

A Special Meeting of the 26th Board of Representatives of the City of Stamford was held Wednesday, March 30, 2005 in the Legislative Chambers of the Board of Representatives in the Government Center, 888 Washington Boulevard, 4th Floor, Stamford, Connecticut.

MINUTES

The meeting was called to order at 7:30 p.m. by President David R. Martin.

President Martin read the call of the meeting:

“I, David R. Martin, President of the 26th Board of Representatives of the City of Stamford, Connecticut, and pursuant to Section C2-10-4 of the Stamford Charter, hereby call a Special Meeting of said Board of Representatives at the following time and place:

Wednesday, March 30, 2004
7:00 p.m.
Legislative Chambers, 4th Floor
Government Center
888 Washington Boulevard
Stamford, CT 06904-2152

to consider and act upon the following:

1. To take testimony from the City’s environmental consultant, based upon confidential information, regarding the Blachely Road property acquisition.”

AGENDA:

INVOCATION: Given by Rep. Layton.

PLEDGE OF ALLEGIANCE TO THE FLAG: Led by President David R. Martin

ROLL CALL: Conducted by Clerk of the Board Annie M. Summerville. There were 37 members present and three members excused (Reps. Day, Morrow and Munger).

PRESENTATION: Paul Esposito, Chair, State & Commerce Committee

Chair Esposito made a motion to enter executive session. Said motion was seconded. Chair Esposito stated that the purpose of the executive session was to discuss confidential environmental information that has been provided to the City by Procter & Gamble.

Rep. DeLuca asked whether after this confidential meeting the Board members are obligated not to discuss what they have heard this evening.

President Martin stated any confidential information discussed in the executive session is confidential to the members of the session and the members should not share that information outside this body. If a member were to later discover the same information in a public document, it can then be discussed, but testimony based on confidential information should not be discussed.

Rep. DeLuca stated that he wants some type of assurance that information discussed tonight will be available to the public within the next week or two. Rep. DeLuca stated he will not listen to confidential information and not be able to reveal the information for weeks or months. The public is not aware and if something detrimental happens to somebody in the area because the soil is contaminated, morally he cannot stand by and let this happen. Rep. DeLuca stated if he gets some type of assurance that the information will be available to the public in the very near future, he has no choice but to walk out. Rep. DeLuca stated it is an insult to the public that something could be there that is detrimental to their health and that information cannot be revealed.

President Martin asked Corporation Counsel to respond. Mr. Cassone said that the City is in the process of a proposed commercial transaction to acquire property from a private company. The private company is empowered and authorized to retain its own trade secrets and also any environmental information concerning any property it owns. Because P&G wants to facilitate this transaction with Stamford, it has agreed, under certain conditions, to provide confidential information to the Board and to the City's consultant. If that testimony is not heard in executive session and not treated confidentially, Mr. Cassone stated he is obligated to tell the consultant not to disclose any of this confidential information; otherwise the City will be in breach of a confidentiality agreement, which was signed by the Mayor. Mr. Cassone stated that if the Board wants to treat the information confidentially at this juncture, then the Board is obligated to do it in executive session. If the Board does not want to treat it confidentially at this juncture, then there will be no testimony. Mr. Cassone stated that nothing will be revealed in the next week or two because until the City has a contract with the seller of the property, the information cannot be shared. The City must be obligated to purchase the property at the point the information can be released.

Rep. O'Neill stated it is of great significance to this Board that the DEP has been undergoing extensive review of the environmental conditions on this property since 2001. Rep. O'Neill stated that this review information must be fully disclosed by the DEP, under its Form 3 Property Transfer section. Mr. Cassone replied that any public information is public. The City was provided with reports, and he did not compare public internet information with any reports that were received to determine where they overlap and where they diverge. The consultant is going to present her opinion on the environmental reports that we have been provided with voluntarily by the seller.

Rep. O'Neill stated that under the State Act there is nothing short of full disclosure on behalf of the Seller, which is appropriate to any purchaser of the property, and this Form 3 investigation has been ongoing since 2001. Rep. O'Neill stated that after reviewing the documents and speaking with the DEP, it appears the investigation is incomplete at this time, and the DEP anticipates completing the investigation later this year. Rep. O'Neill stated that the DEP does not recognize confidential environmental information on a site. It is either full disclosure or it is against state law. Rep. O'Neill stated that we can suggest that certain information is confidential, but as public officials, he does not feel we are at liberty to suggest that our powers transcend those of the State DEP.

President Martin stated he believes the question is a concern that under State law, all environmental information pertaining to a site is public anyway. So, there is no such thing as confidential information.

Mr. Cassone stated that information necessary to transfer the property under the Transfer Act, for any transfers taken place to date, may in fact be already a matter of public record, but that is not why the meeting is happening today. Today, we are being provided with documents by Procter & Gamble's environmental consultant concerning the environmental status of the property. We had those documents reviewed by a consultant to present testimony to this Board so it can be better informed about whether or not this property is going to need additional studies or remediation or nothing, as we look to acquire the property and put a school there. Information that is public on the DEP website or otherwise available from the DEP has nothing to do what we are doing here today. We are here to learn from our consultant what additional information, if any, we need to learn, either from our own testing or through the Seller's consultants before we proceed to purchase the property.

Mr. Cassone stated that the City has acquired a number of parcels of property over the years that require remediation. One is currently going on Harbor/Magee Avenue, which was approved by the DEP. He added that the City is not going to acquire a contaminated piece of property and put a school on it, and why anyone would be suspicious of that is beyond him. He added that the City is handling this in the exact same cautious, prudent, legal manner it would handle any other property acquisition. This evening is to allow board members to learn more about the property. Mr. Cassone stated he has to honor the agreement that he made with P&G that the information remain confidential at this juncture. The purpose of this evening is to allow this Board to make a reasoned decision – even before our environmental contingency begins (when we sign the contract and agree to buy the property).

Rep. O'Neill asked where the confidential information begins and where the public information ends. Mr. Cassone responded that all of the information on this property concerning its environmental condition will be public once the City purchases it. At this juncture, we don't have a signed contract with P&G. If any information is in the public domain, it is public. Mr. Cassone stated that we are only addressing the fact that this body did not want to approve a contract that already has an environmental contingency

in it, but it doesn't want to approve the contract until it has some more information, which P&G has made available before the City has any obligation to proceed.

Mr. Cassone stated that the confidential information provided by P&G may in fact be the same information that is in the public domain, but he does not know. Rep. O'Neill stated that this puts the board in the position of accepting public documents and swearing to secrecy that we won't reveal what is in the documents.

Mr. Cassone stated that Mr. O'Neill shouldn't speculate about that until he hears what the consultant has to say.

President Martin stated that again, if the material is public, it is public. He added that he is not going to allow in executive session discussion about public documents. He stated he would rely on the consultant to determine what is public and what is confidential. President Martin stated he will ask what is in the public domain, and he will be careful of protecting the confidentiality agreement, but the reality is that if any representative has information from a public document, that information is in the public domain.

Mr. Cassone added that the Board will also hear the interpretation of public documents, which is not the same thing as a public document. The expert we have retained is being heard to protect us. Keeping the expert's testimony confidential is not something that was imposed on us by P&G, but is something that we should maintain confidentially until we are obligated to purchase the property. He added that the City has to come back to the Board to approve the contract a second time after it is approved in the first instance, the due diligence is performed, all approvals are received, and then the Board of Representatives and the Board of Representatives must approve a second time.

Rep. Mirkin asked whether it is true that all environmental studies have to be filed with the state. Mr. Cassone replied that he does not believe that is the case. He stated that if there is a transfer of the property or a remediation order that caused the State to get involved, then it has to be filed with the State.

The motion was approved by a machine vote of 28-5-0 (Reps. Adams, Benyus, Blackwell, Cannady, clear, Coppola, DePina, Diamond, Esposito, Fedeli, Figueroa, Giordano, Hunter, Kernan, Layton, Lyons, Martin, McDermott, Mitchell, Molgano, Nowakowski, Pia, Rauh, Skigen, Summerville, Sweeney, White and Zelinsky in favor; Reps. DeLuca, Greenberg, Mirkin, O'Neill and Pavia opposed (See [Vote Record No. 600](#)).

The Board entered executive session at 8:30 p.m.

The meeting was reconvened in public session at 9:30 p.m.

ADJOURNMENT: Upon motion duly made and seconded and approved by unanimous voice vote, the meeting was adjourned at 9:30 p.m.