

**TOWN OF HAMDEN, CONNECTICUT**  
**LEGISLATIVE COUNCIL**  
**MINUTES OF MEETING**

**March 2, 2020**

A meeting of the Legislative Council was held on Monday, March 2, 2020 in the Legislative Council Chambers at Memorial Town Hall. The meeting was called to order at 8:30 P.M. by the Council President. The Clerk took the roll which was followed by the Pledge of Allegiance and a moment of silence.

**MEMBERS PRESENT:**

Mick McGarry	Justin Farmer
Harry Gagliardi	Marjorie Bonadies
Austin Cesare	Athena Gary
Brad Macdowall	Kristin Dolan
Betty Wetmore	Valerie Horsley
Berita Rowe-Lewis	Dominique Baez

**MEMBERS ABSENT:** Jody Clouse; Mike Colaiacovo; Kathleen Schomaker

**PRESIDING:** Mick McGarry, President

**PUBLIC INPUT SESSION:** There were 2 speakers

**CORRESPONDENCE:** None

**REPORT OF THE PRESIDENT:** Mr. McGarry said the Charter Revision process will be starting soon and we need residents for that. More information will be coming.

**REPORTS OF BOARDS AND DEPARTMENTS:** None

**REPORTS OF COUNCIL LIAISONS:** None

**APPROVAL OF PREVIOUS MINUTES:** Mr. McGarry requested a motion to approve the minutes of February 18, 2020. Moved by Ms. Wetmore, seconded by Ms. Horsley. **DISCUSSION:** Mr. Macdowall said there's some information missing from two weeks ago. He said there were several requests for Points of Personal Privilege throughout the evening that were refused or denied and those are not reflected in the minutes of discussion and he'd like to make a motion to have those added. The motion was seconded by Mr. Gagliardi. **DISCUSSION:** Mr. McGarry asked Town Attorney Gruen if those are items considered part of minutes. Ms. Gruen asked don't we have verbatim and Mr. McGarry said yes we do. Mr. McGarry asked if it's a requirement for Points of Personal Privilege to be put into these minutes. Mr. Macdowall said he wants to clarify that he's not saying they needed to be but he's requesting that they're added and he'll fully respect the vote of the Council. He said he understands it's not required and just requesting that it is added as he thinks it's an important part of the meeting. Mr. McGarry said so the motion is to add the Personal Points of Privilege to the minutes. A vote was taken to add this to the minutes and failed with 6 yes (Baez) (Farmer) (Gagliardi) (Gary) (Macdowall) (Rowe-Lewis) and 6 opposed (Horsley) (Cesare) (Wetmore) (McGarry) (Bonadies) (Dolan)

The vote was taken on approving the minutes and they were approved with 2 opposed (Macdowall) (Gagliardi) and 1 abstention (Farmer)

**CONSENT CALENDAR:** Mr. McGarry said the consent calendar consists of items #'s 1 thru 7 and #'s 9 thru 14. He said #8 was pulled for an amendment and #16 was pulled at the request of a council person. He then requested a motion for approval. Moved by Mr. Farmer, seconded by Ms. Horsley and approved unanimously.

**The consent calendar includes all items that have passed unanimously in Committee on February 18, 2020 and will now be considered in toto by unanimous consent:**

- 1. Refund of property taxes collected prior to July 1, 2019 – (2) totaling \$1,907.74**
- 2. Refund of property taxes collected between July 1, 2019 and June 30, 2020 – Overpayments on current Grand List – (60) totaling \$35,011.96**
- 3. Tax abatement for Davenport/Dunbar Residences - \$17,576.91**
- 5. Appointment of Victor Mitchell to the Town Center Park Commission for a term to expire November 1, 2020**
- 6. Appointment of George Moore to the Arts Commission for a term to expire May 31, 2022**
- 7. Appointment of Ronnie Maebry, Sr. to the Veterans Commission for a term to expire October 26, 2021**
- 9. Appointment of Gordon Fain to the Personnel Appeals Board for a term to expire January 31, 2024**
- 10. Appointment of Anika Matin to the Clean & Green Commission for a term to expire November 1, 2022**
- 11. Reappointment of Stephen Ullman to the Citizens Television Board of Directors for a term to expire November 25, 2021**
- 12. Reappointments of Andrew Knott, Marigrace Larke and Craig Repasz to the Natural Resources & Open Space Commission for terms to expire February 1, 2023**
- 13. Resolution authorizing the Town of Hamden to accept a handmade quilted Flag from Alma Michaud**
- 14. Order approving and authorizing the Mayor to enter into an agreement with the State of Connecticut Department of Mental Health & Addiction Services**

## **REGULAR AGENDA:**

8. Appointment of Michael Isaiah to the Human Rights & Relations Commission for a term to expire April 30, 2022

-- Moved by Ms. Wetmore, seconded by Ms. Rowe-Lewis. DISCUSSION: Mr. McGarry said the agenda did not list the last name of this appointment and he moved a motion to amend this item and add "Thompson" to read Michael Isaiah Thompson. The motion was seconded by Mr. Macdowall and approved unanimously.

A vote was taken on the item as amended and approved unanimously.

16. Order authorizing intradepartmental transfer 2019-2020 Fiscal Year Budget - \$80,000 - Police Department (Central Communications Overtime)

-- Moved by Mr. Farmer, seconded by Ms. Horsley. DISCUSSION: Mr. Farmer said he could not remember why this internal transfer happened. Mr. Donnelly said in the beginning of the fiscal year there were 3 vacancies in the department and overtime hours were used to cover those vacancy hours and this is the replenishment of funding being used to cover those vacancy hours. Mr. Farmer asked when these hours occurred. Mr. Donnelly said he'd have to refer back to Chief Cappiello for the exact time period of these hours, but he did indicate that this happened primarily in the first part of the fiscal year. Mr. Farmer asked if we are properly staffed for communications now so that people can call in and make sure their emergency is taken care of. Mr. Donnelly said just to be clear staffing was covered while the vacancies existed and his understanding is the vacancies have been filled but he will check with the Chief on that. Mr. Farmer said he appreciates that.

Mr. Macdowall asked if his understanding is correct that these funds have already been expended. Mr. Donnelly said yes, the salary line is in the negative at the moment. Mr. Macdowall said so we've expended funds that the Legislative Council didn't approve. Mr. Donnelly said he supposes that's correct and he'd check with Chief Cappiello... Mr. Macdowall jumped in and said he understands and appreciates him being there in the Chief's absence and then to Ms. Gruen said it's his understanding that this is a violation of the Town Charter. Ms. Gruen said she'd have to get back to him because she doesn't know all the details. Mr. Macdowall stated he feels uncomfortable voting on something that's a violation of the Town Charter and will remove himself from this vote entirely if it is (unintelligible).

Mr. Farmer said if the funds have already been expended is there urgency or is this something that we can wait on until we hear a legal opinion from Ms. Gruen. Mr. Donnelly said he's not entirely sure and can only tell them that the line is negative by about \$31,000 at the moment and there are folks that need to be paid.

Mr. Macdowall said he wants to be clear that it is not his intention to not pay for labor hours and by State law we must and we should pay for labor hours performed, but he personally has a serious concern, and would hope and suggest that some other Council members share that caution, we have to pay for those hours performed but we also have to be very careful about it because it is in his understanding it is in violation of the Town Charter and he thinks to Councilman Farmers point that there's probably no harm in delaying this two weeks as he believes people are still going to get their paychecks so he doesn't think anyone is going to get hurt by this and he thinks it's important that they do this in a careful way and an appropriate way and he's going to make a motion to table and he will respect the outcome... Ms. Gruen jumped in and said she'd like to make a Parliamentary point and said the correct motion would be a

motion to postpone. Mr. Macdowall apologized and withdrew his motion to table and **moved a motion to postpone for two weeks.** Seconded by Mr. Farmer. DISCUSSION: Ms. Wetmore said she doesn't see the point in delating this we have to pay them and we have to make up the difference if they already paid the people and she thinks it's nice if we find out we're violating the Charter but either way we still have to pay that money.

Mr. McGarry agreed and asked Mr. Donnelly to make it a priority of figuring out why this went into the negative but he agrees we need to pay it so we might as well fully fund the line.

Ms. Horsley said it was her understanding when they voted this out of committee at the last Council meeting that there would be no more overtime in this fiscal year from this area in the Police Department and asked if that was true. Mr. Donnelly said that is his understanding as well.

Mr. Macdowall said respectfully he understands that there's going to be a difference of opinion on this matter and it is not his intention to put anyone on the line (unintelligible) personally and professionally, but he thinks it's important that they have this conversation not only because they are taking a vote on something that potentially could have violated the Charter but also because it is important, as they've had this conversation over the last two years, about the consequences of not abiding by the approved budget and so he just wanted to clarify his concerns and he will be removing himself from the vote if the vote to postpone fails.

Mr. Gagliardi said no line item can be over expended without approval of the Council and everybody's being paid and (unintelligible) for two weeks until we get clarification. He said this is a violation of the Charter as no one can over expend any money and we went through this a number of times in the last four years.

Mr. Farmer said he doesn't think it's anyone's intention to steal anybody's labor contributions, especially vital services, but there are responsibilities that we all hold and now that they're aware of this he thinks it's important to get the legal opinion and respect the rules that they have and come back to this.

Mr. McGarry said he's not sure how delaying two weeks is a remedy to the situation if the account is over expended we should look into that and get the information but by us not acting it puts us further in violation of the Charter so he would prefer to act on it and get it paid and then investigate how it ended up in the negative.

Ms. Dolan said it's not so much the negativity situation but it would recognize the point that it is not the proper procedure and that they didn't have the proper authority to overspend so she's leaning towards voting with Mr. Macdowall and the delaying motion.

Mr. Macdowall said maybe this is for Ms. Gruen but it's not his understanding that the delay would increase the violation because the violation of the Charter has nothing to do with the time frame, it has to do with expending funds, so a two week delay isn't going to change the violation and it's not going to make the violation worse, the violation has happened and it's going to exist for the next two weeks as it has. Ms. Gruen said she doesn't know the circumstances of the entire transaction so she's not going to make any comment about it but if somebody works they get paid (unintelligible) if there were expenditures she doesn't know so she's not going to get into what happened because she doesn't and said the Chief was here and spoke to you two weeks ago that's the information that you heard. She said she can only say that they'll have to go back in time and if appropriate we can advise you, if it's not an

appropriate issue (unintelligible) then we'll advise you of that.

Mr. Macdowall said he thinks he made his point and doesn't want to delay this any further, what he does take issue with has already happened and he thinks they need to address it and figure out what mechanism is in place or needs to be in place as we approach a Charter Revision. He said when somebody is caught speeding we don't say well that issue has already happened so let's move on, so he thinks it's imperative that they deal with these things and handle them in an appropriate way.

Ms. Rowe-Lewis said she thinks if they're going through this point she thinks that if the department itself is going to be penalized then she would say yes, hold it up for an additional two weeks, but we will do absolutely nothing to the department with the exception of talking to them so she will not vote for this because they'll just spend their time talking but if they were going to add some muscle to it and say this department will be penalized XY or Z if you do this or do that, or if you expend money without coming to the Council and add muscle to it then she would say let's go with that but right now we're just going to be talking for another two weeks.

Ms. Horsley said she feels very uncomfortable asking the call center that takes 911 calls that can't properly staff their office before they come to us, and with the way that we move business through, she doesn't think that's a proper use of the call center and the emergency network that we have and there's no way that they would have people to take 911 calls if they waited for us to pass a budget for them so she really thinks this is inappropriate and will not be voting for it.

Mr. Cesare said he agrees with Ms. Rowe-Lewis and also said if we owe the money pay the money and we deal with it in other circumstances, it's really a no-brainer. We owe the money, pay the money.

Mr. Gagliardi said the money's been paid, people have been paid, it's a violation of (unintelligible) paycheck, number one. Number two is you're going to be placid in supporting a violation of our Charter and that's something he doesn't think anyone there should be doing. He said you don't spend more than what's in the account.

Ms. Bonadies said in looking at the backup from two weeks ago the vacancies and overtime were in the earlier part of the year and it doesn't make sense that this is coming to them this late in the year and thinks it should have come earlier in the budget season and thinks if they knew the lines were running low it should have been addressed earlier.

Ms. Baez said earlier it was mentioned by Ms. Rowe-Lewis that we shouldn't vote this down or postpone it because it's just talking about it more and that we don't have a way to penalize them and she asked is there a way to penalize them for going over and what would that look like? Mr. McGarry said that's an interesting question and the short answer is Ms. Gruen will have to look into that.

Mr. Macdowall said he thinks protocol is in place. A violation of the Charter would be a violation of Ethics protocol and there is protocol in place for that and the Ethics Commission exists for that purpose. He said it is up to them to make sure there is teeth in that and it seems like around the Council there were a lot of heads shaking when Ms. Rowe-Lewis spoke and he thinks there is a will for that and he would like to see how that turns out, but we do have an Ethics Commission for that so it can be done in an appropriate fashion. He said the other thing he wanted to mention is that he doesn't think anyone's intention here is to play games with the Central Communications Department he'd be making the same motion regardless of what department it was in and there is protocol in place for these situations, the

Mayor can, as we saw last year, declare a State of Emergency and allocate funding in an emergency situation like that and then at which time the Council reconvenes to address that situation so there is a protocol in those places and outlined in the Charter and there is a way for this to had been done appropriately without the Charter violation. He said to Ms. Bonadies point probably a major part of that problem was the delay in addressing it so he appreciates that she mentioned that.

Mr. McGarry asked if he's suggesting that Chief Cappiello be brought to the Ethics Board. Mr. Macdowall said no, he's suggesting that they put a rest to this for two weeks while Ms. Gruen addresses or looks into what the appropriate protocol would be. He said the fact of the matter is all the time we hold people accountable for their actions and a violation of the Town Charter and this is not the first time we had this conversation but he would like for it to be the last and said there's no reason they can't be honest and transparent like they heard earlier from the audience. He said there was also a request from the audience for monthly updates on where we stand on our budget lines and that has also been a request of several Council members of not only this Council, but the previous Council, and that has been time and time and time again denied and something like that would have addressed this even if the Mayor or Chief didn't catch this because they are busy dealing with busy things and have large things on their plates, but anyone of them, or anyone in the community could have caught it and said hey, you're expending this line at too quick a rate and it's going to be a problem and that is a case of an honest and transparent budget. Mr. Macdowall said he's not looking to necessarily penalize anyone for this he wants to make sure they handle it in the appropriate way and that it stops happening, this happened too many times.

Ms. Rowe-Lewis said she thinks (unintelligible) they're talking again but at the same time we are not saying should we put a letter of reprimand into the Chief's file or how should we handle this because when Ms. Gruen goes away and does her investigation and comes back and says yes, there was a violation of the Charter what do we do then? So we have to now make a decision what it is that we are going to do, are we just going to say okay you violated the Charter we won't do anything about it but we spent two hours talking about it anyway. What do we do? And other department heads, how do we set the standard so that they don't so that anymore, do we just do the same thing again like we're doing right now. She said they have to make decisions that are uncomfortable yes, but what do they do, or what do they want to do as a body? That's all she's asking.

Mr. Farmer asked Mr. Macdowall if he minds if he made a friendly amendment to his motion. Mr. Macdowall said it depends what it is. Mr. Farmer said Ms. Rowe-Lewis mentioned accountability for the future so if Attorney Gruen could look into this whether this was lack of (unintelligible) and then come up with suggestions for our Charter revision as well as suggestions for us and department heads to follow if this situation happens again. Mr. Macdowall apologized and said he lost the purpose of that and asked in what way does this adjust the amendment. Mr. Farmer said to not only check if this was a Charter violation but if it was how to prevent another one from happening and procedures for it. Mr. Macdowall said he doesn't think that changes the spirit of the amendment and would support that. He said he thinks it is the spirit of the amendment is to figure out (unintelligible) to punish anybody, he thinks that helps them, but to figure out how to stop making this happen, and on a Council that spent three months debating a letter to the State to consider CCA he would think they'd take a Charter violation more seriously.

Mr. Gagliardi said he's not wanting to punish anyone for anything, he just wants to make people aware that the Council is finally going to take a position that we are not going to accept transfers that are after the fact, that's all, and for those to be aware that the Council is not happy that money was expended.

Mr. McGarry asked how many other accounts went negative this fiscal year. Mr. Donnelly said he's not capable of answering that at this current moment. Mr. McGarry asked five? More than five? Mr. Donnelly said he's not going to speculate or provide an estimation that he cannot personally back up but he can certainly look into it and provide that information to the Council.

Mr. McGarry said we have spoken quite a bit and we do have two bites of the apple in our rules. He said this will be Ms. Horsley's second bite and Mr. Macdowall had many bites.

Ms. Horsley said she would feel more comfortable having a formal letter from the Council to the Police Chief suggesting that the next time a transfer is requested that we will turn it down if it's overspent because that to her seems to have more teeth than postponing for two weeks. Mr. Macdowall said they did that last year in an MOU.

Mr. Cesare said he agrees with Ms. Horsley and thinks there's a compromise there with a letter, but he's also curious to know how many times this has happened and said the issue is still dealing with the \$80,000 and he won't support tabling it.

Mr. McGarry said the motion is to postpone item #16 for two weeks and asked if there was any more discussion from someone who hasn't spoken multiple times. Mr. Macdowall said you can't shut down conversation and asked for a ruling on that.

Ms. Rowe-Lewis **moved a motion to call the question**, seconded by Ms. Bonadies and approved with 2 opposed (Farmer) (Macdowall)

A roll call vote was taken on the amendment to postpone for two weeks and it failed with 5 in favor (Dolan) (Farmer) (Gagliardi) (Gary) (Macdowall) and 7 opposed (Baez) (Bonadies) (Cesare) (Horsley) (Rowe-Lewis) (Wetmore) (McGarry)

Mr. Gagliardi said he just wants the Council to know that they've become complicit in violation of the Charter by approving this.

Mr. McGarry asked Ms. Gruen what that means and if she could explain it. Ms. Gruen said she thinks that's Mr. Gagliardi's opinion and she doesn't think she has a legal opinion to offer right now.

Mr. Farmer said he thinks if they're going to send out such a letter it should go to all Department Heads otherwise it defeats the purpose because he thinks every Department Head should be aware of it so that we don't have this problem again.

Mr. Macdowall expressed his not being pleased with being in violation of the charter and asked Ms. Gruen her opinion. Ms. Gruen said (unintelligible) violation of the charter or not and what's before them is a transfer of funds. She said you didn't overspend an account, did you underfund an account, is that a charter violation, she doesn't know, she said all she can tell them right now is they have a transfer of funds in front of them and have decided they're complicit (unintelligible) of the charter and she doesn't know that, she's been asked to look into it and she's happy to do that.

Mr. Cesare said as a teacher when he reprimands a student for bad behavior he reprimands that student and not the entire class and so he has a problem with a blanket letter to all department heads. He said he'd also like to request from the administration that when department transfers and things like that are

here the department head also should be. He said there's no reason a department head shouldn't be here for this transfer.

Mr. Gagliardi said another reason he thinks this should be postponed is because he has a funny feeling that this transfer may have come down earlier and we didn't get it until now and he wants to ask the Police Chief when this was sent down.

There being no more discussion a roll call vote was taken on the **Order authorizing intradepartmental transfer 2019-2020 Fiscal Year Budget - \$80,000 - Police Department (Central Communications Overtime)** and approved with 7 in favor (Bonadies) (Cesare) (Horsley) (Rowe-Lewis) (Wetmore) (Baez) (McGarry) and 5 opposed (Dolan) (Farmer) (Gagliardi) (Gary) (Macdowall)

**NEW BUSINESS:** - None

**ADJOURNMENT:** There being no further business Mr. McGarry moved a motion to adjourn, seconded by Mr. Farmer and the meeting duly adjourned at 9:24 P.M.

Respectfully submitted,

Kim Renta,  
Clerk of the Council