 4 of the document.

Mr. Hempstead asked about the FOI regulation on page 9 for special meetings. Atty. McCann said that these were guidelines that the City and the Commission followed.

**** MS. MELENDEZ MOVED TO SEND BOTH THE BY-LAWS OF THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE TAXATION - BOARD OF ASSESSMENT APPEALS ITEMS TO THE COUNCIL.**

Mr. Hempstead pointed out that the public hearing was just for the Harbor Commission Bylaws and not for the Rules and Regulations for Mooring and Anchoring Vessels. Atty. McCann confirmed that the published Legal Notice did not include the Mooring Rules and Regulations.

**** MR. HEMPSTEAD MOVED TO SUSPEND THE RULES TO TAKE UP THE RULES AND REGULATIONS FOR MOORING AND ANCHORING VESSELS AT THE NEXT REGULARLY SCHEDULED MEETING.**

**** THE MOTION TO TAKE UP THE RULES AND REGULATIONS FOR MOORING AND ANCHORING VESSELS AT THE NEXT REGULARLY SCHEDULED MEETING PASSED UNANIMOUSLY.**

Atty. McCann made a note of this.

**** THE MOTION TO SEND BOTH THE BY-LAWS OF THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE TAXATION - BOARD OF ASSESSMENT APPEALS ITEMS TO THE COUNCIL PASSED UNANIMOUSLY.**

OLD BUSINESS.

Commercial Parking Ordinance

Atty. Brian McCann said that this item had been on the agenda for the last few meetings and he was asked to invite Chief Kulhawik or one of the Deputy Chiefs to speak on this.

Chief Kulhawik said that this stemmed from various residents who complain about contractor's vehicles being parked on residential streets, and a boat trailer that was on Seaview avenue along with a camping trailer parked elsewhere. He said that the way that the ordinance was written now, there wasn't much that the police can do about this.

Mr. Simms joined the meeting at 7:15 p.m.

Atty. McCann said that another Council Member had been receiving complaints from residents about a contractor lives on a residential street and parks his vehicles on the street. The work crew members drive to the house, park their vehicles and take the trucks. This leaves no parking for the other neighbors.

Mr. Kimmel said that he wanted to know how the police would handle this. Chief Kulhawik said that these were basically isolated incidents. The officer would check to see the vehicle parked on the street and there would be a follow-up check some hours later. Chief Kulhawik said that if the ordinance was written differently the police could do something.

One officer said that one of the CAD program allows the officers to log in a future call to officer on a different shift when a follow up is needed. He said that there were a number of repeat offenders. Mr. Hempstead said that it would be important to tread carefully because Norwalk wants small businesses and they don't want to punish the residents.

Discussion followed about the various details involved and possible solutions such as issuing a truck permit sticker. Mr. Hempstead pointed out that the police can not tow a vehicle unless it is posted. Atty. McCann said that Zoning claimed that using a weight restriction could be difficult since the staff would not know how much a truck weighted by driving by. One of the officers present said that the DOT requires the weight to be on the trucks. Atty. McCann made a note of this to let Zoning know.

After some further discussion it was decided that this issue will continued on the next agenda.

Don't Block the Box.

Ms. Melendez said that there were two major intersections that have this problem, one at the intersection of Route 1, France Street and Park Street and the second intersection on East Avenue 95 north bound off ramp when a vehicle is turning right to head north on East Avenue.

Chief Kulhawik said that traffic cameras are illegal in Connecticut. He said that painting the intersections with the cross hatched markings makes people much more aware of the area. Mr. Kimmel said that there were some sight line issues at the 95 off ramp for the vehicle on already headed north East Avenue. Discussion followed about the details and whether an officer should be stationed there.

Mr. Yeosock said that in order to paint the lines, the Council has to pass an ordinance. Chief Kulhawik said that he would like to see the box painted.

The discussion moved to the France Street/Route 1 intersection. Mr. Hempstead said that the State was looking at the intersection for possible reconfiguration.

**** MR. LIVINGSTON MOVED TO SCHEDULE A PUBLIC HEARING REGARDING THIS AT THE NEXT SCHEDULED MEETING FOR THE ORDINANCE COMMITTEE.**

**** THE MOTION PASSED UNANIMOUSLY.**

NEW BUSINESS

Alarm Ordinances - Chief Kulhawik said that there was a problem with having the business owners who have a number of false alarms. There is no way to collect the fees, which can increase rapidly. Most of the alarms that the department receives are false alarms. He said that now the alarm company often calls the home owners first before dispatching the police.

Atty. McCann said that he would like to use CGS 7-152-C, which would put a lien on the property. Mr. Corsello said that he would like to have an enforcement arm so that the fines could be collected by the City and some additional language indicating that the home owner should be contacted first. Discussion followed.

Ms. Melendez asked that a draft of the proposed changes be prepared for the next meeting. Atty. McCann then briefly reviewed the changes that he would like to recommend in the ordinance with the Committee.

Extra Police Work - Sgt. David Orr, the Police Union President, came forward and said that there was an Extra Work Office where the civilian police employee takes in work orders from private contractors and utility companies for job site traffic control. He said that there were about 50 to 60 officers on duty on these jobs during the spring, summer and fall and about 30 or so officers during the winter.

Officers that are on construction jobs are considered on duty and fully uniformed along with a yellow reflective vest. Some have police cars, but all have police radios with them. The benefits of having an officer on a job site includes the ability of the officer to

enforce the law, along with the public safety aspect where the officer can respond to call of service from their job, or respond to an assist call, such as a medical situation. Sgt. Orr said that he had been involved in both types of call. He added that a private flagman can't do that.

During the winter, there are about 15 to 30 officers on the jobs. These officers are being paid for by the private contractors and utility companies. Recently, with the warmer weather, there were as many as 35 officers out on these jobs.

The City takes a 15% administrative fee for these extra work contracts. In 2014, that came to \$548,000 into the City General Fund from the officers' extra work. This past year, it totaled \$490,000. Sgt. Orr said that supporting documentation was available for the Committee members if they wished to see it.

The biggest vendors are the utility companies and Cablevision. Eversource accounts for between 50 and 55% of the work load. There is nothing in the ordinances that would prohibit the companies from simply hiring flagmen. The flagging companies don't charge that much less for the service. It's between \$45.00 and \$55.00 an hour. The flaggers are private citizens from various parts of the State. Sgt. Orr said that they were not from the Norwalk area. They don't have a cellphone, a police radio and no enforcement ability. Motorists often don't take them seriously whereas drivers do take an officer seriously.

Right now, the utility companies could draft a policy mandating private flaggers on roadway traffic control. If that did happen, the City would stand to lose at least \$300,000 in yearly revenue to the General Fund. With the budget cuts from the State, the City needs every bit of revenue possible.

The Police Union would like the Ordinance Committee to consider an ordinance that would not offer the officers exclusivity, but that would have the Department have the right of first refusal. He said that the Department was looking to capture and retain the current work load because it offers the City financial benefits and enhances public safety with traffic control.

In Fairfield County, eleven of the 23 municipalities have some varying degree of ordinance based mandates for police officers to conduct road way traffic control for construction. This includes every single municipality that surrounds Norwalk. Sgt. Orr displayed a map showing the breakdown with highlighted areas indicating the municipalities that required officers to perform traffic control to some degree. New Canaan and Darien have the strongest polices.

Mr. Kimmel asked if the other towns get 15%. Sgt. Orr said that many of them do and that he had just received updated information from Westport. Westport now charges \$79.00 an hour per officer for extra duty officers. In Norwalk, with the 15% fee added, it comes to around \$68.00 an hour per officer. Westport previously charged \$70.00.

Norwalk's fee is based on a top grade patrolman time and a half rate. Stamford's rate is based on a top grade sergeant time and a half rate, which works out to be about \$12.00 more than Norwalk's rate. Norwalk rate is very competitive and not set to gouge the companies.

Mr. Kimmel asked if the ordinance was approved, if it would create staffing problems for patrols. Sgt. Orr said that it hadn't created a problem so far. He said that he had used language from Darien and New Canaan to create the ordinance. The ordinance is actually a right of first refusal and says that the sworn officers will have the first chance at this work. If within a reasonable amount of time, the Police department can not staff these positions, a flag man can be used. Sgt. Orr said that the jobs rarely go unfilled. There is a directive based mandated that the officers can not work more than 16 hours in a row. The policy is that when a job reaches an 8 hour level and is scheduled to go beyond that, the officer notifies the front desk and a call goes out for a replacement.

Sgt. Orr distributed copies of the proposed ordinance to the Committee members.

Mr. Kimmel asked about Stamford. Sgt. Orr explained that Stamford does not have an ordinance, but does have an internal policy. The work office is staffed by police officers. The Stamford Permitting Department at City Hall has a requirement that the contractors call the Stamford Police for coverage.

Mr. Livingston asked about Darien and New Canaan not having the same amount of extra work available. Sgt. Orr said that he didn't know, but believed that it was probably true due to the fact that Norwalk was bigger than either Darien or New Canaan. Discussion followed.

Sgt. Orr then gave an overview of how the Department polices themselves and administers discipline to officers who do not perform satisfactorily. He said that he had created a two year spreadsheet showing the discipline administered. In 2014, five officers received a one week suspension from extra work, and one officer received a two week suspension. In 2013, an officer received a three month suspension from extra work.

There were some questions regarding the financial aspect, which Sgt. Orr answered. He said that at one point, the percentage that the City received was 9% and then moved to 12.5% and now is at the current level of 15%.

Mr. Livingston asked how much of the cost is covered by the money that the City receives. Sgt. Orr said that the union had grieved the increase from 12.5% to 15% and that the union office has a spread sheet created by Mr. Haselkamp from that grievance issue. It accounts for the revenue taken in and how the funds were spent, including items such as vehicle maintenance, comp insurance for officers on those jobs and gas. Discussion followed.

Chief Kulhawik said that the spreadsheet provides data showing that the fees do cover the cost and pointed out that the revenue even covered the cost of the Finance Department staff who work on these assignments, right down to the pens and pencils. The issue remains a contentious one between the City and the Police Officer Union. Sgt. Orr said that during that grievance, the Finance Department even attached a percentage of time to eleven different employees that worked on these assignments. Discussion followed about the details of that situation.

Mr. Hempstead said that he was under the impression that the paving companies and other contractors had to have a police officer on site when working on a major thoroughfare. He said that in the past there had been problems with flagmen that had been inept. The challenge is that most paving companies already know that a police officer is necessary for the job when working primary roads.

Sgt. Orr said that he knew that the Police Chief had received a phone call from the Commander of the State Police Troop G who was stuck in traffic due to the ineptitude of the flagmen at a work site by Route 7 and I-95 entry ramp. He pointed out that Norwalk officers are accountable to their Police Chief and the Executive Board on these kinds of issues, while the flagmen are not.

Mr. Hempstead said that public safety was a very important aspect. Needing an officer on a cul-de-sac or a tertiary road is debatable, but the necessity for officers on primary roads is critical. It was pointed out that the State does not require a police officer on site unless it is a limited access road. Discussion followed about the times when there have been flagmen and officers on a job site.

Mr. Hempstead asked if it was outside the purview of the Chief to discipline an officer that is seen on a job site chatting with other officers while the traffic is backed up. Sgt. Orr gave an example of discipline that had followed an officer when he was seen violating a job site rule.

Sgt. Orr said that the reason he was present at the meeting was because over the last few years, the 15% fee is a revenue stream for the City. The work is there. Someone is going to do it. The proposal is not a right of exclusivity, but a right of first refusal. Discussion followed about the intention. Sgt. Orr said that there was a memorandum of understanding between the Mayor's Office and the Department regarding the decision as to whether a particular job site required traffic control and it outlines who in the Department would be making that decision on a job by job basis.

Mr. Hempstead asked how the department deals with emergency road openings, such as a broken water main. Chief Kulhawik said that an on duty officer would respond and wait until an off duty officer could get there. Sgt. Orr gave an example of the situation earlier in the day where there were two separate incidents of wires being down on the road.

Each site required 2 officers because it is a major hazard. Since it was near the day to evening shift change, the call went out to day shift officers to cover the jobs.

Mr. Kimmel said that he had been on Chestnut Hill Road recently where work was being done and the officers assigned to that site did an excellent job. Atty. McCann said that he routinely drives on Partrick Road and because of all the twists and turns, it's extremely dangerous when road work is being done there. He said that if there was not officers on site, someone could die.

Mr. Kimmel said that he was inclined to go along with this, but would like to see some of the other ordinances from other towns. Atty. McCann pointed out that most towns do have some kind of ordinance that includes the determination by someone in the department regarding the necessity of an officer on the project site.

Mr. Hempstead also asked about road reconstruction jobs for a City job when the City is doing work on a major thoroughfare. He said that he thought it was not required and there were other options. However, when there are no police officers, there is the issue of public safety.

Atty. McCann said that the X factor to this issue was who would pay when someone was hurt. It's not the differential of the \$15.00 an hour rate, but the cost if an officer is injured, such as the officer who was hit in the head when a trench box was being moved. Discussion followed about workmen's comp.

Mr. Kimmel asked if there had been many injuries. Sgt. Orr said that there had been two, the officer who hit by the trench box and another officer who was hit by a truck backing up that did not have the audible warning beeper. Another officer was run over in the 1990's. Sgt. Orr said that it looked like it was one injury per decade.

Officer Orr said that when he was working on this presentation he had asked the officers to prepare reports about when officer was on a construction job and helped out with routine police emergencies. He displayed a stack of reports starting in 2012 through to 2014 that he said was only half of the incidents. He gave Mr. Hibson a spreadsheet that summarizes those incidents with the case numbers and brief explanation attached. It is an enormous benefit having the officers stationed on the various sites when there is an incident underway.

Ms. Melendez thanked the officers for their input.

Senior Deferral Program - Mr. Kimmel said that He thought Mr. Stewart, the tax assessor would be present. Mr. Kimmel said that for the Tax Deferral Program had two small changes. He said that the amounts were somewhat regulated by the State. The changes were basically updates on the numbers. One simply increases the maximum income. He said that the updates should be done during revel years because of the

potential tax increases for seniors. Discussion followed about applying for the City credits and the State credits. Mr. Kimmel said that the Committee was expecting a 15% increase in the number of residents. The goal is to keep the seniors in their homes. Discussion followed about the data collected by Mr. Stewart.

Atty. McCann said that a March public hearing would work out well because it could go to the Council shortly after that. This would allow this to be included in the upcoming tax bills.

Mr. Kimmel asked that the next set of documents would have the figures plugged in and

**** MR. HEMPSTEAD MOVED TO HAVE A PUBLIC HEARING FOR THE SENIOR DEFERRAL PROGRAM AND THE SENIOR TAX RELIEF PROGRAM AT 7 P.M. AT THE NEXT SCHEDULED MEETING.**

**** THE MOTION PASSED UNANIMOUSLY.**

ADJOURNMENT

**** MR. LIVINGSTON MOVED TO ADJOURN.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned 9:07 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services