

**MINUTES
REPRESENTATIVE TOWN MEETING
OCTOBER 25, 2010**

**RECEIVED
NOV - 1 2010
TOWN CLERK'S OFFICE
DARIEN CT.**

CALL TO ORDER

A Special Meeting of the Representative Town Meeting was called to order by Donna Rajczewski, Town Clerk, at 8 p.m.

Upon Roll Call, the following members were present:

From District I, there were 12 members present, 3 absent.
From District II, there were 12 members present, 5 absent.
From District III, there were 14 members present, 4 absent.
From District IV, there were 14 members present, 2 absent.
From District V, there were 16 members present, 0 absent.
From District VI, there were 13 members present, 3 absent.

The absentees from District I were: Harrington, Piccaro, Tierney.
The absentees from District II were: Carder, Gallo, Howe, McIlmurray, Ridley.
The absentees from District III were: Cardone, D'Urso, Ferretti, Pullen.
The absentees from District IV were: Pratt, Savage.
The absentees from District VI were: Baldwin, Bealle, Kelly.

The Moderator, Karen A. Armour, assumed the Chair.

ACCEPTANCE OF THE AGENDA

**** THE AGENDA WAS ACCEPTED BY UNIVERSAL CONSENT.**

ANNOUNCEMENTS

The Moderator reminded everyone to vote next week.

APPROVAL OF THE MINUTES OF THE SEPTEMBER 27, 2010 REGULAR MEETING

The following correction was made: On page4, in the comments by Robert Young, 1st sentence, the word "bids" was deleted. In the 2nd sentence, "inadequate" was corrected to "adequate".

**** THE MINUTES, AS CORRECTED, WERE ACCEPTED BY UNIVERSAL CONSENT.**

PRESENTATION BY THE BOARD OF SELECTMEN ON MOVING THE FACILITIES

First Selectman Campbell made a power-point presentation, followed by a question and answer session.

Karen Dohan, Edgewood Road, asked if the scenario was set in stone; First Selectman Campbell responded affirmatively. Mrs. Dohan said she is a resident of the town for 17 years. They have financed all of the schools. She uses the senior center now. It is not safe to put it in town hall with the overcrowded and parking problems. They should move to Leroy. They would not be upsetting the Board of Education to do this. We should not build a square box and put the seniors into the basement. First Selectman Campbell said it is not in the basement; it is a walk-in building. It is a very easy building to renovate and will make everyone proud. It will be a beautiful place when it is all cleaned out. There are 220 parking spaces, as opposed to 40 at the existing senior center. Zoning will make sure that all issues are addressed. Mrs. Dohan said if there is a community center in town hall, there will be a parking problem.

Elisabeth Bacon, District II, asked how many seniors use the senior center. First Selectman Campbell said there are over 600 members now, of which approximately 20% are not Darien residents. The usage varies from day to day.

Maria Cleary, District IV, said everyone wants a pool, but this is a carrot. There is no way they can fit a pool on top of everything else they want to put into this building. First Selectman Campbell said the pool will not be publicly funded. People who want it will have to raise money. There is a lot of empty space in this building.

Frank Adelman, District VI, said there is no regard for less expensive alternatives, such as a senior center being built in the current parking lot of the senior center.

Flora Smith said they have talked about the senior center since she was a brunette. She advised everyone to just give it a chance, do the due diligence. They promised the neighbors at Edgerton that they would not ask for more. It looks like a wonderful idea.

10-18

CONSIDERATION AND ACTION ON ABANDONMENT OF ALLEN O'NEILL DRIVE

**** JOHN VAN DER KIEFT, DISTRICT V, CHAIRMAN OF PZ&H, MOVED:**

WHEREAS, the Darien Planning and Zoning Commission issued a favorable mandatory referral report to the Board of Selectmen on June 15, 2010;

WHEREAS, pursuant to Section 2-34 of the Darien Code of Ordinances , the Darien Board of Selectmen on July 12, 2010 referred to the Representative Town Meeting for approval the discontinuance of Allen-O'Neill Drive as a public highway; annexing the property to the abutting Darien Housing Authority property by the Town of Darien by quit-claiming all of the Town's interest in Allen-O'Neill Drive to the Darien Housing Authority; and making said approvals subject to the conditions imposed by the Planning and Zoning Commission.

BE AND IT IS HEREBY RESOLVED, that the Representative Town Meeting of the Town of Darien hereby approves the quit-claim by the Town of Darien of all of the Town's interest in Allen-O'Neill Drive to the abutting Darien Housing Authority.

BE IT FURTHER RESOLVED, that the Representative Town Meeting of the Town of Darien hereby approves the discontinuance and abandonment of Allen-O'Neill Drive as a public highway subject to:

1. Conditions imposed by the Planning and Zoning Commission.
2. Additional conditions imposed by RTM:
 - a. The First Selectman is authorized to execute a quit claim deed to the Darien Housing Authority upon demonstration that the proposed project has written financing commitments and is to be constructed in accordance with the Planning and Zoning Commission Special Permit dated March 10, 2009, as may be amended.
 - b. Upon conveyance of a quit-claim deed the Darien Housing Authority shall assume all maintenance costs for the road currently known as Allen-O'Neill Drive and the private driveway as approved by Planning and Zoning Commission.
 - c. This RTM resolution approving the discontinuance and abandonment of Allen-O'Neill Drive shall expire if the permits approved by the Darien Planning and Zoning Commission are not extended as per Sections 1009 and 1028 of the Darien Zoning Regulations and Section 26 of Planning and Zoning Commission Adopted Resolution dated March 10, 2009.

**** THE MOTION WAS SECONDED FROM THE FLOOR.**

John van der Kieft, District V, Chairman of PZ&H, read that committee's report (attached).

The Moderator noted that the Public Health & Safety Committee had no report.

Mark Adiletta, District V, Chairman of the Public Works Committee, read the committee report (attached).

Bruce Orr, District V, Chairman of Finance & Budget, read that committee's report (attached).

Jeremy Ginsberg, Director of Planning & Zoning, read a letter from Fred Conze, Chairman of the Planning & Zoning Commission (attached).

The Moderator opened the floor for comments and questions and noted that all comments should be confined to the issue on the agenda.

Christian Noe, District II, a member of the Public Works Committee, asked the acreage of the road. Mr. Ginsberg said he was not sure. The right of way is 50 feet wide. The survey shows 67,469 s.f., or 1.5489 acres.

Robert Young, District III, asked Mr. Adiletta about the five options, if they were because of density. Mr. Adiletta said that they did not get into specifics. The question and answer questions

related to density, but he did not know if those were the reasons for the objections in the Public Works Committee.

Casey Shanley said she was opposed to the project. It makes no sense that the town is giving away this asset. There will be an additional cost of children in the school system, additional traffic, etc. This asset could be sold to the development. The RTM should vote against this and let the DHA go back to the P&Z with a smaller project.

Christian Noe, District II, said that Joe Warren was very helpful in answering questions. The RTM is not allowed to review the plan. If they approve this, they will keep adding more things. Why can't they analyze this?

Allison Stolar, District V, asked how the tandem driveways would be maintained and how many there were should be clarified.

Joe Warren, 91 Hecker Avenue, a member of the Housing Authority, said he did not know but the Housing Authority has that information. Any questions could be asked of the Housing Authority.

Sandy Stolar asked everyone to vote against the abandonment. It will be a drain on the school system; it is a vote for 8-30g development; it will lead to higher taxes. The Moderator ruled that Mr. Stolar's comments were out of order. Mr. Stolar urged the RTM to vote against the abandonment.

Tom Bell, neighbor representative for the Allen O'Neill Neighborhood Association, asked the RTM to approve the resolution. The complex, when finished, will make the neighborhood a nicer place.

Jan Pierret, Fairfield Avenue, said neighbors had concerns that were noted by the P&Z. Over 40 neighbors were in attendance to oppose this at a District V caucus. She hoped the RTM would vote against this. She said there is no long-term maintenance plan for the road.

Jen Schwartz, Chairman of the Darien Housing Authority, said DHA will maintain the road, do snow plowing, etc. They have a budget for this, which is public record.

Jan Pierret, Fairfield Avenue, said she has not seen an actual plan. She said they are creating a lot of impervious surfaces and asked everyone to consider voting against the item.

Seth Morton, District III, said there are places to fight this in a better way, and it is not here. The question is whether or not to abandon the road.

**** SETH MORTON, DISTRICT III, CALLED THE QUESTION.**

**** THE MOTION WAS SECONDED FROM THE FLOOR.**

**** THE MOTION PASSED BY VOICE VOTE.**

**** ITEM 10-18 CARRIED ON A ROLL CALL VOTE OF 64 IN FAVOR, 14 OPPOSED, 0 ABSTENTIONS.**

10-19 (FORMERLY 09-6)

CONSIDERATION AND ACTION ON CODE OF ORDINANCE AMENDMENT
REGARDING ANIMAL CONTROL

**** CAROLYN SCHOONMAKER, DISTRICT IV, CHAIRMAN OF PUBLIC
HEALTH & SAFETY, MOVED:**

WHEREAS, various committees of the RTM have been reviewing the question of requiring dogs to be controlled on a leash while on public property; and

WHEREAS, various committees have recommended the establishment of a fine for the violation of this ordinance; and

WHEREAS, the various issues have been addressed and a consensus appears to have been reached.

BE AND IT IS HEREBY RESOLVED that the Representative Town Meeting of the Town of Darien hereby adopts the attached animal control ordinance.

PROPOSED ANIMAL CONTROL ORDINANCE

Control of Dogs in Public Places

A. Leashing and Conduct in Public Places

Except in a dog run established by the Town or any private entity, no owner or keeper shall bring any dog into any public street, sidewalk or any other public property unless the dog is on a leash or lead that is no more than 25 feet and under the control of its owner or keeper at all times. No person shall allow any dog to dig up, mutilate, deface or destroy any public properties.

B. Cleaning Up After Dogs

The owner or keeper of any dog on a public street, sidewalk or public property shall promptly remove all feces left by the dog on such public areas and dispose of such feces in a sanitary manner.

C. Exceptions

The provisions of this section shall not apply to dogs used by a governmental agency or a service animal as defined by 28 C.F.R. 36.104.

Pursuant to Chapter VII, Sec. 27(a), the Park and Recreation Commission having exclusive control of all parks owned by the town, has accepted the applicability of this ordinance to town parks. Pursuant to Sec. 42-21 of the Code of Ordinances, the Park and Recreation Commission has and may continue to adopt rules and regulations that may further regulate or prohibit dogs on town parks.

D. Enforcement and Penalty

The provisions of this section may be enforced by infractions issued by any police officer or animal control officer. Any person violating this section shall be fined in accordance with Appendix D, Table of Ordinance Fines.

Appendix D-Table of Ordinance Fines

Animal Control Ordinance Fine	\$50.
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Effective date: January 1, 2011.

**** THE MOTION WAS SECONDED FROM THE FLOOR.**

**** LLOYD PLEHATY, DISTRICT VI, MEMBER OF TGS&A, MOVED THE FOLLOWING AMENDMENT:**

REPLACE THE LAST SENTENCE IN PART A WITH “NO DOG OWNER OR KEEPER SHALL ALLOW ANY DOG UNDER HIS SUPERVISION TO DIG UP, MUTILATE, DEFACE OR DESTROY ANY PUBLIC PROPERTIES.”

Bruce Orr, District V, said they should table this because it was being modified on the floor. The Moderator said this was clearly a technical matter.

**** THE AMENDMENT WAS SECONDED FROM THE FLOOR.**

**** BRUCE ORR, DISTRICT V, MOVED TO TABLE TO THE NEXT REGULAR RTM MEETING.**

**** THE MOTION TO TABLE WAS SECONDED FROM THE FLOOR.**

**** MR. PLEHATY’S AMENDMENT CARRIED ON A RISING TALLY VOTE OF 66 IN FAVOR, 6 OPPOSED, 4 ABSTENTIONS.**

Jack Davis, District V, said if the motion is to postpone, he would like the Park & Recreation Commission to address whether it will be hours for dog parks. The Moderator said that was out of order.

Carolyn Schoonmaker, District IV, read the report of the Public Health & Safety Committee (attached).

Bruce Orr, District V, said that the wording of the motion and the amendment had been brought forward to all applicable committees.

Town Counsel Fox said that the motion to postpone, according to Roberts Rules, Section 14, is out of order because it was made when another person had the floor.

Lloyd Plehaty, District VI, member of TGS&A, read that committee’s report (attached).

Stephen Olvany, District III, asked for clarification between the words said by Town Counsel Fox and Mr. Plehaty.

Cheryl Russell, District V, Chairman of the Parks & Recreation Committee, read that committee’s report (attached).

Jane Branigan, Chairman of the Parks & Recreation Commission, read a report from the Commission (attached).

Anthony Imbimbo, District I, said he opposed section C of the ordinance because it expands to all dogs off leash at all parks at all times. The Parks & Recreation Commission has the authority to set rules in parks, not the RTM. The ambiguous wording of section C leaves the town open to lawsuits. It is also an ineffective attempt to enforce public safety. He spoke of the need to allow

off leash opportunities for dogs. The way to deal with this issue is to exempt parks and have common sense rules.

The Moderator said that the Parks & Recreation Commission is happy to entertain proposals and is awaiting a presentation.

James Cameron, District IV, said he was undecided. He is not a dog owner. People who speak should identify if they are dog owners. He asked if there wasn't a requirement for some type of public hearing, saying that everyone should be heard, and not just tonight.

Jane Branigan, Chairman of the Parks & Recreation Commission, said there have been many public hearings for her commission; this has been going on for 7 to 8 years. Mr. Cameron said there has not been a public hearing on this proposed ordinance, noting that the wording was just decided on a few minutes ago. Mrs. Branigan said the rules and regulations of the Parks & Recreation Commission call for public hearings, and they had a public hearing. They are always open to hearing proposals.

The Moderator said that this is a public hearing.

Martin Magida, District II, said he is a dog owner. He asked where in the definition of land or park does the Land Trust sit. Town Counsel Fox said land trust land would not be public land.

Jack Davis, District V, said he is a dog owner. He would have voted in favor of this ordinance. His concern is that park by park has been eliminated with having a dog off leash. He would vote for this if there were hours authorized at Cherry Lawn. He goes to Spencer's Run in New Canaan, which is a private/public partnership.

Jane Branigan said in the Parks & Recreation Commission budget, there has been \$30,000 for a dog run, but no groups have requested hours at Cherry Lawn. If there are hours off leash it would have to be enforceable. She is a dog owner.

John Sini, District I, said he is a dog owner. In response to a question he asked, Police Captain Fred Komm, who said he is a dog owner, said that the only statistic the Police Department has at Cherry Lawn is that in 2005, a two-year old was bitten in the face. He said one dog bite that is preventable is too much.

Jane Branigan spoke of the problem with dog feces at Cherry Lawn. Mr. Sini said that the assumption is that the dogs are off leash and the operative word is "assumption". He asked if this ordinance would supersede state law; the Moderator said it would not; it will complement state law. Capt. Komm said state law refers to "custody and control".

Lloyd Plehaty, District VI, said amendments to ordinances do not require a public hearing. but members of the public have had plenty of time to address this ordinance. The main difference between the state law and the ordinance is that state law authorizes the police to take punitive action after the fact; it does not enable them to take preventable action. This ordinance allows that.

Christa McNamara, District VI, said she owns two dogs. She asked if someone could take a dog on a leash on school grounds. The Moderator said schools have long been visited frequently by animal control officers.

**** JEFFREY MARSTON, DISTRICT II, MOVED TO POSTPONE ACTION TO MARCH 21, 2011 TO GIVE THE PARKS & RECREATION COMMISSION AND THE BOARD OF EDUCATION TIME TO GO THROUGH WHATEVER HEARINGS THEY NEED.**

**** THE MOTION TO POSTPONE WAS SECONDED FROM THE FLOOR.**

Cheryl Russell, District V, said if this motion passes, they will not have the ability to put \$30,000 into this year's budget for the dog park. A lot of people have worked very hard on this ordinance. She would like to see it voted on tonight.

Sarah Seelye, District II, Chairman of TGS&A, said she has five dogs and is in favor of this ordinance. They should not postpone. This has opened a dialogue.

Dennis Maroney, District III, said this should have come into the budget this year. He will not vote for this ordinance change. This should be tabled to have the whole package brought together at once.

Bohdana Puzyk, District I, a member of TGS&A for ten years, said they have been discussing this for four years. They should vote on this tonight. They need a leash law.

Anthony Imbimbo, District I, said he has seen dogs playing at Cherry Lawn. He wants to postpone so that the dog owners can meet with the Parks & Recreation Commission.

Bruce Orr, District V, said he supported the motion to postpone. This is a simple issue of sequencing.

Susan Lehan, District III, said if this is voted down, it goes away. If it is tabled, it can come up again. She said she is on Public Health & Safety and if they knew they could put in regulations allowing them to make a better ordinance, they would do so. The Moderator said that the RTM cannot write regulations for parks; that is up to the Parks & Recreation Commission.

James Cameron, District IV, said he saluted all of the groups that have worked hard on this issue over the years. He believes in open government and would support the motion to table. He said there should be a series of public hearings.

Edgar Hawkins, District VI, said they should postpone because the ordinance is fatally flawed.

Jane Branigan said the Parks & Recreation Commission has the right to set rules and regulations for town parks and beaches.

**** THE MOTION TO POSTPONE TO MARCH 21ST CARRIED ON A RISING TALLY VOTE OF 46 IN FAVOR, 28 OPPOSED, 1 ABSTENTION.**

**** UPON MOTION MADE AND SECONDED FROM THE FLOOR, IT WAS
UNANIMOUSLY VOTED BY VOICE VOTE TO ADJOURN AT 11:30 P.M.**

Respectfully submitted,

Cheryl Telesco
Telesco Secretarial Services

APPENDIX

<u>DISTRICT I</u>	<u>(10-18)</u>	<u>(10-19a)</u>	<u>(10-19 postponement)</u>
Bishko	yes	yes	no
Harrington	absent	absent	absent
Imbimbo	yes	yes	yes
Kahn	no	yes	yes
Kelly, P.	yes	yes	yes
Nelson	yes	yes	absent
Ness	yes	yes	no
Piccaro	absent	absent	absent
Price	yes	yes	yes
Puzyk	yes	yes	no
Schneider	yes	yes	yes
Schwarz	no	yes	yes
Sini	yes	abstain	yes
Sommer	yes	yes	no
Tierney	absent	absent	absent

DISTRICT II

Bacon	yes	yes	yes
Carder	absent	absent	absent
Cummings	yes	yes	?
Gallo	absent	absent	absent
Harman	?	yes	absent
Hoffman	yes	yes	yes
Howe	absent	absent	?
Magida	yes	yes	?
Maguire	yes	yes	yes
Marston	yes	yes	no
McIlmurray	absent	absent	absent
Mundt	no	yes	yes
Noe	no	yes	no
Ridley	absent	absent	absent
Seelye	?	yes	?
Thorne, B.	yes	yes	yes
Thorne, M	yes	yes	yes

DISTRICT III

Bayne	yes	yes	no
Brode	yes	absent	absent
Burke	yes	yes	yes
Cardone	absent	absent	absent
Coyle	yes	yes	yes
Duffy	yes	abstain	yes
D'Urso	absent	absent	absent
Fead	yes	yes	yes
Ferretti	absent	absent	absent
LeHan	yes	abstain	yes
Maroney	yes	no	yes
Martens	yes	no	yes
Moore	yes	yes	no
Morton	yes	yes	yes
Olvany	yes	no	yes
Pullen	absent	absent	absent
Smith	yes	no	yes
Young	yes	yes	yes

<u>DISTRICT IV</u>	<u>(10-18)</u>	<u>(10-19a)</u>	<u>(10-19 postponement)</u>
Cameron	yes	yes	yes
Cleary	yes	yes	no
Davis	yes	yes	yes
Eng	yes	yes	abstain
Kemp	yes	yes	yes
McIlree	yes	yes	no
Millar	no	yes	yes
Miller	no	yes	yes
Morrison	yes	yes	yes
Peters	yes	absent	absent
Pratt	absent	absent	absent
Rayhill	yes	yes	no
Rycenga	yes	yes	yes
Savage	absent	absent	absent
C.Schoonmaker	yes	yes	yes
S.Schoonmaker	yes	yes	yes

DISTRICT V

Adiletta	yes	yes	yes
Camuti	no	yes	no
Conniff	yes	yes	no
Dailey	yes	no	yes
Davis	yes	yes	no
George	yes	yes	no
Hennessy	yes	yes	no
Nizolek	no	yes	no
Orr	yes	no	yes
Patrick	no	yes	yes
Ritchie	yes	yes	no
Russell	no	yes	no
Sharp	yes	abstain	yes
Stolar	no	absent	absent
vanderkieft	yes	?	yes
Wolcott	yes	yes	yes

DISTRICT VI

Adelman	yes	yes	no
Armour	Did not vote		
Baldwin	absent	absent	absent
Bealle	absent	absent	absent
Conologue	no	yes	yes
Grogan	yes	yes	yes
Guimond, M.	yes	yes	no
Guimond, N.	yes	yes	no
Hawkins	yes	yes	yes
Kelly, H.	absent	absent	absent
McDermott	yes	yes	no
McLean	yes	yes	no
McNamara	no	yes	yes
Plehaty	yes	yes	no
Poli	no	yes	yes
Swenson	yes	yes	no

Without objection, I would like to waive the reading of Resolution (10-18)

Resolution Concerning the Discontinuance and Abandonment of Allen-O'Neill Drive as a Public Highway.

I would like to move Resolution (10-18) for consideration ----

Is there a second?
Thank you.

At its July 12, (2010) meeting the Board of Selectmen approved the disposal of Allen-O'Neill Drive, a public road, which is real property owned by the town of Darien, and requested that review and consideration by the Representative Town Meeting be conducted, to include any stipulations to the disposal, which would at a minimum include conditions imposed by P&Z.

PZ&H met on Oct. 13 and unanimously agreed on a draft resolution, now RTM Resolution (10 - 18) that included three additional conditions to those prescribed by P&Z.

The conditions being:

1. Authorization of the 1st. Selectman to execute a quit claim deed upon written financing commitments and that development will be in accord with P&Z Special Permit dated March 10, 2010.

This was introduced to assure the Allen-O'Neill Redevelopment will be fully funded by non-Town funds and that the project will not be markedly altered or discontinued after the transfer of the property.

2. The Darien Housing Authority shall assume all maintenance costs for Allen-O'Neill Drive and the new private driveway upon conveyance.

This provision is to absolve and protect the town from all maintenance costs for the approved roadways.

3. The Resolution shall expire with the expiration of P&Z approvals.

This provision provides a termination or sunset that will be coincident with P&Z approvals in order that the resolution will not continue indefinitely.

AON DECISION RATIONALES

PZ&H met with Housing Authority Commissioners Jenny Schwartz and Joe Warren and Attorney Bruce Hill on Sept. 28. AON neighbors were also present and participated during public comments.

Either as District representatives or as interested Committee members, PZ&H was also represented at a District V caucus on Oct. 19 at which many neighbors voiced opposition to abandonment of AON Drive, as well as expressing strong opposition to the overall project as approved.

Committee members voting in support of the abandonment cited the lengthy and thorough process in obtaining P&Z approvals of the Housing Authority's Special Permit Application and Site Plan Application, the fact that P&Z had envisioned abandonment in the approved plans, and that abandonment had been approved in Mandatory Referral and by the BOS.

While some expressed concern over the number of buildings and overall density of the project itself they viewed the transfer of ownership and the parking that would be facilitated as a satisfactory solution to parking needs.

An understanding that the replacement private road and attendant parking would essentially occupy the same land area was also reassuring.

the accorded

Committee members not in support have principally based their opposition on the possibility, and hope, that a denial will allow for an overall reassessment of the project as they have strong reservations towards the compatibility of the project with the neighborhood.

They, like many neighbors, feel this is a bad fit --- in terms of density, building scale, use of open land and visual appeal.

Concerns they believe would have a negative affect on traffic, property values and quality of life.

An additional concern --- both in principle and action --- was whether the Town should be giving up public land. Even insignificant land.

Should the Town be relinquishing ownership in spite of its probably being unsuited for any other use? Would this action indicate to developers the Town would be willing to give up small pieces of land to accommodate their needs?

of 15 of 17 present

In a vote just prior to this evening's meeting: *12* voted ~~in favor~~ *to recommend abandonment* of the Resolution
~~and~~ ~~voted against~~ the Resolution. *2* against
~~The Resolution passed.~~ *1* abstentions

Joanne

Planning & Zoning stipulated in its approval of DHA's Special Permit and Site Plan Applications that as part of the applications the public road is to be abandoned and turned over to the DHA.

The Commission believed this measure appropriate in view of the size, nature, location and specific layout of the proposed development.

Development of the property will function much like existing condominium complexes in Darien, which are serviced by private driveways --- such as Avalon Bay, Villager Pond and Middlesex Commons.

The Housing Authority explained the transfer to private road will enable Allen-O'Neill's redevelopment to comply with parking regulations --- primarily for visitor parking.

That it will minimize impervious road surface and it will maximize open space and green space.

The benefit to the Town will be the elimination of maintenance and maintenance costs.

In the future, the Housing Authority will be responsible for all maintenance and associated costs.

COMMENTS TO REPRESENTATIVE TOWN MEETING

TOWN OF DARIEN, CONNECTICUT

MARK ADILETTA – CHAIR - PUBLIC WORKS COMMITTEE

Regular Meeting, Monday October 25th, 2010

- PWC held a Special Session 10/20/2010 with 11 of 14 members present to discuss Resolution 10-18.
 - Several members of the PWC also attended the District V meeting held the previous night to hear from residents regarding the abandonment.

- Planning & Zoning Director Jeremy Ginsberg gave a short overview of the project focused on the conversion of Allen O'Neill Drive from a public road to a private driveway. It was explained that the driveway classification allowed for various elements of the parking configuration and building setbacks included in the approved plan. It was noted that the current plan envisioned the abandonment of AON Drive and anticipated a Mandatory Referral causing it to come before the RTM. When asked by committee members what would happen in Resolution 10-18 failed, it was explained that procedurally if the plan was amended or changed to meet set back or parking requirements of a public street or if variances were sought, depending on the significance of the changes it was likely the plan would require a public hearing and re-approval.
- Joe Warren addressed the PWC on behalf of the Darien Housing authority. Joe explained the significance of the abandonment. Specifically:
 - To accommodate the parking configuration
 - To reduce or eliminate the need for over-flow parking on the surrounding streets
 - To accomplish the configuration of the 106 units in the buildings planned using the more lenient setback requirements of a driveway versus a public street.
 - It was noted that the current 106 units reflected in the approved plan is the minimum that can be built and the project still be financially viable. It was understood that the abandonment of

- the road and conversion to a private driveway contributes to the figuration of the complex to better accommodate 106 units.
- Mr. Warren confirmed for the committees that the Town would be relieved from providing services to the road and that DHA/Development would assume the responsibility. These include repairs, snow removal, sweeping, leaf pickup, Christmas tree pick up and Spring Pick Up.
 - Mr. Warren also confirmed that the storm drain and detention system which complies with the zero increase runoff regulations is part of the approved plan and its cost included in the project.
- The chair shared with the committee feedback from Public Works Director Bob Steeger who had confirmed that there are approximately 6 catch basins currently maintained by the town at AON. Maintenance services are provided to the road which is estimated to be less than 1/3 of a mile. This compares with 1,937 catch basins maintained (cleaned) FY 2009 and 425 cleaned thru 12/31 of FY 2010 and a total 81 miles of road maintained in town by the DPW. This makes AON drive a tiny portion (less than 1/2% by my estimation) of the effort the DPW expends for these services in town.
 - Two members of the public, both neighbors to AON, attended the meeting and gave statements in opposition to the Resolution
 - Extensive debate among the PWC followed. There was not much disagreement in the debate regarding the minimal impact the abandonment of the drive would have on resources of the Department of Public Works. Some members acknowledged the demands from the town could be reduced in the PW area in absolute terms. Several members cited concerns about the broader project stemming from the size and density and noted repeatedly their understanding that the abandonment is integral to the approved plan based on what they had heard from Mr. Warren and Mr. Ginsberg. In this regard some members cited concern that a “yes” vote helps facilitate a development of a plan that, at some level, they may not support.
 - In the end the PWC voted 5 in favor of the resolution, 5 opposed to the resolution, one member abstained.

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The PWC thanks Mr. Ginsberg, Mr. Warren and Mr. Steeger for their contributions.

I applaud the members of the PWC for the time and effort they spent researching the project and for arriving very well prepared to discuss this item last week.

Thank you

**Finance & Budget Committee
Report to RTM, Oct. 25, 2010**

**(10-18) RTM RESOLUTION CONCERNING DISCONTINUANCE AND
ABANDONMENT OF ALLEN O'NEILL DRIVE**

I am Bruce Orr, District 5 and Chair of Finance and Budget.

The F&B committee met on Oct. 19, 2010 for a Special Meeting, with 13 of 16 members present comprising a quorum.

During our meeting we briefly adjourned to the join the District V informational caucus to hear the concerns of some adjacent neighbors regarding the AON redevelopment project with the goal of trying to determine any direct financial impact to the Town relative to the abandonment of AON Drive. We also had members of the DHA and several selectmen join us for portions of our special meeting.

While most found the informational caucus interesting in terms of background issues, most came away with little new information regarding the direct financial implications of the abandonment of a public street. Many on this Committee are generally aware of the broader issues of the redevelopment – both pro and cons – as several members have served on various housing advisory committees over the past five or so years that the project has been considered, debated and moved to its current status.

In our discussion, we noted some facts relating to abandonment issues:

- The RTM is solely discussing and taking action on this abandonment because the Town ordinances require that the RTM explicitly approve any acquisition of or disposal of real Town property.
- The DHA is an independent body from the Town; it is a Connecticut State chartered housing authority. It is self-funded and receives no direct Town funds.
- The Planning and Zoning Commission has the sole authority on issuing Special Zoning Permits and issued the favorable mandatory referral to the BOS on June 15. The BOS approved and referred the matter to the RTM.
- The Planning and Zoning Commission held several public hearings in 2008, 2009 and 2010 on the redevelopment project before issuing the mandatory referral.
- In Planning Zoning's mandatory referral, it noted that "the proposal for AON Drive to be abandoned is consistent with the 2006 Town Plan of Conservation and Development and town policies". This body reviewed and approved the Town Plan of Conservation and Development in 2007.

- It was noted that if the abandonment of the Drive is not approved by the RTM, the DHA would have to go back to P&Z and file for an amendment to the Special Permit. While the redevelopment project might be momentarily stalled, the project would likely continue to move forward, possibly with AON drive as a public access/Town owned road.
- There are scores of private roads and parking areas in the Town. These private roads are maintained – repaving, snow removal, etc. - by the owners and residents of these roads at no cost to the Town.

After debate and discussion of the facts related directly to this Resolution, the Committee felt the abandonment would be, at worst case, “cost neutral to Town finances and taxpayers”. The Committee voted unanimously to approve this Amendment and recommends that the RTM approve this Resolution.

Bruce G. Orr, Sr.
Chairman
Oct. 25, 2010

An open letter to the RTM from Fred Conze, Planning and Zoning Commission Chairman:

Dear Moderator and RTM members:

Although I am unable to attend the RTM meeting tonight, I wanted to pass along the Planning and Zoning Commission's support of the Allen O'Neill project. I also wanted to give you some background on how the Commission reviewed this project, and explain the ramifications of a denial of the request to abandon the public road known as Allen O'Neill Drive.

Background on the Planning and Zoning Commission process

The Planning and Zoning Commission started its formal review process of the Housing Authority's application at a public hearing held on November 25, 2008—almost 2 years ago. Subsequent public hearings were held on December 9, 2008 and January 13, 2009. A total of 9+ hours of public hearings were held, giving the neighbors and other townspeople an opportunity to review and comment upon the application. In response to that submitted application, the Planning and Zoning Commission hired an outside traffic consultant and a professional engineer to review issues related to traffic, parking and drainage. Those consultants each testified at the public hearings and their reports and conclusions were made part of the record in that matter. While some folks tonight may bring up many issues related to the development, rest assured, that the Planning and Zoning Commission was presented with many issues and concerns during the 3 night/9 hour public hearing process. This process resulted in a March 10, 2009 approval of that application by a Commission vote of 5-1.

That P&Z approval was subsequently appealed by a neighbor. After numerous settlement meetings over many months, including the undersigned, the DHA, counsel and the project architect, that litigation was resolved and withdrawn in March 2010. Keep in mind that the proposal was originally submitted was 116

units of housing. Those units were modified to 111 units by the applicant during the public hearing process, and to 107 units by the Commission via its approval. Resolution of the litigation brought the number of units down to 106 units.

A subsequent referral report on the road abandonment, which is required by State Statutes, was issued on June 15, 2010, and approved by a vote of 3-1. That report noted that the proposal that Allen O'Neill Drive be abandoned is consistent with the 2006 Town Plan of Conservation and Development and with town policies.

The Commission's June 15, 2010 report, as well as their original 2009 approval, was clear. *The Commission believed that road abandonment was appropriate due to the size, nature, location, and specific layout of this development. The development of this property will look and function like existing condominium complexes in Darien, as well as the Avalon Darien apartment complex, all of which are served by private driveways and not public or private roads. Those driveways are all maintained privately by the owners/renters of the condominiums.*

Ramifications of your vote tonight:

A vote TO abandon the road means that the Darien Housing Authority can continue to proceed to pursue necessary State funding for this project.

A vote to NOT abandon Allen O'Neill Drive means that the Darien Housing Authority would have to make some changes to the approved plans, since those plans have assumed that the existing Town road would be abandoned. The extent of the changes and the new design would have to be prepared by the Housing Authority, and then reviewed and acted upon by the Planning and Zoning Commission. A vote to NOT abandon sends the Housing Authority back to the

Commission. This could result in additional public hearings on a new plan, and could result in subsequent litigation.

Conclusion and Recommendation

In conclusion, the abandonment of the existing Allen O'Neill Drive has been envisioned by the Housing Authority as part of this project, and after a very thorough review by the Planning and Zoning Commission, this project, which includes the road abandonment, has also been approved. For those unfamiliar with the P&Z process, it is important to understand that during the nine hours of testimony and subsequent statutory appeal period the public, and, specifically, the neighbors, were given ample opportunity to address their concerns to the Commission. At the conclusion of every application before the Planning & Zoning Commission the question is asked if there is any additional public comment. Seeing none, the application is then closed. Once the decision is rendered, the public has an additional two week window to file an appeal.

I have asked Jeremy Ginsberg to attend your meeting, and read this letter aloud. He will be present to respond to any follow-up questions regarding the process that has brought us to this juncture.

Sincerely,

Fred Conze,

Planning & Zoning Commission Chairman

Pzc\ Letter to RTM

Resolution (10-19) Code of Ordinance amendment regarding animal control

I am Carolyn Schoonmaker, District 4, and Chairman of the Public Health & Safety Committee.

Without objection, I waive the reading of the resolution (10-19) formerly (09-6) Consideration and action on Code of Ordinance amendment regarding animal control.

I move the resolution. May I please have a second?

We have an amendment that is technical in nature from TGS&A from Lloyd Plehaty. (vote.)

PH&S Committee met tonight with 7 of 11 members present to discuss and vote on (10-19 formerly (09-6) Consideration and action on Code of Ordinance amendment regarding animal control. The vote was 5 in favor, 2 opposed and 0 abstaining.,

This has been a very difficult ordinance to work on because there are strong feelings and opinions on both sides of this issue. For over two years we have weighed the concerns of dog owners and the concerns of the general public. The Committee met with a representative from the Police Dept. who indicated its concerns regarding safety issues. The officer noted that the majority of reported bites of people occurred on children age ten and under. The department wants to keep complete records of infractions throughout town, especially tracking repeat offenders. He stressed that the ordinance allows for prevention of an offense, not just a reaction to an offense.

Since the leash law went into effect in New Canada, there have been no bites, whereas there were 6 bites the prior year.

PH&S Committee is concerned about the safety of citizens in all public places such as on sidewalks and streets, in public buildings, in parks, and on school grounds. It wants to be sure that dogs are not jumping on people, scaring people, hurting people; and are under control at all times. There have been some serious biting incidents in the parks and elsewhere that are unacceptable. Small dog owners have expressed a need for large dogs to be on a leash when they are in a public area together.

Another concern is in regard to public health. On several occasions Park & Recreation maintenance crews have found feces on playing fields in parks and in other public places. Although most dog owners and keepers are very careful to clean up after their animals, there are too many times when this has been violated and if this occurs on a beach or playing field where children play, it is unacceptable. If this occurs on a driveway or next to a sidewalk, it is also unacceptable.

On September 27, 2010, PH&S met with representatives from Park & Recreation Committee and TGS&A Committee, Park & Recreation Commission Chairman, Jane Branigan, Moderator Karen Armour, and Attorney Wayne Fox to discuss the ordinance.

On October 4, 2010, PH&S met and voted unanimously in favor of the ordinance that was created on September 27. At this meeting, PH&S members made the suggestion that dog owners have a dialogue with the P&R Commission to make suitable arrangements for dog owners' use of public parks.

Meanwhile, Attorneys Fox and Schmidt changed the language in Paragraph C of the ordinance to reflect the original concerns of the Police Department and the Park & Recreation Department. The Park & Recreation Commission met on October 20 and voted unanimously to accept the ordinance presented tonight.

✶ *Minority report*

As I mentioned in the beginning of this report and in conclusion, the Public Health & Safety Committee ~~support~~ Ordinance (10-19) and urge you to vote for it tonight..

Carolyn Schoonmaker,
Chairman, PH&S Committee of RTM
10/25/10

✶ *I mentioned the vote of PH&S's meeting tonight. You have heard the committee report supporting the vote on the ordinance.*

I have a minority report as well.

1. We have a state law already.

2. It's not fair to restrict dog owners, Allow them freedom.

3. It's not clearly written.

OCT 24 2010

DARIEN RTM RESOLUTION (10-19)
Animal Control Ordinance
TGS&A Committee Report to RTM, Oct 25 2010

I am Lloyd Plehaty of the Town Government Structure & Administration Committee.

The TGS&A Committee met on Oct 4, with a quorum of 8 of 12 members present. The Committee voted to recommend that the RTM approve this Resolution, with 6 votes For and 2 Against,

The committee did take one exception: The last sentence in Part A could be misinterpreted, so the intent needs to be clarified. Hence, the committee voted, with 7 votes For and one against, to propose an **amendment** at the RTM meeting, in order to revise this sentence. We shall do so when the RTM discussion begins.

When the warning for this meeting was sent out, TGS&A discovered that a new change had been inserted in Part C of this ordinance.

Nevertheless, after inquiries and discussion, TGS&A decided to accept this change. The committee met on 25 Oct., with 9 of 12 members present, and voted to approve the change, with 8 votes For and 1 Against.

Respectfully submitted,

S. Lloyd PLEHATY

October 25, 2010

RTM WARNING #10-19

Code of Ordinance amendment regarding animal control.

Good evening, I am Cheryl Russell, Chairman of the Park and Recreation Committee.

The Park and Recreation Committee held a special meeting on October 16, 2010 with 9 of 13 members present. Invited guesses were Mr. Ed Schmidt, Town Counsel, Mr. Frederick Komm, Captain of the Darien Police Dept. Mrs. Jane Branigan, Chairman of the Park and Recreation Commission, and Mrs. Carolyn Schoomaker, Chairman of the Public Health and Safety Committee. We thank you all for attending and your input into our discussion. Members of the public also attend to gave us there views regarding this Ordinance. We thank you too for your input

Mr. Schmidt explained to our committee that the Park and Recreation Commission should work with the RTM committee in order to avoid any conflicts, that is why Sec. C of this ordinance was revised. According to our charter the Park and Recreation Commission has exclusive control of all our parks owned by the town. They also have the ability to write Rules and Regulation for our parks. That allows them to be flexible in making decision for the best use of our parks.

Capt. Komm stated that the state regulations are very hard to enforce as to “control” and “rooming” of dogs. He felt, this ordinance was enforceable from the Police and Animal Control Officers perspective.

One member of our committee present some statistics of the numbers of dog bite in Darien and surrounding towns. It was pointed out, that some dog bites were not reported to park and recreation or the police dept. so the numbers were questionable. Another member presented data that stated dogs were more aggressive and territorial when kept on a leash. Some members felt the numbers in this data were hard to analyze.

After much discussion from the committee and guests, a motion was made and seconded. Our motion is as follows.

“The Committee recommends to the full RTM to approve the ordinance as drafted, with the technical language correction described by town counsel. The committee further recommends that the Park and Recreation Commission in conjunction with the police and the public review and consider a dog run and /or off leash hours at certain parks in an effort to balance the desired of the public and public safety.”

The motion passed 7 in favor 2 opposed.

The seven members in favor of this motion:

- Felt this ordinance covers the safety issues for all public places within the town.
- They feel this opens the door for the Park and Recreation Commission to communicate with the public to establish off leash hours or a dog park.
- We hope money for a dog park will be available in the budget.

The concerns of the members opposed to this motion were:

- That aggression will rise instead of decline due to expert opinions.
- Need more information to determine any long-term impact of the ordinance.
- Timing issue with an effective date being only two months away, too short due to holidays and may result in confusion among the public.

As a side note, I would like to report that the Park and Recreation Commission vote to accept this ordinance at their meeting last week. They also asked the public to come to a Commission meeting with a plan consisting of hours off leash and or a dog park.

On Wednesday, October 20th the Park and Recreation Commission met to discuss and take action on the proposed Animal Control Ordinance which you have before you tonight.

The Commission voted 6 – 0 in favor of the Animal Control Ordinance with six of eight members present. Our concerns are for the health and safety of all who frequent our parks.

Jane Branigan

Chairman, the Park and Recreation Commission

