

City of New London
OFFICE OF THE MAYOR

Pursuant to the authority granted to me by Section 27(2) of the Charter of the City of New London, I hereby VETO the enrolled and attached ordinance number 08-05-13-2, entitled "AN ORDINANCE OF THE CITY OF NEW LONDON, CONNECTICUT, PROVIDING FOR THE ESTABLISHMENT OF A K-9 PATROL DIVISION WITHIN THE NEW LONDON POLICE DEPARTMENT" and attach my reasons for doing so for return to the Honorable Council of the City of New London:

The principal reasons for my object are: 1) the Ordinance, as presented, is legally invalid, 2) the Ordinance attempts to micromanage Police Department functions without any rational basis, 3) the Ordinance places upon the administration a significant unfunded mandate during difficult budgetary times for our police department, and 4) the Ordinance seeks to interfere with the proper processes for collective bargaining. I will address each objection in turn.

Legal Invalidity

The Law Director has opined that this ordinance violates certain provisions of the City Charter. The Law Director, and his firm, served the City before I became Mayor, and the Law Director is the one department head in City Government that requires the advise and consent of the City Council for his appointment. This Council confirmed my nomination of the Law Director unanimously.

As an Attorney myself, I believe the Law Director's opinion (which I attach to this Veto message), to be legally sound. Even if I disagreed with the Law Director's opinion, I would always, as a matter of policy, take the advice of the Law Director rather than supplanting my own legal judgment for his.

In addition, in testimony before the Council's Public Safety Committee, the argument was raised that K-9s are "Officers" within the meaning of Section 73 of the City Charter, thereby giving Council legal authority to act. Councilor McSparren, however, previously acknowledged that one of our K-9s was "surplus property"; thereby any transfer of that K-9 would require Council approval. A K-9 cannot be property one moment and an officer the next when it serves any Councilor's political need for expediency.

Dogs are commonly legally known to be Chattel property at law. The Police Union contract itself treats K-9s as property and they are listed in departmental inventories as assets of the department, not officers.

For all of these reasons, I must support the Law Directors opinion and Veto this Ordinance as it conflicts with the Charter of the City of New London.

Micromanagement

Sworn law enforcement professionals working through the chain of command should direct the employment of certain law enforcement methodologies.

This ordinance seeks to dictate not only how many of a particular asset a department must have, but also how they are to be used. Councilor Spreccace and Council President Passero stressed before council that this Ordinance would not direct the methodologies of a K-9 program, merely set the number of K-9 units in the department. Section 5 of the proposed ordinance, however, seeks to delineate how and when and to what purpose the department can employ K-9s. This is clearly an impermissible intrusion on the proper authority of the police administration, made without any rational evidence presented by neutral sources justifying the decision.

The Deputy Police Chief has offered several proposals for how this program may be administered and I believe that the police administration should have the principal say on policies affecting the K-9 program. (The Deputy Chief's assessment of the K-9 program is attached to this Veto message)

For these reasons, I find this Ordinance to be an example of impermissible micromanagement of a law enforcement agency by a legislative body, without a rational basis, and I Veto this Ordinance.

Unfunded Mandate

The costs associated with the 4 unit K-9 program proposed by this ordinance were not budgeted by the City Council. The costs are delineated in the Deputy Chief's memorandum and could easily exceed half a million dollars.

Obtaining K-9s, training, equipment, vehicle needs, backfilling overtime in the patrol division, all place a significant financial burden on our Police Department at a time when the administration has determined there are more important financial needs in the department as opposed to enhancing our K-9 unit.

The determination of the best use of limited law enforcement resources should be left to the police department administration.

Without adequate funding to meet the mandate set by this Ordinance, I find it to be a financially irresponsible action by Council and I Veto this Ordinance.

Interference with Collective Bargaining

This issue was placed before the City Council by the police union, and in particular it's President, who, as our K-9 trainer stands to personally benefit from this Ordinance.

The K-9 unit is a part of the union contract and is a subject of ongoing collective bargaining. This effort by the union represents a severe breach of collective bargaining protocol.

The Chief Administrative Officer has opined (her memo is attached to this Veto message) that to allow this ordinance would send the very damaging message that any City collective bargaining unit can bypass good faith negotiations and obtain something from the Council that they should properly have brought to the bargaining table.

For the reason that this Ordinance violates our collective bargaining procedures, I also Veto this ordinance.

Certification of Maintenance and Expansion of Our K-9 Unit.

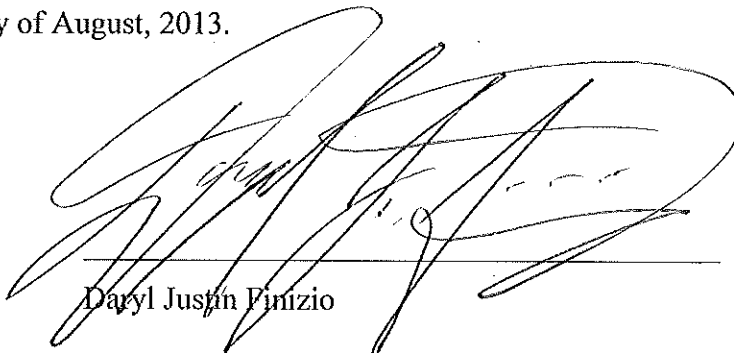
While I Veto this ordinance, I have also attempted to find common ground with the Council to resolve the broader question of the establishment and maintenance of a K-9 program within our police department.

The K-9 program is a part of the existing union contract and I will continue to honor that contract. In addition, if the Veto of this Ordinance is sustained, I certify I will seek language in the new contract that expands the minimum K-9 requirement from one to two active units. This will double the existing contractual mandate for a K-9 program.

The methodologies employed by our K-9 unit will be in keeping with DOJ standards for civil rights, and will primarily focus on body tracking and recovery, and narcotics and explosive detection. The ultimate policy direction of the program will be made upon the advice and counsel of the police administration.

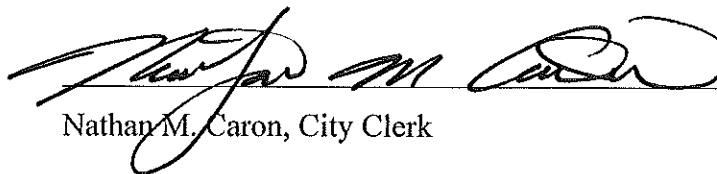
In consultation with the police administration, I also believe that a two dog unit is within our budgetary capacity at this time. Although, I maintain the view that even these resources could be better used on other law enforcement needs, I believe that the views of Council and the union should be respected in an attempt to reach a reasonable compromise and allow our City to move beyond this debate. This ongoing debate is consuming far too much of our time and doing public harm to our police department. I believe the reasonable steps I propose to maintain and expand a K-9 unit in our police department are the most responsible ways to move us forward.

Witness my hand and seal this 15th day of August, 2013.



Daryl Justin Finizio

Attest:



Nathan M. Caron, City Clerk

CITY OF NEW LONDON, CT
CITY CLERK

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NATHAN M. CARON