

September 10, 2008

## **REGULAR MEETING OF THE COMMON COUNCIL**

**SEPTEMBER 10, 2008**

Mayor Timothy T. Stewart called the Regular Meeting of the Common Council to order on Wednesday, the 10th day of September 2008 at 8:15 p.m. in the Common Council Chambers, City Hall.

All members were present at roll call: Ald. Trueworthy, Rocha, Sherwood, Magnuszewski, Platosz, Gerratana, Centeno, Black, Cruz, Collins, Catanzaro, Hermanowski, Salvio, Bernacki and Bielinski.

City Clerk, Peter J. Denuzze, gave the invocation: O God, our Heavenly Father, bless and help this Common Council in their work. Motivate them to act in a spirit of openness, honesty, and integrity. We ask this in Thy name. Amen.

Jesse Matthews led the pledge to the flag.

Mayor Stewart asked that a moment of silence be observed in memory of the victims and families of 9/11/2001.

Ald. Magnuszewski was granted a point of personal privilege and asked that a moment of silence be observed honoring the men and women serving our country around the world, especially the son of Ms. Vivian Nowakowski and the son of Ald. Roy Centeno.

Ald. Trueworthy moved to accept the minutes of the Special Meeting of June 5, 2008, the Regular Meetings of June 11 and June 25, 2008; the Special and Regular Meetings of July 9, 2008 with a correction to the action on Resolution 29981-1 on page 362, and to accept the

Minutes of the Regular Meeting of August 13, 2008. Motion seconded by Ald. Bielinski. So voted.

Ald. Salvio was granted a point of personal privilege at which time he discussed his belief that the Majority Leader has no right to remove an item from the agenda especially an item returned from Committee.

The Majority leader responded saying that he believes he has every right to remove a resolution from the agenda if the resolution has his signature on it, and that he may also remove an item if the signer of the item has given his or her permission to remove it.

Ald. Catanzaro was granted a point of personal privilege and congratulated prominent Attorney Helen Z. Pearl on the occasion of her 70th birthday.

Ald. Trueworthy moved to amend the agenda by moving Resolution 30279(2) to the beginning, by adding Resolution 30283(6), and by deleting K, seconded by Ald. Bielinski. Roll call vote – all members voted in favor.

### **PETITIONS**

**30274           ALD. SALVIO BY REQUEST FOR INSTALLATION OF A BLINKING LIGHT ON SLATER ROAD IN FRONT OF DILORETO SCHOOL. REFERRED TO THE BOARD OF POLICE COMMISSIONERS.**

**30284           ALD. BIELINSKI FOR INSPECTING PROPERTIES ON GREENWOOD STREET AND WALLACE STREET AND ASSESS WHETHER THEY ARE IN VIOLATION OF THE ANTI-BLIGHT ORDINANCE. REFERRED TO THE DEPT. OF LICENSES, PERMITS & INSPECTIONS AND THE BOARD OF HEALTH.**

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- 30285 ALD. CRUZ FOR REPAIRING POT HOLE AT THE CORNER OF OAK STREET AND NORTH STREET. REFERRED TO THE DEPARTMENT OF PUBLIC WORKS.**
- 30286 ALD. CRUZ FOR REPAIRING SIDEWALK ON OAK STREET AT THE CORNER OF WILLOW STREET. REFERRED TO THE DEPARTMENT OF PUBLIC WORKS.**
- 30287 ALD. BLACK FOR INSTALLATION OF A SPOT LIGHT ON STREET LIGHT AT THE CORNER OF BANK STREET AND MAIN STREET. REFERRED TO THE DEPARTMENT OF PUBLIC WORKS.**
- 30288 ALD. PLATOSZ FOR REPAIRING OR REPLACING SIDEWALK FROM UPROOTED TREE IN FRONT OF 35 CARLTON STREET. REFERRED TO THE DEPARTMENT OF PUBLIC WORKS.**

Ald. Trueworthy moved to adopt the Consent Agenda, seconded by Ald. Bielinski. Roll call vote – all members voted in favor. Approved September 15, 2008 by Timothy T. Stewart, Mayor.

## **CONSENT AGENDA**

### **CITY CLERK**

**30265 RE: CLAIMS FOR INJURIES AND/OR PROPERTY DAMAGE**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

#### **CLAIMANTS NAME**

- Bianco, Timothy
- Broderick, Paula
- Caruso, Joseph
- Connecticut Light and Power by Nancy R. Veto, Paralegal
- Cruz, Ivette by Nidza Gutierrez, as Parent and Atty. John N. Tieman
- Kelsey, Joan M.
- Meier, Todd
- Morales, Simon by Atty. Mark E. Anziano
- Mullin, Lisa
- Rector, Jason by Progressive Casualty Insurance Co.
- Schneir, Adria

Peter J. Denuzze  
City Clerk

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**OFFICE OF THE CORPORATION COUNSEL**

**30266 RE: JAMES LEONARD, JR. V. JERRY CHROSTOWSKI, ET AL**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

Please be advised that the above-captioned case was tried at the New Haven District Court in front of the Honorable Judge Kravitz on August 18th and 19th. Plaintiffs' counsel, A. Paul Spinella, represented five individuals alleging Fourth Amendment Constitutional violations against police officers Jerry Chrostowski, Sean Farmer, Daniel McAloon, Michael Sullivan and Michael Grossi. After two hours, the jury rendered a unanimous verdict in favor of the defendants. The plaintiffs had alleged that the defendants had conducted an unreasonable search at their premises. A count alleging a fraudulent search warrant affidavit had been dismissed by a summary judgment earlier in the litigation.

Irena J. Urbaniak  
City Attorney

**FINANCE DEPARTMENT**

**30267 RE: LINE ITEM TRANSFERS – 07/02/08 THRU 09/03/08**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

In accordance with the city of New Britain ordinance of Article VII – Finance, Section 2-494(c), the following departments have transferred monies from one line item to another within their departmental budget (total department budget has not changed). Each transfer will be continuously numbered from month to month throughout the fiscal year. This report represents the transfers executed by the mayor in accordance with the aforementioned ordinance for the period ending September 3, 2008

- |                       |  |                                      |
|-----------------------|--|--------------------------------------|
| <b>1. Department:</b> | <b>Town and City Clerk</b>                             | <b>Historic Records Preservation</b> |
| From:                 | 249-1154-1540-110                                      | (Full Time Salaries)                 |
| To:                   | 249-1154-1540-320                                      | (Professional Services)              |
| Amount:               | \$7,380.00   |                                      |
| Brief Description:    | Funds needed for vendor to scan and merge land records |                                      |

Robert Curry  
Finance Director

**PURCHASING DEPARTMENT**

**30268 RE: COPIER FOR CITY HALL'S MAIL ROOM FINANCE DEPARTMENT CENTRAL ADMINISTRATION**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

Public Bid No. 3419 was solicited and received in accordance with the Purchasing Ordinances of the City of New Britain for a Copier Lease for the Mail Room in City Hall for the Finance Department, Central Administration Division. Funding available for this Copier Lease is in Account Number 001-1192-1922-330.

Invitations to bid were solicited and the bid was duly advertised in the New Britain Herald Newspaper, the City and State of Connecticut's Department of Administration Services websites and mailed to twenty (20) Copier Manufacturers and/or Dealers. The Purchasing Agent did not receive any letters from the Copier Manufacturers and/or Dealers on the mailing list who indicated that they could not provide a response to the bid request. The responses received are on file in the Town Clerk's Office.

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The bids were reviewed for conformance to specifications by the Purchasing Agent. The copier that is now in the Mailroom at City Hall is leased. The lease on this copier is about to expire. The copier in the mailroom is utilized by various City Hall Departments to produce approximately one million (1,000,000) copies per year. Therefore the Finance Director is recommending that the bid be awarded to A&A Office Systems Inc of Middletown, CT who submitted the lowest three (3) year cost per copy lease bid for a black and white copier that is similar to the one that is in the Mailroom now and meets all the bid specifications.

RESOLVED: That the Purchasing Agent be and is hereby authorized to issue an annual purchase order for \$10,200.00 and enter into a contract with A&A Office Systems of Middletown, CT for a period from October 1, 2008 to September 30, 2011 for a black and white copier for the Mailroom in City Hall for a price per copy lease of \$0.01020 for the Finance Department, Central Administration per the terms, conditions, pricing and specifications of Public Bid 3419.

Jack Pieper  
Purchasing Agent

**30269 RE: UNIFORM RENTAL FOR THE PUBLIC WORKS, PARKS & RECREATION AND WATER DEPARTMENTS**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

Public Bid No. 3424 was solicited and received in accordance with the Purchasing Ordinances of the City of New Britain for the Rental of Uniforms for the Public Works Parks and Recreation and Water Departments. Funding available for the Rental of Uniforms is in Account Number, 001-1330-3113-223 for the Public Works Department, 201-1335-2120-223 for the Parks and Recreation Department and 930-1000-9058-H2A for the Water Department.

Invitations to bid were solicited and the bid was duly advertised in the New Britain Herald Newspaper, the City and State of Connecticut's Department of Administration Services websites and mailed to twenty-three (23) Uniform Rental Companies. The Purchasing Agent did not receive any letters from Uniform Rental Companies on the mailing list who indicated that they could not respond to the bid request. The responses received are on file in the Town Clerk's Office.

The bids were reviewed for conformance to specifications by the Public Works, Parks and Recreation and the Water Department's Administration along with the Purchasing Agent. Therefore the Directors of the Public Works, Parks and Recreation and Water Departments are recommending that the bid be awarded to New England Uniform of West Springfield, MA who was the lowest bidder.

RESOLVED: That the Purchasing Agent is hereby authorized to enter into a contract and issue a standing purchase order to New England Uniforms of West Springfield, MA for the Rental of Uniforms for the Public Works, Parks and Recreation and Water Departments for a period of three (3) years beginning October 1, 2008 to September 30, 2011 per the pricing, terms and specifications of Public Bid No. 3424.

Jack Pieper  
Purchasing Agent

**30270 RE: BACKHOE FOR THE PARKS AND RECREATION DEPARTMENT**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

Public Bid No. 3437 was solicited and received in accordance with the Purchasing Ordinances of the City of New Britain for a New Backhoe for the Parks and Recreation Department. Funding available for this purchase is within Account Number 215-2294-5125-524.

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Invitations to bid were solicited and the bid was duly advertised in the New Britain Herald Newspaper, the City and State of Connecticut's Department of Administration Services websites and mailed to seventeen (17) Equipment Dealers. The Purchasing Agent received a letter from one (1) of the Equipment Dealers who was on the mailing list who indicated that they could not provide a response to the bid request. The responses received are on file in the Town Clerk's Office..

The bids were reviewed for conformance to specifications by the Parks and Recreation Department Administration and the Purchasing Agent. Therefore the Director of Parks and Recreation is recommending that the bid be awarded to Lomac, Inc of East Hartford, CT who was the lowest bidder and met all bid specifications for the new Backhoe.

RESOLVED: That the Purchasing Agent is hereby authorized to issue a Purchase Order for \$77,780.00 for the purchase of a New Backhoe for the Parks and Recreation Department from Lomac. Inc of East Hartford, CT per the terms and conditions of Public Bid No. 3437.

Jack Pieper  
Purchasing Agent

**30271 RE: HIGH TENSILE CAST IRON HIGHWAY CASTINGS FOR PUBLIC WORKS DEPARTMENT**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

Public Bid No. 3441 was solicited and received in accordance with the Purchasing Ordinances of the City of New Britain for the purchase of High Tensile Cast Iron Highway Castings on an as need basis for the Public Works Department. Funding available for the purchase of the High Tensile Cast Iron Highway Castings is in Account Number, 208-0003-1515-323.

Invitations to bid were solicited and the bid was duly advertised in the New Britain Herald Newspaper, the City and State of Connecticut's Department of Administration Services websites and mailed to fifteen (15) High Tensile Cast Iron Highway Castings Suppliers. The Purchasing Agent received one (1) letter from a supplier of the High Tensile Cast Iron Highway Castings on the mailing list who indicated that they could not respond to the bid request. The responses received are on file in the Town Clerk's Office.

The bids were reviewed for conformance to specifications by the Public Works Department's Administration and the Purchasing Agent. Therefore the Director of the Public Works Department is recommending that the bid be awarded both to Ferguson Waterworks-EPPCO of Newington, CT and Lebaron Foundry, Inc of Brockton, MA. who meet all of the specifications for these High Tensile Cast Iron Highway Castings. Ferguson Waterworks-EPPCO of Newington, CT who was the lowest bidder has indicated that they will only hold their prices for one hundred twenty-four (124) days. Lebaron Foundry, Inc of Brockton, MA has indicated that they will hold their prices for three hundred sixty-five days (365). With the price of metal increasing the lowest bidder Ferguson Waterworks-EPPCO of Newington, CT could be the lowest bidder for only one hundred twenty-four days (124). Because these High Tensile Cast Iron Highway Castings are needed for road repairs by the Public Works Department on an as need basis they would like to obtain them at the lowest price throughout the year.

RESOLVED: That the Purchasing Agent is hereby authorized to issue a standing purchase order with Ferguson Waterworks-EPPO of Newington, CT on an as needed basis for \$372.00 for each High Tensile Cast Iron Highway Castings and to Lebaron Foundry, Inc of Brockton, MA on an as need bases for \$443.61 for each High Tensile Cast Iron Highway Castings if the lowest bidder raises their price during the year per the terms, pricing and specifications of Public Bid No. 3441.

Jack Pieper  
Purchasing Agent

**30272 RE: COMPUTER MAINFRAME SUPPORT SERVICES FOR THE FINANCE DEPT.**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

In accordance with City Code of Ordinances, Chapter 2, Article VIII, Division 1, Section 2-531 a purchase order was requested by the Finance Department for Computer Mainframe Support Services.

<u>Supplier</u>	<u>Services</u>	<u>Price</u>
Walker Systems Farmington, CT.	Computer Mainframe Support Services	\$16,680.00

The Purchasing Agent has verified that Walker Systems has provided Computer Mainframe Support Services for the City in the past and that they are very familiar with the operations of the mainframe systems and its' software. This highly technical computer service is very unique. With Walker Systems being in Farmington, CT, they are able to provide this support service to the City quickly. Because the Walker Systems has performed this service in the past and knowing the City's mainframe and software capabilities, it would be very difficult to find another computer mainframe support company in the area to submit a bid for this very unique professional service at a reasonable price. Bid solicitation for the purchase of this unique service would not be beneficial to the City. Funding to pay for this computer mainframe support service is available in account 001-1151-1536-371.

Resolved: that the Purchasing Agent be and hereby authorized to issue a Purchase Order for \$16,680.00 to Walker Systems of Farmington, CT for Computer Mainframe Support Services for the Finance Department.

Jack Pieper  
Purchasing Agent

**30276 RE: COOPERATIVE PURCHASING – FOUR (4) SETS OF FIRE PROTECTIVE CLOTHING, TURNOUT GEAR – FIRE DEPARTMENT**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

In accordance with City Code of Ordinances, Chapter 2, Article VIII, Division 1, Section 2-538 (a), a purchase order was requested for the following under the State of Connecticut's Cooperative Purchasing Plan:

<u>Supplier</u>	<u>Item</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
Firematic Supply Co., Inc. Rocky Hill, CT.	Fire Protective Clothing, Turnout Gear	4 Sets	\$1,805.02	\$7,220.08

The New Britain Fire Department requested the purchase of four (4) sets of Fire Protective Clothing, Turnout Gear, for four (4) of the new Fire Recruits who are currently using old used Fire Protective Clothing, Turnout Gear, that may not meet State and or Federal Osha safety requirements. The New Britain Fire Department requested the purchase of the four (4) sets of Fire Protective Clothing, Turnout Gear, utilizing the State of Connecticut's Contract Award #02PSX0046. Funding is available for this purchase from Account Number 001-1221-2210-221.

RESOLVED: That the Purchasing Agent is hereby authorized to issue a purchase order for \$7,220.08 to Firematic Supply Company, Inc of Rocky Hill, CT. for the purchase of four (4) sets of Fire

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Protective Clothing, Turnout Gear, for the New Britain Fire Department utilizing the State of Connecticut's Cooperative Purchasing Plan, Contract Award #02PSX0046.

Jack Pieper  
Purchasing Agent

**30277 RE: COOPERATIVE PURCHASING – THERMAL IMAGING CAMERA – NEW BRITAIN  
FIRE DEPARTMENT**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

In accordance with City Code of Ordinances, Chapter 2, Article VIII, Division 1, Section 2-538 (a), a purchase order was requested for the following under the State of Connecticut's Cooperative Purchasing Plan:

<u>Supplier</u>	<u>Item</u>	<u>Qty</u>	<u>Total Price</u>
Firematic Supply Co. Inc. Rocky Hill, CT.	Thermal Imaging Camera	1	\$11,350.00

The New Britain Fire Department requested the purchase of One (1) Thermal Imaging Camera. The present Thermal Imaging Camera which has been utilized for over ten (10) years by the Fire Department is not operational. This Thermal Imaging Camera has already been repaired several times in the past. A Thermal Imaging Camera is needed to detect heat in walls and the location of the fire. Because of the age of the present Thermal Imaging Camera the repairs will not be cost effective to be made on it. The New Britain Fire Department requested the purchase of the one (1) Thermal Imaging Camera utilizing the State of Connecticut's Contract Award #02PSX0046. Funding is available for this purchase from Account Number 001-1221-2210-221.

RESOLVED: That the Purchasing Agent is hereby authorized to issue a purchase order for \$11,350.00 to Firematic Supply Company, Inc of Rocky Hill, CT. for the purchase of one (1) Thermal Imaging Camera for the New Britain Fire Department utilizing the State of Connecticut's Cooperative Purchasing Plan, Contract Award #02PSX0046.

Jack Pieper  
Purchasing Agent

**OFFICE OF THE MAYOR**

**30278 RE: SCHOOL TRANSPORTATION CONTRACT WITH DATTCO**

To the Common Council of the City of New Britain: the undersigned beg leave to report the following:

On June 27, 2008, I sent a letter to Dr. Doris Kurtz, Superintendent of Schools, regarding concerns over the extension of the school transportation contract with DATTCO, Inc. (copy of letter is on file in the Town Clerk's Office).

Subsequent to the letter, I did meet with Assistant Superintendent Ronald Jakubowski, who explained the rationale for the Board of Education's extension of the contact. The primary reason for the extension

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was over \$200,000 in cost savings over the life of the contract: \$192,460 savings to the school district (including the elimination of three buses due to restructuring of schools) and \$17,880 in pro rata savings to the City for parochial school busing.

Both Dr. Kurtz and Mr. Jakubowski apologized for the misunderstanding regarding the City's role in the approval of any contract changes to school transportation and indicated changes will not be made in the future without the City's consent.

Mayor Timothy T. Stewart

## **COMMITTEE ON ADMINISTRATION, FINANCE AND LAW**

### **29981-4 RE: PROPOSED AMENDMENT TO THE ORDINANCES ADDING SEC. 2-428 "OTHER POST-EMPLOYMENT BENEFITS TRUST"**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

The Committee on Administration, Finance and Law held a meeting and public hearing on Wednesday evening, September 3, 2008 at 7:00 p.m. in the Council Chambers to which was referred the matter of Item #29981-3 – Code of Ordinances be amended by adding a new Division 2B – Section 2-428 – "Other Post-Employment Benefits Trust" voted to accept as amended and recommend that the following resolution be referred back to the Common Council with a favorable recommendation.

Alderman Michael Trueworthy  
Acting Chair

## **NEW BUSINESS**

### **RESOLUTION**

#### **30279 RE: SUPPORTING MS. VIVIAN NOWAKOWSKI**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to recommend the adoption of the following:

WHEREAS, Ms. Vivian Nowakowski, a resident of New Britain, is currently suffering from end stage renal failure and has been told by medical professionals that she is in need of a kidney transplant in order to stay alive; and

WHEREAS, In order to be qualified for and receive the needed kidney transplant, it is required of her to have access to a caretaker or risk being removed from the transplant list; and

WHEREAS, Ms. Nowakowski's caretaker has been her husband Andrej Nowakowski but is not able to act as such because he was taken into custody on Wednesday, April 23, 2008 by Immigration and Customs Enforcement officials after reapplying for his green card and is awaiting deportation to Poland; and

WHEREAS, Andrej Nowakowski came to the United States in 1974 at the age of 9 and did so legally with a green card; and

WHEREAS, We recognize that Mr. Nowakowski has had past crimes for which he has plead guilty and served his time; and

WHEREAS, Mr. Nowakowski then legally re-entered the workforce but was taken into custody after re-applying for his green card as required; and

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WHEREAS, The Common Council recognizes that Ms. Nowakowski's son is proudly serving the United States in the Marines and is expected to be redeployed to the Middle East for the second time and cannot act as caregiver for his mother; and

WHEREAS, There exists flexibility under the law to allow officials to consider the weight and impact of humanitarian circumstances; and

WHEREAS, The Nowakowski family have been valued residents of New Britain by volunteering in civic activities, active in their church and have started a business; Now, Therefore, Be It

RESOLVED, That the Common Council demonstrates its support for the Polish Immigrant community that makes New Britain one of the most unique cities in America and supports others who come to New Britain to better their families lives; and be it further

RESOLVED, That the Common Council communicates its desire that the humanitarian impact of Ms. Nowakowski being left with no caregiver and the effect that it is likely to have on her health and ability to stay alive be fully and thoughtfully considered; and be it further

RESOLVED, That copies of this resolution be transmitted by the City Clerk to the U.S Senators Joe Lieberman, Chris Dodd, Governor Jodi M. Rell, Attorney General Richard Blumenthal and Mr. Donald Kent from the Department of Homeland Security.

Alderman Phil Sherwood  
Alderman Lawrence J. Hermanowski  
Alderman Adam Platosz  
Alderman Mark H. Bernacki  
Alderman Gregory Gerratana  
Alderman Louis G. Salvio  
Alderwoman Suzanne Bielinski  
Alderwoman Eva C. Magnuszewski

Ald. Hermanowski moved to accept and adopt, seconded by Ald. Sherwood. So voted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

## **REPORTS OF LEGISLATIVE COMMITTEES, BOARDS, COMMISSIONS AND DEPARTMENTS**

### **CITY PLAN COMMISSION**

#### **30201-1 RE: CHANGE OF ZONE FROM B -3 TO B-4 ALONG THE NORTH SIDE OF NOW BROAD STREET BETWEEN BEAVER AND WASHINGTON STREETS**

The Honorable Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

The City Plan Commission, at its regular meeting held on August 11, 2008 voted 6 to 0 to recommend that this proposed zone change be denied:

BACKGROUND: This proposed change to the Official City Zoning Map is intended to complement recent zoning changes that arose from the City's recent downtown planning study and expanded the area of the CBD district to the areas bordering Broad and North Streets. This currently proposed change would encompass several small properties totaling approximately 1.2 acres in area. Several of the parcels are City-owned and vacant. The City owned properties are contiguous and total over approximately 28,000 square feet (.64 acres). The four privately held parcels are occupied by relatively small commercial buildings and businesses, including a restaurant building, repair garage, a small retail

building and a small storage building. This general vicinity, at the end of Main Street and the intersection of Beaver and Broad Streets is recognized as being the “gateway” to the Broad Street business district.

**FINDINGS:** Both the B-3 and CBD zoning districts are essentially the same, relative to the types of business and residential uses that are permitted. They are also similar in having no minimum yard requirements. The most substantive differences are that the B-4 zone, as recently amended, allows more intensive development, with no maximum height restriction and no minimum lot area per dwelling unit restrictions. The B-3 zone allows fairly intensive development as is, allowing a maximum building height of 40 feet and requiring a minimum lot area of 1,250 square feet of lot area per dwelling unit, equivalent to 34 dwelling units per acre or 22 units on the .64 acres of vacant land in the proposed zone change area. In contrast, the CBD zone has an equivalent density factor, (based on minimum unit sizes, maximum floor area ratios, etc.) of about over 60 units per acre.

**RECOMMENDATION:** While the City Plan Commission is of the opinion that encouraging development and re-use of these properties is desirable, it would seem that the proposed CBD zoning would have the potential for allowing development that would be excessive in density and height and that it would be potentially out of character with the rest of the B-3 zoning along Broad Street. Because this is a highly visible and important corner, serving as the gateway to the Broad Street business district, it is important that it serve to establish the character for the rest of the street, a more moderate scale and intensity than is envisioned for the downtown core area.

Additionally, the number of residential units and the relaxed parking requirements allowed under the CBD zoning might add to existing on-street parking problems in the Broad Street area. Additionally, there is the concern that allowing this type of CBD development in a location that is somewhat removed from the downtown core would dilute the benefit that the recent CBD rezoning would have on the true Central Business District.

The Commission is of the opinion that these properties can be optimally marketed and developed under the existing B-3 zone, in a manner that is consistent and complementary to the rest of Broad Street. The Commission would, therefore, recommend against this proposed zone change and would recommend instead that a zone change petition be put forward to change the two T zone properties, 100 and 102 Beaver Street, from T to B-3.

G. Geoffrey Bray, Chairman  
City Plan Commission

Ald. Trueworthy moved to accept and refer to the Committee on Planning, Zoning and Housing, seconded by Ald. Bielinski. So voted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

## **PURCHASING DEPARTMENT**

### **30273 RE: FIRE FIGHTER ACADEMY – FIRE DEPARTMENT**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

In accordance with City Code of Ordinances, Chapter 2, Article VIII, Division 1, Section 2-541 a purchase order has been requested by the Fire Department, for the new Fire Recruits who were hired last year to attend a training class offered by the State of Connecticut’s Fire Academy to obtain a “Q” Endorsement on their driver’s license. This will enable the new Fire Recruits to drive a Fire Apparatus legally in the State of Connecticut. The State of Connecticut Commission of Fire Prevention and Control is the only source that can provide this Driver’s Training Course in the State of Connecticut.

<u>Supplier</u>	<u>Class</u>	<u>Price/Class</u>
State of Connecticut Fire Academy	Driver’s Training Course “Q” Endorsement	\$4,150.00

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The Purchasing Agent has verified that this class is taught by the State of Connecticut's Fire Academy, Commission on Fire Prevention and Control and that they are the sole source provider of this type of Driver's Training Course for Fire Apparatuses in the State. Bid solicitation for the Fire Recruits to take this "Q" Endorsement Driver's Training Course would not be beneficial to the City when the State of Connecticut Fire Academy is the only one to provide this training course. Funding to pay for this Driver's Training Course is available from account 001-1221-2210-375.

Resolved: that the Purchasing Agent be and hereby authorized to issue a Purchase Order for \$4,150.00 to State of Connecticut's Fire Academy, Commission on Fire Prevention and Control in Windsor Locks CT for the new Fire Recruits to take the "Q" Endorsement Driver's training Course so that they will be able to drive a Fire Apparatus.

Jack Pieper  
Purchasing Agent

Ald. Bielinski moved to accept and adopt, seconded by Ald. Bernacki. So voted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

**30275 RE COOPERATIVE PURCHASING – 2008 E350 FORD ECONOLINE PASSENGER VAN FOR COMMUNITY SERVICES**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to report the following:

In accordance with City Code of Ordinances, Chapter 2, Article VIII, Division 1, Section 2-538 (a), a purchase order was requested for the following under the State of Connecticut's Cooperative Purchasing Plan:

<u>Supplier</u>	<u>Model</u>	<u>Qty</u>	<u>Total Price</u>
Crowley Ford Plainville, CT.	2008 F350 Ford Economize Passenger Van	1	\$21,777.00

The New Britain Parks and Recreation Department, Community Services Division, requested the purchase of one (1) 2008 F350 Ford Economize Passenger Van utilizing the State of Connecticut's Contract Award #06PSX0067. The MRSP on this vehicle with all dealer and factory options is \$34,130.00. This purchase is to replace an existing 1994 Chevy Beauville Passenger Van. Funding of \$10,000.00 for this purchase is in account 276-1423-4220-442 which is from a State of Connecticut DCF Grant, which also contains Federal monies. The remaining dollar amount is in account 298-1445-4165-P20 which is an account that fees and donations are put into when they are received by Community Services.

RESOLVED: That the Purchasing Agent is hereby authorized to issue a purchase order for \$21,777.00 to Crowley Ford of Plainville, CT. for the purchase of a 2008 F350 Ford Economize Passenger Van utilizing the State of Connecticut's Cooperative Purchasing Plan, Contract Award #06PSX0067

Jack Pieper  
Purchasing Agent

Ald. Gerratana moved to accept and adopt, seconded by Ald. Bielinski. So voted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

## RESOLUTIONS RETURNED FROM COMMITTEE

### 29981-5 RE: AMENDMENT TO THE ORDINANCES ADDING SEC.2-428 OTHER POST-EMPLOYMENT BENEFITS TRUST

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to recommend the adoption of the following:

Resolution Summary: INTENT AND PURPOSE. To establish an Other Post-Employment Benefits Trust for the purpose of funding certain required benefits to retirees of the City of New Britain.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW BRITAIN that Article V of Chapter 2 of the Code of Ordinances, City of New Britain, be amended by adding a new Division 2B entitled "Other Post-Employment Benefits Trust", to read as follows (inserted text appears in underline; deleted text appears in ~~strikethrough~~; new sections begin with the word [new]):

#### DIVISION 2B. OTHER POST-EMPLOYMENT BENEFITS TRUST [NEW]

##### Sec. 2-~~248.428~~. Other Post-Employment Benefits Trust

(a) Authority; Establishment of Other Post-Employment Benefits Trust. Pursuant to the authority granted in Section 4-2 of the Charter and Section 7-450(b) of the Connecticut General Statutes, there ~~shall be~~ is hereby created and established this the Other Post-Employment Benefits Trust (the "OPEB Trust") to fund certain retiree benefits pursuant to the terms of previously established plans, as amended from time to time, for the benefit of certain employees and retirees, their spouses and dependents (the "OPEB System").

(b) Establishment of Other Post-Employment Benefits Board. Immediately upon the enactment of this ordinance, the ~~Pension Retiree Benefits Reserve Fund~~ Committee shall also constitute the Other Post-Employment Benefits Board of Trustees for the OPEB Trust, hereinafter referred to as the "OPEB Board." ~~The Director of Finance shall serve as an ex-officio member of the OPEB Board.~~ The members of said OPEB Board shall receive no compensation for serving as a member thereof and shall serve terms coextensive with their respective terms as members of the Retiree Benefits Reserve Fund Committee.

(c) Powers and Duties of the OPEB Board. The OPEB Board shall perform the duties set forth in the ~~OPEB Trust Agreement~~ Declaration of Trust, as amended from time to time as contained in its entirety in subsection (d) of this ordinance, relating to the management of the assets held in the OPEB Trust. ~~The City's Treasurer (the "Trustee") shall have the care and custody of all funds held in the OPEB Trust and shall have the power, with the approval of the OPEB Board, to invest such funds in securities legal for investment for such trust funds.~~

##### (d) Declaration of Trust.

WHEREAS, pursuant to collective bargaining agreements and applicable personnel policies, as amended from time to time, the City and the Board of Education have established one or more plans that provide for certain post-employment benefits, including retiree medical benefits, but excluding pension benefits (collectively "OPEB Benefits") for certain groups of employees and retirees of the City and the Board of Education, their spouses and dependents (collectively "Retirees") which, as in effect as of the effective date of this ordinance, are named in Exhibit A (collectively the "Plan");

WHEREAS, the City has adopted this ordinance pursuant to the Connecticut General Statutes Section 7-450 to establish a trust to hold and invest Plan assets and an Other Post-Employment Benefits Board of Trustees (the "OPEB Board") to oversee the investment of such assets;

WHEREAS, the City desires to fund OPEB Benefits through the trust herein established (the "Trust");

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WHEREAS, the provision of OPEB Benefits to Retirees is an essential governmental function and an integral part of the exempt activities of the City;

WHEREAS, the City calculates and records the expenses and liabilities of OPEB Benefits pursuant to Government Accounting Standards Board ("GASB") Statement 45 ("GASB 45");

WHEREAS, consistent with the provisions of GASB 45 and GASB Statement 43 ("GASB 43"), the funds which will be contributed to the Trust, as and when received by the Trustee, and earnings and losses thereon shall constitute a trust fund (the "Trust Fund") which shall be irrevocable and shall be held for the benefit of Retirees in accordance with the Plan;

WHEREAS, consistent with the provisions of GASB 45 and GASB 43, the Trust assets shall be legally protected from creditors of the City; and

WHEREAS, the City ~~desires the~~ delegates its duties as trustee of the Trust to the City's Treasurer (the "Trustee") to hold and administer the Trust Fund, ~~and the Trustee is willing to hold and administer such Trust Fund,~~ pursuant to the terms of this Agreement-Declaration of Trust.

NOW, THEREFORE:

#### ARTICLE I - CREATION OF TRUST

1.1 Creation of Trust. The City hereby creates with the Trustee a Trust consisting of such sums as shall be paid to the Trustee, and all amounts thereafter contributed under the Plan, and the earnings and appreciation thereon, less the losses and depreciation thereon and less payments made by the Trustee under the Plan and this Declaration of Trust Agreement with respect to Retirees. The City hereby appoints the Trustee as Trustee hereunder.

1.2 Exclusive Purpose of Trust. The Trustee shall hold the assets of the Trust for the exclusive purpose of providing ~~benefits~~OPEB Benefits to Retirees and defraying reasonable expenses of administering the Plan and Trust. No part of the net earnings of the Trust shall inure to the benefit of the City or any other person, except through the payment of ~~benefits~~OPEB Benefits permitted under the Trust.

1.3 Incorporation of Plan. The provisions of the Plan shall be read as an integral part of this ordinance, and is specifically incorporated herein by reference.

1.4 Protection of Trust Assets. All assets of the Trust shall be legally protected from creditors of the City to the full extent of applicable law.

#### ARTICLE II – CONTRIBUTIONS

2.1 Receipt of Contributions. The Trustee shall receive any contributions paid to it in cash or in the form of such other property as it may from time to time deem acceptable and which shall have been delivered to it. All contributions so received, together with the income therefrom and any other increment thereon, shall be held, invested, reinvested and administered by the Trustee pursuant to the terms of this ordinance without distinction between principal and income. The Trustee shall not be responsible for the calculation or collection of any contribution under the Plan, but shall be responsible only for property received by it pursuant to this ordinance.

2.2 Compliance with Laws. This ordinance and the Trust Fund created hereunder are intended to meet the requirements of Section 115 of the Internal Revenue Code of 1986, as amended (the "Code"), and Section 7-450 of the General Statutes of Connecticut, Revision of 1958, as amended.

#### ARTICLE III – PAYMENTS FROM TRUST FUND

3.1 Payments Directed by the City. The Trustee shall from time to time at the ~~City's~~ direction of the City's Director of Finance make payments out of the Trust Fund to the persons or entities to whom such monies are to be paid in such amounts and for such purposes as may be specified in the ~~City's~~ directions of the Director of Finance. The Trustee shall be under no liability for any payment made pursuant to ~~thesuch~~ direction ~~of the City~~. Any direction of the ~~City~~ Director of Finance shall

constitute a certification that the distribution or payment so directed is one which the City Director of Finance is authorized to direct.

3.2 Impossibility of Diversion. It shall be impossible at any time for any part of the Trust Fund to be used for, or diverted to, purposes other than to provide the benefits OPEB Benefits contemplated under the Plan for the exclusive benefit of Retirees, except that any taxes and administration expenses for which the Trust is liable may be made from the Trust Fund as provided for herein.

#### ARTICLE IV – DUTIES OF THE CITY

4.1 General. The OPEB plans of the groups listed on Exhibit A, constitute the Plan, as of the effective date of this ordinance. The City Director of Finance shall update Exhibit A of this subsection (d) if and when the information required to be contained therein changes. After the adoption of this ordinance, the City Director of Finance shall promptly file with the Trustee a certified list of the names and specimen signatures of any individual authorized to act for the City. The City Director of Finance shall promptly notify the Trustee of the addition or deletion of any person's name from such list. Until receipt by the Trustee of notice that any person is no longer authorized to so act, the Trustee may continue to rely on the authority of the person. All certification, notices, and directions by any such person or persons to the Trustee shall be in writing signed by such person or persons. The Trustee may rely on any such certification, notices, and direction purporting to have been signed by or on behalf of such person or persons that the Trustee reasonably believes to have been signed thereby. The Trustee may rely on any such certification, notices, and direction purporting to have been signed by a duly authorized officer or agent of the City.

4.2 Contributions. The City shall make contributions to the Trust from time to time as it the Common Council may, in its sole discretion, deem appropriate; provided, however, any required employee contributions shall be deposited to the Trust within a reasonable period of time. The Trustee shall have no duty or authority to ascertain whether contributions should be made by the City or to bring an action to require the City to make such contributions.

4.3 Indemnification of Trustee. The City shall indemnify and hold harmless the Trustee for any liability or expense, other than liability and expenses incurred as a result of the Trustee's negligence or willful misconduct, including without limitation reasonable attorney's fees, incurred by the Trustee with respect to holding, managing, investing, or otherwise administering the Trust Fund.

#### ARTICLE V – INVESTMENTS

5.1 Responsibility for Investment. Except as provided in Section 5.2 of this Article, and upon receipt of direction from the OPEB Board, the Trustee shall have the power to invest and reinvest the Trust Fund.

5.2 Appointment of Investment Manager. Upon receipt of direction from the OPEB Board, the Trustee shall appoint an investment manager(s) to direct the investment and reinvestment of all or a part of the Trust Fund (the "Separate Account"). Each such investment manager shall, unless its appointment provides otherwise, have the power to direct the Trustee in the exercise of its investment powers with respect to the Separate Account and the Trustee shall exercise such powers as directed in writing by the investment manager. Except as otherwise provided by applicable law, the Trustee shall have no liability: (i) for the acts or omissions of an investment manager; (ii) for following the investment directions of an investment manager; (iii) for failing to act in the absence of investment manager direction; or (iv) for any diminution in the value of the Trust Fund as a result of following the direction of an investment manager. The Trustee shall take such actions and enter into such agreements as are necessary or appropriate to permit the investment manager to manage the Separate Account, including but not limited to establishing a brokerage account in the name of the Trustee and transferring to such brokerage account the Separate Account for which an investment manager has been appointed to enable the investment manager to make trades and otherwise exercise the powers granted to it, and entering into a custodial agreement with an institutional custodian with respect to the Separate Account for which an investment manager has been appointed to enable the investment manager to exercise the powers granted to it.

5.3 Investment Subject to Prudent Investor Rule. The assets of the Trust Fund, whether invested by the Trustee or by an investment manager appointed by the Trustee, shall be invested and managed in compliance with the prudent investor rules set forth in the Connecticut General Statutes Sections 45a-541 to 45a-541l, inclusive, a copy of which as in effect on the effective date of this ordinance, is attached hereto as Exhibit B.

5.4 Establishment of Funding/Investment Policy. The City/OPEB Board shall establish and carry out a funding, and from time to time amend, an investment policy consistent with the purposes of the Plan. As part of such funding policy, the City/OPEB Board shall from time to time direct the Trustee, and, if applicable, the Trustee shall direct the investment manager, to exercise its investment discretion, so as to provide sufficient cash assets in an amount determined by the City, under the funding policy then in effect, Director of Finance to meet the liquidity requirements for the administration of the Plan.

5.5 Adherence to Funding Policy. The discretion of the Trustee/OPEB Board, or of the investment manager, if applicable, in investing and reinvesting the principal and income of the Trust Fund shall be subject to the funding investment policy and any changes thereto which the City/OPEB Board may adopt from time to time and communicate to the Trustee in writing. The Trustee and investment manager, if applicable, shall have the duty to act strictly in accordance with such funding policy, and any changes therein, as so communicated to the Trustee from time to time in writing.

#### ARTICLE VI- POWERS OF THE TRUSTEE/CITY

6.1 General. The Trustee, in order to carry out the provisions of this ordinance, the City has delegated duties in this Declaration of Trust to certain specified entities and officials. This Article sets forth the powers and duties delegated to the OPEB Board and the Trustee. In general, the City shall discharge its duties under this ordinance/Declaration of Trust solely in the interest of the Retirees covered under the Plan and for the exclusive purpose of providing benefits/OPEB Benefits to such persons and defraying reasonable expenses of administering the Trust, with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the Trust so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, all in accordance with the provisions of this ordinance/Declaration of Trust insofar as they are consistent with the provisions of the prudent investor rules set forth in Connecticut General Statutes Sections/sections 45a-541 to 45a-541l, inclusive, as this ordinance/Declaration of Trust and the Connecticut General Statutes may be from time -to -time amended. The duties and obligations of the Trustee as such shall be limited to those expressly imposed upon it by this ordinance/Declaration of Trust notwithstanding any reference herein to the Plan, or the provisions thereof, it being hereby expressly agreed that the Trustee is not a party to the Plan.

6.2 Powers of the OPEB Board. The OPEB Board shall:

- (a) to the extent all or a portion of the Trust Fund is not managed by an investment manager, direct the Trustee with respect to the investment and reinvestment of such portion of the Trust Fund (See Section 5.1);
- (b) establish an investment policy (See Section 5.4);
- (c) select, retain and terminate, as necessary or desirable, custodian(s), investment manager(s) (See Section 5.2) and consultant(s);
- (d) monitor and review the investment performance of the Trust Fund;
- (e) prepare, or have prepared, and deliver to the Common Council not less frequently than quarterly, reports regarding said performance;
- (f) monitor and evaluate the performance of third parties retained to provide services to the Trust Fund;

- (g) establish a procedure for coordinating a search for custodians, investment managers and consultants; and
- (h) conduct such searches, as necessary or desirable.

6.26.3 Powers. The Trustee, in addition to all powers and authorities under common law, statutory authority, and other provisions of this ordinance, shall have the following powers and authorities, to be exercised in the Trustee's sole discretion, provided that such exercise shall be limited by the terms of Article V and Section 6.1 above:

- (a) To retain any property at any time received by the Trustee;
- (b) To purchase, or subscribe for, any securities or other property and to retain the same in trust;
- (c) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction, and any salesuch disposition may be made for cash or upon credit, or partly for cash and partly upon credit. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition;
- (d) Upon direction from the OPEB Board, to vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights, or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stock, bonds, securities or other property held as part of the Trust Fund;
- (e) To cause any securities or other property held as part of the Trust Fund to be registered in the TrusteeCity's ~~own~~ name, or in the name of one or more of the TrusteeCity's nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;
- (f) To keep such portion of the Trust Fund in cash or cash balances as the Trustee may, from time to time, deem to be in the best interests of the trust created hereby, without liability for interest thereon;
- (g) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;
- (h) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (i) To acquire real estate by purchase, exchange, or as the result of any foreclosure, liquidation, or other salvage of any investment previously made hereunder; to hold such real estate in such manner and upon such terms as the Trustee may deem advisable; and to manage, operate, repair, develop, improve, partition, mortgage, or lease for any term or terms of years any such real estate or any other real estate constituting a part of the Trust Fund, upon such terms and conditions as the Trustee deems proper, using other trust assets for any of such purposes if deemed advisable;
- (j) To invest funds of the Trust Fund in night deposits or savings accounts bearing a reasonable rate of interest;
- (k) To invest in Treasury Bills and other forms of United States government obligations;
- (l) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations;

(m) To do all such acts, take all such proceedings, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to administer the Trust Fund, and to carry out the purposes of this Trust.

6.36.4 Fees and Expenses. An individual serving as Trustee who already receives full-time pay from the City shall not receive compensation from this Trust except for reimbursement of expenses properly and actually incurred. In addition, Pursuant to Section 3.1, upon the direction of the Director of Finance the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel and accounting fees, incurred by the Trustee in the administration of the Trust Fund. Such compensation and expenses shall be paid from the Trust Fund unless sooner paid by the City in which event the City shall be reimbursed from the Trust Fund. All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof shall be paid by the Trustee from the Trust Fund.

6.46.5 Consultation and Indemnification. The Trustee may consult with counsel and the Trustee shall not be deemed imprudent by reason of its taking or refraining from taking any action in accordance with the opinion of counsel.

6.56.6 Accounts and Records. The Trustee shall keep accurate and detailed accounts of all investments, receipts, disbursements, and other transactions hereunder, and all such accounts and other records relating thereto shall be open to inspection and audit at all reasonable times by any person designated by the City or the OPEB Board.

#### ARTICLE VII – AMENDMENT AND TERMINATION OF AGREEMENT/DECLARATION OF TRUST

7.1 Amendment. Any or all of the provisions of this ordinance may be amended at any time and from time to time, in whole or in part. No such amendment shall authorize or permit any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of Retirees; and, except as provided in Section 7.2 below, no such amendment shall cause or permit any portion of the Trust Fund to revert to or become the property of the City.

7.2 Repeal/Termination. This ordinance may be repealed at any time by the City, and upon such repeal, the Trust shall terminate and the Trust Fund shall be paid out by the Trustee as and when directed by the City, in accordance with the provisions of Section 1.2 of Article I and Section 3.2 of Article III hereof and the terms of the Plan. Upon termination of the Trust, Trust Funds shall be applied to pay any remaining debts, liabilities and approved claims of the Plan. Any assets remaining in the Trust after meeting its obligations shall be distributed to the City.

#### ARTICLE VIII – GENERAL

8.1 Limited Effect of Plan and Trust. Neither the establishment of the Plan nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any ~~welfare benefits~~ OPEB Benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the City, or any officer or employee thereof, except as may otherwise be provided in the Plan or in the Trust. Under no circumstances shall the term of employment of any employee be modified or in any way affected by the Plan or this Trust.

8.2 Protective Clause. Neither the City nor the Trustee shall be responsible for the validity of any contract of insurance issued in connection with the Plan or Trust or for the failure on the part of the insurer to make payments provided by such contract, or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part.

8.3 Construction of Trust. This Trust shall be construed and enforced according to the laws of the State of Connecticut and the Code. If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions of the Trust.

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8.4 Gender and Number. Wherever any words are used herein in the masculine, feminine or neuter, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

8.5 Headings. The headings and sub-headings of this Trust have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

Exhibit A

Groups covered by OPEB Plans

Police

- Police Department employees hired prior to April 1, 2000
- Police Department employees hired after April 1, 2000 who have retired under the Connecticut Municipal Employees' Retirement Fund B
- Fire
- Fire Department employees hired prior to July 1, 1995
- Fire Department employees hired after July 1, 1995 who have retired under the Connecticut Municipal Employees' Retirement Fund B

City

- City employees who have retired under the Connecticut Municipal Employees' Retirement Fund B
  - AFSCME (Local 818)
  - AFSCME (Local 1303-332)
  - AFSCME (Local 1186)
  - MPA
  - CILU (Local 25)
  - Unaffiliated (Non-Union)

Board of Education

- Teachers
- Administrators (Local 51)
- Other Board of Education employees who are covered under the Connecticut Municipal Employees' Retirement Fund B
  - NBSSA/AFSA
  - AFSCME (Local 818)
  - AFSCME (Local 1186)

Note: OPEB Benefits vary by bargaining group, and are provided pursuant to each collective bargaining agreement.

Exhibit B

Connecticut General Statutes Sections 45a-541 to 45a-541I, inclusive

(as in effect July 1, 2007)

Connecticut Uniform Prudent Investor Act

Sec. 45a-541. Short title: Connecticut Uniform Prudent Investor Act. Sections 45a-541 to 45a-541/, inclusive, may be cited as the "Connecticut Uniform Prudent Investor Act".

Sec. 45a-541a. Prudent investor rule. (a) Except as provided in subsection (b) of this section, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule, as set forth in sections 45a-541 to 45a-541/, inclusive.

(b) The prudent investor rule is a default rule that may be expanded, restricted, eliminated or otherwise altered by provisions of the trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on provisions of the trust.

Sec. 45a-541b. Standard of care. Portfolio strategy. Risk and return objectives. (a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.

(b) A trustee's investment and management decisions respecting individual assets shall be evaluated not in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries: (1) General economic conditions; (2) the possible effect of inflation or deflation; (3) the expected tax consequences of investment decisions, strategies and distributions; (4) the role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property and real property; (5) the expected total return from income and the appreciation of capital; (6) related trusts and other income and resources of the beneficiaries; (7) needs for liquidity, for regularity of income and for preservation or appreciation of capital; (8) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries; (9) the size of the portfolio; and (10) the nature and estimated duration of the trust.

(d) A trustee shall take reasonable steps to verify facts relevant to the investment and management of trust assets.

(e) Subject to the standard of sections 45a-541 to 45a-541/, inclusive, a trustee may invest in any kind of property or type of investment.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

Sec. 45a-541c. Diversification. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

Sec. 45a-541d. Duties at inception of trusteeship. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements and other circumstances of the trust, and with the requirements of sections 45a-541 to 45a-541/, inclusive.

Sec. 45a-541e. Loyalty. A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

Sec. 45a-541f. Impartiality. If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the

beneficiaries.

Sec. 45a-541g. Investment costs. In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust and the skills of the trustee.

Sec. 45a-541h. Reviewing compliance. The prudent investor rule expresses a standard of conduct, not outcome. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action.

Sec. 45a-541i. Delegation of investment and management functions. (a) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill and caution in: (1) Selecting an agent; (2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and (3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trustee and to the trust to exercise reasonable care to comply with the scope and terms of the delegation and to exercise the delegated function with reasonable care, skill and caution. An attempted exoneration of the agent from liability for failure to meet such a duty is contrary to public policy and void.

(c) A trustee who complies with the requirements of subsection (a) of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state and can be held liable by the courts of this state for any breach of duty arising out of the delegation agreement or the terms of sections 45a-541 to 45a-541/, inclusive.

Sec. 45a-541j. Language invoking standards of act. The following terms or comparable language in a trust instrument, unless otherwise limited or modified by the instrument, authorizes any investment or strategy permitted under sections 45a-541 to 45a-541/, inclusive: "Investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor rule".

Sec. 45a-541k. Uniformity of application and construction. Sections 45a-541 to 45a-541/, inclusive, shall be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of said sections among the states enacting them.

Sec. 45a-541/. Applicability. Section 45a-532 and sections 45a-541 to 45a-541/, inclusive, apply to trusts existing on and created after October 1, 1997. As applied to trusts existing on October 1, 1997, section 45a-532 and sections 45a-541 to 45a-541/, inclusive, govern only decisions or actions occurring after that date.

Alderman Louis G. Salvio

September 10, 2008

Ald. Salvio moved to accept and adopt, seconded by Ald. Bielinski. So voted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

## **NEW BUSINESS**

### **RESOLUTIONS**

**30280 RE: CONTRACT WITH MAGUIRE GROUP, INC. IN REGARD TO THE PINNACLE HEIGHTS DEMOLITION AND CONSTRUCTION DOCUMENTS FOR HAZARDOUS MATERIALS ABATEMENT PROJECT**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to recommend the adoption of the following:

Whereas, the City of New Britain is in the process of obtaining funding from the United States Economic Development Administration and the State of Connecticut Department of Economic and Community Development for the Pinnacle Heights Demolition and Construction Documents for Hazardous Materials Abatement project; and,

Whereas, Maguire Group has been the consultant on this project and is familiar with the application process for the Federal and State agencies, and the City of New Britain bid preparation process; and,

Whereas, the Department of Public Works has received a project proposal from Maguire Group, Inc., one of the Department of Public Works on-call engineering consultants, delineating the scope of work to accomplish obtaining funds and bid preparation for the Pinnacle Heights project; and

Whereas, the proposed work scope has been reviewed and accepted by the Department, and;

Whereas, the funding for this project is included in account 008-4165-2189-432 (\$39,959.50) and is available for this purpose, and;

Therefore Be It Resolved, that the Common Council authorizes Mayor Timothy T. Stewart to enter into a contract on behalf of the City of New Britain with Maguire Group, Inc. in the amount of \$39,959.50.

Alderman Lori A. Rocha  
Alderman Phil Sherwood

Alderman Rocha moved to accept and adopt, seconded by Ald. Sherwood. So voted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

**30281 RE: SANITATION DISPOSAL FEES LANDFILL/TRANSFER STATION**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to recommend the adoption of the following:

Whereas, the Department of Public Works is assigned the responsibility of overseeing the City's Landfill and Transfer Station including recommending fees for their use, and

Whereas, the fees to use the facilities have been unchanged since 2004, and

Whereas, adjustments are being made to some disposal items to reflect current market conditions, and

Whereas, in response to the recent CDEP consent order for the Landfill closure, approved by Council, some new disposal items needed to be added and/or adjusted, and

September 10, 2008

Now Therefore Be It Resolved, that the New Britain Common Council adopts the fees as presented in Schedule A effective upon publication.

Alderman Phil Sherwood  
Alderwoman Lori A. Rocha

SCHEDULE A

Sanitation Disposal Fees – Effective 2008  
Landfill/Transfer Station

**Adjustments**

<u>Item</u>	<u>Current</u>	<u>Recommended</u>
Tires	\$5/ea up to 19” \$15/ea 20” – 24”	\$15/ea up to 19” <del>\$25/ea 20”-24”</del>
Batteries	\$5/ea	Free – New Britain/Berlin Residents
Motor Oil	\$1/gallon	Free – New Britain/Berlin Residents – 5 gallon maximum per year

**New**

New Britain Water Department – Trench Excavation (soils)		\$30/ton
Municipal Catch Basin Cleaning (dewatered and screened)		\$15/ton *
Municipal Street Sweeping (Screened)		\$15/ton *
Bulky Waste (includes wood, brush & eligible demolition materials)		\$70/ton **
Bulky Waste – extra handling (includes stumps)		\$150/ton **
Bulky Waste – Special handling		\$250/ton**
Fiberglass boats up to 24’ (All metals, motor & gas tank removed)		\$200/ea

**Eliminated**

Fee for deposit of non-combustible		\$75/ton
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\*Excluding New Britain and Berlin, up to 1,500 cu. Yd. of catch basin cleanings and street sweepings will be accepted annually from other municipalities.

\*\*Non-Commercial New Britain and Berlin residents excluded.

September 10, 2008

Ald. Rocha moved to accept and adopt, seconded by Ald. Ald. Sherwood. Ald. Bielinski moved to amend the fee schedule by adding double asterisks after the fees for the three Bulky Waste items, and at the end of the fee schedule by adding "\*\*\*Non-Commercial New Britain and Berlin residents excluded." Amendment seconded by Ald. Gerratana. Amendment carried. Ald. Trueworthy moved to further amend by maintaining the current fee in regard to tires, seconded by Ald. Catanzaro. Amendment carried. Resolution as amended twice carried with Ald. Bernacki opposed. Approved September 15, 2008 by Mayor Timothy T. Stewart.

**30282 RE: PROPOSED AMENDMENT TO SEC. 2-10, V(A)(1) TO EXEMPT THE NEW BRITAIN POLICE DEPARTMENT FROM THE REQUIREMENTS TO WAIVE FEE FOR ACCESS TO PUBLIC RECORDS**

Proposed Amendment on file in Town Clerk's Office

Ald. Sherwood moved to refer to the Committee on Administration, Finance and Law, seconded by Ald. Hermanowski. So voted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

**30283 RE: THE APPOINTMENT OF GREGORY J. GERRATANA LIAISON TO THE FINANCE DEPARTMENT AND THE APPOINTMENT OF MARK H. BERNACKI LIAISON TO THE FINANCE DEPARTMENT**

To His Honor, the Mayor, and the Common Council of the City of New Britain: the undersigned beg leave to recommend the adoption of the following:

RESOLVED; that the following members of the Common Council of the City of New Britain is hereby appointed to the following liaison position:

Finance Department

Alderman Gregory J. Gerratana – Liaison  
Alderman Mark H. Bernacki - Liaison

Alderman Michael W. Trueworthy  
Majority Leader

Ald. Trueworthy moved to accept and adopt, seconded by Ald. Bielinski. Ald. Salvio moved to amend by adding Mark H. Bernacki liaison to the Finance Department, seconded by Ald. Trueworthy. Amendment carried. Resolution as amended adopted. Approved September 15, 2008 by Mayor Timothy T. Stewart.

There being no further business to come before the Council Ald. Trueworthy moved to adjourn, seconded by Ald. Bielinski. So voted. Meeting adjourned at 9:29 p.m.

ATTEST: Peter J. Denuzze, City Clerk