



**BOARD OF ALDERMEN
SHELTON, CONNECTICUT**
Public Hearing on Ordinances
August 26, 2008

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Aldermanic President John Anglace opened the Public Hearing at 7 p.m. All those present pledged allegiance to the flag.

ROLL CALL

- Aldermanic President John F. Anglace, Jr. - present
 - Alderman Lynne Farrell - present
 - Alderman John "Jack" Finn - present
 - Alderman Stanley Kudej - present
 - Alderman Kenneth Olin - present
 - Alderman John P. Papa - present
 - Alderman Jason Perillo - present
 - Alderman Anthony Simonetti - present
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1. *PROHIBITION OF INTOXICATING BEVERAGES PARK/CITY PROPERTY – AMENDMENT TO ORDINANCE #835*

AMENDMENT TO ORDINANCE #835

Pertaining to Prohibition of Intoxicating Beverages Park/City Property

Be it ordained by the Board of Aldermen, City of Shelton:

That the possession and use of intoxicating beverages are prohibited in any park or on City property. However, waivers of this prohibition may be granted for good and sufficient reason.

If a waiver is requested, a waiver application describing the intended activity/use shall be reviewed by the Police Chief and the Fire Marshal who shall provide their recommendations. All activity and use requested in the waiver shall be in adherence with any and all state and local law. Said activity and waiver shall be subject to final approval by the Mayor or his/her designee.

Any person in violation of this ordinance shall be subject to a fine of Two Hundred and Fifty Dollars (\$250).

Alderman Anglace asked if any member of the public wished to speak.

Administrative Assistant Sandra Nesteriak

We strongly believe that intoxicating beverages should not be permitted on City property, parks, etc. However, there are times when, for one reason or another, an organization wishes to offer beverages and use City property. Another instance where it's very common is, say, the Fire Department is having a function at their firehouse, which is City property, and they'd like to serve, they're having dinner, they'd like to serve beer or wine with their dinner. So there are many reasons why people are seeking an exception to what I believe is a strong policy and a sound rule of not having intoxicating beverages on City property.

Right now, the process of seeking a waiver is not consistent. Parks & Rec does it one way on the property that they supervise. And the Board of Aldermen has recently approved several requests for the use of intoxicating beverages at specific events by two firehouses, one of which was after the fact, to be quite candid. There are timing issues in putting items on the Board of Aldermen agenda. If your next meeting is September 11th, and on September 12th somebody had this great idea for a great fundraiser for a great group, and they wanted to serve wine on September 30th, without holding a special meeting of the Board you would be unable to act on the item in a timely fashion.

In order to make the process consistent city-wide for anybody who wishes to seek a waiver, and that's not always saying the waiver would be granted, but to seek a waiver, again, one of things that, like, Parks might want to have a Confirmation party for a child at the White Hills Civic Center, and you want to have the same rules in effect for those people who might conceivably at a private function imbibe too much and drive away, leaving the City liable for damages as you would at any other function.

So, our purpose was to make this a process that could be consistent City-wide for any of the City properties, that could be handled administratively but with controls. I worked very closely with the Chief of Police, and the waiver form we developed is based on the State Liquor Permit. All state laws and local ordinances would have to be adhered to. Insurance would have to be provided by the party wishing to have the event and serve liquor, to protect the City and its residents. We would want to know who is going to attend, are tickets going to be sold or is it a family gathering. This waiver form should make the process consistent City wide. It does not reduce the fine if you're in violation, it merely provides a process for the whole thing to go forward.

Alderman Papa stated, this will include anything that the City owns.

Mrs. Nesteriak replied, correct.

Alderman Papa stated, up at East Village Rec Center we have a lot of requests that they want to have some alcoholic beverages - they would have to get insurance, but some have complained that it gets expensive.

Mrs. Nesteriak stated, correct. The problem is that whether it's expensive for the homeowner or not, it's even more expensive for the City if we're exposed to a liability that we have no control over. I really think that the Board has to look at that very carefully.

If someone imbibed a little bit too much, hit a tree or caused damage to somebody else, you know as well as I do that because the alcohol was served on City property, that the City is going to be named in a lawsuit, whether we're liable or not will be for the courts to decide. We would have to protect the interest of every resident in the City when something like this happens. We're not here to provide a place for people to throw parties where they serve liquor. We're here to provide facilities for people to enjoy. If they wish to ask for a waiver, it's going to come at a price.

Alderman Papa asked, when the Fire Department has parties, they also?

Mrs. Nesteriak replied, this would apply to any City property.

Alderman Papa asked, even a department?

Mrs. Nesteriak replied, absolutely. When they are having their parties, they are private corporations using the City facility. They're not acting as firemen. That's not the purpose. The rules should be enforced even-handedly.

Again, the key thing on this is number one, to have the waiver form which we've developed so that it can be applied even-handedly but also to allow it to be done administratively so there are no timeliness problems.

Alderman Simonetti stated, in the same line of thinking as Alderman Papa, I know the cost of getting liability insurance is quite high and could be \$300 or \$400 for a very small event. In the case of the firemen...

Mrs. Nesteriak explained, if you're not selling liquor I don't believe you need a permit.

Alderman Simonetti stated, most family gatherings don't sell liquor. But you'd still need the insurance?

Mrs. Nesteriak replied, absolutely. There are several ways to get insurance, one is...

Alderman Simonetti asked, can someone put it as a rider on their home?

Mrs. Nesteriak stated, I can't say there's a one-size-fits-all answer, but many insurance companies will allow you to extend your own policy to cover an event in another location. I've just found out that CIRMA, the City's insurance carrier, is supposedly going to offer a program where people can buy a one-day event policy through the City's insurance company at a cost. I don't have the details on that yet, it's a brand-new program that just started and I plan to find out about that. But again, we can't hold all of the

residents liable for an event that might have unfortunate consequences because one family wanted to use a public facility.

Alderman Simonetti stated, I understand a private family and I understand to some degree the firehouses belong to the City as property. The firehouses are corporations, private entities. Is there any way to...

Mrs. Nesteriak stated, right now we don't require a waiver application. This is new.

Alderman Simonetti asked, is there any way to go forward and change this to allow that if it's a function by one of our firehouses they can waive this liability? I just feel it's unfair to spend the time and effort they give out because they're having a little party, you know, that's \$300 or \$400, it's a big chunk of money.

Mrs. Nesteriak stated, you'll have to ask counsel.

Alderman Anglace stated, part of the evolution of this is that all of the fire companies had bars and they were open whenever they wanted to open them. That is how we got to where we are now. The firehouses agree - most don't have a problem with it at all.

Alderman Simonetti stated, it's more than \$3 or \$4 per person when it's only 100 people.

Mrs. Nesteriak stated, they don't have to have the event at the City facility, they can have it someplace else. We are not in the catering business.

Alderman Simonetti stated, no we're not in the party business, but these people, again, they work very hard for the City and...

Mrs. Nesteriak stated, and nothing has stopped them from having events so far.

Alderman Anglace asked, who do you think provides the insurance for the fire companies?

Alderman Simonetti replied, the City.

Alderman Anglace stated, of course we do. The City has got to be protected. Anything can happen.

Alderman Finn stated, first of all, we provide each fire station a certain allotment for insurance. Each fire station or company INAUDIBLE. You do help pay for it.

Alderman Papa stated, I think it's a great idea for the firemen or any other function that we have in the City - you could see an accident and the City's going to be liable for a real number. I think it makes sense. If they want an area where they can have alcohol, they can rent another building, not a city building. That insurance that you just talked about, will that be available, when people come in to Recreation...

Mrs. Nesteriak stated, that's what I'm understanding, that it is something that citizen Smith could purchase. I'm finding out more about it - it's a brand new program.

Alderman Perillo stated, just to add on to what Alderman Finn was saying about the insurance policies that the fire companies carry - I'd imagine they're very similar to the insurance policies I've negotiated in the past for Echo Hose Ambulance. Getting coverage for events where alcohol is served is very easy - built into the policy - can be done as a one-time rider, and the cost aren't actually that bad.

Alderman Simonetti stated, my question to Alderman Finn was, does he know if the firehouses' insurance can do what Alderman Perillo is saying so it would be less of a problem for the firehouses. This becomes a second home to some of them.

Alderman Finn stated, INAUDIBLE, I'm sure that if it can be worked into the insurance policy more than likely they are already doing so.

Alderman Simonetti stated, I just don't want to see them, in my opinion, cheated, by using their own facilities.

Mrs. Nesteriak stated, it becomes more of a problem if somebody has an accident and are deemed to have been driving under the influence.

Alderman Simonetti stated, I don't disagree with you.

Mrs. Nesteriak stated, you know whose problem it is then.

Alderman Simonetti stated, I do feel that we do have responsible people in the firehouses.

Alderman Papa stated, it only takes one.

Mrs. Nesteriak added, and it could be a guest of one of our responsible people.

She continued, the problem in dealing with this whole issue was to have a consistent policy that would apply to everyone while still endorsing the fact that we do not wish to encourage the use of liquor on City property. As I said, the only way we could come up with something was to establish in advance the parameters that everybody knows about and would be applied uniformly to everyone. If the Board wishes to make an exception you could, but I think it weakens the whole concept.

Alderman Anglace asked if anyone else wished to be heard. Being none, Alderman Simonetti MOVED to close the hearing on Ordinance #835; SECONDED by Alderman Kudej. A voice vote was taken and the MOTION PASSED 8-0.

2. AMENDMENT TO ORDINANCE #834 - SNOW REMOVAL ORDINANCEAMENDMENT TO ORDINANCE #834

BE IT ORDAINED BY THE BOARD OF ALDERMAN THAT:

It shall be the duty of any owner, occupant or any person having care of any land adjoining any paved sidewalk within the city to keep the same clear from snow, ice or sleet, and to remove the same within (12) hours after it has fallen. In the event of failure to comply with this section, such owner or occupant shall upon conviction pay a penalty to the city of *Fifty Dollars (\$50) for Single Family Dwelling, One Hundred Fifty Dollars (\$150.00) for Multiple Family Dwelling and Commercial Property*. If after the time limit in which to remove such snow, ice or sleet, it has not been removed, it shall be the duty of the *Superintendent of Highway & Bridges* to cause the same to be removed, and the expense thereof shall be reported by the *Superintendent of Highway & Bridges to the Administrative Assistant of the city*, who shall notify the owner or occupant in writing, and if payment is not forthwith made, the expense of such removal shall be recorded in the name of the city in any appropriate form of civil action. (Comp. Ords. 1975, 3.1 (6))

Alderman Anglace asked if anyone wishes to be heard on Ordinance #834.

Alderman Papa stated, the State declared that we could charge a fine of \$250. As you know, it was vetoed by the Mayor and sent back to Public Health & Safety to rework it. The Public Health & Safety Committee thought it was a good idea to have a \$50 fine for single family dwellings and \$150 for multiple family dwellings and commercial properties. We did check with the Chief of Police to see if there were many violations, and there were actually very few violators. If there was a violation they would go to address the situation, and most of the times there haven't been that many problems. We thought \$250 was kind of a steep fine and we just wanted to adjust it.

Alderman Perillo stated, just to clarify why there is a difference between single family and multi family and commercial. That was done very intentionally for the specific fact that, quite frankly, multi-family dwellings and commercial properties are more likely to encounter more individuals on the property and there is a much higher risk. We want to make sure that property owners are extra vigilant in making sure their sidewalks are clear. We checked with Corporation Counsel and he provided there was a reasonable explanation for this, that it was indeed proper to do that. We believe the traffic on the property is that reasonable justification for setting aside single family and multi family and commercial properties. That was the rationale for that.

Alderman Anglace asked three times if any member of the public wished to speak. Being none, he declared the public hearing closed.

Alderman Perillo MOVED to close the hearing on Ordinance #834; SECONDED by Alderman Simonetti. A voice vote was taken and the MOTION PASSED 8-0.

ADJOURNMENT

The meeting adjourned at 7:21 p.m.

Respectfully submitted,

Patricia M. Bruder
Clerk, Board of Aldermen

Date Submitted: _____

DATE APPROVED: _____

BY: _____

Mark A. Lauretti
Mayor, City of Shelton