



**REGULAR MEETING OF THE COMMON COUNCIL
MIDDLETOWN CONNECTICUT
DECEMBER 1, 2014**

Special Meeting

The Special Meeting of the Common Council was held in the Council Chamber of the Municipal Building on Monday, December 1, 2014 at 6 p.m.

Present

Deputy Mayor Robert P. Santangelo, Councilman Thomas J. Serra, Councilwoman Mary A. Bartolotta, Councilwoman Hope P. Kasper, Councilman Grady L. Faulkner, Jr., Councilman Carl R. Chisem, Councilman Gerald E. Daley, Councilman James B. Streeto, Councilman Sebastian N. Giuliano, Councilwoman Sandra Russo Driska, Councilwoman Deborah Kleckowski, Councilman David Bauer, Sergeant-at-arms William McKenna, Chief of Police, and Acting Council Clerk Linda DeSena.

Absent

Mayor Daniel T. Drew and Corporation Counsel Daniel Ryan, Corporation Counsel.

Also Present

Directors: William Russo, Michiel Wackers, Joseph Kronenberger, Robert Kronenberger, Linda Bettencourt, Damon Braasch, William McKenna, Guy Russo, Tayna Oliver-Perry, Justin Carbonella, Kathy Morey, Geen Thazhampallath, Brig Smith, Arthur Meyers, Acting Directors Deb Stanley and Eldon Bailey, Salvatore Nesci, Stephan Allison, and Joseph Samolis.

1. Mayor calls meeting to order at 6 p.m.

(Pledge of Allegiance)

The Acting Chair leads the public in the Pledge of Allegiance.

(Council Clerk Reads the Call of the Meeting and Mayor declares call a legal call and meeting a legal meeting.)

The Acting Chair declares the call a legal call and the meeting a legal meeting.

2. Questions to Directors Opens

Councilman Bauer asks the Majority Leader that there are certain things that will be removed and he would like to know what they are so he doesn't waste time. Councilman Serra states there will only be a substitute Mayor's Appointments and asks what item he is referring to. Councilman Bauer asks to address questions to the Finance Director. Carl Erlacher comes forward. Councilman Bauer asks about the appropriations for spending that is no longer on the agenda. Who puts the appropriations on the agenda. Councilman Serra states we discussed this at Finance and Government Operations and we will be rejecting some of them. Councilman Bauer states he wants to know who puts them on there. Mr. Erlacher states they are assigned by Department Directors and requesting them. Councilman Bauer has a question about the I.T. advisory committee and he got a surprise about the purchase of I. T. equipment. If the committee was in place would they have given advice on the purchase. It was that we bought stuff and it went to other places. Mr. Erlacher states there are many reports in place, like receiving reports that are signed off by the director. For the goods in question, there were receiving reports in place for every bill that we paid. Councilman Bauer asks if this is outside the purview of the I. T. committee. Mr. Erlacher states the committee can set its own agenda. Councilman Bauer it didn't come from a bond. Mr. Erlacher says it could be CNR or in a fund for small equipment. Councilman Bauer asks if Mr. Erlacher will make a report on this. Mr. Erlacher responds that it is being investigated so he will not comment.

Councilwoman Bartolotta asks to address questions to Michiel Wackers, Director of Planning, Conservation and Development. Her question is about the purchase of the Higby property. She has been told that we entered into a contract and asks how we did that. Mr. Wackers states it was a contract with conditions which is the City gets grant funding and contingent on all the necessary approvals in the City of Middletown. Councilwoman Bartolotta asks what the date of signing was. Mr. Wackers states February 28, 2014. Councilwoman Bartolotta asks why it took so long to come before the Council. Mr. Wackers it was due to getting a grant from the State to buy the property. Councilwoman Kasper states we had referendums for open space is there any

money left. Mr. Wackers states the last one in 2007 was used up probably in our 2011 acquisition. They have not had open space funding for a year and a half. Councilwoman Kasper asks if they will bring forward another referendum for open space. Mr. Wackers responds yes; they have been looking at the bonding obligations and bring forward something in 2017. Councilman Giuliano states he is looking at the contract and paragraph 4 except for the last paragraph about taxes and foreclosure on the property. He understands there are back taxes and is that an offset on the purchase price. Mr. Wackers states the taxes will be paid at the closing. They would rather agree on a price and not get it through tax foreclosure. Councilman Giuliano asks if back taxes will be deducted from the purchase price. Mr. Wackers states the taxes will be due at the closing and there is \$34,000 due in back taxes on this property. Councilman Giuliano asks if it is clear to the seller that he has to pay it. Mr. Wackers states they would not proceed with foreclosure but purchase it. Councilwoman Bartolotta states the individuals who own this property owns two and they are selling one to us and the other has outstanding property back taxes, will those be paid, too. Mr. Wackers responds they own three properties and this contract only governs that one property; there are no other agreements regarding the other two properties. Councilwoman Bartolotta states she asked this at Finance and Government Operations because her concern was actually what Councilman Giuliano brought up and that there is more than one property with outstanding taxes. Is this part of the payment. She reviewed the other properties and over \$75,000 is owed and have been outstanding for years. Now, one is being significantly higher, those taxes will compound quickly. Are we really paying \$600,000 or 3/4's of a million. Mr. Wackers states there is an agreed price of \$686,000 and no giving or waiving taxes and the 113 acres, those taxes will be paid. There are two other properties that are delinquent and the City will have recourse for those taxes. Councilwoman Driska asks Attorney Smith to come up and we are not about to enter into a contract and forgive the taxes. If we purchase the property, are we deducting the taxes, what is the understanding. Mr. Wackers responds if we pay the contract price, Mr. Pierce will have to pay his taxes, the \$34,000 will have to be paid. When you get to the closing you sign documents and exchange funds and he needs to pay the taxes to have a clean title. Councilwoman Driska asks if he understands that. Mr. Wackers states he can't speak for Mr. Pierce; we would not take the property from foreclosure until we heard from the State about the grant and then we have to get the funding together. If the Council chooses otherwise and no funding is in place, then the City can pursue tax foreclosure. Councilman Giuliano states he is still confused as to why the line is still in there. If the contract were silent on the tax foreclosure, the owner would have to pay the back taxes and we would own the property. Why is that there if not to raise the implication that there is forgiveness there. Mr. Wackers states the forgiveness is not initiating action for foreclosure. Councilman Giuliano states the foreclosure is pending. If we require title, foreclosure would be moot. It makes no sense to put that line in the contract if it is just stating the obvious. It must be there for a reason. Mr. Wackers states it was negotiated for a good faith contract for open space acquisition and helped to get an agreement on the price.

Point of Information

Councilman Serra states because of the vote at Finance and Government Operations, we are recommending a vote of no for 7B, 7C, and 7D for the questions asked here and at Finance as well as 10H, the director is not here, this is only a transfer.

Councilman Giuliano has a question for General Counsel on a matter of procedure. On item 10B there is a resolution to fill a committee made by ordinance. I understand the sentiment behind it and something needs to move forward, the Mayor is the appointing authority. As I understand the ordinance was passed in 2012 and the Committee is still not populated. I am not sure we have the authority to compel the Mayor to make appointments and if we can't do this, what is the remedy. Attorney Smith states it is Chapter 8, Section 3. Attorney Smith reads from the Section. Question is the base line is Mayoral nomination and Council approval. He is not sure what else is provided herein. Councilman Giuliano states the Mayor must faithfully follow ordinances and should make the appointments. If a Mayor does not veto an ordinance and ignores it, what is the Council's remedy. Attorney Smith states his advice is to put the place holder down. He thought vetoing it and going to court is the way to go and the question back to the Council for other Councilmanic committees what have we done in the past. Councilman Giuliano states there are vacancies that don't get filled, but the committees can do the work. This committee was done in 2012 and not one appointment has been made. If the Mayor did not like it, he could have vetoed it and the ordinance is valid and being ignored. Attorney Smith states in Lansing, they had a Charter provision if the Mayor did not appoint in 90 days, the Council has the power. He does not see an outlet in the Charter and if you don't, then resolving it would be across the street. That would require the Mayor and Council having a legal dispute. Councilman Giuliano knows why it is here but he wants to know if they are on solid ground and bringing it forward and passing it tonight. Attorney Smith asks the Council to review the ordinance that authorizes the committee and look further at the charter and the question is a political one if there is actually willingness of the Council and Mayor to have the Mayor recommend and Council to confirm and then there is nothing to fight about. Councilman Streeto states he understands your reluctance to state an opinion, but we don't have appointing authority for this committee. Attorney Smith states he doesn't see it in the Charter. Councilman Streeto states you could file a mandamus. We do have remedies but hopefully we can work this out. I gather you will take another look and enlighten us further. Attorney Smith states if there are examples the Council members have for prior Councilmanic Commissions that have been done just as Council, please get them to my attention post haste and I will consider them.

Councilman Streeto states we are setting a precedence by doing this. Councilman Serra states it has been 2-1/2 years and not having oversight of an IT department that is having problems. He continues the first is to look at Chapter 3, Section 2. If the Council has to do business and it has to be carried out by the executive branch. So a decision needs to be made and you make your decision and this Council can parliamentary overrule that and we need this done to have a commission over see a department that is in need. Hopefully an opinion that delays us does not come forward. This is a councilmanic commission, a dual one with expertise from City hall, Board of Education and Police Department and the public. We are charged with carrying out City business and that has not been done. If you or Corporation Counsel say it is out of order, as far as I understand Robert's Rules, we can overrule that and form this committee. Attorney Smith responds if the Council wants to push against advice of counsel, then resolution comes from across the street. Attorney Smith responds he doesn't understand. Councilman Serra states you will say we can't do this and opinions can go one way or the other. We have the authority to do this because we created it. Attorney Smith states he would agree if it were a Councilmanic committee of three or five members and you decide amongst yourselves who will be on it. Councilman Serra responds we want to carry out the business of the City and somehow we cannot do that because someone is remiss in making appointments. Attorney Smith responds if you wanted to take expert testimony in the field, but if voting members. Councilman Serra states if they are ex officio we can do this. Attorney Smith responds he is not trying to stop this; Councilman Serra states find a way to do this. We don't want to go three or four or five years; we are in need here to have this oversight committee. Instead of saying why it is wrong; find a way to say it is right. Councilwoman Russo Driska states she has been on several occasions been on this committee to be formed and believe Councilman Faulkner is the other member and Councilman Chisem. I have spoken to both of them and requested of the Mayor and have this formed. With all due respect we have to read in the paper the massive problem in the IT department. My question is if the Council can't carry forward the business and oversee it, how do we get this done. I would love the Mayor to say we are appointing this, we need to get this done. Attorney Smith states the council want to see noncouncil members seated on the committee. Councilwoman Driska states we need a way to pull this together. Councilman Streeto states are there vacancies on the federal judiciary. Attorney Smith yes. Councilman Streeto states the Senate could alleviate the problem if they appoint, can they do that. Attorney Smith responds no. It is a separation of powers. Councilman Streeto states the Constitution. Attorney Smith responds yes, the Charter is like the Constitution for Middletown. You are asking me what the separation of powers are for advice and consent. Councilman Streeto if the council can't appoint the members, we can amend the resolution to send it to the Mayor as a list of recommendations; this body recommends to the mayor. Attorney Smith states yes; if you had the Mayor saying 4, 5, and 6 and the Council agrees, they are all set. That is not what he sees in the resolution. Councilman Streeto states recommendations are made all the time and this time it is a paper trail. Councilman Giuliano states the Council has within its authority to create a councilmanic commission populated by members of the Council and can seek advise and expertise wherever it chooses. Attorney Smith responds. Councilman Giuliano if we don't have an immediate relief, we can go forward on our own on the legislative side. Attorney Smith is inaudible. Councilman Giuliano states we can take a different tack and do business. Attorney Smith responds yes.

Councilwoman Bartolotta is recognized and asks to address questions to Geen Thazhampallath, Director of Parking. She asks him to explain why the ordinance is here. Mr. Thazhampallath does so (response is inaudible). The ordinance changes look extensive the main purposes are switching from tickets and gates to a different infrastructure. Councilman Faulkner states this was in the works for a long time; was it in our parking plans that have been put together or something that popped up. The response is inaudible. Councilman Faulkner states the idea is to reserve some or all of our parking for private parking overnight. Mr. Thazhampallath responds. Councilman Faulkner asks if there is more liability. Mr. Thazhampallath responds. Councilman Faulkner asks if there is a check out time. Mr. Thazhampallath responds. Councilman Faulkner asks if they would stay in the lot if they worked from home. You have gone over snow removal staying in the lots. Councilman Faulkner if it is a lottery or first come first served. Mr. Thazhampallath states it is a case by case situation; if it gets close to say 15%, notice will have to come to this body. We have to draw a fast line; if the demand creeps up for the need for residential parking, we can't box out the daily parker or retailer. We would bring it back to you. There might be cases where you agree. Councilman Faulkner states is there something we forbid developers from providing parking in their structures. Mr. Thazhampallath responds we don't prevent them, but if we have the capability in order to help the development of downtown. They will want to know what the law is for parking in the town and those are factors in the discussions we have had. Councilwoman Kleckowski asks him about not having rate changes; small businesses on Main, one of the discussions is parking and they are being penalized for parking but the restaurants who are open until 10 do not bare the same parking burden. It stops at six. Why hasn't there been changes to increase parking to shift the burden to restaurants. Mr. Thazhampallath does hear this and they do stop enforcement at 6 p.m. One proposal is to look at the extension of parking hours. It is not a panacea. Some of the positive things for stopping at 6 p.m. is it helps the restaurants. Our figures show it would add about \$25,000 annually for one additional hour of parking. Revenue is not the only barometer. Councilwoman Kleckowski states that is correct which is why the small business owners look at no fees on Saturday. Mr. Thazhampallath states during budget season we can look at that. Councilwoman Kleckowski asks why then and not while they are looking at the ordinance. Mr. Thazhampallath responds they surveyed people and at this time they are divided on the issue and at this time we will look at

rates and timing at the same time. Councilwoman Kleckowski asks who the we is; Mr. Thazhampallath responds parking, myself.

The Acting Chair states it is 6:57 p.m. We will need to recess the meeting. Council members Giuliano and Bauer do have questions.

Motion to Recess

Councilman Bauer moves to recess the meeting; his motion is seconded by Councilman Giuliano. The acting chair declares the meeting adjourned at 6:58 p.m.

Meeting Reconvenes

The meeting is called to order at 7:38 p.m.

The chair states Councilman Bauer, you have the floor. Councilman Bauer would like to address questions to the Parking Director. Geen Thazhampallath comes forward. Councilman Bauer asks for the history on the proposed changes to the ordinance. Did it go through the General Counsel Committee. Mr. Thazhampallath states it did go before the entire Board. He doesn't remember which month it went to them. Councilman Bauer asks if it went before that Board; Mr. Thazhampallath states it would not be on the agenda if it didn't. He believes it was early October. Councilman Bauer states it did not go through Finance and Government and it has had wording changes since it had been at the General Counsel Commission? Mr. Thazhampallath states yes; the main piece of it was the names and gives an example. Since the time if they used establishments as a naming and that establishment could change so they used the streets, the established practice. You also brought to our attention the naming of the department in the ordinance. It was brought back to Parking Department. Councilman Bauer states he is troubled, he would like it passed by General Counsel can check the wording carefully to check the final wording. If it were to be sent back to the General counsel commission, can you start your kiosk operations. Mr. Thazhampallath states they would have to delay it because they would not be able to do enforcement. For example, ticketing, the gate prevents you for overtime parking. The General Counsel's office has been involved from the beginning. Kori Wisneski has been intimately involved and brought it to the General Counsel Commission and presented it back in October. We have not skipped any steps and based on feedback from this body, we went back to Parking Advisory and they made these changes so that it could be instituted. Five reviews have happened on this. Councilman Bauer asks the director, this ordinance is involved and contains new policy; could you give a quick synopsis is the Parking Department the policy laid down is it enforced or will this ordinance cause you to enact some changes. Mr. Thazhampallath responds it is both. The implementation of new technology enforces us to set new policy to carry it out. We have a permit parking program for commerce, but we do not have one for residences. Developers asked us for this, but we have had demand from people living in the downtown corridor. In order to carry it out, we needed the tools, this ordinance. Councilman Bauer states a financial impact statement is missing. Mr. Thazhampallath states they are not asking for more staff for enforcing this. We are using part time people. Our expenses will not go up, but the budget should go down by about \$45,000. There is potential for lot increase and increased revenue. Councilwoman Bartolotta states it went through General Counsel; it was sent back because of concerns of naming the parking lot. Everything was confirmed by the Commission.

Councilman Giuliano states he was at the General Counsel Commission meeting and one of the reasons it was sent to Finance and Government Operations because of substantive issues; the purview of the commission is generally the form. It did not come back to us in its present form and it doesn't prevent the Council from acting on it, but to go back to the issue of overnight parking and my understanding is there are a number of residents living in the downtown area in housing units built in the last century when autos were not common. There are many more cars for those units than there were, and they don't have parking and this will somewhat alleviate the problem. Mr. Thazhampallath states absolutely, especially in the north end of Main Street. After 6 p.m., they park on Main Street overnight, but we need to do a better job of having a plan of action to alleviate that stress. We won't go from zero to 200 permits tomorrow. People are looking for this program. I think there is demand and we are laying the groundwork for bigger things. Councilman Giuliano if in the application you find out things you didn't know, this can be adjusted. This is the first step. Mr. Thazhampallath states they have looked at places doing this and we are in our infancy. Some is trial and error and some will be to correct ideas. One of the things he understands is it is not a one size fits all solution. We are putting in language we need and try it and if adjustments are needed we will be the first to come back to you to look at it. Councilwoman Bartolotta makes something clear. This is a time sensitive issue for you to move forward as the Parking Department and this is the first steps and we will be monitoring this. The Chair recognizes Councilman Streeto who asks for the General Counsel. Attorney Smith comes forward. Councilman Streeto states on 10B, can we do this. Attorney Smith states to his best knowledge, not without the Mayor's nomination. The Chair states shall we save ourselves some time. He states he is perfectly happy appointing these members the Council has recommended. He met with Councilman Chisem in the last month or two on this issue and two of the people on this list is two of the people we discussed; to avoid a lot of mess and tangle, what he recommends how you want to handle 10B procedurally is up to you, but at the end of the meeting under Mayor's appointments he would be happy to appoint them to the I.T. Committee. Councilman Streeto states that does solve the procedural problem; can they amend the list of Mayor's appointments to include these names. Corporation Counsel Ryan responds that would clarify the matter and would be helpful.

Point of Information

Councilman Serra states if we are going to change the agenda, I believe you need a super majority and if you do that, you will need nine votes

Councilwoman Bartolotta asks for Director Guy Russo, Water and Sewer Department. She asks about the Middle Street project and the water sewer line issue. The money requested is to tie in to Berlin. How does this impact your future plans and what are the caveats. Mr. Russo states the area of Berlin Street does not currently have water and sewer and he has been led to understand there have been other requests for this but because of the lack of water and sewer, there is no development. A study should be done to look at bringing water and sewer to that area; he would look at the repay period to look at the line because it would have to be bonded and then paid for. They are required to meet water quality standards. The longer the water stays in the system, the more the compounds are created. The Department of Health picks the sites that are most likely to fail and one is ADA Engineering and they have worked with treatment and distribution to meet these rules. They made it this year and putting in another mile of pipe, we would fail. That is the reason we haven't looked further particularly for water. Long term plans had us go down Middle Street and connect to Berlin and if the Council would like us to look at that, that would make sense to sell water to Berlin. It would improve the age of the water and solve the problem. We could do sewer at the same time. The short term problem is someone interested in an area that can be serviced by Berlin and this is not the first time we have relinquished to another town. We could release the sites to Berlin with a recapture agreement if water is brought to the area. The flip side is we have taken accounts from Middlefield with the same recapture agreement. For Berlin parcel, we would have the same agreement and that is if Berlin agrees to servicing them. The proposal is currently in an area we do not serve and can't for technical reasons. We could initiate again if there is serious interest in the line to repay the debt. Councilwoman Bartolotta states you have not come to that recapture agreement. Mr. Russo states they have not sat down with Berlin or the user regarding this. Councilwoman Kasper asks Mr. Russo that it be sent to WPCA. Mr. Russo has asked PCD to request that to put this matter on the agenda. Councilman Serra states you are not negotiating with Berlin. Mr. Russo states it is a collegial discussion.

3. Questions to Directors Closes.**4. Meeting adjourned.**

Councilman Serra reads and moves for approval the Meeting. Councilwoman Kasper seconds the motion. The chair calls for the vote. It is unanimous to adjourn with 12 aye votes. The chair states the matter passes unanimously with 12 affirmative votes.

The meeting is adjourned at 7:58 p.m.

ATTEST:

MARIE O. NORWOOD
COMMON COUNCIL CLERK