



**SPECIAL COMMON COUNCIL MEETING
QUESTIONS TO DIRECTORS WORKSHOP**

**MONDAY, JUNE 6, 2022
6:00 PM**

MINUTES

A Special Meeting of the Common Council of the City of Middletown, Questions to Directors, was held on Monday, June 6, 2022, beginning at 6:00 PM. This meeting was a hybrid meeting with in-person participation in the Common Council Chamber and remote access via WebEx. The meeting was also simultaneously livestreamed on local cable access television, on the City's webpage and on the City's Facebook page.

Present:

Councilwoman Jeanette Blackwell	Councilman Anthony Mangiafico
Councilwoman Meghan Carta	Councilman Edward McKeon
Councilman Grady Faulkner, Jr.	Councilman Eugene Nocera
Councilman Darnell Ford	Councilman Philip Pessina
Councilman Anthony Gennaro, Sr.	Councilwoman Linda Salafia
Councilman Vincent Loffredo	

Mayor Benjamin D. Florsheim, Chair
Daniel Ryan, Esq. Corporation Counsel
Linda Reed, Clerk of the Common Council
Officer Kurt Scrivo, Sargent-at-Arms

Absent: Councilman Edward Ford, Jr.

Also Present:

Arts & Culture – Kisha Michael, Coordinator
Assessor -- Damon Braasch, CCMA II
City & Town Clerk – Ashley Flynn-Natale, CCTC
Communications – Wayne Bartolotta, Director
Economic & Community Development – Barbara Knoll Peterson, Acting Director
Equal Opportunity & Diversity Management – Faith Jackson, Director
General Counsel – Brig Smith, Esq.
Health Department – Kevin Elak, Acting Director
Human Resources Division – Justin Richardson, Division Director
Land Use – Marek Kozikowski, Director
Library – Ramona Burkey, Director
Police Department – Chief Erik Costa
Public Works – Christopher Holden, PE, Acting Director
Recreation & Community Services – Catherine Lechowicz, Director
Technology Services – Briana Skowera, Director
Water & Sewer Department -- Joseph Fazzino, Director
Youth Services – Justin Carbonella, MPA, Coordinator

Absent: Carl Erlacher, CPA, Finance Director; Fire Chief John Woron

Public: online: unknown WebEx: 7 Facebook: unknown

1. Call to Order

Mayor Benjamin Florsheim calls the meeting to order at 6:05 PM. He welcomes everyone to the Special Meeting of the Common Council, Questions to Directors. The Chair asks the Beman Middle School students in attendance to lead the Common Council in the Pledge of Allegiance

The Chair welcomes the Beman Middle School students and their school advisory John Geary. He hopes that everyone is able to learn from one another.

The Clerk of the Common Council reads the Call of the Meeting and the Chair declares the call a legal call and the meeting a legal meeting.

2. Questions to Directors Workshop Opens – Question of Regular Meeting Agenda Items

The Chair opens Questions to Directors at 6:09 PM.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera calls General Counsel Brig Smith to the podium. He thanks Attorney Smith for his many hours of work, initiating the ARPA (American Rescue Plan Act) process, including the application review. He has helped directed the subcommittee and the full committee in this important process. He is very excited about what has happen with this process over the past couple of months Councilman Nocera explains that there are five (5) application this evening for approval. Soon there will be five or six more. It will probably conclude by the August Council meeting and spend all of the funds. He asks Attorney Smith for the executive summary of the six (6) applications that they are looking at tonight.

Attorney Brig Smith states that it is a tough act to follow. He cannot sign, but many have to do some dancing tight. Otherwise, he has it. As Councilman Nocera states, there are several application before the Council this evening. Looking at Item 11V in the agenda packet. The first is Russell Library. It is a \$250K ask. It would turn the lobby at Russell Library into a Town Square. The idea for these and other projects is to toe the recovery from the pandemic to the expenditure of Federal funds. The idea is that we are building community space, bringing people back together, rebuilding the fabric that was lost during the pandemic. Second is the Middlesex Chamber of Commerce, the old Side Street to main Street program. It has been around for a while. The proposal is \$181,290. The Task Force recommended fully funding both Russel Library and this. Gilead Community Services is next, noting that they are looking for \$299,826.22. The Task Force recommended that as well for full funding. It is to help bridge isolation and loss and get people to services that they need in the community. YMCA is seeking \$350K for infrastructure improvements to help preschool classrooms, office areas, kitchen, bring the community back together and give services that are suffering. Finally, there is a typo, He asks when the motion is made, there is typo that says 545 Main Realty LLC. It should not be that for Rec and Community Services. It should be Rec & Community Services. He asks that someone make that motion, adding that he would greatly appreciate that. This application is rebuilding the sense of community, providing healthy activities for folks, and letting us all back together. Finally, further in, there is Item 11W, an application from Dominic DiMartino. It is DFF of Middletown, LLC. He is looking to rehabilitate several buildings on main Street to do bother residential and businesses, creating 22 apartments downtown with 220 full time equivalent jobs to bring again recovery back to Main Street and the City. That was recommended as well. The working group had recommended partial funding. The Task Force met and recommended full funding of the entire amount.

Councilman Nocera asks that at this point, both he and Councilman Pessina are fully apprised of the applications. They are here to answer questions that Councilmembers may have.

The Chair asks if there are any questions for Attorney Smith. The Chair calls on Councilwoman Linda Salafia.

Councilwoman Salafia (*inaudible*) . . . a total and what is left.

Attorney Smith replies that he can, if they give him one minute. He quips that he is performing without a net. He will perform arithmetic on live television. You think I can. He will buy some time. If anyone wants to play along and add up these values for him, that would be great. He will try to add up on his phone calculator. In the meantime, he states that they have already spend of the \$21M that was earmarked to the City by the Feds, they have spent \$2.75M of that through the task Force and appropriations approved by Council. It is for the Water & Sewer projects for the three (3) catch basins that were the worst. The question is to try to figure out what to do with the other big projects in the City. They have also previously authorized \$750K for 545 Main Realty Mr. Hargraves project. That has been authorized, but not yet expended. Where we are on that is working on putting together sub-grant agreements so that when we give people the Federal money, there are conditions on it so that they do what they say they are going to do. We track what they do and report to the Feds that we are in compliance as well. He asks if he has brought enough time and they have an answer on the total amount. He asks Councilman Darnell Ford.

Councilman Darnell Ford replies that it is \$4,108,860.

Attorney Smith replies that it is \$6M minus \$21M, plus the \$750K. He quips that this is why he went to law school, that he cannot do math. You all just saw why he went to las school. He thanks Councilman Darnell Ford.

The Chair calls on Councilman Vincent Loffredo.

Councilman Loffredo asks Attorney Smith if the last one that was added, the Dimartino proposal dealing with the various buildings on Main Street, they have received grants of various amounts already to do some of that work. So this is money on tip of what they are already getting. This is not replacing. They had an obligation of X million. They were committing to put in \$1M. As you track all of these particular financial arrangement, to what degree was this information presented an accounted for as we now look at the total scope, the amount of dollars, tracking that, and accounting for that expenditure, we would like to know how that is all being integrated.

Attorney Smith replies, that is a good question, noting that they reduced the “ask” by the set amount, whatever they are getting from the State. They reduced the ARPA “ask” accordingly.

Councilman Loffredo notes that amount has already been taken off.

Attorney Smith replies, "Yes."

Councilman Loffredo asks if they reduced the aggregate. So each of these, the range of buildings along main Street, each one was treated individually: grocery store, 428, the (*inaudible*), 418, and so orth. He wants to make sure that, at the end of the day, the proposal is . . . how much ARPA money is actually being granted there?

Attorney Smith replies that the total "ask" and the total appropriation from the Task Force is \$2,536M.

Councilman Loffredo asks what the original "ask" was.

Attorney Smith replies that it was that plus another (*inaudible*)

Unidentified speaker (*inaudible*)

The Council Clerk states that they are not hearing audio with this speaker and asks that, whomever is speaking, please come to the podium.

Acting Economic & Community Development Director Peterson states that, when they originally filled out their applications they filled out a separate application for each building, which is three (3) separate locations, three (3) separate projects. When they received the money from the Community Challenge grant from the State, they combined the applications and brought it back with a reduced "ask," and as one application instead of three (3) separate applications.

Councilman Loffredo states that this is the ARPA money being added. In terms of the whole question of what is happening or not happening, we need to make sure that we stay out of problems as they audit. He asks how well will be able to track and say, okay, this is the money that was used from ARPA, from the State, and from the City. How are we accounting for all of that?

Acting Director Peterson replies that they are completely separate accounting. The money from the State is being run through the ECD office so that we have all of the paperwork and accounting and all of that we need to do for the Community Challenge Grant being done through the Economic and Community Development office. As Attorney Smith mentioned, he is preparing the work, the grant information for the ARPA funds they are completely separate finds in the way they are being accounted for, but in the way they were considered the Task Force and smaller working group did consider the money that was received from the State when we were considering their ARPA "ask."

Councilman Loffredo states that one project, Building X, got 15 different items that we are paying for. Some of them money for pay for item 1 is X dollars coming from this find, X dollars coming from over here. How are we making sure that we are not double paying, that we do not pay twice from this account and that account. It seems to him to a little bit complex. Hopefully there are no unintended consequences. He wants to make sure that, in terms of how we approve things and the amount of money, it is substantial money being granted to the developer.

Acting Director Peterson replies that, as you can imagine the State Challenge Grant has a lot of paperwork that comes with it. What she still says about this particular developer is that they are very thorough in their budgeting I, in what they are writing down. So State paperwork, which she is familiar with, having yet to see what they are doing for the ARPA paperwork, but the State paperwork has a lot of accounting for exactly what we are paying and reimbursing for.

Councilman Loffredo has a follow-up question. In light of the accounting responsibility that the City has, for all of this, to what degree can some ARPA money be used to hire necessary staffing to make sure that the accounting is accounted for.

Attorney Smith replies, "Greta question," adding that he thinks that the answer is that it is a completely permissible expense. You can use ARPA money to get a consultant to tell you ho to spend ARPA funds.

Councilman Loffredo asks if the Committee is actually preparing to recommend that this happen.

Attorney Smith replies that they have talked about that as a Task Force, but it is not to the point the where the Task Force is making a recommendation. It is not yet to the point where they are submitting enough paperwork than the last quarterly to the Feds that the next quarterly not be for another little bit. It is a great question. He anticipated that the Task Force will have a recommendation for the Council in the near future.

Councilman Loffredo states that this is extremely important and the expectation, if we do not provide for the staffing of that, in hiring the appropriate staff, we are looking for trouble. He is glad that will be addressed. Thank you.

The chair calls on Councilman Edward McKeon followed by Councilwoman Jeannette Blackwell.

Councilman McKeon states that another item on the agenda is the proposed rescission vote. He is not sure how much they want to get into the details now, but he does have some questions. He has some general questions about thinks like money bonded for open space and how that can be used. Also, once open space land is purchased, the disposition of that. Are there prohibitions on open space properties that limit what the City can do with them?

Attorney Smith states that he will try to back into it a bit. If he understands the bonding question properly, there was a 21st Century Parks Bond that passed in 2015 and it was about \$33M to \$34M. Of that, about \$3.6M was designated for the Country Club Road soccer fields. When the bond was being passed, there was no restriction on it. Ultimately, people had some concerns about artificial turf being used as an amendment to the bond ordinance was passed saying, that if you are gouge to spend City money you cannot spend it on field turf. As you probably know, as arrangement was made, construction bonds were put in place, and they were allowed to build at their own expense with assurances that they would remove it and restore the fields. Now, as it now stands with the lease, they have exclusive right over those fields. They can deny entry to anybody they like, there is open space that surrounds it, as he understands, but he is not aware as to what extent the open space is used. The sale that would occur would keep that as open space, but they would then have fee simple interest in it and prevent entry. He thinks that the answer is that the open space, to the extent that it is being used now, they would have to limit its use, not that they could not enter into an agreement but that would change that use.

Councilman McKeon states that he is reaching farther back. His understanding is that the initial purchase in 2004 was done with open space/ recreational funds. Because we have to go to the voters to bod that, he is asking if there are restrictions as to how that is used. . Once the open space is purchased, are there any restrictions that the City shall not . . . it is open space. . . that it cannot be used for X.

Attorney Smith replies that he is not aware of any, but would be happy to hear about it.

Councilman McKeon states that another question is . . . he knows that they reportedly have spent \$78K per year on maintenance. He cannot find in the lease any requirement that the City perform maintenance on that space, unless he is not looking in the right place.

Attorney Smith replies that he suspects that Councilman McKeon has looked at the leases carefully, more carefully than he has, so he will take Councilman McKeon's word that it is not in there. He will say that has been the practice for as long as he has been here.

Councilman McKeon states that is all that he has for now.

The Chair calls on Councilwoman Jeanette Blackwell.

Councilwoman Blackwell asks that Attorney Smith clarify, if the sale does go through, will Middletown Youth Soccer have the right to sell the property.

Attorney Smith replies that they will under the deed restriction that is in place: it will have to be used for soccer, recreational purposes, the same purpose for which it is being sold to them. He adds, "Yes, they would have the right.

Councilwoman Blackwell thanks Attorney Smith.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina states that he will cut to the chase. This lease has been in existence for serval years, they have changed it so it is now 25 and 25, as you are aware. He asks what is the exposure should the Council, if the lease goes forward . . . what is our exposure to the City for a suit.

Attorney Smith replies that he will avoid answering that publicly. He will be happy to talk with people off-line about his assessment. He will say that any transaction, that is a possibility with the possibility here as well. He can say generally what they would look at is the extent to which an agreement has been reached, it is enforceable. You would look at, for instance, the terms of the lease itself. One of the things that went into this sale as opposed to continuing the lease is language that the lease of obligation to pursue diligently improvements and the role that bonding played in that. The sale itself was design, at least in part, to say just walk away from any potential dispute on that. So that is another thing that would have to be considered. Beyond those general parameters, he does not want to speak publicly about any litigation risk.

Councilman Pessina replies that he truly understands that and this is what scares him. No what from what he read was there any prohibition for the citizens of the City to utilize the open space. Quite frankly, they don't utilize it. They utilize the space for the fields, which granted them to put in turf fields as you just explained and that have to go back into grass fields. He sees nothing that exposes the residents to the lack of use of those properties and there has been a number of expenses – engineering expenses - that the Middletown Youth Soccer has spent since day 1 since off Saybrook Road. There is a number of items that concern him. He will bring this up later: the misinformation that is getting out of here that it is free. Nothing is free. When he read though everything, he just wished that he had amounts that they had expended to bring these properties up and to enable us to have great fields on Long Hill Road. That is all he is saying for now.

The Chair calls on Councilman Grady Faulkner, Jr.

Councilman Faulkner states that this is about the soccer fields. We spent a lot of time at the last meeting talking about process and procedure. What we did not talk about was the previous agreement. Is it true that we had an agreement with them on another piece of property that was given to us and what happened was that developers were looking to use the property they were on.

Attorney Smith replies that he has enough knowledge to be dangerous on that. He is happy to share. His understanding is that there was a point in time when Middletown Youth Soccer had either rights to, or ownership of, the parcel that became them medical complex on Saybook Road. As part of an agreement with the City, and an agreement with the State, they moved off that and onto Country Club Road in exchange for the various lease agreements that we have seen that are in place now. It is obviously a more valuable property than what they have now, but you now have as much as he has as background.

Councilman Faulkner states that it would be nice if we had the tax information as to what was collected on these properties, if the developer was successful in building. He asks if they have any idea.

Attorney Smith replies that he does not. He asks Councilman Faulkner if he is talking about Saybrook Road. He is sure it is . . . he does not know if the Assessor's Office is here, but it is millions.

Councilman Faulkner notes that we have been making a lot more money off that property than having them over there. That was a key piece of information that would have been helpful from his perspective. There are Councils before them that made deals, noting that this Council needs to be careful. Thank you.

The Chair calls on Councilman McKeon followed by Councilman Loffredo.

Councilman McKeon states that, to clear things up for him, he is reading the lease agreement. Under Article II, "Additional Rent," it says "*Except as otherwise provided, additional rent, Middletown Youth Soccer shall pay the operational costs, including but not limited to maintaining liability insurance, all utility charges, and coming to an agreement for rent, if City plans to use the fields.*" He wonders, in terms of things like engineering costs and improvements, whether that is an expected cost that someone taking a lease would be expected to pay. This is not burdensome since they are getting the lease for \$1.

Attorney Smith replies that it would depend on the lease, in what the parties negotiate.

The Chair calls on Councilman Vincent Loffredo.

Councilman Loffredo states that for the record, it is his understanding based on the documents that they received that the whole lease arrangement for this priority on Country Club Road came about in 2005.

Attorney Smith replies that the current lease that they are looking at is 2011.

Councilman Loffredo replies, "Yes," adding that the original lease was 2005.

Attorney Smith replies, "The 99 year lease."

Councilman Loffredo states that there is no reference in that lease regarding any exchange of Old Saybrook Road property whatever in any shape or fashion in reading that lease. It was 99 years, which is an exceptionally long period for a property lease. If that may have been a term, but there is nothing. In reading the lease, referring back, that the City can to any arrangement the property, now the medical complex, is it being represented that the City was given that property, that it was the mutual exchange of some sort between ownership of that property, and that the City sold it to the various medical developers.

Attorney Smith states that he is making no representation.

Councilman Loffredo agrees that there is no representation at all that the City . . . there was a developer, who purchased the property. He knows how the land got developed. In terms of the lease agreements, the initial 99-year lease, there is no indication that he can see of any link with that development, there may have been with the parties, individually, but he wants to be sure that the record is clear. The new lease that came into effect and has been referred to. The original lease was May 2005. He asks if Attorney Smith recalls. It was submitted by Councilman Gerald Daley the then-Chair of the Economic Development. The resolution came from the Economic Development Committee.

Attorney Smith replies, "Okay."

Councilman Loffredo adds that this information is represented in the packet that they have. When the new lease came about in 2011, it spells out in Article III, that in exchange for the 25-year, the tenant will diligently pursue the construction of the following., emphasizing that the tenant will do the following; the lighting, fencing, parking lot, concession stand, scoreboard, construction of restroom facilities, bleachers. He knows that Acting Public Works Director Christopher Holden in the room, he asks if he knows to what degree, any or all of these requirements were actually achieved. He checked it out himself, but may have overlooked something. Perhaps any of those improvements stated in the lease were delivered.

Public Works Acting Director Holden states that, as far as any improvements, so far, the City has put up lighting. There are no other improvements there that he has seen.

Councilman Loffredo replies that the lease that is currently in place, 25-years from July 2011 and then another 25 years. He notices that there is fencing. There seems to be some parking, not paving, there is no concession stand.

Acting Director Holden concurs.

Councilman Loffredo continues, saying that there is lighting. As for construction of restroom facilities, there are port-a-potties. There is no constructed restroom.

Acting Director Holden notes that, at one time, they had a design, but nothing has been built.

Councilman Loffredo states that he did not see a scoreboard

Acting Director Holden replies that does not exist.

Councilman Loffredo notes that he has seen bleachers but they are removable. He is checking to see if they have diligently constructed what they said they were going to construct. Thank you.

The Chair asks if there are any other questions for other Directors. The Chair calls on Councilman Grady Faulkner, Jr., followed by Councilwoman Jeanette Blackwell.

Councilman Faulkner notes that there are series of salary changes. He would like to know the genesis for that. Are they all linked?

The Chair states that he can speak to this. It is something that he proposed in his budget and the Council budget. The proposal that he made was based on changes in the job responsibilities that accumulated over the years, but were not reflected in the job descriptions. As well as the sense of pay equity with the Board of Education for senior leadership. That was understood not to be a reason that the Council would approve those increases, but they felt that the changes in job responsibilities merited a look. That was, as he understands it, were approved earlier tonight at General Counsel Commission.

Councilman Faulkner states that this throws him off as he is used to the LMR (labor management review) process, which is usually once every couple of years.

The Chair calls on Councilwoman Jeanette Blackwell.

Councilwoman Blackwell asks that Acting Health Director Kevin Elak come to the podium. She states that she spoke with him earlier this afternoon. She will be in full support of his appointment and his leadership. He has been in charge since October 2022 and that leadership has been stellar. She thanks Mr. Elak. She asks Mr. Elak if he graduated with honors. She asks that he share his graduation. She also wants to hear about the Grater Middletown Opioid Task Force.

Acting Health Director Elak thanks Councilwoman Blackwell for her comments and notes that it means a lot. He has spoken individually with all Councilmembers during the pandemic. Their support and trust means a lot to him and helped him continue to work hard to make Middletown a better place during the pandemic. In the past 2 1/2 years, covid has consumed their lives. There are other public health issues, including those that have gotten worse. People may have been afraid to get care. One issue that they know that need to address is the opioid crisis, which plagues the country. Middletown is not immune. Rev. Robin Anderson at Cross Street Church helped provide vaccination clinics. They also talked about creating a Task Force to address the opioid task force. It was delayed as different covid variant emerged. The opioid issue aligned with his graduate work, which included an internship back in January. He used that as his special project. He wanted it to be more than a paper, but something that would benefit the community Working with Rev, Anderson and Catherine Reese at Middlesex Health, who was his preceptor, they say down in January to plan the task force. It stems from another program, the Health Enhancement Community, which consists of people in Middletown and the grater Middletown area. We invited people to join the task force. There was interest from Portland, Middletown, East Hampton, and Cromwell. They created a list of people from all different backgrounds – academia, police, fire, treatment providers – all different community members to get them to the table. People are doing a lot to address the opioid crisis, but working in separate silos. They wanted to bring people together to figure out how to help each other. It will take people work together to make this work. The first meeting was in February. They have since met in March, April, and May. It is great as far as people being together in one venue to share ideas. So far, it has been very productive. Within the first month, they created a survey for members, asking questions as to what we need to do to address the opioid crisis and misuse. Some resounding ideas came out: more treatment, more education and awareness, and more intervention for harm reduction. These are our objectives as to what we plan to do to combat this issue.

Councilwoman Blackwell thanks Acting Director Elak, adding that it is important for the public to hear about this work. She asked that he share this data going forward. Congratulations.

The Chair calls on Councilman Edward McKeon, adding that there is about 10 minutes left for this meeting.

Councilman McKeon states that his question is on the job description. It may be a question for the HR (Human Resources) department. There are several directorships, three of which do not have a connection. The Director of Economic Development is an UPSEU position. He asks if someone can give an explanation, why that is an UPSEU position or perhaps the other positions are and it is not clear.

Director Justin Richardson of the Human Resources Division state that the deputy Director of Public Works is an UPSEU position as well as the Director of Economic & Community Development.

Councilman McKeon asks how is the Economic Development Director position is an UPSEU position while the others are not.

Division Director Richardson replies that it is a negotiated. Unfortunately, the union owns that position and the rights to it. For it to come out of the union will have to be a negotiated process.

Councilman McKeon replies, "Thank you."

The Chair calls on Councilman Vincent Loffredo.

Councilman Loffredo has a follow-up question for Human Resources. He asks if it is possible for someone to move from UPSEU to non-bargaining and from non-bargaining to UPSEU.

Division Director Richardson replies that it is, adding that it would have to go through General Counsel Commission and the Council as well. If the job description is being changed in some form. It is very unlikely to have happen. In the past, they have gotten positions out of the bargaining unit because of the nature of the positions, but more often positions are assumed into versus taken out.

Councilman Loffredo states that, for the record and so that the public will know, there are certain standards. If you are a position that requires confidentiality, in terms of your position, you will be non-bargaining. He asks Mr. Richardson to explain.

Division Director Richardson states that there is a test noting he doesn't have it with him – it is a test of if a position is exempt from a bargaining unit group or not. We had an arbitration case that dealt with this very thing. It is often a negotiation process, the level of the position, there are a number of factors decision whether it can be or cannot be a bargaining unit position.

Councilman Loffredo states that there is case law or statutory provisions, labor law.

Division Director Richardson replies, "Yes, labor law."

Councilman Loffredo continues, noting that there are factors, reasons, that a position is a non-bargaining unit position. Thank you.

3. Questions to Directors Workshop Closes

There being no further question, the Chair closes Questions to Director at 6:53 PM.

4. Meeting adjourned

Councilman Vincent Loffredo moves to adjourn. Councilman Edward McKeon seconds the motion.

There being no discussion, the Chair calls for a voice vote. The motion to adjourn is approved unanimously by a vote of 11-0 (AYE: Councilmembers Blackwell, Carta, Faulkner, D. Ford, Gennaro, Loffredo, Mangiafico, McKeon, Nocera, Pessina, and Salafia; ABSENT: Councilman E. Ford). The matter is approved.

ATTEST:
LINDA S.K. REED,
COMMON COUNCIL CLERK