

**BOARD OF ALDERMEN
ORDINANCE COMMITTEE
MEETING AND PUBLIC HEARING
SEPTEMBER 14, 2009**

The Ordinance Committee of the Board of Aldermen held a meeting and public session on Monday, September 14, 2009. Chairman Patterson called the meeting to order at 7:14 p.m. and proceeded to read the public notice as it appeared in the New Haven Register on September 9, 2009 to consider two Ordinances.

MEMBERS PRESENT

J. Patterson, Chairman
J. Blacketter, Vice Chairman
N. Veccharelli
A. Giannattasio

ALSO PRESENT

Mayor James L. Richetelli, Jr.
Winthrop S. Smith, Jr., City Attorney
Benjamin Blake, Chairman, BOA

Chairman Patterson opened the public session of the Ordinance Committee at 7:15 p.m. regarding the following Ordinances:

1. An Ordinance repealing §6-5 through 6-12 of the Code of Ordinances of the City of Milford and substitution §6-5 through 6-14 by regulating the demolition of certain buildings.

Chairman Patterson stated he would entertain a motion to waive the reading of the Ordinance in its entirety.

Ald. Ditchkus and Ald. Blacketter made and seconded a motion to waive the reading of the Ordinance in its entirety. Motion carried unanimously.

Speakers in Favor:

R. Platt – 132 Platt Lane – stated this Ordinance is before this Committee at his request and that he based this on the model Ordinance by the Historic Trust Preservation. He stated the document before the Committee is based on an existing Ordinance in the Town of Westport and that it is a vast improvement over the existing Ordinance. He referenced p. 2 of the Ordinance, Sec. 6-7 (b) (2) and asked the Committee to add the language “and the City Historian” to the first sentence in that paragraph.

R. Cahill – 32 Pumpkin Delight Road – stated she is a member of the Milford Preservation Trust and that she fully supports this Ordinance.

L. Flannigan – 38 Prospect Street – stated she too supports the revisions made and stated she hoped the Ordinance Committee would pass this.

S. Borer – 204 Anderson Avenue – stated he would like to know more about the investigation done by the Board of Aldermen regarding the Cadley property, which may have impacted this Ordinance.

T. Chaucer – 104 Hawley Avenue – expressed concern in Sec. 6-6 (b) “Part Thereof” and asked the meaning. He asked if that meant 49% of the building could be demolished. He asked the Committee to look at the “50 percent” number. He also asked who would be looking at this.

K. Rose 292 Naugatuck Avenue – thanked Mr. Platt and the Ordinance Committee for putting this into a great Ordinance. She stated she fully supported it.

Speakers Opposed – None.

2. An Ordinance amending Chapter 10, Article II, Sections 10-14 through 10-19 of the Code of Ordinances of the City of Milford (Creating Anti-Blight Ordinance).

Chairman Patterson stated he would entertain a motion to waive the reading of the Ordinance in its entirety.

Ald. Ditchkus and Ald. Giannattasio made and seconded a motion to waive the reading of the Ordinance in its entirety. Motion carried unanimously.

Speakers in Favor

M. Ziebell – 10 Silver Street – congratulated the Ordinance Committee and applauded their efforts in bringing this forward. She stated she had read the Ordinance and although she had not fully digested it she felt it was an excellent piece. She stated she had one concern regarding Sec. 10-15 (10) and asked what constitutes “substantial depreciation”. She stated she would like more information concerning that particular section, but noted this was a long time coming and applauded the efforts.

P. Shurko – 16 Ormond Street – spoke of a blighted garage in her neighborhood which they have been fighting for the last 14 years with nothing being done. She expressed her hope this would help and things would look up and help others fighting such battles.

A. Charland – 41 Raycroft Street – stated he could not find the agenda for tonight’s meeting. He asked if it would be possible to get a copy of the agenda in advance.

Chairman Patterson noted it was posted in the newspapers.

K. Rose – 292 Naugatuck Avenue – requested the Committee have copies of the Ordinance available before the meeting. She also stated she agreed with an earlier speaker regarding the language in Sec. 10-15 (10) and that it could be tightened up. She also asked who would substantiate the depreciation.

T. Chaucer – 104 Hawley Avenue – asked if copies of the Ordinance were available somewhere. He stated it is hard to comment intelligently if you don’t have the wording in front of you.

Speakers Opposed – None.

Chairman Patterson declared the public session closed at 7:26 p.m.

Ald. Blacketter and Ald. Ditchkus made and seconded a motion to forward to the full Board with a favorable recommendation an Ordinance repealing §6-5 through 6-12 of the Code of Ordinances of the City of Milford and substitution §6-5 through 6-14 by regulating the demolition of certain buildings.

Ald. Ditchkus and Ald. Blacketter made and seconded a motion to amend Sec. 6-7 (2) the first sentence by adding the language “and the City Historian”.

Ald. Veccharelli stated he had a few questions for Mr. Platt.

Chairman Patterson recognized City Historian, Richard Platt.

Ald. Veccharelli asked how this could be made better and what the City Historian would like to see changed in this Ordinance.

Mr. Platt stated in the best of both worlds he would like to see 50 years and 180 days. He stated he also would like to see a revision to include notification of adjacent property owners and also putting it in the newspapers. He also stated he agreed with the comments of Mr. Chaucer regarding Sec. 6-6 (b) concerning the 50%. Mr. Platt stated he basically agreed with the Ordinance except for adding the words Mr. Ditchkus added in his amendment. Mr. Platt stated he had some concerns regarding the penalties but noted the State is working on new language concerning this. He stated he would also tweak the definitions, which the State is also working on.

Ald. Veccharelli commented Mr. Platt is a long time proponent of fewer years and asked him to provide his argument for the 50 years.

Mr. Platt explained the number of cases submitted when the Ordinance was modified to 75 years went up significantly. He stated he did not know how many requests go to the building department, but that the justification is the State standard and the prevailing standard nationally for houses on the registry. He stated basically 50 years falls within the standard.

Attorney Smith referred the Committee to Sec. 6-12 which references Chapter 97a of the Connecticut General Statutes. He stated they would be working on a historic structures commission who will look at the significant structures that could be governed by this. He stated it would be applicable to unique structures. He also explained that 50 years is post war homes, approximately 1960 or earlier and that it was felt it could present a hardship.

Mr. Platt agreed with Attorney Smith concerning the historic structures commission, noting this is something he has been asking for and that they could be covered by the section referred. He expressed his hope the Board of Aldermen would enact that commission soon.

On the main motion, motion carried unanimously.

Ald. Blacketter and Ald. Ditchkus made and seconded a motion to approve An Ordinance amending Chapter 10, Article II, Sections 10-14 through 10-19 of the Code of Ordinances of the City of Milford (Creating Anti-Blight Ordinance).

Ald. Blacketter and Ald. Veccharelli made and seconded a motion to amend the motion to amend the title adding (Creating Anti-Blight Ordinance *and for the betterment of the Health, Safety and Welfare of the Citizens of Milford*); and in Sec. 10-15 Definitions. – *State of Disrepair* removing the word “*morals*”.

Ald. Blacketter also stated she would like to see a language change to clarify “substantial depreciation” and asked how the Committee could make that clear.

Attorney Smith explained that section is tied into the definition of public nuisance. He went on to explain the meaning behind substantial depreciation. He stated if they were to limit it put affixing a number it would be asking someone to apply a mathematical figure, therefore the thought was to leave the flexibility. He stated with historical background it could be changed.

Ald. Blacketter suggested leaving it as it and getting thoughts from the full Board.

Ald. Ditchkus commented initially he had concerns, but knowing the real estate market if there are three appraisers you could end up with three different appraisal figures. He stated setting a full number could be difficult to come up with.

Attorney Smith added putting in a number could make enforcement in court difficult as it could be challenged by the person’s appraisal. Leaving the word “substantial” gives flexibility.

Ald. Blake added if it is codified in the statutes there would be case law to give it some meaning in percentages.

Attorney Smith stated if you put in a hard number you would have to justify it and you could lose your enforcement.

Ald. Blacketter stated it was important to be clear in the language and likened it to a sculpture in someone’s yard.

Ald. Ditchkus stated with a set number it could actually end up working against you.

Ald. Patterson stated he would have reservations with a fixed number, especially with the economic downturn.

Ald. Giannattasio stated he agreed with Mr. Patterson that having a fixed number could have a negative impact. He stated he is comfortable in having the word “substantial”.

Motion carried unanimously.

Ald. Veccharelli stated in Sec. 10-18 he would like to see some type of notification to the offending party. He stated he did not feel it is right to be able to enter one’s property without notification and suggested sending a letter advising the owner there would be an inspection. He stated he did not want to leave this open to have someone just walk onto someone’s property.

Attorney Smith stated it is referenced in other sections with regard to notification.

Ald. Veccharelli responded it did not make his concern any less concern able. He also stated it could cause difficulties for a difficult person having someone just walk onto their property. He asked this Committee to give this consideration now.

Ald. Ditchkus asked if it would be possible to put in language that the Enforcement Officer could notify the person that he intends to inspect and give a 10 day window.

Attorney Smith responded the Committee needed to understand it would mean amending Sec. 11-23 (1) (5) and stated there needed to be consistency for all departments. He stated it was important not to impact the entire City's efforts, which are not looking at just blight.

Ald. Patterson questions the section Attorney Smith was looking at.

Ald. Veccharelli stated he would like to propose adding in Sec. 10-18 (a) the first sentence after any property, the language "with due notice". He stated he just did not want someone to be surprised by seeing someone walking around their property.

Mayor Richetelli stated they were tightening up the procedures for cleaning up blight. He stated the authorities of the City's Enforcement Officer would fall under established State laws and ordinances. He stated it comes down to whether or not this Committee is serious about this.

Ald. Veccharelli responded they are very serious about this. He stated there is no blight ordinance currently; so not having one at all is worse, adding people should not have to look at blight. He stated he is only asking that notification be given. He stated it is not right for someone to just come onto their property and that there is nothing wrong with calling them up and telling the person they are coming out. He stated it is just common decency.

Ald. Veccharelli and Ald. Blacketter made and seconded a motion to amend Sec. 10-18 (a) by adding in the first sentence after any property the language "**with due notice**"; and amending sub-section (c) changing the word "**may**" to "**shall**" notify. . .

Ald. Ditchkus asked the reason behind changing the word to "shall".

Ald. Veccharelli stated if there is blight, then the Enforcement Officer shall then notify the appropriate City agencies.

Ald. Blacketter stated she agreed with Ald. Veccharelli's intent, but did not know legally if it would bind them up. She stated you may not be able to notify an owner. With regard to the change of wording to "shall", she expressed concern that there could be people who may not have resources to take care of their property and would then find themselves in a more difficult situation. He stated it was her hope this Ordinance would be useful for those involved.

Ald. Ditchkus stated the language "with due notice" would need to be defined. He stated the current language states the appropriate agencies would be notified. He asked what would happen in a case where there are only minor violations but every agency has been notified. He stated he really had a hard time with the wording change. Ald. Ditchkus stated in the case of major violations he could see notifying all agencies, but with

something minor as a refrigerator in the yard it really wouldn't be necessary to notify every City agency. He stated Milford is still a beautiful City and he would like to see it remain that way. He asked Ald. Veccarelli to reconsider this change.

Ald. Blake stated he wholeheartedly agreed with the wording change to "shall", noting the next sentence states appropriate agencies. He stated it would give added protection to the health, safety and welfare of our citizens. He also pointed out there are times when it can be an emergency and there is no time for notification.

Ald. Ditchkus responded the change would still make it mandatory, which is a concern.

Ald. Ditchkus and Ald. Blacketter made and seconded a motion to divide the motion. Motion carried unanimously.

Chairman Patterson asked if the Health Director would have the inherited authority under the State Health Code.

Attorney Smith responded yes.

Ald. Ditchkus asked if the same would hold true for the Enforcement Officer.

Attorney Smith responded yes, but it is under different sections of the code.

On the amendment to add the language "**with due notice**", motion fails 4 no (Patterson, Blacketter, Giannattasio, Ditchkus) and 1 yes (Veccharelli).

On the amendment to change the word "*may*" to "**shall**", motion carried 3 yes (Blacketter, Veccharelli, Patterson) and 2 no (Ditchkus, Giannattasio).

On the main motion, motion carried 3 yes (Blacketter, Veccharelli, Patterson) and 2 no (Ditchkus, Giannattasio).

Being no further business, Ald. Ditchkus and Ald. Blacketter moved to adjourn. Motion carried unanimously.

The Committee adjourned at 8:14 p.m.

Respectfully submitted,

Kathleen K. Huber
Recording Secretary