



**SPECIAL MEETING OF THE COMMON COUNCIL
MIDDLETOWN, CONNECTICUT
NOVEMBER 9, 2010**

Special Meeting A community meeting of the Common Council of the City of Middletown was held in the Auditorium of Snow School, on Tuesday, November 9, 2010 at 7 p.m.

Present Mayor Sebastian N. Giuliano, Deputy Mayor Joseph E. Bibisi, Council Members Thomas J. Serra, Vincent J. Loffredo, Ronald P. Klattenberg, Philip J. Pessina, Gerald E. Daley, Robert P. Santangelo, Hope P. Kasper, Councilman James B. Streeto, Grady L. Faulkner, Jr., Deborah A. Kleckowski, and David Bauer, Corporation Counsel William Howard Sergeant-at-Arms Acting Chief of Police Patrick McMahon, and Council Clerk Marie O. Norwood.

Absent Councilman Grady L. Faulkner and Corporation Counsel William Howard

Also Present Five members of the public.

Meeting Called to Order Deputy Mayor Bibisi called the meeting to order at 8:20 p.m. and leads the public in the Pledge of Allegiance.

Call of Meeting Read The Call of Meeting was read and accepted. Deputy Mayor Bibisi declares the Call a Legal Call and the Meeting a Legal Meeting.

Public Comment Opens The Acting Chair opens public comment on items under the jurisdiction of the Common Council at 7 p.m. He asks if there are any members of the public wishing to speak.

Personal Privilege Councilman Streeto asks for a point of privilege and asks for a moment of silence for Mr. Faraci to honor Captain Flash Faraci who passed away this afternoon. The Chair declares a moment of silence at 7:02 p.m.

Public Comment The Chair opens public comment and asks if there are members who wish to address the Council on matters under their jurisdiction.

Theodore Freeman, parent of a Middletown student states according to the City Charter the Council has the power over the City and his question is why there is a struggle or battle between the Board of Education and the Mayor's office; for accountability, the Mayor should oversee the budget but why is there a struggle because both are costing the taxpayer money by filing lawsuits. He asks that it end.

Councilman Loffredo asks for his name and address. It is 90 Markham Street.

The Chair asks if there are other comments from members of the public.

Another member of the public asks that the Mayor address that question and the Council respond. The taxpayers are thinking about who is right and wrong. A Council Member asks his name. It is Craig Polson.

Councilman Serra states it is a matter of interpretation of the State Statute and the Charter and why it is in the court system now. Councilman Streeto adds there is a difference of opinion between the Mayor, the Board of Education, and the Superintendent of what falls within the aegis of the Charter and State statutes. Middletown has a different Charter than most towns. The longer answer is why don't people sit and work them out and his understanding is the Mayor's office and other members of the City bureaucracy have sat down with the Superintendent and Board of Education each have lawyers involved and they have been unable to reach a resolution. They can't give more detail because we are not privy to those negotiations because the day to day operations are not within our function. Those are, according to legal opinions they have been provided, are the providence of the Mayor's office and directors. Those were provided in August or September. We are a legislative body. The structure here mirrors the federal government. The Board of Education is semi autonomous like the FDIC, the Mayor is like the president and we are like congress.

Mr. Polson states this set up has been in existence for a long time; why is it a problem now. The Mayor states for years it worked and its only in the last few years it hasn't worked. Judge Holzberg has taken the case and will mediate it and he has stated he will try to resolve the issues by the end of the year.

Noted for the Record Councilman Daley takes his seat at 7:08 p.m.

The Mayor adds if mediation is unsuccessful, he will try the issues. It is rare that a mediator will preside over a trial but everyone has enough faith in Judge Holzberg to proceed that way.

Councilman Streeto states not everyone in the City will agree to the

circumstances we are in and he will not lay blame and we will hear a lot about it in the next year.

Councilman Bauer states Mr. Chair, a historical perspective. We have laws stacked one on the other and the Charter is a controlling document and if there is a State Statute in conflict with the Charter, it is the State Statute that takes precedent. The other thing historically, when there was clear home rule, the local finance body, we are the legislative and financial body and we had control over education, but what muddled it they created regional school systems and to empower them, they wrote statutes that are overarching and affected a school system that was like our school system. When we have these conflicts, we need to sort these things out.

Councilman Streeto states the Mayor hit the nail on the head and things were sorted out informally .

Councilman Pessina states previous, he lived in lower county town with a regional school district and he sat on the Board of Education. The Board of Education and their specific role should be involved in this more than they have. They work along with the Superintendent who the Superintendent works for. They need to get to the educational issues facing the City, but we have not heard from the Board of Education themselves and therein lies a problem. We have a Board of Education that has the jurisdiction. We are hoping as things escalated in the City they will now start to take control back where it needs to be and until they do that, we cannot always look to the Council because there is a separation. We can express our frustration, but we need them to move forward and we hope that happens tonight at the Board of Education meeting. There are a lot of things that will be brought forward and they will not be silent any longer.

Councilman Daley states it is his understanding there is pending litigation; he doesn't know if it is against you (Mayor) or the City and we all have our thoughts and speculation on who is right or wrong and we should be responsible on how we approach it. You were right that people have respect and confidence in Judge Holzberg and the only way it will be resolved is through the legal process to sort out the issues. It would be great with a mediated settlement, but it has to be enforceable and binding on both parties. There was an agreement back in the spring. He shares your frustration. He is frustrated that the Council cannot intervene and resolve it. I work in Hartford and he can't tell you the number of people who come up to him about the issue. It is an embarrassment for the City but most importantly is that the Mayor, Superintendent and other school and City officials there time is being taken up with this instead of their main job. He is troubled with the expense and most importantly the education of the kids is being put on a back burner to some respect because everyone is preoccupied with this. The employees are caught in the middle with their status up in the air. It will only be resolved through the court system. I know Judge Holzberg and he is a wise man and he will lead us to a solution.

Mr. Freeman asks if it occurred before where the Council and Board of Education meetings fall on the same night. The Chair replies on these types of things they do; normally the Council meetings are on Mondays and the Board meets Tuesdays, but community meetings don't fall on a Monday and they fall at different times of the month. We are taking the meetings out to the community and the Board of Education is holding their meetings in council chamber at City hall. Councilman Streeto states you can still make that meeting.

Mr. Freeman states he wants to hear good stuff that is going on. The Chair states the good news is that Judge Holzberg will resolve it by the end of the year and the bad news is he has to resolve it, not us. Where does our authority fall, the City's and what is the limit and what is the Board of Education's authority and where are the limits and both are saying the other side is invading their prerogatives.

The Chair states everything is back like it was on November 1. We agree not to do anything unilaterally and they will not hire people without our agreement to do so. We will try to minimize the areas of conflict during mediation. Councilman Streeto states this is not between the Council and the Board. It is between the Mayor and the Board. He is not a member of our council like in other communities. We have a strong mayoral form of government. We are not part of the suit and not making decisions. This body has had conflict with the Board of Education but we have worked them out. Councilman Pessina states for peace of mind the City business will still go on and a lot of great things are going on and the Council is focused on the City and we are happy with the way the City is moving forward.

The Chair states the school system is the same; the dispute is not about what goes on in the eleven schools. The dispute is about the workforce under the Charter City employees who happen to work in the school system and there are certain things from our standpoint that they have protection as members of the bargaining unit and the City is responsible for the benefits of their employment and that they are honored; the day to day area is under control of the Board of

Education and if the school administration does not honor that contract, employer/employee the City has to take the brunt of it. That is the conflict and not about learning, how many teachers, what days schools should be open or the curriculum. It is always been about the employees like secretaries, nurses, cafeteria workers, custodians. They belong to unions with contracts with the City and the City has to ensure the contract parts are carried out and the Board of Education says you can't tell us how to do it and the City says you have to follow the contract. Middletown is only one of three towns that has this arrangement for employment and the rest of the State says they are better in the hands of the Board of Education and not the City and is there any action to go in that route. The Chair states that is a change in the City Charter; it is up to the Council. The Chair states the Charter revision is appointed and initiated by the council and the committee can be as little as three and no more than 15 and divided correctly politically.

Mrs. Polson asks about Charter revision. Councilwoman Kasper states it has gone out twice and reviewed by a commission and failed to be brought forward. Mrs. Polson states as one parent whose children went to this school, she was sad to learn that her principal did not have the jurisdiction to supervise the workers in this building. She has seen other workers in the union defy the principal and that is wrong. Every parent should be concerned about what the principal can do. Who provides the daily supervision. The Chair states the Director of Facilities looks after them and he is a Board of Education employee. He states he is surprised that that can happen or does happen. He states if he chooses to go out and see them daily, that falls under the Board of Education.

Mr. Freeman states there is negligence by the Board of Education and the Board doesn't follow through, who do we go through about negligent manners. Councilman Streeto states you go to the voting booth every two years. The Chair states the problem is the case law on school districts, what the law says is the Board of Education is the arm of the State when carrying out the educational policy of the State of Connecticut and they are a local entity beyond that. So to that extent, they are under local control. The argument comes when you are carrying out education policy and something local. Decisions about curriculum are the educational policy for the state, but when determining how the school building is to be maintained, the State says they are responsible for maintaining, but they are owned by the City and have to come the City to get the money to do the repairs.

Councilman Streeto states why are these things coming up now and not before and the short answer is some of the players have changed and people cannot work things out informally. What happens if they can't, it gets litigated. It is not the only community where this has happened and there are several Supreme Court actions where the relevant players couldn't agree on the decision to make and the parameters and took it to Court to determine the parameters and the courts have advised them of their parameters.

Mr. Freeman states basically the issue with the Board of Education is completely out of the Common Council's hand. The Chair states most people on the Council know they are not here to make educational decisions. Mr. Freeman asks about negligence of the body. Councilman Pessina states if the building Principal thinks he has problems with the workers, his next step is to the Facilities Director and the Director will address the problem. The Principal has the authority to get things done, but he is confined in a contract. He also works for the Superintendent; if the Director of Facilities doesn't work, he should go to the Super and the problems should come out and it should be worked out. He can't come to the Council with I can't get any help from the custodians. The administration part of the Board of Education is the Superintendent, Principals, etc. They administer the district with the Board. He is perplexed that it occurs.

Councilman Bauer asks if the speaker would identify herself. She states Melinda Polson.

Mr. Freeman states the issue with the computer, has the City and the Board of Education computer system always been connected. The Chair responds yes. He states the school IT person physically unplugged it. Everyone is under order to keep them plugged in while mediation is being done. They should be able to do what they do and our Finance Department can still keep track of them. The City orders a full audit every year and the auditors need to keep track of it and it should show up in the system. The auditors have been having a rough time and the school district has not been cooperative with the auditors.

Councilman Serra states the Courts will decide because of the difference of opinion of State Statutes and the Charter and we have to wait for Judge Holzberg

Motion to Adjourn

Councilman Serra moves to adjourn and his motion is seconded by Councilman Bauer. The Chair declares the meeting adjourned by unanimous vote, at 7:36 p.m.

ATTEST:

MARIE O. NORWOOD
Common Council Clerk