

**LEGISLATIVE COUNCIL REGULAR MEETING
COUNCIL CHAMBERS, 3 PRIMROSE STREET, NEWTOWN, CT
WEDNESDAY, DECEMBER 21, 2022**

MINUTES

PRESENT: Jeffrey Capeci, Phil Carroll, Angela Curi, William DeRosa, Charles Gardner, Chris Gardner, Dan Honan, Lisa Kessler, Ryan Knapp, Michelle Embree Ku, Matthew Mihalcik

ABSENT: Tom Long

ALSO PRESENT: First Selectman Dan Rosenthal, Finance Director Bob Tait, BOE Chair Deborra Zukowski; 4 public, 0 press

CALL TO ORDER: Mr. Capeci called the meeting to order with the Pledge of Allegiance at 7:30 pm.

VOTER COMMENT: *Cathy Reiss, 42 Obtuse Road, Newtown* – Ms. Reiss strongly urges the Council to repeal Newtown's plastic bag ordinance. Since the State of Connecticut has banned plastic checkout bags, Newtown's ordinance is mute. The forced \$0.10 per paper bag fee is no longer needed or wanted. This ordinance serves as a burden on smaller locally owned businesses, as well as, school fundraisers and non-profits. She also feels it puts Newtown in a less competitive market.

MINUTES: Mr. Charles Gardner moved to accept the minutes of the December 7, 2022 Legislative Council Regular Meeting. Seconded by Mr. Mihalcik. All in favor. Motion passes (11-0).

COMMUNICATIONS: Mr. Capeci shared the email sent out by the Town Clerk on December 5th regarding the teachers' agreement contract having been filed on November 2nd. As fiscal authority, the Legislative Council has the opportunity to reject collective bargaining with the BOE within 30 days of filing deadline. Because the Council was notified a month after the filing date, if anyone has any issues with this, please let Mr. Capeci know (att.) Mr. Carroll attended the sub committee for the BOE last week. They discussed transportation issues and are working on getting more information.

COMMITTEE REPORTS: Mr. Knapp noted that the Ordinance Committee is in the process of working on the draft for the Do Not Block the Box ordinance. We should be able to put it on the next agenda.

FIRST SELECTMAN'S REPORT: First Selectman Dan Rosenthal announced that Town Attorney David Grogins is retiring this week. Jason Buchsbaum will continue to be our contact. We are still waiting on diesel numbers for next year. Our fuel bid came in at \$2.93 for regular fuel. This should improve our situation. The Hawley project continues to go well. Many units and duct work are in. The switch gear, which is used to bring in permanent power, will not come in until the end of May, but everything is still on track. The First Selectman and Mr. Tait will spend the holiday week meeting with departments and vendors to discuss budgets – they will need to present to BOS by mid-January. The BOS has appointed a work group to discuss the liability of getting a Town Administrator. Maureen Crick Owen, Ned Simpson, Bill Grimmer and Pat Llodra will serve on this work group.

OLD BUSINESS

Discussion and Possible Action

- Repeal of Forestry Practices Ordinance

Mr. Charles Gardner moved that we repeal the Forestry Practices Ordinance contained in Chapter 140 of

the Newtown Code of Ordinances and Associated Regulations as recommended by Inland Wetlands Commissions and Land Use. Seconded by Mr. Carroll. All in favor. Motion passes (11-0).

Ms. Ku is concerned with repealing 12 pages of code that affect the character of Newtown. She feels that we clearly need to repeal this to be in compliance with the State Statute, however she wants to make sure everyone is aware of what we'd be giving up. Mr. DeRosa agrees with Ms. Ku. We want to keep the rural trait of this Town. Mr. Knapp said from a forestry perspective, he would support repealing this. Mr. Charles Gardner spoke on a zoning perspective versus a land perspective. It looks to me that you're permitting as residential or farming. Mr. Capeci made note that repealing this doesn't preclude this body from writing new ordinance(s) to cover some of these other issues that could potentially arise. Because of this, Mr. DeRosa supports it. Ms. Ku would feel more comfortable if the Inland Wetlands took a look at the Willington regulations and whether anything in there would be worth having in Newtown.

- CIP

Mr. Charles Gardner moved to bring up for discussion the proposed CIP. Seconded by Mr. Mihalcik. All in favor.

Mr. Knapp asked Ms. Zukowski about the various HVAC project in the schools. Mr. Mihalcik expressed concern that the design aspect are listed in year 2023, but the installation is not listed until 2025-2026. Would the costs as they are listed in the CIP still be valid after that long of a gap. Ms. Zukowski said she believes the money can be appropriated according to the CIP but actually delay the planning for a year. Mr. Tait said this is possible. Ms. Zukowski recommends leaving things as is which will allow Bob Gerbert the flexibility to move forward with the project as is possible. Mr. Knapp asked why the Head of Meadow project went down but the High School project went up. Ms. Zukowski will forward this question to Mr. Gerbert for an answer to why that is. Mr. DeRosa asked if a report has been done on the poor air quality in the schools that would justify spending this amount of money on these projects. Ms. Zukowski said she will forward this question over to Bob Gerbert. Mr. Capeci asked if this is something that can be done over the course of two years. The First Selectman replied that he believes it to be a possibility. While there may be some shuffling and minor disruption, it doesn't necessarily mean that we'd have to close the schools. It could possibly be started between June and August, and then resumed the following summer. Ms. Ku asked if Mr. Gerbert can provide a more definitive answer on timing for the Middle School project. Mr. DeRosa expressed concern over the bonding and rising interest rates. Mr. Tait said the amounts done each year were done on purpose. To keep debt service decreasing over time, we come up with a model on what can we spend each year and it then smooths out. It would be very difficult to manage a pay as you go model. We could move to a policy that mandates our budget percentage and capital and non-recurring. Ms. Zukowski said Middle Gate School is the last school on the list for an air quality project but it is on the CIP. Ms. Kessler agrees that we are bonding too much and would like to further discuss a pay as you go model in the future. Mr. Carroll asked what the \$8 million price tag is based on. Ms. Zukowski said this is a best guess estimate presented by Bob Gerbert and she can get a more definitive list from him. Mr. Chris Gardner asked if we have ever thought about doing a couple projects at the same time to save money, for example: the library and Hawley School. The First Selectman said we can talk to the contractor and look into that. Mr. Charles Gardner said their could be a long return on investment. He feels that all students in all the schools should have the same ventilation. Mr. Knapp appreciates Ms. Zukowski for being here to answer their questions. Mr. Mihalcik would also like to ask Mr. Gerbert if the Middle School project is a true HVAC project with a true heating component or heating and air conditioning similar to Hawley. Ms. Ku asked about whether there are other projects that would need to be done on the multi-purpose building aka the former senior center building. The First Selectman said there are some mechanical issues and replacing some aging components to the HVAC that would need to be fixed but nothing other than what is on the CIP. The Children's Adventure Center rents the building currently. Their roof was originally on the CIP, but we ended up using the ARP funds so the number dropped. They've expanded to the old senior center space in order to accommodate more children in town. Mr. Knapp asked whether the rail trail project could

have the potential to bring in a commuter rail. The First Selectman stated he would have to look into who owns the property(ies), but now you'd be on an active rail which would pose challenges.

NEW BUSINESS

Discussion and Possible Action

- Fracking Ordinance

Mr. Charles Gardner moved for the Fracking Ordinance contained in Chapter 144 of the Newtown Code Book of Ordinances for repeal to a public hearing. Seconded by Mr. Knapp. Motion passes (10-1: Nay: Chris Gardner)

Mr. Knapp said we would have to hold a public hearing, then act on it within 30 days. Our ordinance is void by the public act. As a housekeeping measure, we should just get rid of it. Mr. Chris Gardner asked if we could get some sort of history on this before acting on it. If we send it to public hearing, we wouldn't be able to do it until the third week of January. He can send around some documents prior to that meeting. (Att.)

- Repeal of Elections Ordinance

Mr. Charles Gardner moved that we refer to public hearing the repeal of Elections Ordinance contained in Chapter 24 in Newtown Code Book of Ordinances. Seconded by Mr. Knapp.

Ms. Ku said this was the only part of the ordinance because it did not make it into the Charter. She is not in favor of repealing this ordinance because of this. We can ask for an opinion, but in the meantime we can pass it to public hearing. (Att.)

Mr. Honan moved a friendly amendment to get an opinion from the Town Attorney before voting on this. Seconded by Mr. Knapp. All in favor (11-0).

Ms. Ku would like to pass along a question to the affect of whether the reference to the State statute and the Charter, do they still impose what the old ordinance, except for that minor change that was intentional. Mr. Knapp said we have until February so we can discuss it at our next meeting.

Mr. Capeci noted the original motion passes 9-2 (Nays: Ku, Chris Gardner).

- Repeal of Reusable Checkout Bag Ordinance

Mr. Charles Gardner moved that we refer for repeal to public hearing Newtown's reusable checkout bag ordinance. Seconded by Mr. Mihalcik. Motion passes (9-3; Nays: Chris Gardner, Ku and Honan).

Mr. Knapp stated what this would mean is that the First Selectman would need to designate enforcement of this ordinance. Newtown requires businesses to charge \$0.10 per paper bag. Ms. Ku does not support this – she doesn't understand why we would retreat from all those discussions that were held by the prior Council a couple of years ago. Mr. Charles Gardner indicated that the enforcement would only be complaint based. Mr. Chris Gardner also does not agree and doesn't know why this is being brought back - there are other more important issues to discuss. Mr. Honan said it's a problem that doesn't need to be solved. Mr. DeRosa agrees with Mr. Knapp, that this should be dissolved. (Att.)

VOTER COMMENT: *Alex Villamil, 11 Antler Pine Road, Sandy Hook* – Mr. Villamil expressed his concern about repealing the plastic bag ordinance and does not support repealing this.

ANNOUNCEMENTS: Mr. Capeci announced this is Rina's last evening clerking for the Legislative Council and thanked her for her service to Newtown's Legislative Council.

ADJOURNMENT: There being no further business, Mr. Charles Gardner moved to adjourn the meeting at 9:25 pm. Seconded by Mr. Mihalcik. All in favor.

*Respectfully submitted,
Rina Quijano, Clerk*

Attachments: Email from Town Clerk; Notes on Ordinances from Ryan Knapp

**THESE MINUTES ARE SUBJECT TO APPROVAL BY THE LEGISLATIVE COUNCIL AT THE NEXT MEETING. ANY
EDITS WILL BE REFLECTED IN THE MINUTES OF THE NEXT MEETING.**

----- Forwarded Message -----

From: "Debbie Halstead" <debbie.halstead@newtown-ct.gov>

To: "Dan Rosenthal" <dan.rosenthal@newtown-ct.gov>

Cc: "Deborra Zukowski" <debz.newtown.ct@gmail.com>, "Jeff Capeci" <jeff@thecapecis.com>, "John Madzula II" <jsmbofnewtown@gmail.com>

Sent: Mon, Dec 5, 2022 at 10:44

Subject: Agreement with Newtown Federation of Teachers Contract on file

Hello,

In accordance with **Sec. 10-244c** the teachers agreement contract is on file as a link on the Board of Education's webpage.

[Agreement with Newtown Federation of Teachers and Board of Education for 2023-2026 Contracts filed 11-2-22](#)

Have a good day.

Debbie Aurelia Halstead, MMC, MCTC
Town Clerk
Registrar of Vital Statistics
Municipal Veterans Representative

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Newtown, CT 06470
203-270-4214

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LC Ordinances on The Agenda Tonight

1 message

Ryan Knapp <knapp.newtown@gmail.com>

Wed, Dec 21, 2022
at 1:22 PM

Hello Jeff and Rina,

A couple people have asked me about the Ordinances on the agenda for discussion tonight so below is some background if you would like to share it:

Fracking Waste: Ch 144 of the Code Book <https://ecode360.com/33845254>

This was passed in 2018 as part of a grassroots initiative from a group called No Fracked Waste CT. They were frustrated they could not get action from the legislature so they got 50 Towns to pass ordinances instead. It worked here because Towns have authority on health and safety grounds.

The state finally acted and it looks like we are preempted in the statute so by my reading the ordinance would be obsolete. Down at the bottom:

"(i) The provisions of this section shall be construed to preempt any municipal ordinance or act concerning the acceptance, receipt, collection, storage, treatment, transfer, sale, acquisition, handling, application, processing or disposal of natural gas waste or oil waste or waste from hydraulic fracturing, including, but not limited to, the discharge of wastewaters into or from a pollution abatement facility."

<https://www.cga.ct.gov/2019/ACT/pa/pdf/2019PA-00112-R00SB-00753-PA.pdf>

BOE Elections: Ch 124 <https://ecode360.com/34435883>

This was implemented after a Charter change caused an issue with how many candidates could be on each line for a BOE election when 4 seats were up, resulting in one candidate dropping the endorsement and running as a write in.

<https://www.newtownbee.com/10072017/school-board-hopeful-joining-town-clerk-write-in-candidate-on-november-ball/>

The Ordinance was created as a stop gap until the Charter could be fixed. It was addressed in the Charter Revision which just passed. It was CRC recommendation 12 in section 3-15. "To incorporate the provisions of Newtown Ordinance 124, which governs elections of the Board of Education, into the Charter."

The Charter would supersede the Ordinance.

Reusable Plastic Bag Initiative Ch 183: <https://ecode360.com/34441181>

This ordinance was passed in 2019. Since then the state has passed a statute prohibiting plastic bags. Gen. Stat. § 22a-246a (2019 Conn. Pub. Acts 117, § 355). There was a phase in period with a required fee for plastic bags, but that is now over and they are prohibited by statute statewide. The bags in

question would still be prohibited in Newtown with the repeal of this ordinance.

Newtown's Ordinance requires the Selectmen to designate someone or some group to be the "Enforcement Authority" which is an additional responsibility for some municipal employee that presumably the state would handle if there were an issue. Newtown did require business to charge 10c for a paper bag, something many stores such as Big Y and Stop and Shop did of their own volition in other Towns without an ordinance. The state, in the statute, considers these sales taxable.

<https://portal.ct.gov/-/media/drs/publications/tssb/tssb-2021-5.pdf>

I hope this helps,

-Ryan Knapp