



BOARD OF ALDERMEN SHELTON, CONNECTICUT

Public Hearing on Ordinances & WATER MAIN ASSESSMENTS MEETING MINUTES
TUESDAY, JANUARY 24, 2017

CALL TO ORDER

Alderman Anglace called the Public Hearing to order at approximately 7:00 p.m. All present recited the Pledge of Allegiance.

ROLL CALL

Alderman John F. Anglace, Jr., President – present
Alderman Lynne Farrell – present
Alderman John “Jack” Finn –present
Alderman Stanley Kudej – present
Alderman Noreen McGorty – present
Alderman Jim Capra – present
Alderman Eric McPherson - present
Alderman Anthony Simonetti – not present

AGENDA ITEMS:

1. CEDARWOOD LANE WATER MAIN EXTENSION; RECOMMENDED ASSESSMENTS

Discussion:

Alderman Anglace: We are to the point where all of the work has been done, the numbers are in. This hearing we are going to take public comment. Bob, please kindly explain the numbers.

Bob Kulacz: Sure. The final numbers are tabulated on the final cost estimate, and the equal sharing among the five property owners, the recommended assessment is \$13,343.71. The Finance Director has recommended an interest rate of 2.0% over a ten-year repayment schedule.

Alderman Anglace: Were the water taps put into the curbs?

Bob Kulacz: Everything is in; we had the water main off of the water as much as possible. About 85% of it we were able to put it off to the shoulder so we were able to save some costs that way. Everywhere has a water service and a meter pit all set, and most of the

people are hooked up. These assessments are due April 1st which is the same date that the other assessments that are on record, are due. It will be a common collection date for everybody.

Alderman Anglace asked three times if anyone from the public wished to be heard.

Hearing none, Alderman McPherson MOVED to close the Public Hearing on Cedarwood Lane Water Main Extension.

SECONDED by Alderman Simonetti. A voice vote was taken and the motion passed unanimously.

2. PROPOSED ORDINANCE – RESTRICTING THE OPERATION OF A DIRT BIKE, ALL TERRAIN VEHICLE AND MINI MOTORCYCLE

A. Definitions.

- (i) All-Terrain Vehicle means a self-propelled vehicle designed to travel over unimproved terrain.
- (ii) Dirt Bike means a two-wheeled motorized recreational vehicle designed to travel over unimproved terrain and not designed for travel on a highway.
- (iii) Mini-motorcycle is a vehicle that (1) has no more than three wheels in contact with the ground; (2) has a manufactured seat height of less than 26 inches, measured at the lowest point on top of the seat cushion without the rider; and (3) is propelled by an engine having a piston displacement of less than 50 cubic centimeters.
- (iv) Motorized Recreational Vehicles (MRV) means snowmobiles, all-terrain vehicles, dirt-bikes and mini-motorcycles.
- (v) Snowmobile means any self-propelled vehicle designed for travel on snow or ice, except vehicles propelled by sail.

B. The use and operation of any Motorized Recreational Vehicle on City property is prohibited.

C. Any person who violates the above provision shall be subject to a penalty of \$1,000.00 for a first violation, a penalty in an amount of \$1,500.00 for a second violation and a penalty in an amount of \$2,000.00 for a third violation. In addition, the operator or owner, or both, of an MRV shall be responsible and held accountable to the City of Shelton for damage to trees, shrubs, crops, trails, fences or other property caused by

operation of such MRVs on land of the City of Shelton or where consequential damage has resulted from such operation.

D. In addition, the City of Shelton may seize such dirt bike, all-terrain vehicle snowmobile or mini-motorcycle for a violation of such Ordinance and same shall be forfeited to the City of Shelton. Any dirt bike, all-terrain vehicle, snowmobile or mini-motorcycle ordered forfeited pursuant to such Ordinance shall be sold at public auction conducted by the City. The proceeds from such sale shall be paid to the City of Shelton Treasurer who shall deposit such proceeds into the General Fund of the municipality.

Discussion:

Judson Crawford, 8 Jordan Avenue

There has been a number of the all terrain vehicles going up and down Jordan Avenue. When the buses go down the street and letting off the school children, there could be a problem there. My only thought to you, the Board of Aldermen: Can you come up with an idea of finding a piece of land that people could use to ride their vehicles? I am not against them, but they have to watch out for the school children on the streets.

Alderman Anglace: The penalties are authorized by state statute; this is relatively new this year. It goes into effect this year I believe, and the penalties are stiff: \$1,000 for a first violation, \$1,500 for a second violation and \$2000 for a third violation. In addition, the operator, owner or both of the MRV will be responsible for the damages, and the City can confiscate the vehicle. If this is passed, there may be few times when there will be a second attempt because I do not think it is going to get by the first attempt. The first attempt is that you do not own a bike. Anyone else that would like to comment?

Sheryl Dutkanicz: 305 Soundview Avenue

I am in favor of this new ordinance, that would confiscate the vehicle and the penalty would be more straight so people would not abuse it. Thank you.

Alderman Anglace: I believe that the Conservation Commission has endorsed this?

Sheryl Dutkanicz: I am on both, the Conservation Commission and the Trails Committee, and we are definitely in favor of this.

Alderman Anglace: We have a letter from Tom Harbinson, Chairman of the Conservation Commission, about this.

Alderman Finn: Upon reading this, a motorized recreational vehicle on City property is prohibited. Is this the ordinance towards City streets? Or just on City property?

Sheryl Dutkanicz: Yes, this ordinance is pertaining to City property. For example, The Land Trust, Nicholdale Farm, is a large piece of property. It is private, so the ATV owner would need to get permission from that person to ride on that land, and they would be exempt from that fine if the neighbor should complain because they do have permission from the land owner.

Alderman Finn: I am not opposed to this land ordinance, but the Shelton Police Department has a policy, in which they will not pursue these vehicles on City streets because they are concerned about liability.

Sheryl Dutkanicz: It is difficult when they are riding on the street; I know that is against the law. If they crossing the street, it is a hazard to a car but it would be very hard to enforce it. If it was an officer or someone else that saw it, then they can report it but by then it can go into the woods.

Alderman Finn: On Longfellow Road, they did stop a youngster, took his bike and went down to police headquarters.

Sheryl Dutkanicz: It just helps them understand that it is a little more important than just getting a little slap on the wrist.

Alderman Finn: Then I will go back to my question that if we pass this and the fines are in place, how do we enforce it?

Sheryl Dutkanicz: Like any law, it is hard to catch the perpetrator in the act. We are just asking it to be a stricter, the fine being more expensive and confiscating the vehicle would be more difficult for the owner to get back. Right now they are just given a warning and there are a lot of repeat offenders because it is not more punishable, if you will. I think they are very destructive and we are trying to make it understandable to the community that it is not allowed.

Alderman Finn: The Shelton Police Department used to have an all terrain vehicle, and Sergeant Kirkus used to drive the trails to make sure that none of these bikes were on the trails. For some unknown reason, the police got rid of the all terrain vehicle. If we are going to pass an ordinance like this, Alderman Anglace, then this is something that may need to be brought up to the Police Department's attention. Maybe we should purchase an all terrain vehicle, and have the police officers ride the trails?

Alderman Anglace: The Police Department would be assigned to enforce it, and like all other motor vehicle violations they will decide how they are going to do it. We do not decide that for them. They are aware of this ordinance.

Alderman McGorty: I do not think we would want them to ride the trails; the idea is to keep them off of the trails.

Alderman Anglace: We are not going to tell them how to do their job; it is up to them. Once the snow falls, the first thing that comes out is their vehicles and they are right on the rear end of the plows.

Alderman Kudej: If the vehicles on the street are registered and have insurance on them, you cannot do anything to them.

Alderman Anglace: That is not what we are talking about here.

Alderman Kudej: I know but I am just bringing that up. If they are not registered and do not carry insurance, then they are in violation of the law. If they are registered and carrying insurance, then it is a motorized vehicle and they can drive it on the streets.

Sheryl Dutkanicz: The police are aware of this; they do work with Teresa Gallagher. So it is true that you cannot drive an ATV or a dirt bike on the road legally. Insured or uninsured, it is against the law.

Alderman Capra: I think there are around 4 to 5 officers on duty at one time. For me, I just do not see them giving out a lot of tickets. I think they are so busy doing all of these other things during the day. We were talking earlier that ten years ago, we had a lot of people that were in Downtown Shelton riding skateboards so we built a skate park. We do not see much of that anymore. We were mentioning earlier, why don't we have a designated area for these people because this is a sport. People enjoy doing this; I love doing this. If we have a designated area where people can go and do these sports, why don't we have one area to have them go to? They would pay like a fee, maybe \$25 or \$50 and put it in this budget to maintain that area for them?

Alderman Anglace: That is a completely different approach. What we are talking about is that people are using these vehicles for purposes –

Alderman Capra: But if you give it to them in a certain area, then they would not be going on the streets because they have nowhere to ride right now.

Alderman Anglace: That is up to the Recreation Department to come up with something, if they have enough interest for it. I remember we funded the skate park.

Alderman Capra: I think it would go hand in hand with this.

Alderman Farrell: I do too.

Alderman Anglace: Gladly, but in the mean time they need to stay off of the trails, roads. They cannot use them as they think they would like to use them.

Alderman Capra: I agree, but I just do not see this working though.

Alderman Anglace: We will give it a shot. The Police Department has enforced other things; you can never tell. You can put it in their hand and have them work it out. Why would the state pass this law?

Alderman Capra: I think each city is different on handling it. We do not know how each town handles how many tickets they give out. Working on Public Health & Safety, I know that they are very busy and they are very behind on a few items too. We want this to be done and enforced right, but you call the police dispatch and say hey, someone is riding around. By the time they get there, there is nobody there.

Alderman Anglace: Of course if we did something like this, we would impose other restrictions whereby you could not use it unless you are fully insured. Otherwise, there would be a tremendous liability on the City.

Alderman Capra: Right, but if you put this in a certain area and have it say ride at your own risk. I think you would eliminate a lot of them going on the street.

Sheryl Dutkanicz: I think the problem is that we have some designated trails, i.e. the Rec Path, which the City of Shelton received large amount of grant money from the state. It is for handicapped accessibility, and it is not for ATVs. Those are the ones that we are trying hard to keep the ATVs off. The police have been involved with this for a long time since the first ordinance went through. All we are asking is that the fine be a little more expensive, confiscating the vehicle. The police have already been involved. I saw someone illegally riding on a trail, or for that matter illegally riding on the road. If I see them and call the police fast enough, that the police can respond to it. Granted we are in a period of time of winter in snow, and they may not get there fast enough. If they did get there, and if this ordinance goes through they would be able to enforce this ordinance and confiscate the vehicle. If it is a 13 boy or girl, they take the ATV away; they can confiscate it. Then the parent has to get involved and at this point we are just saying "hey do not do that". We just want something that will speak a little louder of seriousness because there are strollers on the trails. Also we do have wheelchair accessibility on the trails. The trails are to be enjoyed by bicycles. An ATV can hurt other people, as well their property.

Alderman Capra: That is why I am recommending to put it in a designated area so they would not be going on those trails.

Sheryl Dutkanicz: It is a good thought process but it would be a huge liability on the City. The Trails and Conservation Commission would definitely not do it because conservation is to protect the land. I do agree with you that a lot of people enjoy riding them; there is a place for the ATV but it isn't on the City property that has been allotted to the people who walk the trails.

Alderman Anglace: That same reasoning applies to any number of things. A lot of people enjoy ice skating, but do we have an ice skating rink? No we do not.

Alderman McGorty: Not yet.

Sheryl Dutkanicz: I think that is it, thank you.

Alderman McGorty: You had mentioned the state statute that has these fees. Is it also in the state statute that they are releasing the immediate seizure of these vehicles? Or is this something that we have instituted?

Alderman Anglace: I think they just give us the ability to take the vehicle.

Alderman McGorty: Is this something that we had come up with? Or is this a part of what the state is adopting as well?

Alderman Anglace: This ordinance was written by Teresa Gallagher, because they are the ones having difficulty.

Alderman McGorty: Do you know if that is part of what the state is adopting, as well as the actual seizure of the vehicle? You are absolutely right that the fines are pretty hefty; that is going to hurt.

Sheryl Dutkanicz: Teresa has approached and it was even in the newspaper, in regards to people who laugh and walk away. We will be working on the Trails Committee, having our sign and they fly right by it. If we can have it confiscated, as the state does have the same laws. So being on a state level, those riders already know on state property. I am sure the Naugatuck Forest, which is a giant piece of property, has ATVs there illegally. Like every crime, an illegal act is going to happen and we just thought if it were confiscated, it may help a little bit. That is what we are hoping.

Alderman Anglace: If you look, this ordinance does not intend to all of the illnesses and all of the issues that the City has in its repertoire in the moment, or in the immediate future. It seeks to manage one issue that is a problem for us. If the Board would like, they could keep the Public Hearing open in order to get more information from the Conservation Commission and open up the hearing at the next Full Board meeting prior to voting on it.

Alderman McGorty: The fines are huge. I will use an ATV for example: you can buy a used one for \$3,500 or around that price. So you have already spent the money on it, you are using it illegally and now you need to be held accountable for it. The first shot is a \$1,000 fine, plus you have to pay for the damages. Any parent, using the example of a 13-year-old, is going to take that seriously because most 13-year-olds do not have

\$1,000 to pay. I am just throwing that out there because I did not know if the state was adopting that as well? I feel like we are going from a small fine now, whatever it is to this massive amount.

Alderman Anglace: The maximum that we can fine, under state law is \$250. This is excessive.

Alderman McGorty: I support the fines but I am not so sure about the seizure of the vehicle.

Alderman Kudej: We have had problems with the all terrain vehicles on all of the recreational facilities, ball fields, etc. Everything down there is padlocked and chained because when it was open, all we had were ATVs, bikes tearing up the field. If it is open, they are going to use it.

Alderman Anglace: If this is such a high recreational use, why hasn't anyone come to the recreation group saying we need to do this on a more formal basis?

Alderman Kudej: I am sure that we put up this big notice here of the fines, and I am sure that the people would start showing up.

Alderman Anglace: Yes, this going to get everyone's attention.

Alderman Capra: I think maybe we can work with Parks & Rec to see if there would be an opportunity that we can make this happen? It would be more of an attraction, then we are going to fine you. Let's build an area for them.

Alderman Anglace: I think the first thing we need to do is put them in to what is happening. They are ruining our trails, digging up our fields; we need to put an end to it. At the same time, we can try ways to accommodate them. I would be glad to hold a Public Hearing open because there might be some other thoughts on it.

Alderman Kudej: I think we should let the people know.

Alderman Finn: I do not think we need to open the Public Hearing until the next board meeting. I am satisfied with what I have here in front of me. I have the same problem that Stan has; they are tearing up the park. I also believe that we have property across the street from there, where they were also there with their dirt bikes on Birchbank Mountain so they are all over the place.

Alderman Anglace: By law, we have done what we have to do. We have given public notice, held a public meeting. We met all of the requirements that we needed to go through, so you do not need to keep it open.

Alderman McGorty: Does anyone else have the feeling that I shared? I support all of the fines, I agree with all of that. I give pause to the seizure right away just because the fines are pretty steep and paying for the damages, I suppose.

Alderman McPherson: I would say if you are violating, get caught and get nailed for \$1,000, common sense would say "wow, I just got hit with \$1,000 so I am not going to do that again". Maybe they are not smart enough and they go out there and do it again and get nailed for \$1,500.

Alderman Anglace: Once we pass this, we will put this in the hands of the Police Department to enforce it and the way they go about enforcing it; it is up to them. Unless you want to place restrictions, by changing the ordinance to read otherwise.

Alderman Kudej: Confiscation would probably be on the third or fourth violation.

Alderman McGorty: I would entertain to add that, as opposed to in the first offense it could be seized.

Alderman Kudej: If you nail them once and twice and they still do not get the message, then yes you can take it.

Alderman McPherson: My interpretation is after the third time you get hit with a \$2,000 fine and still going to do it, then I think it should get confiscated.

Alderman McGorty: Yes, but it does not say in addition. There is a separate paragraph, indicating the first offense you get hit with a \$1,000 fine and taking the vehicle.

Alderman Anglace: The way that it is written, at the discretion of the Police Department-

Alderman McGorty: It says "may" not "shall".

Alderman Finn: If you feel more comfortable removing the word "may" and replacing it with "shall"?

Alderman McGorty: No, the reverse. I am looking at it maybe at the third time; at the third violation it may be seized.

Alderman McPherson: It should probably say, "after the third violation, the City may seize it". After so many times you get fined, obviously the person is not getting the message.

Sheryl Dutkanicz: What happens sometimes is that they are not registered vehicles. I think by passing the ordinance, the officer in charge of that case when it happens at that

particular moment, I feel like there is a little ability to have some discretion if the officer- I do not know how to word this properly, but without the ability to seize the vehicle it is very hard to give warnings. They are not like your cars, with registration and license plates. A lot of them are young people on them; some families have two of them so they could have two different ones. This is where the police department would do the reinforcing; this is just to have the ordinance in effect.

Alderman McGorty: That is a great point. So he or she does not have a license, you give them this fine and they are not going to pay it, just to give an example. What happens now that they gave this child/minor this violation?

Sheryl Dutkanicz: I am on Conservation, but the officer will understand the law as it is written. I do not know if there will be some discrepancy, whether it be an adult or child is on the trail. Sometimes they are not on the trail, and they are in the woods; open space. They are in ball parks; they are in someone's backyard; I think they are a lot of variables as to what is going to happen. The officer has the ability to do what he needs to do: seize it, fine them, if on someone's property the property owner might want some of the financial gains of destroying their lawn. I think the Conservation Commission is just asking that the fine/punishment for an ATV is area where an ATV should not be; to confiscate it as well as a financial fine. I am hoping this will help some people understand there might be some place that neighbors do not mind. If you are a property owner with 10 acres, and kids are on your property and you do not mind it then that is not a problem. We are having a problem when there are people who are in places they should not be. It has already been in effect for a while, so we are asking it to be upgraded a little more so it will be more of a threat that they will not go on City property.

Alderman McGorty: The fine is \$250 now, so it is definitely up. What is the chance that you get them at the second or third violation if you are seizing the vehicle?

Alderman Finn: You made reference to the fact that the Police Department would know how to interpret this law.

Sheryl Dutkanicz: I am assuming an officer would.

Alderman Finn: I have already made a statement known that I do support this. My question now, is if the Police Department had reviewed this?

Sheryl Dutkanicz: Teresa Gallagher would know the answer to that question, because I personally do not know. I do know from attending meetings that she does have two officers, I believe, she works with already. There have been two officers that have been a go-to for her, but yes the Police Department is working closely with us.

Alderman Anglace: I would like to recommend what we do with this: to close it off subject to written comment on the ordinance from the Police Department and Corporation Counsel. We will get them the minutes; they will hear all of the comments and will feed us back before we vote on it so we hear from the legal people. Counsel is going to defend anything that goes to court.

Sheryl Dutkanicz: I am wondering if I can ask the Board a question that I do not know the answer to: If an ATV is on public/ City of Shelton property, and hits a hiker or a walker who is the liability under with the ATV?

Alderman Anglace: The person with the deep pockets is going to get sued: the City. Nine out of ten times they serve notices to the City and Counsel has to defend it.

Sheryl Dutkanicz: Wouldn't the ordinance protect the city? Wouldn't the ordinance be able to say: "We had an ordinance that ATVs were not allowed on City property, so the owner of the ATV would be responsible?" Does the ordinance help the City in any way to that effect?

Alderman McPherson: Counsel would need to look at that.

Alderman Anglace: We would not be defending that; Counsel would.

Alderman Finn: I think the Conservation Commission would be open to the fact that posting signs on City property saying that they are prohibited.

Sheryl Dutkanicz: They have been posted all over the place. They are big, weather resistant signs saying: "No ATVs".

Alderman Finn MOVED to close the Public Hearing on the proposed ordinance, restricting the operation of a dirt bike, all terrain vehicle and mini motorcycle, subject to the President of the Board of Aldermen writing to Corporation Counsel and the Chief of Police, asking their written comments to the board on this ordinance based on the conversations that were said on the minutes as well.

SECONDED by Alderman Kudej. A voice vote was taken and the motion passed unanimously.

3. PROPOSED ORDINANCE – DEPOSIT OF SNOW ON PUBLIC STREETS AND NEIGHBORING PROPERTIES FORBIDDEN

No person shall throw, push or put or cause to be thrown or put, whether by snow blower, plow, shovel, or any other snow removal device, any snow or ice from private premises or from any area near or outside of the sidewalk or from any sidewalk into any

street in the City onto the travel way portion of the street, or to cause the deposit of snow upon abutting or adjacent properties or properties which are not immediately contiguous to the property owners' without the consent of the other property owner. The Public Works Director or his designated agent shall cause such snow to be removed and the expense thereof shall be chargeable to the owner or occupant and shall be collectable by the town in the same manner that other debts owed to the town are collected. Such expense shall be and continue to be a lien in favor of the town upon such land.

Alderman Anglace: This is pertaining to people plowing their driveway, and placing snow on the City sidewalk or the neighbor's property across the street. It causes difficulties and it causes problems. For some of those sidewalks, the City's Recreation Department cleans off the sidewalk and then push it over making it hard for people to pass. Would anyone like to comment on this one?

Alderman Capra: My only question is whether we can put a fine in for something like this?

Alderman McPherson: I asked Counsel about this, and we can fine up to \$250, so the maximum fine of \$250 should be in there only because of the danger that it represents.

Alderman Capra: This happens all of the time.

Alderman Finn: It says the expense shall be charged to the owner or occupant, and should be collectible by the town in the same manner for any debts owed to the town. You are right, it does not say anything but they will have to pay for the snow clean up if they can find out who caused the problem in the first place. Who are you going to fine, the homeowner?

Alderman Anglace: The person responsible for it is the person's property that is being cleared, being pushed over. I will tell you a story that goes back around 1969: One of our local policemen, was a good friend of mine and did me a favor to plow my driveway. He pushed the snow across the street, and another cop came to my house and knocked on the door. I went to the door and he said you cannot push your snow across the street onto the sidewalk; that is against the law. I had to go back and tell the other cop who did it for me, but come to find out it has never been a statute, in the ordinances; never. It has been missing all of these years, so someone this year brought up that question and they wanted me to find out where it was and I could not find it. Counsel could not find it, so that is why we have talked to Paul DiMauro and this is what Paul came up with.

Judson Crawford, 8 Jordan Avenue:

Yes, I am in favor of this ordinance. There is a parking lot that is across the street from my house, yet you, the Board of Aldermen, appropriate the funds on the final budget to

the Public Works Department. Trucks come down our street, cleaning the street and as soon as they go by there is a private contractor that brings snow directly in the street just after one of the Public Works trucks goes down the street to clean it. So it is making it twice as hard. Thank you.

Alderman Anglace: If it is your snow, you need to keep it on your property unless someone gives you permission to dump it on theirs.

If the City plow pushes snow in your driveway you are responsible to clean it up, just as you are responsible to clean the sidewalk or a foot path. If there is a foot path in front of your house, and it is not a sidewalk, blacktop or concrete, you still need to maintain it.

Alderman Finn: I think we did have a complain on that around one to two years ago, where the plow was going down and threw all of the snow back on the sidewalk. The person had to clean it; got tired of it and came to us.

Alderman Capra: Alderman Anglace, are you okay with putting the fine in the ordinance?

Alderman Anglace: Yes, we can add that to the ordinance.

Alderman McPherson MOVED to close the Public Hearing on Proposed Ordinance – Deposit of Snow on Public Streets and Neighboring Properties Forbidden.

SECONDED by Alderman Kudej. A voice vote was taken and the motion passed unanimously.

There being no other speakers, the Public Hearing on Ordinances & Water Main Assessments was closed at 7:45 pm.

ADJOURNMENT

Alderman McPherson MOVED to adjourn the Public Hearing on Ordinances & Water Main Assessments; SECONDED by Alderman Finn. A voice vote was taken and hearing was adjourned.

Respectfully submitted,

Brittany Gannon

Brittany Gannon, Clerk

January 24, 2017 Board of Aldermen Public Hearing on Ordinances &
Water Main Assessments Meeting Minutes