

City of Derby
Board of Aldermen / Alderwomen

First Ward

Barbara L. DeGennaro
Thomas J. Donofrio
Bev Moran

Second Ward

Joseph L. DiMartino
Evelyn Browning
Ronald M. Sill

Third Ward

Jim DiMartino
Louis Oliwa
Charles Sampson

Board of Aldermen/Alderwomen Meeting Minutes

Derby City Hall

1 Elizabeth Street, Derby, CT

January 10, 2019

1. Call to Order.

Mayor Dziekan called the meeting to order at 7:00 PM.

2. Pledge of Allegiance.

Mayor Dziekan led the Pledge of Allegiance.

A moment of silence was held for Leo Moscato, Sr.

3. Roll Call.

The Board of Aldermen / Alderwomen members present were Barbara DeGennaro, Thomas Donofrio, Evelyn Browning, Joseph DiMartino, Charles Sampson, Bev Moran, Louis Oliwa, Ronald Sill and Jim DiMartino.

4. Adoption of the Agenda

Mr. Sampson motioned to add item 9.4 under new business "Move to approve amended fiscal year 18-19 5-year Capital Plan pursuant to their meeting held on January 10, 2019. Motion was seconded and carried with all in favor.

5. Public Portion

David Guerra of 101 Marshall Lane - made the following statement.

1/10/2019 – Derby Board of Alderman & Alderwoman Meeting

My name is David Guerrero, owner of 101 Marshall Lane in Derby, CT.

I'm here this evening to request the support of the Derby Board of Alderman & Alderwoman for their approval of our submitted Tax Incentive Application for 101 Marshall Lane.

Prior to purchasing 101 Marshall Lane, I met with Mayor Dziekan in very early 2018 to formally introduce myself after a long, arduous, but fruitful 8 months of public meetings with the Derby Planning & Zoning commission and city of Derby on our proposed zone text change. I expressed my gratitude for his support of our project and explained and committed to our future plans for 101 Marshall Lane.

The issue of Derby not having a tax incentive plan similar to other Connecticut towns and cities was discussed during our meeting. I expressed my concern for the long road ahead if I were to purchase 101 Marshall Lane including but not limited to the extraordinary investment for the future benefit of the continued operation of a dilapidated, empty, old building whose tax revenue performance was for many years below normal. Other Connecticut developers whom I am familiar with questioned why I thought Derby was a financially practical location for our dormitory project when other towns had tax rates that were much lower, or at the very least welcomed new businesses with generous tax incentive plans. The Mayor and I discussed a proposed Tax Incentive Plan and suggested that I work with his Economic Development Liaison Mr. Carmen DiCenso to help offer my business advice on how a plan might be created.

Monthly I followed up with Mr. DiCenso to see what the status of the tax incentive plan was as I expected the plan to be passed prior to me commencing renovations, and the response was a cordial, "we are diligently working on it". With the anticipation of the city of Derby implementing a Tax Incentive Plan and my immediate need to purchase 101 Marshall Lane and

complete renovations prior to the upcoming school year, I took a risk and moved forward with the purchase of 101 Marshall Lane instead of waiting for the Plan's formal approval. To date, I have personally invested my own, hard-earned capital into 101 Marshall Lane, and over a very short period of 4 months completed renovations – to this day, visitors are amazed that the project was completed so quickly.

We made a promise to the city and taxpayers of Derby and delivered on it 110%.

We currently house bright, dedicated, hard-working, and happy international students attending nearby high schools and to date have had no complaints – if anything, numerous compliments from neighbors and school officials on what we have accomplished have been forthcoming. I am planning on renovating the back half of 101 Marshall Lane very soon, however I am anxiously waiting for the approval of our Tax Incentive Application so that I can continue running and investing in 101 Marshall Lane.

Please kindly consider my application as we are indeed a new business to Derby, have invested significant capital in Derby, and will continue to do so for years to come. Thank you.

Paul Rusczyk, the attorney representing Madeline McEvoy spoke regarding a threatening letter she received from the facilities inspector. He forwarded the following document to the Board.



CITY OF DERBY
FACILITIES INSPECTORS
1 ELIZABETH STREET
DERBY, CONNECTICUT 06418
Telephone 203-736-1481

Andrew Cota Jr.
James R. Watson

VIA CERTIFIED MAIL – RETURN RECEIPT

Date: 30 October 2018

Madeline McEvoy
200 Emmett Av
Derby, CT 06418

RE: Blighted conditions at Indian Ave between the properties of 49 and 55 Indian Ave.,
map 8-11 23, Derby, CT 06418

Dear Madeline McEvoy

Please be advised that the property located at the above captioned address is in violation of Chapter 60 of the City of Derby Code for the following reasons. As described in the 14 August 2018 courtesy warning letter is blighted due to overgrowth of all kinds of vegetation, including weeds, huge vines that have climbed up the trees on the property. Poison ivy and oak and sumac. This overgrowth is encroaching onto other property to such a degree that the branches and leaves are resting on adjacent homes. This condition is/or potentially is damaging other private property. The numerous no trespassing signs are very unsightly. The two vehicles parked on the property obstruct the free passage of pedestrians who have to walk in the travel portion of the roadway in order to pass the location. These vehicles have not been moved for a long period of time and the partial flat tires, rust and dirt indicate there is no intent to move the vehicles into a paved driveway where appropriate parking is allowed on properties.

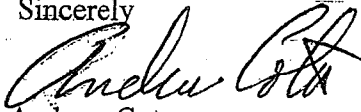
tree of neighborhood

A continuation of the violation at that property will result in placement of the premises on the Aldermanic List of blighted Properties. Once the property is placed on the list of blighted properties, a penalty of one hundred dollars per day is assessed against the property in the form of a lien for every day that the violation persists.

The violation must be corrected by 30 November 2018 in order to avoid a recommendation to the Alderman Sub-Committee to place the property on the Board of alderman's list of Blighted Properties.

I trust your immediate attention in correcting this matter in order to avoid costly penalties.

Sincerely

A handwritten signature in cursive script, appearing to read "Andrew Cota".

Andrew Cota
Facilities Inspector

Cc: Building Official, Carlo Sarmiento

BUILDING DEPARTMENT
City of Derby
1 ELIZABETH STREET
DERBY, CT 06418

WR 12/08



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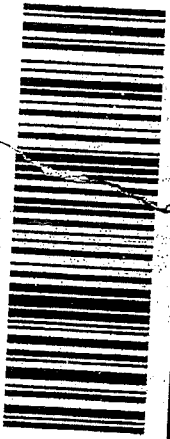
Madeline McEvoy
200 Emmett Ave
Derby, Ct 06418



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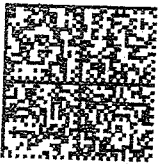
BUILDING DEPARTMENT
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Madeline McEvoy
200 Emmett Ave
Derby, Ct 06418



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Paul Rusczyk

Attorney at Law
Highland Professional Center
408 Highland Ave.
Cheshire, CT 06410

Telephone 203-699-9984
Fax 203-699-9408
Email rctlawyer@aol.com

UPS Overnight

December 18, 2018

Carlo Sarmiento
Building Official
City of Derby
1 Elizabeth Street
Derby, CT 06418

RE: Property Located at 49 and 51 Indian Avenue (Map 8-11-23)

Dear Mr. Sarmiento,

I represent Dr. Sharlene McEvoy the current equitable owner of the property located between 49 and 55 Indian Avenue. I have reviewed the letter sent to her and addressed to Madeline McEvoy by Andrew Cota dated October 30, 2018. Please note that said letter, although dated October 30, 2018 was sent in an envelope postmarked, December 4, 2018 and it was not received by Dr. McEvoy until December 8, 2018.

Despite the fact that it was not sent until December 4, 2018 the letter demands that Dr. McEvoy make changes to the property no later than November 30, 2018. It threatens a \$100.00 per day fine if the property owner fails to comply by November 30.

By sending this letter in this improper manner, the City has violated Dr. McEvoy's constitutional right to due process. If any action is taken on this letter, the City will be met with legal action.

Now, on to the substance of the letter:

Dr. McEvoy denies that the property in any way constitutes a blight.

The property has been left in its natural state and the plant growth there is entirely natural.

Dr. McEvoy denies that any of branches or leaves rest on any adjacent home. And if that were the case, the homeowners would have every right to trim those branches so long as they did not enter onto Dr. McEvoy's property. This issue seems to be entirely a civil matter between Dr. McEvoy and her neighbors and it appears that the City has no right to intervene.

Dr. McEvoy has every right to post no-trespassing signs on her property. The property is vacant and has experienced dumping of leaves, yard waste and construction waste and other debris. Further, Dr. McEvoy is concerned about local children might go onto the property and the liability exposure therefrom.

Dr. McEvoy denies that the vehicles cited in your letter are parked on the public way or interfere in any way with pedestrians or vehicles. Both vehicles are operational, registered and Dr. McEvoy pays taxes to the City of Derby for both vehicles. It should also be noted that many of the residents of Indian Ave. park on the street and their cars constitute much more of an obstruction to traffic.

Frankly, this treatment of Dr. McEvoy appears to me to be simple retaliation for the lawsuit she brought against the City a few years ago regarding the City's unlawful cutting of her trees and other trees. I note for the record that Dr. McEvoy has received several letters in the past similar to that dated October 30, 2018. Those letters are dated August 23, 2017 and August 14, 2018. They contain similar allegations and threats. Nothing seems to have come as a result of these earlier letters.

Accordingly, by this letter, I ask you to preserve and produce to me all documentation leading up to the letters of August 23, 2017, August 14, 2018 and October 30, 2018. That would include all notes, memoranda, correspondence, emails and any other communication by and between any City employee, official, and/or contractor and any complaint from any citizen. You may consider this to be and FOIA request.

Very Truly Yours


Paul Ruszczyk

CC: Dr. Sharlene McEvoy
Andrew Cota
Mayor Richard Dziekan



STEVEN DANZER, PHD & ASSOCIATES LLC

Wetlands & Environmental Consulting

WWW.CTWETLANDSCONSULTING.COM

203-451-8319

WETLAND BOUNDARIES • POND & LAKE MANAGEMENT • CONSTRUCTION FEASIBILITY CONSULTATIONS • ENVIRONMENTAL STUDIES

January 10, 2019

Sharlene McEvoy
200 Emmet Ave
Derby, CT

Re: Landscape assessment of undeveloped lot in back of 200 Emmet Avenue (MBL 8-11-23).

Dear Ms. McEvoy,

This is to confirm that I visited your property on 1/9/18. The purpose of my visit was to assess the condition of the landscape. You provided me with a letter dated 10/30/18 from the City of Derby regarding potential blight issues to use as a basis for my assessment. I am a CT Licensed Arborist (#S-5639) and a certified Soil Scientist. The following are my observations and conclusions.

The lot in question is forested and undeveloped. There are no building structures on the property. The natural forest landscape is similar in character to other undeveloped forested lots in the City, and similar to (and managed similarly) to other forested backyards in the City. The tree canopy covers virtually the entire lot, there is no lawn.

With regard to the letter from the City:

1. There was no "*overgrowth of all kinds of vegetation*" within the property. Vegetative cover within the property was similar to what one might find in other forested backyards or undeveloped tracts in the community.

Regarding the specific species cited in the letter, please note the following inaccuracies: Poison Oak does not normally grow east of the Rockies. Poison Sumac is usually found in wetlands and not within upland forests such as this property. Furthermore, most of the ivy on the property was English Ivy, not Poison Ivy.

2. There were no tree branches observed "*resting on adjacent homes*".

Furthermore, it is my understanding that you have granted permission to both of your adjacent neighbors to trim, at any time, any branches overhanging their property.

In conclusion, the property in question is not an abandoned yard with dilapidated structures or debris, posing a danger or hazard to the community. The property is an undeveloped forested lot that has been preserved as such to functionally screen the residential lot located below. As such, it would seem inappropriate to make this property the subject of a blight complaint.

Respectfully submitted,

Signed,



Steven Danzer Ph.D.

- Arborist - CT DEEP License S-5639.
- Ph.D. - Renewable Natural Resource Studies.
- Soil Scientist – Certified Nationally by the Soil Science Society of America (#35346); Registered with the Society of Soil Scientists of Southern New England.
- Professional Wetland Scientist - PWS #1321, Society of Wetland Scientists.



Aniello Malerba – 501 Roosevelt Drive Apt 3 – spoke regarding the Tax Incentive Program. He feels they are doing a disservice to the city by giving such a large tax break to this company especially in their area. They should be looking into specific areas that need tax breaks. He's concerned that this opens a can of worms and other businesses in town can say that they did work to their buildings and now want a tax break too. It's not a bad policy, but in this particular case, it doesn't work for the city.

Mr. DiCenso – Chair of Tax Incentive Committee – stated that the meetings were open to the public. No one from the public came to the meeting to oppose. The Tax Incentive Programs should be for the entire town, not just specific locations. Mr. Guerrera invested \$1.5 Million of his own money into the dilapidated building. They are now bringing in \$79,947 in taxes. He will be putting an additional \$500,000 into the building. He will have invested \$2 million into our city. This tax break is \$15,000 a year for three years. My job is to entice people to come into Derby and we should be attracting new business.

5.1. Elect President for 2019

Mr. Sill nominated Mr. Sampson as President. Mr. Oliwa second and the motion carried with all in favor.

6. Department Head Reports

6.1. Finance Director

Nothing was discussed.

6.2. Board of Education

Mayor thanked Dr. Conway for his work.

6.3. Cultural Commission

There is no commission at this time.

6.4. Public Works

Ms. DeGennaro asked about the street lining. Mr. Armeno said he's awaiting a quote. She said she heard a rumor that they are outsourcing the plowing of the fire departments. Mr. Armeno said that is not true. They take care of all city properties,

6.5. Building Department

No representative. Mayor Dziekan asked about the demo permit for the three buildings on RT 34. Mr. Hawks said that they hope to begin soon.

6.6. Facilities Inspector

Mr. Donofrio asked about the letter for Ms. McEvoy. Mr. Sampson said that the city did not send a threatening letter. Attorney Marino said the letter Attorney Ruszczyk mentioned was held back because the property owner verbally agreed to handle the issue and the property owner did not follow through so the letter was sent, but the initial date was not changed.

6.7. Fire Marshal

35 Fifth Street is still on the city system and quotes are expected soon. Mr. Donofrio said that a special meeting should be held with the tax board as more funding is needed. Mr. Hawks also stated that the fire boxes that have been removed are in storage and will remain there until the Board decides what to do with them.

6.8. Fire Department

No representative.

6.9. Office of Emergency Management

Nothing was discussed.

6.10. Parking Division

Nothing was discussed.

6.11. Police Department

The new recruits are in the FTO program. Mayor Dziekan asked about the new corner store opening on Hawkins Street and asked that the new owners be advised that the previous activity will not be tolerated

6.12. Water Pollution Control Authority

No representative. Mr. Donofrio asked if the WPCA hired another person. Mr. Baklik said they did and it is part of their budget.

6.13. Chief of Staff

Nothing was discussed.

6.14. Corporation Counsel – Including Planning and Zoning, Labor Counsel, and Outside Counsel

Attorney Marino will forward the status of the foreclosures to the board.

6.15. Storm Ambulance Corps

Nothing was discussed.

6.16. Parks and Recreation

Nothing was discussed.

6.17. Revolving Loan Fund

Nothing was discussed.

6.18. Website Report of tickets for the month

They will ask the department heads to add follow up information to their reports.

6.19. Economic Development Liaison

Mr. Sill asked about the finance director attending the meeting with Downtown Now. Mr. DiCenso said he always invites the finance director when finances are questioned.

6.20. Athletic Complex Building Committee

6.21. Field House and Baseball Field Building Committee

All field are on target.

Mr. McLiverty said he believes they have an avenue to help the residents with damages that were sustained.

7. Administrative & Appointments

7.1. Approval of Minutes

7.1.1. Move to approve minutes from Regular Meeting – December 10, 2018

Motioned to approve by Mr. Sampson with the correction to Item 8.2.1 to add “motion carried”, seconded by Mr. Joe DiMartino. The motion carried.

7.2. Move to approve tax refunds in the amount of \$48,239.42

Motioned by Mr. Sill, Mr. Joe DiMartino seconded and the motion carried.

7.3. Move to approve the appointment of Raymond Sadlik as an alternate member of the Planning and Zoning Commission as recommended by Mayor Richard Dziekan.

Motioned by Mr. Sill, seconded by Mr. Sampson and the motion carried. Ms. DeGennaro abstained.

7.4. Move to approve the addition of one Board of Education member to the Athletic Complex Committee and fill that position with Ken Marcucio, Sr.

Motioned to approve by Mr. Sampson, seconded by Mr. Donofrio and the motion carried. Ms. DeGennaro recused.

8. Committee Reports

8.1. Blight Committee

8.1.1. Move to add 17-25 Crescent Street to the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.2. Move to add 50 Coppola Terrace to the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.3. Move to add 104 Mount Pleasant Street to the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Jim DiMartino and the motion carried.

8.1.4. Move to add 145-147 Mount Pleasant Street to the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Jim DiMartino and the motion carried.

8.1.5. Move to add 111 Pleasant View Road to the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Jim DiMartino and the motion carried.

8.1.6. Move to add 118 Harold Avenue to the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Sill and the motion carried.

The Board spoke about options for residents who are elderly. Mr. Cota said they do reach out to the residents and try to work with them and they do give extensions. Mr. Sampson asked if they could add program information and other options to the warning letters.

8.1.7. Move to remove 49 Belleview Drive from the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Sill and the motion carried.

8.1.8. Move to remove 44 Emmett Avenue from the Blight List.

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.2. Community Relations

8.2.1. No action items.

8.3. Operations and Procedures

8.3.1. No action items.

8.4. Road Bond Project

8.4.1. No action items.

9. New Business

9.1. Move to approve the contract between the City of Derby and Johnson Controls for energy efficiency improvements.

Motioned to table by Mr. Sampson, seconded by Mr. Sill and the motion carried.

Mr. Sampson is looking for financing information. Mr. McLiverty said it should be ready in February. Mr. Baklik said the BOA and BOAT had a joint meeting and he believed this was going to be approved pending the financing approval.

9.2. Move to approve contract with Vincent Guardiano to perform appraisal on the City owned parcel behind BJs Warehouse.

Motioned by Mr. Sampson, seconded by Mr. Joe DiMartino and the motion carried.

Mr. Donofrio called for a democratic caucus at 7:55 PM.

The meeting reopened to the public at 8:04 PM.

9.3. Discussion and possible action on \$47,732.27 tax incentive over three years for 101 Marshall Lane.

Motioned by Mr. Sampson, seconded by Mr. Joe DiMartino.

Mr. DeGennaro asked what section of the ordinance they were referring to. Mr. DiCenso said it was the adaptive reuse section. Mr. Sampson asked Attorney Marino about the retroactive part and if construction was still ongoing. Mr. DiCenso said yes construction is ongoing. He has put in \$1.5 million. The assessment value is \$79,000 for taxes right now. Even after the tax incentive it is still a profit and they will increase when the construction is done. Ms.

DeGennaro asked what is to stop other businesses to ask for the tax incentive. Ms. DeGennaro feels that the adaptive reuse doesn't apply since it has no historic value and the ordinance says it's not retroactive. Mr. DiCenso said that they believed the meetings would have be completed earlier when this started.

Attorney Marino stated that this ordinance does not obligate the board to approve any applications. This project is straddling two points in time. Mr. Sampson said per the committee, it was the intent to allow for people to invest in existing buildings whether or not they were historic.

A roll call vote was requested by Mayor Dziekan. Motion Carried.

Barbara L. DeGennaro No
Thomas J. Donofrio No
Bev Moran Yes

Joseph L. DiMartino Yes
Evelyn Browning Yes
Ronald M. Sill Yes

Jim DiMartino Yes
Louis Oliwa Yes
Charles Sampson Yes

- 9.4. Move to approve amended capital plan fiscal year 18-19 pursuant to the meeting held on January 10, 2019.**
Motioned by Mr. Sampson, seconded by Mr. Joe DiMartino and the motion carried.

10. Old Business

- 10.1. No action items.**

11. Executive Session -

11.1. Regional Water Authority - Property Acquisition - Negotiations

Mr. Joe DiMartino motioned to enter into executive session at 8:24 PM and invite Corporation Counsel Marino, Mr. Baklik and Mr. DiCenso. Mr. Donofrio seconded and the motion carried.

12. Regular Session Action from Executive Session

12.1. Regional Water Authority - Property Acquisition - Negotiations

13. Adjournment

Mr. Sill motioned to adjourn, seconded by Mr. Sampson and the motion carried at 8:38PM.

Respectfully submitted,

Terri Kuskowski

These minutes are subject to the Board's approval at their next scheduled meeting.