

MINUTES OF PUBLIC HEARING ON AN ORDINANCE IMPLEMENTING AN
ENFORCEMENT MECHANISM FOR MUNICIPAL ORDINANCE VIOLATIONS

July 13, 1993

Council Chambers

999

President Sandy F. Klebanoff called the hearing to order at 7:56 p.m.

Present were Councilors Owen Eagan, Linda I. French, Tom Johnson, Sandy F. Klebanoff, Charles R. Matties, Madeline S. McKernan, Carole Mulready, Larry Price and Andy Schatz.

Patrick Alair, Assistant Corporation Counsel: Madam Mayor, after the last hearing this one is easy. It is the same process. The statutes which authorize the parking violations procedure that I just outlined to you, the section preceding that in the statutes, authorizes exactly the same procedure for all ordinance violations with one minor change in that the period you can collect tickets is greater. I believe that parking violations you can collect them for a year. For municipal ordinance violations you can collect them for two years if I remember correctly so basically we are adopting exactly the same process, the same hearing officer, the same infractions route for defaulters and scofflaws. The only difference really is that we don't double the fines or quadruple them now and we aren't going to start that and the reason for it is that we have the authority to issue daily fines so that if a person is not mowing their lawn, for example, instead of doubling the fine after seven days, we will issue another ticket the next day. We can continue to do that on a daily basis which serves the same or perhaps an even more enhanced effect.

The present process is that we don't issue that many infractions now for ordinance violations. We believe that by adopting this process we may actually end up issuing more citations. The current process is that either the police or certain other town officials who are authorized as special constables will go out and write a State infraction citation and you would be put right into the State court system for an ordinance violation which technically any ordinance violation is a State infraction. Most of the time instead of getting that far we use threats, we conjoin, we beg, we plead and we don't really go out and do the infraction because it has historically been rather cumbersome.

Last summer we had a problem with a certain former real estate giant known as Colonial Realty. Their trustee wasn't mowing the lawns of their property. I went everywhere up to the U.S. Trustee and Bankruptcy trying to get somebody to mow the lawns and finally it happened but we were on the verge of issuing infractions and the problem was that Mr.

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Hirsh the trustee is in New York so there wasn't a whole lot we could do. Occasionally we have been known to do a civil action but they are few and far between. Hopefully this process will let us issue more tickets and go forward with dealing with more violations.

The side effect to this one and I should mention there is the same \$1.00 per \$10.00 administrative fee. The side effect of this one is that our ordinances used to have a general penalty of \$90.00. That keyed into the infractions schedule for the State in which there is a two tiered system. Any ordinance for which the violation penalty is \$50.00 or less the fine would be in essence \$35.00. Anything from \$51.00 to \$90.00 the fine would be in a second tier which is I believe \$57.00 so by issuing a \$90.00 fine we got a \$57.00 ticket. By going through this hearing officer process, if the fine is \$90.00 that is the fine that is payable and it struck us when we were doing this, that a \$90.00 ticket for failing to mow your lawn was a little steep so what we did was we reduced that fine to \$55.00 which is essentially the level that people were paying under the infraction schedule so the fine should be virtually the same. Other than that, the process is exactly the same as the parking violations so if you have any questions.

President Klebanoff: Mr. Schatz.

Vice President Schatz: Actually, this also dates back to the earlier ordinance. At this point, who gets the money from payments of fines?

Mr. Alair: For parking violations we were issuing our own tickets and if you came in and paid it or protested it and then paid, the money came to us. If it went to the State on a summons, as I said before, typically what would happen is the charges would be dropped as long as you paid the ticket and brought the prosecutor proof that you had done that or you paid it to the Superior Court and they paid it to us which is where the bookkeeping problem came in. Under the new system, all of that money would come direct to us except where the people go into the infractions, the scofflaws, the defaulters, and they go to the Centralized Infractions Bureau which is a division of the Superior Court. They have statutory authority. It used to be that when you wrote an infractions citation the State and the town split up the money and the proportions changed over the years to the point where it was one percent to the State and zero to the town with the exception of parking violations. There is a specific statutory provision that carves out parking violations and says that in theory we get all of that money back.

The caveat I would add to that is that some of the violations in our ordinances, two or three that I have

identified, may not fall within what the State considers to be parking violations within the terms of its statutory power so they may give us a hard time. Frankly, I don't think they will but they may give us a hard time on one or two of those. With other ordinance violations, they are not within the carve out so if we go the infractions route for the scofflaws etc., we will lose those fines. That is a very small percentage from what I can gather. It is very rare that we have issued a string of citations or infractions to people for violating our ordinances and actually have had them ignore them. The advantage in this process is that that money will come direct to us rather than going through the State.

Ms. Wilder: Point of clarification, Madam Mayor.

President Klebanoff: Mrs. Wilder.

Mrs. Wilder: Right now any municipal infraction tickets we give we get none of that money so we will be getting...

Mr. Alair: Other than parking.

Mrs. Wilder: Municipal violation tickets for zoning violations, tall grass and so forth, non parking, we don't get any of the money right now.

Mr. Alair: So there will actually be an increase in revenue from that.

President Klebanoff: Thank you. Any further questions? Is there a sign up sheet?

Mr. Alair: There is a sign up sheet and it is blank.

President Klebanoff: Is there anyone who wishes to address the Council on this ordinance? Please come to the podium and give us your name and address for the record.

Mr. Genduso: Domenico Genduso, 80 Blue Ridge Lane, West Hartford. Madam Mayor, members of the Town Council. I didn't realize that we had one ordinance already passed and I didn't have a chance to speak but most of the objection I have to this ordinance and the one before the hearing that is closed already...

President Klebanoff: Excuse me, Mr. Genduso. I'm sorry. I was in error in not asking for the sign up sheet for the first one so feel free to address the Council on both.

Mr. Genduso: What it is really I object to both of them. It is the business of nominating the officer, the hearing officer. It says that the Town Manager has the power to select the hearing officers and they are not supposed to be

from the Police Department or the Town Hall or Corporation Counsel and so on. That is okay with me but there says nothing about what will be the principle, the Town Manager appoints this person. What is the reason? What kind of person do you want? You want an objective person that doesn't go against the police or the ones we think violated the law or get somebody that sits over there and says okay that's it or somebody that takes the police and says no. This is not a violation. This is a delicate matter and I don't think this ordinance should be passed.

Then I wanted to say something about the parking. The parking over here says that when you have the violation of the fire lane ordinance, part 2 article 5. I have been seeing so many times fire lanes and people park their cars five minute parking or ten minutes or fifteen minutes, then what is the sense to have the written fire lane and then they can park ten or fifteen minutes. If a fire happens and the guy is not there, who is moving the car. This interferes with the fire department. It can save lives, even a few seconds can save a life.

Now, I don't know who is giving the authority to those people of buildings that don't have enough parking and they are allowed the customers to park in the fire lanes and I saw a couple of times, a policeman, in fact I went by and said officer good job. He was tagging the people parking in the fire lanes. That's the only thing I have to say.

President Klebanoff: Thank you. Any one else wish to address the Council on either of these ordinances? Mrs. McKernan has a question.

Councilor McKernan: This is either to the Chief or the Town Manager. If this passes when is implementation?

President Klebanoff: Mrs. Wilder.

Mrs. Wilder: By your ordinances it is effective ten days after publication and our hope would be to implement it as soon as possible.

Councilor McKernan: Thank you.

President Klebanoff: If there is no further comment or questions I will close this public hearing.

The hearing adjourned at 8:08 p.m.

Norma W. Cronin
Recording Secretary