



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

**MONDAY, DECEMBER 5, 2022
6:00 PM**

MINUTES

A Special Meeting of the Common Council of the City of Middletown, Questions to Directors, was held on Monday, December 5, 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 Michael A. Marino

Also Present:

Arts & Culture – Kisha Michael, Coordinator
City & Town Clerk – Ashley Flynn-Natale
Communications – Wayne Bartolotta, Director
Econ. & Comm. Devel.– Barbara Knoll Peterson, Eco. Devel. Specialist/Acting Director
Equal Opportunity & Diversity Management – Faith Jackson, Director
Finance – Carl Erlacher, CPA - Director
Fire Department – Chief John Woron
General Counsel – Brig Smith, Esq.
Health – Kevin Elak, Director
Land Use, Marek Kozikowski, AICP, Director (excused)
Library – Ramona Burkey
Police Department – Chief Eric Costa; Officer Kurt Scrivo
Public Works – Christopher Holden, PE, Director
Recreation & Community Services – Catherine Lechowicz, Director
Technology Services – Brianna Skowera, Director
Water & Sewer Department -- Joseph Fazzino, Director
Youth Services, Justin Carbonella, MPA – Director

Absent: Assessor -- Damon Braasch, CCMA II; Director
Human Resources – Justin Richardson, Division Director

1. Call to Order

Mayor Benjamin Florsheim calls the meeting to order at 6:02 PM. He welcomes everyone to the Special Meeting of the Common Council, Questions to Directors. The Chair asks Councilman Philip Pessina to lead the Common Council in the Pledge of Allegiance.

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 6:04 PM. The Chair calls on Councilman Edward McKeon.

Councilman McKeon asks for the Land Use Director Marek Kozikowski. Councilman McKeon notes that there is a resolution on the regular meeting agenda to opt out of the State statute governing accessory apartments. He knows that the Planning & Zoning Commission had a special meeting and adopted language. He read the

language, adding that he did not have the State statute when he read it. He asks Director Kozikowski how close the language adopted by the Planning & Zoning Commission is to the State statute.

Director Kozikowski replies that the language is very close, adding that he does not want to say “identical” because what the Commission adopted is a little bit simpler than the State law. The only deviance that is recognizable and any effect is that the Zoning Code limits the ability for a single family house to have one (1) accessory apartment where the State statute allows “at least one” accessory apartment. That is the only variance between the two that has any implications.

The Chair calls on Councilman Grady Faulkner, Jr.

Councilman Faulkner states that they had an issue with the methadone clinic that was going to come into town. There was a difference between the local language and the State language. He asks if this is a similar situation.

Director Kozikowski replies that he is not aware of what the difference is. He does not think that it is a similar situation at all. The difference is that the State statute allows for more than one. The Zoning Code now allows for only one. The purpose of the opt out is to make sure that this is legal.

The Chair notes that, with the clinic, that was a situation where State law and City law were in conflict. In this case, it is a new State law that the City will be in compliance with going forward.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera calls on General Counsel Brig Smith. He notes that proposed resolution Item 4F provides that subgrantees for ARPA shall be exempt from City purchasing guidelines and will follow Federal guidelines, the federal Guidelines for competitive procurement standards. He asks Attorney Smith to go over this plan to ensure that we are ready to get started with that.

Attorney Smith states that this is a recommendation for the City’s consultants. ARPA says that we can follow the Federal Procurement Guidelines and, in fact, have to follow those guidelines, unless the local guidelines are stricter. In that case, you then have to follow the local guidelines. In the case of Middletown, the local guidelines are stricter and the strictness can impact some of the smaller projects. There are a number of small projects and for them to go through the bid process that larger projects go through, that City projects go through, is onerous. It would be very difficult to administer. The perfect resolution is to say that we will adopt the Federal guidelines and use those for our subgrantees. To clarify, this is for folks, who are subgrantees, who are sub-recipients of the money. It is not for the City. City Departments will continue to follow City procedures. For smaller projects to go through the hoops that City projects have to go through them. They do not have to do that as long as they comply with Federal law.

Councilman Nocera states that he wants to point out that the working group, and the full group, went through an explanation and fully supported the plan to move forward with the subgrantees using the Federal guidelines to be sure that we move as quickly as we can, but to do it right

The Chair calls on Councilman Edward McKeon.

Councilman McKeon states that he spoke on this topic before. He thanks all of the people, who have worked so hard, getting the ARPA work done and done correctly. He asks Attorney Smith for an update on the first dollars to be in the hands of the grantees.

Attorney Smith replies that they are already in process. They identified three (3) critical development projects and were looking to finalize their paperwork with other lenders and to break ground. He notes that one – Nora Cupcake – did a closing and we freed up funds immediately, worked without consultants, and were able to cut checks. That is now done and be checked off the list. The other two (2) projected are waiting on the State for State grants, but our piece of it is basically in place. We are triaging and identifying the other time sensitive projects. We have running meetings with each applicants: here are the rules; here is the paperwork that we end; here is the auditing that will have to occur. We also have follow-ups with them to be sure that it all gets done. He would say that they have about 15 done at this point. On December 15th, there will be a workshop at 3PM, if any Councilmember wants to attend. They can get a sense of what will happen, what the auditing is like. He will give the information to the Councilmembers so they can get a sense of all of the reporting that has to happen, it will be a useful exercise. All of the applicants are also invited.

The Chair calls on Councilman Vincent Loffredo

Councilman Loffredo states that, looking through the Federal regulations, to make sure that we are all on the same page that deals with Federal procurement. He notes that the Council Clerk sent out that document, the 10 page document CFR 220, Subpart D, Procurement Standards. This is what is referred to in item 12 F on tonight’s agenda. This document, noting that say he is a recipient of ARPA money, and he attends a workshop where he will be told the “do’s” and “don’ts.” If they say that we are entering into a contract . . .

Attorney Smith interjects, saying, “Absolutely.”

Councilman Loffredo continues, noting that all of the awardees will know that they need to dot the I’s and cross the t’s. They may not have realized it, but having received this grant, there are processes and procedures that

they are required to follow, including the Federal standards that we are adopting this evening in lieu of the standards of the City of Middletown. They will know that.

Attorney Smith replies that there will be a beautiful PowerPoint in beautiful writing that will say here are the requirements that you have to follow. It is in the contract. There are consequences if you do not. There is auditing.

Councilman Loffredo continues, saying that the document to be signed as an awardee will clearly reference this document and the responsibilities contained therein. It is more than dollars and cents. It talks about, in terms of being sure that they meet certain standards such as that friends and relatives are going to get money from the grant to do what they want. There are certain procedures here to be sure that there is no conflict of interest. Anyone must maintain standards of conduct to avoid conflict of interest, governing actions, there are a lot of procedural requirements. Then there is a provision that they keep records, which, at some point, will fall into the hands of the City.

Attorney Smith replies, "Yes."

Councilman Loffredo continues, adding, if and when there is an audit on the \$21M. He asks if that documentation will be readily available.

Attorney Smith replies that the documentation must be available to the consultants.

Councilman Loffredo states that he would like to include the numbers here in the end – 2 CFR , etc. --- to the resolution, as this is what we are talking about. He asks Attorney Smith if he understands, or would like to look at it.

Attorney Smith replies, that he does understand, but he will play law school professor for a bit. What is being cited is from the *Code of Federal Regulations*, which is agency-based lawmaking. Congress passes a law – ARAP – and says to Treasury – the agency- now go and administer that. Treasury promulgates guidelines and regulations. These are the regulations, which have the force of law and refer to other parts of the *Code of Federal Regulations*. All of these parts get wound up into this there are dollar thresholds, requirements, like the U.S. tax Code. The Tax Code says see 501c and you get there and it says see 503c7, which send you to 509c2 and then on to 50c3a. This Code of Federal Regulations is like that, too. He believes that the goal in the clause is to have the procurement Stan stands and help take us through that maze of regulations,

Councilman Loffredo states that he wants to be assured, noting that it is a 10-page document. It is specific. If someone is an awardee for "X" dollars by the City of Middletown under ARPA. What he has in his hand (the Code) is what he will be responsible for. He asks Attorney Smith if there are other uniform guidance standards other than this 10-page document.

Attorney Smith replies thither can look at, for instance, page 3 of 10. There is a bracketed reference to 85 FR (*multiple speakers – inaudible*) it is between the two paragraphs. As amended at 286FR 1044o. It references that. There is a reference to dollar threshold. Go to page 5 of 10 and look at section IV, non-entity increase. It is section 200.520 of CFR. That is not part of this document, but appears elsewhere down the line. In the CFR, but is referenced in this. Just to be clear, our contract with the subgrantees require that they comply with all Federal laws, rules, and regulations: everything that is in here and that is not in here. Anything that the Fed's require, we require of them.

Councilman Loffredo states that, as an awardee in order to understand this comment, any other subsections that Attorney Smith is talking about, he will provide information and documentation so that they do not have to go looking for, as an awardee, all of the subsections.

Attorney Smith replies that they will highlight for them all of the sections that are most important to follow, those that they must follow under ARPA. Funding. To answer the original question, and having done that in the most professorial manner possible, which is to take 17 paragraphs to answer a one-sentence question, the answer is, "Yes." If you want to amend the resolution to specifically cite this portion of the CFR, he has no problem with that. It is by itself will bring us through the rest of the CFR.

Councilman Loffredo replies that he thinks that it is important because it is a general statement. While this indicated that, if they want to look at it. He wants to sure that folks being awarded will have the best information that they need to have so that at the end of the ay, a year from now, they will have spent the money. They will not say that they spent all of the money and did not keep the receipts and, a year later, try to make it up. That will be a problem for them and for us.

Attorney Smith agrees.

The Chair calls on Councilman Loffredo with an additional question for Attorney Smith. At the last meeting, the Council did vote down a grant request for the library and they voted in favor of the \$50K appropriation for the library to set up a committee. This evening, we have a list of appointments for folks to take on that responsibility. In our discussion, regarding what the committee will be doing in terms of laying out responsibilities, for example a building committee and building code can do x, y, and z, we are setting up a committee to do a feasibility study for a new library and City Hall. He asks what will be the requirements for them. That was something that was to be forthcoming this evening or shortly thereafter. He asks if that is a work in process.

Attorney Smith replies that is his understanding. This time in one month

The Chair calls on Councilman Vincent Loffredo.

Councilman Loffredo asks for Public Works Director Christopher Holden. Councilman Loffredo states that this evening, under transfer of funds, there is a transfer under recycling and highway. It does not mention department He believes that it is under his department (Public Works). He asks if that is correct.

Director Holden replies, "That is correct."

Councilman Loffredo asks about the subset of recycling, especially how it was done. The miscellaneous overtime, some of the items that are being modified with monies, we are adding \$12K for towing.

Director Holden replies, "That is correct," adding that winter towing needs more money, which is why it is being transferred in.

Councilman Loffredo notes that is usually done with snowstorms and we really have not had one. He ask if there is no money in the towing line at all.

Director Holden replies that this is to clear up previous bills. We are still working through invoices that came in late. We are cleaning up.

Councilman Loffredo asks if the bills are from last year.

Director Holden confirms that they are last year's bills.

Councilman Loffredo notes that the funds are being pulled out of this year.

Director Holden replies, "That is correct."

Councilman Loffredo notes that there is a towing line He repeats his question, asking if \$12K is being added to the towing line.

Director Holden confirms, adding that this is to cover expended dollars.

Councilman Loffredo asks how much needs to be cleared up.

Director Holden replies, "Less than \$12K."

Councilman Loffredo states that this is rather unusual. Here we are at the December Council meeting and we are dealing with unpaid bills from a year ago.

Director Holden replies that it is, adding that it is a complicated process because the Police Department receives the invoices or the funds. They then have to transfer to another line. There was transition in the Public Works Department at the end of the year, so they were not able to get those invoices prior to the end of the year.

Councilman Loffredo replies that looking at the department and looking at \$12K for towing without a snowstorm is . . .

Director Holden replies that it was transitional at the end of the year, so the invoices did not get in in time to get processed during the previous fiscal year.

The Chair calls on Councilman Vincent Loffredo.

Councilman Loffredo asks for Fire Chief John Woron. He notes that had some discussion earlier in the day about the \$54K transfer from contractual services to the general specialized equipment He asks Chief Woron to highlight the needs for that transfer.

Fire Chief Woron explains that they have a contract separation line. A Battalion Chief indicated that he was possibly going to retire, so this line was populated in the budget. A Battalion Chief has decided to stay at least another year. They had the need, looking to find funding source for the act of violence ballistic equipment, The overall project came in at about \$100K, including training, ballistic equipment, some patient removal equipment, and some EMS equipment. He had applied for and received a \$35K grant and it was used for training the department's 71 members and buying some EMS equipment. They also use the EMS budget in the organization to buy more equipment, which left them with \$54K to finish the project. The other Fire Districts had applied for ARPA funding for training and equipment. They decided not to do that as they had applied for ARPA funding for fire apparatus. When they realized that the Battalion Chief was not retiring, he met with Finance Deputy Director Diana Doyle and checked to see if they could reallocate those funds. It is not something that they would encumber from this year to next year. What they are doing is move it from that line item to make the purchase.

Councilman Loffredo asks if that will also involve training new hires.

Chief Woron explains that the line ifs for contractual retirement, so it would pay down any vacation time, comp time, and sick time., They are multiple things in that line, including sending firefighters to recruit. The \$54K transfer comes from the employee’s separation account. It will be used to fund ballistic equipment and some patient extrication devices for act of violence program.

Councilman Loffredo states that his last question is, in terms of preparing for next year’s budget, which we will be dealing with in the near future, is this something that would have to be included in next year’s budget. He asks if this is an annual expense.

Chief Woron clarifies, asking if this is for ballistic equipment.

Councilman Loffredo replies, “Yes.”

Chief Woron replies, “No,” adding that this is a one-time purchase. The equipment has a 10-year shelf life. The inserts that go into the vests, all of the other equipment is a lifetime investment. It is just 10 years for now they will need to replace the metal plates that go into the vests. Other than that, it is a one-time purchase.

3. Questions to Directors Workshop – Closes

There being no further questions, the Chair closes Questions to Directors at 6:28 PM.

4. Adjournment

Councilman Vincent Loffredo moves to adjourn. Councilman Philip Pessina seconds the motion.

There being no discussion, the Chair calls for voice vote. The motion is unanimously approved by a vote of 11-0 (AYE: Councilmembers Blackwell, Carta, Faulkner, Ford, Gennaro, Loffredo, Mangiafico McKeon, Nocera, Pessina, and Salafia; ABSENT: Councilman Marino.) The matter is approved. The meeting is adjourned at 6:29 PM

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