



BOARD OF ALDERMEN  
STREET COMMITTEE MEETING MINUTES  
TUESDAY MAY 6, DATE  
SHELTON CITY HALL, 54 HILL STREET, SHELTON CT

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**Call to Order/Pledge of Allegiance**

Chairman Alderman McPherson called the May 6, 2025 Street Committee Meeting of the Board of Aldermen to order at 5:30 p.m. in the auditorium at Shelton City Hall. All those present stood and pledged allegiance to the Flag of the United States of America.

**PRESENT**

Alderman McPherson, Chairman – Present  
Alderman Durante - Present  
Alderman Simonetti – Present

Also in Attendance:

Brian Roach, Superintendent of Highways & Bridges – Present  
Rimas Balsys, City Engineer – Present  
Alderman John Anglace, President – Present  
Alderman Cris Balamaci – Present  
Alderman Bernard Simons – Present  
Alderman Benjamin Perry – Present

**PUBLIC PORTION**

Jerry Bloom

24 Fairfield Avenue, Shelton, CT

Good afternoon. I see on the agenda here, 3.2 there is mention of the repair of the road down at Riverview Park which is long overdue and I would like to emphasize the need for having it done sometime this year. Thank you.

Alderman McPherson asked if anyone else wished to speak. Hearing none, the public portion was closed.

**1. MINUTES FOR APPROVAL**

1.1 REGULAR STREET COMMITTEE MEETING – APRIL 1, 2025

Alderman Simonetti MOVED to waive the reading and approve the Regular Street Committee Meeting Minutes of April 1, 2025. Seconded by Alderman Durante.

*(Please visit [www.cityofshelton.org](http://www.cityofshelton.org) to view minutes)*

A voice vote was taken and motion passed unanimously.

## 2. NEW BUSINESS

### 2.1 EASEMENT REQUEST AT 2 WAVERLY ROAD

Dominick Thomas, Esq., 315 Main Street, Derby, CT

Julius Fray – 2 Waverly Road, Shelton, CT

Joe Pereira, Pereira Engineering, LLC, 1 Enterprise Drive, Shelton, CT

Attorney Thomas: Representing Mr. Fray. You have a survey. One of the points – there are many things that are in rights of way of State and City roads. Many put there by the State or the City for a variety of reasons. One of the mistakes most people make about State and City roads is that the edge of the pavement is the edge of the right-of-way which, of course, it is not. The most common thing that you see in the right-of-way is the infamous basketball pole that people install to play basketball. In this situation, when they came to me, I did a little research. Joe will explain the survey if anyone had any questions on it as to how they did the survey, whether 50 feet from the centerline. It does not look quite like that because the line varies. I want to preface this by saying I am not trying to get anybody else in trouble. What I want to point out is, this is something that needs to be dealt with and it is not unique to my client. What I did was I took one picture, my client actually had another picture. I want to point out to you that 2 Waverly Road is down and to the left at the end of these trees. If driving down 108, even though there is no survey in here, I know that that wall is in the right-of-way, the same way that I knew that my client's wall was in the right-of-way the moment he came to me and showed me a picture. Doing what I do, a lot of the land use that I do, I knew immediately that the hydrant in my client's picture of the wall, the hydrant is in the middle of the wall. I know that Aquarion puts its hydrants in the right-of-way in almost every circumstance when it is in a road like this. I also know from the other picture that the telephone pole is in the right-of-way because that is normally where the telephone poles go. Unless there is a specific easement, which there is not one on private property, is in the right-of-way also. In addition to that, and my client brought these to me, on the same side of the road as him, driving down, 38 Waverly you can see a very nicely done stone wall in the same location. None of that permits my client to put up a stone wall without coming to the City. I just wanted to point out that that is an issue.

So the two issues that need to be addressed is, what vehicle – you refer to it as an easement, there is more than just an easement. There is an easement, a license, these are all the things the City could permit, but what I wanted to first point out to you is that it is more than likely you have to deal with more of these on these more residential streets. The vehicle, the legal vehicle of it would be an easement or a license, each of which is revocable. There is also leasing which is done by the State of Connecticut. All of those contain provisions that the property owner hold the City harmless in some fashion, either to an insurance certificate or something to be able to show them that in case there is some legal action as a result of it, the City is not going to be held liable for having a wall in its right-of-way. The City can put walls in its right-of-way. The City can put objects in its right-of-way. The City has a requirement, I believe, if the City were to have a road within the right-of-way, there is a drop off, 6 feet or more you have to have a guardrail. My clients who have that situation have to have a guardrail. There are multiple ways to address this.

I am not saying that that picture I showed you of the early one ever was addressed, but notice that the wall is tapered down. I don't know if that was on purpose or what the circumstances are. The one with the telephone pole in the middle of the very nice red mulch. I don't know whether that was done.

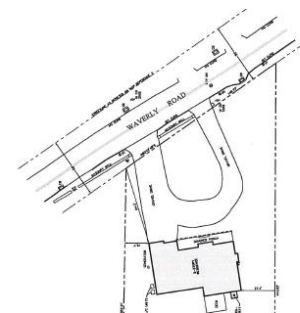


There are numerous ways in which there can be an agreement with the City. License is probably one of them. From a legal perspective, all of them, whether dealing with the State of Connecticut or what I dealt with regarding a parking license with the City of Ansonia, or whatever the circumstance is, the license is revocable. I explained to my client, if the City were to determine that Waverly Road now needed to be more like Commerce Drive, then the City has the right to say we are taking down these walls, we are taking down everything within our right-of-way. These provisions usually provide for holding the City harmless, providing insurance and providing to the City every year that there is an insurance certificate. I am getting into something that more than likely I would have to discuss with Attorney Teodosio, your Corporation Counsel. What other physical things that can be done to the wall to lessen its sharp edge and at the point I turn to the person who has the PE after his name.

Joe Pereira: I took a look at the wall at Dominick's request. I think at the end of the day there are a couple of options I would recommend. I reviewed them with Rimas earlier. Right now there is a square end, basically as you approach the wall on Waverly. One thought is to take this end of the wall and sort of treat it like you would a guardrail. It is a beautiful wall and I would hate to put anything in front of the wall, whether it be a guardrail or something else to take away from it. I think we can accomplish the same thing by taking the end of that wall and putting a curve on it away from the road and then dropping it down so it slopes down towards the existing grade and leave it up maybe 6" or so above grade. As you approach it now it would act very much like a guardrail. Again, it curves away from the road and would stop anybody from hitting it flush with any kind of serious accident. The other thought I had was leaving the wall as is and softening the look of it and also accomplishing the same thing by raising a plant bed, top soil up to maybe 6" to the top of the wall and accomplishing the same thing, planting behind it with low ground cover, make it look better and obvious soften the blow and make it a safer approach to that wall. Those are really the two things I would recommend for that.



Attorney Thomas: I do want to point out to you with the survey in front of you, if you notice the wall goes beyond the property line. Mr. Fray owns the adjacent property. He has already had discussions and I have had discussions with him about that parcel which is accessible off 108 only for development, for him to do a lot line revision so that the entire wall is in front of 2 Waverly. Right now it is in front of two pieces of property but he happens to own both.



Alderman Simonetti: Since October, has there been any more work done on the wall?

Attorney Thomas: No.

Alderman Durante: When was the wall built?

Julius Fray: I think they started in September.

Alderman Durante: With this firm? Pereira?

Julius Fray: No. It was a mason, I can't think of his name.

Alderman Durante: Someone licensed. He evaluated things with Rimas?

Julius Fray: Licensed yes. I don't think he came to Rimas. No permit.

Attorney Thomas: Would a permit be required for a wall this size if it was on his property?

Rimas Balsys: No, if it was on his property.

Attorney Thomas: If it was on his property, what is the requirement?

Rimas Balsys: Four feet high.

Alderman McPherson: I think we see a few things here. Your survey was done and it took about six months to do the survey. When did you inform the President of the Board that you were going to do a survey? Back in the fall?

Attorney Thomas: After the letter came out we ceased work and informed him that we needed to do a survey. I asked if he had one and he didn't have one. We needed to do a survey to determine how much of it, if any of it, was in the right-of-way. We weren't sure what the right-of-way was. As you can see from the survey, the road at the 108 end of the property, the property line is closer. The pavement of the road goes this way and then as it gets to the other end and the pavement of the road gets closer to the properties on the other side. Yes, at that point he contacted surveyors and finally contacted Pereira Engineering. I guess they were not able to do much during the winter months and got started on it in the spring.

Joe Pereira: The other thing I will throw out there, if you look at the survey, part of the problem too is there are really no good records of the actual right-of-way that exists out there. In this case, I think we had to resort to taking the center line of the road and then offset that 25 feet in either direction to create this right-of-way. There really aren't any good records.

Alderman McPherson: I understand there were two letters sent?

Rimas Balsys: One letter.

Alderman McPherson: One from Mr. Baia from Zoning enforcement?

Rimas Balsys: I don't know if it was a letter or a cease and desist posting.

Alderman McPherson: Something was sent and then you had sent a letter. When did the work stop? Between letters?

Julius Fray: I believe I received one letter and I think I have that here. As soon as I got the letter I stopped.

Alderman McPherson: I think some of the issue also is the engineer saw you.

Rimas Balsys: We had spoken on the phone and I had mentioned that you needed to stop working on the wall and that a letter would be forthcoming.

Julius Fray: This was dated October 2nd.

Alderman McPherson: So, you continued to do work until the letter came and he said to you a letter would be forthcoming.

Rimas Balsys: We spoke in mid-September and I told you a letter would be coming and I advised you to stop working on the wall.

Alderman McPherson: When did the work stop on the wall?

Julius Fray: I think when I received the letter.

Attorney Thomas: The day he walked into me was right after the letter indicating you weren't doing any work on the wall and he said no at that point. I can't tell you between the phone call ..

Rimas Balsys: Some work had been done.

Attorney Thomas: There was nothing done immediately prior to when we were talking.

Rimas Balsys: Once he got the letter, nothing continued.

Alderman Simonetti: Is the dashed line the property line? (Yes).

Alderman Durante: Rimas, have you had situations like this before that you had to guide them?

Rimas Balsys: In removing a wall? We have had plantings removed, trees, we have done that before. We had a sidewalk removed and made them put it back.

Alderman McPherson: I think also too, correct me if I am wrong, there may be some other issues. If we were to grant the easement, we still own the wall. Somebody crashes into the wall, we are responsible.

Attorney Thomas: No, not necessarily. The purpose of any easement or license, however you want to go, whatever vehicle you want to go, that would require to be in there the terms that there is a hold harmless. The licensee or the grantee of the easement, however it is, is responsible for maintaining and responsible for holding, so even in a simple situation where you have – you don't see it much these days – but you have a driveway easement through somebody else's property, because in the old days they were going by the birch tree and the oak stump and everything like that, so if somebody puts a driveway in and the driveway is 15 feet onto the neighbor's property, now they discover when they go to sell it – they usually don't make people move the driveway – if they don't do a lot line revision, they do a driveway easement. I didn't mention this in this situation, as Joe brought up, these old roads you are guessing a little bit. There is a third option in which case the property owner could purchase the property up to the other side of the wall from you, but I don't see, as with the property down the end of the street and here, the issue that you have is you have utilities so any purchase of property would impact the easement, either an existing, if there is any easement. Normally speaking, public utilities, Aquarion, UI, they don't have an easement in the right-of-way. When they do it in the right-of-way and it is an existing right-of-way, they have the right to go in the right-of-way. There is no easement from the City because Waverly Road, I will tell you, is a dedicated road, meaning it was dedicated for public use. It is not the more modern subdivision. In the more modern subdivisions, the requirement is when that subdivision was approved and the map is recorded, the deeds to the road have to be given. That wasn't done back then when you did this. So, the road is dedicated to it. In fact, I will tell you this, I happen to know it because I deal with the State a lot, the State would not give an easement here. The State would either give a lease or a license. What their reasoning is, we had the issue right before the Stratford Town Line going out 108 where when these people did the development where there is a dental, a famous bar and horseshoe place there, I forget the name of it, parking, not just the entrance and the wall, parking and everything was out into the right-of-way. I had to negotiate a lease agreement. The reason was they were not given an easement where they did not have title to the property, title meaning they had taken it by eminent domain. They are very careful about that because they want to be protected by a certificate of insurance and a hold harmless agreement. There is no liability to the City in it in that situation. May have, if Mr. Fray, if that is what you execute with him you are protected. These other walls that are in the right-of-way that may exist in the right-of-way which you don't really know 100% without surveys, those things were built however long ago and no one realized they were in the right-of-way. Again, the one with the telephone pole, you can be pretty much assured that that is in the right-of-way because the telephone pole is on the house side of the wall. Not trying to get them in trouble, but what I am saying to you is the vehicle with Mr. Fray is whatever vehicle your Corporation Counsel is satisfactory with – it does not have to be an easement – frankly if I were talking to Fran I would say probably a license agreement that requires you to provide – a license agreement can be terminated in 90 days – if you ever determine that Waverly Road had to be Commerce Drive you could terminate it and take it down. Two – it requires the licensee, Mr. Fray, to hold the City harmless and it requires him to issue a certificate of insurance with the City named as an additional insured for that wall area. There are vehicles to do that because that is exactly similar to what the State's lease agreement. Whenever the State discovers a sign or a wall in its right-of-way then they require you now to lease and they require you to come in and get a lease. They do that so you have to provide to them a whole bunch of other

things, non-discriminatory clauses and all this other stuff. You have to require to them an surety bond and a certificate of insurance and the lease hold harmless language. You can be protected, there is no question about it. It is an ongoing common situation that people do things in the right-of-way. The situation is what you want to do. The whole point is, if you are going to say we are going to make you take it down, I guess what I am saying if you are going to be equal to everybody, you have enough information here to just drive up and down Waverly Road and I found two walls, who knows how many more there are.

Alderman McPherson: First of all, the one at 38 Waverly Road, I don't know when it was put there, it is probably older than I am and I'm 64. The one across the street, I don't know when the house was built, I don't know what the circumstances were. None of us can speak to that.

Attorney Thomas: It is immaterial.

Alderman McPherson: That's not the issue at hand here. My question to the gentleman is, when you took upon building the wall, were you certain or uncertain it was your property.

Attorney Thomas: City property and public utility property are not subject to adverse possession. The wall can be there for 100 years.

Julius Fray: I had Joe Rotondo, who did a survey of the larger piece of property. When he did it, here is the property in questions. This is where the wall goes into the other property. I did a plot plan of that area. If you look by this dotted line here, if I were to develop that property, I'd give that 25 feet to the City. There is a small parcel there if you scaled it, it is 25 feet that he has a dotted line. I referred to that thinking that was good, but needless to say it is not good.

Attorney Thomas: What Rotondo Engineering was doing was showing that the fact, as Joe Pereira said, that there are no right-of-way maps or anything like that, but you may be required to give 25 feet to the City. That is a requirement in a lot of the older properties that are developed. I think Mr. Rotondo made the determination that the boundary was closer to the road and therefore you were going to be having to give it, indicating that the property line was much closer to the pavement. Where his wall is is within the cross hatched area where if he developed it you would have had to give it.

Alderman McPherson: But that property is not part of a development.

Attorney Thomas: He hasn't filed for a development.

Alderman McPherson: Where this wall is is not part of a development.

Attorney Thomas: Where this wall is and where this wall began on this adjacent property is where the indication Mr. Fray had from Mr. Rotondo was, okay this is your property that you are going to have to give to the City if you develop this property. If you don't develop it, it is your property. He had not gone in for a subdivision, he had not gone in for whatever. Part of this property could have been, again, his thought, attached to 2 Waverly Road which is what he is going to have to do is do a lot line revision of

his property and expand to Waverly Road to include the wetlands. That is what he based it on. He just didn't say I'm going to throw it there. In looking at that and understanding that this is property that you have to give to the City if you develop it, this is property that you won't own because you have to deed it to the City. Again, when they do the 25 feet from the centerline, we have never had a right-of-way map, so to speak, done. The misinterpretation on his part was done. Again, I'm not trying to get these other people in trouble. All I am trying to tell you is that the wall can be there 100 years. It is in your right-of-way and it does not become the property of that person because it is not adverse possession. What we are saying with this wall there is a way to protect the City. It is a thing that happens, not that often, but does happen. It happens more so with State roads, but it happens with City roads, especially the older ones. Not necessarily the newer ones. On a subdivision map you have a deed that goes to the City.

Alderman Simons: I had one question. You keep referring to other walls there that should be removed if there is an issue with this particular wall. Do those walls all have fire extinguishers in the middle of them or is this the only wall with a fire extinguisher?

Attorney Thomas: Hydrant.

Alderman Simons: I apologize, fire hydrant.

Attorney Thomas: The one I pointed out to you in the one photo actually has the power line inside the wall, between the wall and the house.

Alderman Simons: It just seems unusual to see a fire hydrant with a wall built on each side. I can see a wall behind it. I don't see why there is a fire hydrant here and a wall on both sides. If the fire hydrant had to be maintained, something went wrong with the piping, is the piping running this way or that way if they had to do something to it.

Joe Pereira: Most likely running from the hydrant into the street. Lateral.

Attorney Thomas: It is not running underneath the wall.

Alderman McPherson: There is no real way of knowing, is there?

Alderman Simonetti: Unless you pull a map. There has to be a map on how they were put in.

Alderman Simons: Nobody has used a map so far until now.

Attorney Thomas: The other thing I mentioned to Mr. Fray is that if Aquarion had to do something to maintain it, Aquarion would chop that portion of the wall if the pipe was under it. That is their right. Just like if on that other one, if UI needed to maintain that pole or do something and to do it correctly they needed to take down the wall to get to it, that is exactly what UI would do. If UI needed to replace that pole, I don't know if they would be able to replace the pole with the wall there. That's a whole different issue that the utility is in control of and that is what my client or any other property owner

would have to deal with, the utility is a separate entity in a sense from the City in dealing with what their rights are.

Alderman Simonetti: Mr. Fray, you own the property on either side also? That is why you extended the wall down that way?

Julius Fray: Yes, that's correct.

Alderman Simonetti: Did you plan on extending it any further to the other side? Just to the end of the driveway, the gravel driveway?

Julius Fray: Yes.

Alderman Simonetti: Is this a State road?

Alderman McPherson: No, 108 is the State road.

Alderman Simons: At the end of 108, you can't even pull out on 108.

Alderman McPherson: That's another issue. You have a very serious line of sight issue.

Julius Fray: I can trim those trees.

Alderman McPherson: They have to come back because you are pulling way out into the oncoming lane and someone is going to get creamed if not worse.

Alderman Simonetti: This other wall - you would have to have it surveyed to know it was in the wrong place.

Alderman McPherson: This has nothing to do with this. We don't know when it was done, we don't know who was in charge then. It has nothing to do with what we are doing here.

Alderman Simonetti: If Mr. Fray asked for a permit could he have gotten it granted to put the wall in this spot?

Rimas Balsys: We don't issue permits for stone walls.

Alderman McPherson: But I think if he had come to the City he would have been told you are in the right-of-way, build your wall back further. He would have been given that, but the gentleman didn't do that.

Attorney Thomas: I think if he had come to the City, first off there is no reason to come to the City as he is not building a permitted structure. Second if he had come to the City the City would have said if you

are building the wall in front of your house you need a survey. Beyond that, the City does not know, if I came to Rimas and said where is the right-of-way line without Joe Pereira's...

Rimas Balsys: I would have looked for maps in town and found pretty much none.

Alderman McPherson: He said from the start that you were on City property.

Rimas Balsys: We based it on GIS.

Attorney Thomas: GIS, 25 foot, again the whole thing is when you don't have a map, you go 25 feet from the centerline. The centerline of what because the road bends a bit so you really need a survey and doing the things your surveyor did and try to determine what it is as best you can. There are no survey maps. I assume you have a bunch of map references on there to establish it and that is how you establish it.

Alderman Durante: If I could get a comment out, and all it is is a comment. 1. The house looks beautiful and it would be nice to have most of our residents do that. You take pride in your house and I appreciate that because that is the way we were raised. 2. To Mr. Thomas' point, I understand that there are a lot of what if's. What if legal fees back then when my dad was around was \$50 and now they are different. There are a lot of what if's. I am trying to understand what is being explained to us, but I just want to come to a conclusion because other what if's can be dealt with later on. I think I want my constituents to take care of their house happy and I want our engineers and building department to be fair. If we had to take on every issue, we would need another building department and engineering department to do that as well. That is not what we should do. It went down the wrong path. I would want to admit that. We can't change what the past has done, but at this point you are giving us the information, it seems like you have spent a lot of time and energy and dollar bills and I appreciate you giving us this information, but we need to come to a fair conclusion, not just for your case, but any future case. That is why we have them here. What used to be done before, we are trying to not do. You have dealt with a lot of towns and that is why there are rules and you probably defended on a lot of them for other properties. That is why we have a department for that. Thank you for letting me share that.

Alderman Simons: What was the thought process on the fire hydrant and the wall? The wall is beautiful. The fire hydrant was there before everything else. I am wondering why you didn't go behind it or do a loopy thing.

Julius Fray: I wanted to be safe, so I left three feet on either side which is required or maybe a loop in the back. Maybe they needed to put hoses in the back, so I left it as open as possible. If someone goes off the road, they are going to hit the wall.

Alderman Simons: I was wondering as it is dead center with that fire hydrant.

Alderman Simonetti: There is a liability for the City as far you are concerned, if someone goes off the road and hits the wall.

Alderman McPherson: I think there are a couple of issues here. I think that we would be setting a precedent and it is something I don't think we are comfortable with here. I just don't think it leaves us really any choice but to deny the easement and to order the removal of the wall and have the wall put back further. I think there is enough concern here that it would just open up a bigger can of worms if we were to grant this. Down the road you mentioned other options, but that is beyond us here. That may have to come back at a later time.

Attorney Thomas: What do you mean by other options? You mean leases...

Alderman McPherson: Relining the property. That is not for us.

Attorney Thomas: I understand that. With respect to if you chose to do an easement – again my preference would be a license – either vehicle would have a protection to the City liability-wise. I don't mean to get into the liability issue, but when you get into the liability issue, you have to remember that this is a 25 mile per hour road.

Alderman McPherson: That nobody does 25 miles per hour.

Attorney Thomas: When you are talking about liability, the 25 mile an hour is what controls. Regardless of that, the City needs to be protected. The City needs to be protected in these situations from anything, the right-of-way and to protect it is documentation in that situation. Again the State does it with leases, with licenses, you would not be doing anything unusual. As far as precedent, keep in mind that whatever you do as the Street Committee or whatever the Board of Aldermen does, establishes with no precedent and you can check with your Corporation Counsel. Somebody else can come to you and say well you let them put a wall, therefore I want it. There is no precedent in that whatsoever. You are not like an appellate court, you don't set precedents like that.

Alderman McPherson: We have to make sure that we don't because we don't want to open up a can of worms. There are people out there that exhibit total and willful disregard. We have run into cases, not related to this where it is total and willful disregard and we didn't know and could have known and we have had to take action. I just think we have enough concern where we don't want to go down this road and then open up the can of worms. I don't think we have any choice but to take the action to deny and order the removal. I don't think we have any choice.

Attorney Thomas: I think you do, but can I make a suggestion that you table this and get an opinion from Corporation Counsel on both the liability issue and the precedent issue that you are concerned about. I am not asking you for something that is unique to this situation. I am asking you for something I have done – granted I have been around so long I probably have done more than most have, but I have done situations where things are in the right-of-way and you negotiate them. I'm not talking about the State DOTs right-of-way where they are a little more difficult to deal with.

Alderman McPherson: Have you not had contact with Attorney Teodosio?

Attorney Thomas: No I haven't on this. I did have some contact with him at the beginning and his point was it had to go to the Street Committee. What I mean is I did not deal with him on what vehicle – you are referencing an easement. I'm telling you there are multiple vehicles and if you have a question on liability and you have a question on precedent, I just think it would be more information – I'm asking you to table it to the next meeting and contact him. Normally, you may not realize this, Attorney Teodosio does not talk to me on a matter until the Board or entity tells him you have to have a discussion with Attorney Thomas. We have enough check list items to go over anyway, he and I, with all the Planning and Zoning. All I am saying is just refer it and we will continue it. There is nothing else being done on the wall and continue it for the next month and get an opinion from him and have him and I discuss the issues and the vehicle that can be done. He may give you the same opinion you have. He may say make them take it down. He may say we have these other options and he may give you a whole host of options, maybe more than I have.

Alderman Simonetti: There is no building going on now. Why don't we table it. We can still deny and have it taken down if we want, but at least get Fran's side of the story. You need a motion.

Alderman McPherson: I'm going to tell you this. I want it by the time we get to the next Street Committee Meeting. I do not want this dragging out any further. We have been how many months on this. We need to move this off our plate. I still have the issue with – again – the wall was constructed without even consulting the City. Again, this is my argument about a precedent. I don't believe we should set a precedent because then well this person got away with it, so can I. I think it is a dangerous road to travel and we are going to open up a can of worms. You originally were going to appeal. You notified the President of the Board of Aldermen.

Attorney Thomas: There is a time limit.

Alderman McPherson: I really believe we are going to open up a can of worms here that is going to be a problem. Everyone and their brother and sister, all the sinners are going to come out of the woodwork. If you don't think people are watching, people are watching.

Alderman Simonetti MOVED that we table this, get Attorney Fran Teodosio for the City regarding liabilities and what other options there are for this and if there were any other remedies to this.

Alderman Durante: I would add that it is yes or no. I appreciate the choices you have, but yes or no.

Alderman Simonetti: You'd rather not go to Fran.

Alderman Durante: What Chairman McPherson said, we are going to have other issues that may have already happened, but what do we do to the department if another wall opens.

Alderman McPherson: I had two experts who advised us and had provided us the information who have the experience.

Alderman Simonetti: So there is no second to the motion.

Alderman McPherson: The motion dies.

Alderman Durante: I think make a different motion. If we want to have this resolved. I think it has to be dealt with with the facts that we have today by the next Street Committee. In the meantime, Attorney Thomas should share his information with Attorney Fran that comes up to us.

Alderman Simonetti: That was basically my motion.

Alderman Durante: You are saying other options, yes or no.

Alderman Simonetti MOVED that on or before the next meeting of this subcommittee of the Board of Aldermen that we have to have definitive answers from Attorney Fran Teodosio concerning the liability to the City and any other options.

Attorney Thomas: Attorney Teodosio will advise you on liability and which vehicle is bet.

Alderman McPherson: We had a motion. The motion was not seconded. The motion dies. Let's move on to the motion at hand now is to deny the easement. We can move and deny the easement and again to order the removal of the wall. If he wished to rebuild the wall he would have to move it back. Plus too Alderman Simons brought up the issue of the hydrant. The motion we have now is ...

Alderman Durante: Would another few weeks give you a better idea of where we need to land with this situation?

Rimas Balsys: It is not necessarily up to me at that point. It is up to Corporation Counsel.

Alderman Durante: There has been no conversation with Corporation Counsel on this?

Rimas Balsys: Not on my behalf.

Alderman Durante: Have you?

Alderman McPherson: Nor would he. We are relying on the information provided to us by our experts who have said right from the start that this was City property. Again, you want to travel the road and do whatever you want to do and we open up a can of worms for everybody else out there because all the sinners are going to come out of the woodwork and oh, you have to do the same for us. I am not prepared to do that, nor do I think the rest of us should be prepared to do that.

Alderman Simonetti: We are not cutting off that we can't in the next meeting make the same decision. All we are saying are there other things we can consider.

Attorney Thomas: You are making a legal statement that you are establishing precedent, but you are not. I am not Corporation Counsel, which is why I am telling you to seek advice. You are not establishing precedent.

Alderman McPherson: Are you a developer?

Attorney Thomas: No.

Alderman McPherson: You are not a developer. You may not want to build a development and just stick stuff wherever because we are going to have to deal with these people.

Attorney Thomas: Developers are easy to deal with. Developers come in with surveys and everything.

Alderman Simonetti: My motion was denied, you can make another motion. It was not seconded.

Alderman McPherson: Which means it died.

Alderman Durante: What you are agreeing on is at the next Street Committee this is to be resolved. I would accept that motion. Is there any harm in getting Corporation Counsel?

Alderman McPherson: Good luck. By the time he gets done with it this is going to drag on and I will be a very old man by that time. I'm just telling you the reality of it. The reality is, I don't feel comfortable with it. If something comes to us by the next month that we need to reconsider, we can do that. For the purpose of this meeting right now, I am not prepared to do that.

Alderman Simonetti MOVED that we move this to the next meeting with a definitive vote be taken at that time and that we discuss the liability of the easement with Fran Teodosio and get his opinion on several items about it.

Seconded by Alderman Durante.

Discussion:

Alderman Durante: If for some reason, timing wise, it can't be heard by Corporation Counsel then unfortunately we will have to deny it and we will have to take matters that are necessary at that time. We can't move on.

Alderman McPherson: I will tell you, I think you are both wrong as my prerogative as the chairman to say so, you are both wrong. We have a motion and a second. We will call for a vote.

A voice vote was taken and passes as follows: Alderman Simonetti: Aye; Alderman Durante: Aye; Alderman McPherson: Nay.

Alderman McPherson: I am going to say this. I want something from the attorney and have it in hand by the Tuesday, June 3<sup>rd</sup> meeting. I want something from Corporation Counsel addressed to me and this committee by June 3<sup>rd</sup> and not a second later.

Attorney Thomas: Who communicates with Attorney Teodosio on this? When I call him he is going to say he needs to wait for communication from the subcommittee.

Alderman McPherson: I will communicate with him. You two are going to have to do whatever it is that you guys do. I want something here because I am not letting this go on any further.

## 2.2 AMENDMENT TO CODE OF ORDINANCES ARTICLE II – STREET EXCAVATIONS, TRAFFIC CONTROL

Alderman Simonetti MOVED to recommend to the Full Board, to send the below amendment to the Full Board for approval and then to Public Hearing.

- **ARTICLE II. - STREET EXCAVATIONS, TRAFFIC CONTROL**
- **ARTICLE II. - STREET EXCAVATIONS, TRAFFIC CONTROL**
- **Sec. 14-51. - Permit.**

(a) No person shall make any opening, excavation or construct any walk, curb, pavement, driveway or perform any other construction work within, on, through or under any public street, highway or public right-of-way located in the city, including a state highway, for any purpose whatsoever, unless a permit has been obtained pursuant to this article from the director of public works or his designated agent. Any permit issued shall be valid for a period of ninety (90) days from the date thereof. Any work performed pursuant to such permit shall be subject to the approval by the director of public works or his designated representative. Said permit cost is fifty dollars (\$50.00) for all excavations including the construction of a new driveway. Driveway replacement permit cost shall be twenty-five dollars (\$25.00).

(b) On state highways located within the city, the city street opening permit must be obtained. A twenty-five dollar (\$25.00) city street opening permit shall be required where a public sidewalk within a state right-of-way is impacted by the excavation. A no fee city street opening permit is required in all other cases. This article does not supersede any regulations as set forth by the state department of transportation with regard to excavation in state highways.

**[Rimas Balsys] (C) Extension of a utility main (sewer, water etc.) as necessitated due to the approval of any development will require the full width milling and paving of said street, the full length of the utility main extension.**

(Ord. No. 454, §§ a—c, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07; Ord. No. 877, 3-13-14; Ord. No. [910](#), 11-12-20)

**Cross reference—** Licenses, permits and miscellaneous business regulations, Ch. 9.

- **Sec. 14-52. - Same—Notice to director of public works; term.**

The director of public works and the police department shall be notified at least twenty-four (24) hours in advance of actually starting any work authorized under a permit. Failure of the permittee to notify the city will result in the revocation of the permit. Permits are void three (3) months after their issue date.

(Ord. No. 454, § j, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-53. - Public service companies.**

Nothing in this article shall be construed to prevent making of any necessary excavation or the performance of any work related thereto by any public service company in the event of an emergency. In the event of an emergency, the public utility company shall notify the city immediately or if after hours the start of the next city hall business day at which time application for a permit shall be made.

Any public service company which has complied with the provisions of section 16-230 of the Connecticut General Statutes shall be exempted from the requirement of posting a bond as hereinbefore set forth and shall be further exempted from the requirement of paying a fee for the cost of permanent patching of the street opening as hereinbefore set forth provided that the utility shall place on file with the city a written agreement constituting a continuing obligation binding the utility to make the permanent repair required by this article at its own expense **[Rimas Balsys]**. **Any work involving the installation or replacement of 100' or more of main will require the entire width of road to be milled and paved to the extent determined by the City Engineer or Superintendent of Highways & Bridges. Included in this work is the replacement of any ADA ramps within the work zone as per ADA requirements. Any road repairs required due to the failure of a water service leak or water main leak will require a full width mill and pave to the limits as determined by the City Engineer and/or the Superintendent of Highways & Bridges** and in such a manner as is required by this article as if the work were to be done by the city contractor as further guaranteeing the quality of the workmanship and materials to the same extent as would the city contractor and agreeing to complete the work at the times required by the city engineer. The utility shall warranty all their permanent repairs for **[Rimas Balsys]** **two (2) years**.

(Ord. No. 454, § d, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-54. - Requirements if closing of public highway required.**

No highway may be closed without the approval of the traffic authority. Such approval shall only be issued in extraordinary circumstances, for a short period not to exceed one (1) work day, and when occupied properties can obtain access by an alternate route. If the work of the permittee requires the closing of a public highway for any period of time, notice shall be given in writing to the traffic authority and to the director of public works or his designated representative twenty-four (24) hours in advance. The traffic authority may determine the need for closing the highway and may require the work or work method be so altered as to provide for traffic flow. The director or his agent shall provide written notice to the police and fire departments upon receipt of notice of the intent in advance of closing any public highway.

(Ord. No. 454, § c, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-55. - Tunneling or jacking.**

Tunneling or jacking shall be permitted only when plans prepared by a registered engineer are submitted to and approved by the city engineer.

(Ord. No. 454, § g, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-56. - Materials not to interfere with travel; barricades required.**

All excavation materials shall be compactly piled and shall not interfere with public travel to any greater extent than necessary. Suitable barricades shall be provided, and warning lights kept burning between sunset and sunrise and any other time as may be required by the director of public works or his agent. If the location and extent of work is such that a traffic director, in the opinion of the director of public works or his agent, is required, such traffic director shall be provided at the expense and responsibility of the contractor.

(Ord. No. 454, § g, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-57. - Backfilling.**

Backfill in trenches within paved areas shall be placed in layers not more than twelve (12) inches thick and shall be thoroughly compacted by tamping or other approved means to the satisfaction of the director or his agent. Compaction equipment must be at the excavation site and shall be utilized during all backfilling operations.

The material used for backfill shall be subject to the inspection and approval of the director, or his agent, and if in his opinion, the excavated material is unsuitable for backfill, the contractor shall be required to dispose of the unsuitable materials in the amounts and proportions specified by the director or his agent. When backfill has been completed within fifteen (15) inches of the finished pavement or surface grade, the next fourteen (14) inches shall be filled and compacted using an approved grade of bank-run or processed gravel. The last two (2) inches shall be covered with adequate temporary hot bituminous paving material (when available) and in such a manner as shall be approved by the city engineer. (Ord. No. 454, § h, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-58. - Inspections.**

The director or his agent is empowered to inspect all excavations for workmanship and materials. The excavation may not be permanently backfilled without the director or his agent present at the site. The city will require the permittee to excavate and expose for inspection any portion of the excavation backfilled without inspection or authorization to backfill.

(Ord. No. 454, § j, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-59. - Maintenance of work by contractor.**

The contractor will be required to maintain his work until permanently paved by the city. During this period he shall inspect the trench at such regular intervals as may be necessary to maintain the area in satisfactory condition. The contractor shall make all necessary repairs, and in the event that the contractor fails to make such repairs as are deemed necessary and the city must perform any work, the contractor shall pay the cost of this work. Failure on the part of the city to give notice that repairs are needed shall not relieve the contractor of any of the duties set forth herein.

(Ord. No. 454, § k, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-60. - City responsible for permanent repair.**

The permanent repair of street openings shall be the responsibility of the city. The city shall charge each permittee a fee for cost of the permanent repair based on the area of the final repair as calculated by the city engineer. The square yard unit prices shall be annually determined by the city engineer in accordance with current costs and construction practices. A uniform method on which to base these costs shall be prescribed by the city engineer and approved by the director of public works.

In the event the size of the permanent repair exceeds the estimated size of permanent repair, the permittee shall pay the additional fee to the city within ten (10) working days. Failure to pay the additional fee will result in the permittee forfeiting any rights to future permits until the outstanding balance is received.

(Ord. No. 454, § l, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-61. - Bituminous concrete.**

Hot-laid bituminous concrete shall be as specified by the state department of transportation in their specifications and latest revisions for "Bituminous Concrete, Class 2".

(Ord. No. 454, § m, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-62. - Liability of permittee for unsafe conditions or abandonment.**

Any person, firm or corporation who violates any provision of this article shall be subject to a fine of not more than two hundred fifty dollars (\$250.00) for each violation. Any person, firm or corporation who receives a permit and leaves an excavation in an unsafe condition in violation of any of the provisions of this article or abandons a street opening, shall be subject to a fine of not more than two hundred fifty dollars (\$250.00) for each violation and shall be liable for all costs incurred by the city to correct any condition.

(Ord. No. 454, § o, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-63. - City's right to not issue, revoke permits.**

Any permit may be revoked by the director of public works for just cause including, but not limited to, defective workmanship, trench settlement, failure to notify or nonpayment of additional fees. The director of public works may refuse to issue a permit to any person, firm or corporation which has not paid to the city any fees incurred under the provisions of the ordinance prior to making such permit application.

(Ord. No. 454, § p, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 770, 2-13-03; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07)

- **Sec. 14-64. - Termination of permit; release of contractor's obligations.**

No earlier than six (6) months after completion of construction, the contractor shall apply for termination of the permit and release from any obligation involved thereafter. If in the opinion of the director or his agent the work is not satisfactorily completed or settlement is occurring, necessary repairs shall be undertaken by the contractor and an additional period of liability established by the director or his agent will be established before release. The installation of permanent repairs by the city to such opening shall terminate the permit and release the permittee from any obligations thereafter.

(Ord. No. 454, § n, 2-9-84; Ord. No. 715, 10-9-97; Ord. No. 791, 4-14-05; Ord. No. 818, 4-12-07; Ord. No. 877, 3-13-14)

Seconded by Alderman Durante.

Discussion:

Alderman McPherson: I have something from our engineer, you should have it in your packet. In red, paragraph C:

“[Rimas Balsys] (C) Extension of a utility main (sewer, water etc.) as necessitated due to the approval of any development will require the full width milling and paving of said street, the full length of the utility main extension. There is a lot of reasoning for this. I’ll let Rimas explain some of the problems we have encountered.”

Rimas Balsys: I think it is pretty self-explanatory where just using, in this case, Center Street downtown and even the State road, the same situation where the entire road is dug up for a main and then laterals are put across both sides of the street. They fix those patches and they start to settle and now you end up with a washboard type of a road. All those cuts introduce water into the base material of the road. I had a discussion with Eversource and they have always been the ones that kind of push back with milling and paving the whole road; Aquarion has been good with us. Eversource has pretty much indicated that they would not be willing to start milling and paving the entire road that they worked on unless it was in our ordinance.

Alderman Simonetti: What constitutes a full road? Full width, but they dig up from one side of the road to the other, 4 feet wide to do all their work and they patch it for that night. How far ahead and how far behind do they have to resurface so it is done.

Rimas Balsys: What is written in here is the full width milling and paving of said street, the full length of the utility main extension. Wherever they started to wherever they ended. In this case, Coram, they are going to be starting at Cornell and go to Kneen Street, so it would be from Kneen to Cornell, curb to curb.

Alderman Simonetti: So, there is a limit. The utility company should be responsible. They just mill it up and put it back so it is safe and everybody driving on it and maintenance with snow, etc.

Rimas Balsys: It is just for the extension. Obviously there is a second part.

Alderman McPherson: I was just going to read that into the record. Section 14-53.

“Any work involving the installation or replacement of 100’ or more of main will require the entire width of road to be milled and paved to the extent determined by the City Engineer or Superintendent of Highways & Bridges. Included in this work is the replacement of any ADA ramps within the work zone as per ADA requirements. Any road repairs required due to the failure of a water service leak or water main leak will require a full width mill and pave to the limits as determined by the City Engineer and/or the Superintendent of Highways & Bridges and in such a manner as is required by this article as if the work were to be done by the city contractor as further guaranteeing the quality of the workmanship and materials to the same extent as would the city contractor and agreeing to complete the work at the times required by the city engineer. The utility shall warranty all their permanent repairs for[Rimas Balsys] two (2) years.”

We have encountered this quite a bit. We have people come out and dig up the road, do a terrible job of repairs. The road sinks, it is not done properly. Rimas has had to contact these people. I think one utility even says do you have an ordinance on this. It protects the City and makes sure that the repairs are done properly. We just redid part of Ripton Road two years ago and somebody dug it up after we had just paved it. This is what we are up against with these developments and these repairs. You’re going to have the same thing on Howe Avenue because we are going to have a ton of work done. I’ve talked to the Chief of Police last week. There is going to be a ton of work on Howe Avenue coming. They are going to rip that road up every which way. After approval here it will be sent to the Full Board and then public hearing and then June Full Board meeting for approval. It is in the best interest to protect the City to make sure the repairs are done properly and holding people accountable. This is a very important tool.

Seconded by Alderman Durante.

A voice vote was taken and motion passed unanimously.

### 2.3 INSTALLATION OF SIGNS ON NELLS ROCK ROAD BY PICNIC AREA

Alderman McPherson: I was emailed by a constituent. This is installation of signs on Nells Rock Road, particularly up by the picnic area. I received an email, apparently we have a lot of wildlife up there and the person had said a turtle was run over, a beaver was hit and we have a lot of wildlife that crosses up in that area. The request was to have a couple of signs strategically placed that denotes a wildlife crossing or something like that. It is not a bad idea. I did speak with Theresa Gallagher, our conservation officer. They have no power to really do that. I told her we would take it up on the Street Committee to see if we can’t get something done there. They do endorse it. She agrees with this.

Alderman Simonetti MOVED to install signs on Nells Rock Road by the picnic area to protect wildlife crossing the road. Seconded by Alderman Durante.

Alderman Simonetti: Do we have the money in the budget to do this?

Brian Roach: In the sign budget probably. I'd have to look into wildlife signs.

Alderman McPherson: Wouldn't that come out of the PDs sign budget?

Brian Roach: Between the two of us.

Alderman McPherson: I think it is worthwhile.

A voice vote was taken and motion passed unanimously.

#### 2.4 CORAM ROAD FROM KNEEN STREET DOWN TO CONSTITUTION

Brian Roach: It is on the list.

Alderman McPherson: One more item I want to discuss here. I have already spoke to Kevin Stratton about this. It is not really for us, but I'm going to take it up anyway. We have an issue where you are coming down Ripton Road where the yield sign is. The right of way is coming up to the green. I have asked for an accident history. I am surprised when Chief Stratton got back to me today that there are not a lot of accidents there, but there was a doozy Thursday night. All these morons come down Ripton Road and don't even yield. It almost happened to me last Monday night. A lady came right through, didn't even hit the brakes and I almost got creamed. The same thing happened to Cris. They are not even yielding, not even tapping the brakes because they are trying to beat oncoming cars that have the right-of-way. I want to put a stop sign there.

Brian Roach: I don't know that that is a good idea. You will have more accidents with a stop sign, all the rear-ending that will happening. The State even took down stop signs with merging onto the Merritt. Because of the amount of accidents they took those away.

Alderman Simonetti: In my lifetime that area has had more changes in direction and flow than I can remember.

Brian Roach: What about one of those neon yield signs or solar?

Alderman McPherson: I'm willing to look at that but the thing is they don't even tap the brakes. My other thought was, we talked about rumble strips, how about rumble that little section, you make it rumbly.

Brian Roach: I would worry about the plow with that.

Alderman Simonetti: We have three stop signs at Maple and Hayfield and they race through there. I get more calls about that than anything. They put cops there on both sides and catch people, but they just race down Maple. They don't want to stop, it is that simple.

Alderman McPherson: Here it is even worse. What do we do to make that safer?

Brian Roach: I don't know. There are not a lot of accidents there?

Alderman McPherson: He said there wasn't. This car was spun, across the road. It was totaled. They fly. Do we have a speed limit sign there?

Alderman Simonetti: Is there a Slow and Chevron sign we can put up there?

Alderman McPherson: Maybe that is what we could do. We could put up markings, how you have it in the road, Yield.

Brian Roach: Paint yield in the road? All this would have to go through the Traffic Division.

Alderman McPherson: Put another a couple of feet up.

Brian Roach: I'll talk to them.

Alderman Simonetti: Is there power to put a pole with a flashing light.

Brian Roach: Basically 108 ends, coming up from downtown, that first traffic light at the bottom of the green that is the top of 108. That is where Ripton starts. Technically 108 just comes down Nichols Avenue, that one way side and the front of the green and all the way up. From that traffic light up is basically Ripton and turns into Church Street at the top of the green.

Alderman McPherson: We will bring it back for next month.

### **3. OLD BUSINESS – FOLLOW-UP**

#### **3.1 ROAD PATCHING**

Brian Roach: We are working on it.

#### **3.2 RIVERVIEW PARK ROAD REPAIRS**

Brian Roach: We will do what we can when we can.

#### **3.3 RICHARD BOULEVARD REPAIR CONTINUED FROM 2023**

Brian Roach: That's a go.

Alderman McPherson: We can scratch this for the next meeting.

**4. REPORT OF CHAIRMAN**

4.1 NO ITEMS

**5. STREET COMMITTEE MEMBERS**

NO ITEMS

Alderman Simonetti: I was impressed with the fantastic job that the crew did on the wall for the Huntington Fire House. Really nice job. Also at the library.

Alderman McPherson: We are waiting on the fence part at the library.

Alderman Anglace: A couple of weeks ago I asked for Seneca Drive along the road to be cleaned up. They did an outstanding job. This was in response to a constituent. The constituent proceeded the same day to put a Facebook post up. After looking at the job they did there, I came up to City Hall and the same crew was here sprucing up the place here. People do notice and it is appreciated.

**REPORTS OF:**

- A. DIRECTOR OF PUBLIC WORKS
- B. SUPERINTENDENT OF HIGHWAYS & BRIDGES
- C. CITY ENGINEER
- D. STREET COMMITTEE MEMBERS

No items

**ADJOURNMENT**

Alderman Simonetti to adjourn the Street Committee Meeting at 6:50 p.m., seconded by Alderman Durante.

A voice vote was taken and motion passed unanimously.

Respectfully Submitted

*Donna Fonda*

Donna Fonda  
Acting Clerk, Board of Aldermen