

**SOUTH FIRE DISTRICT
OF THE CITY OF MIDDLETOWN
COMMISSIONERS MEETING
MONDAY, FEBRUARY 10, 2020
MINUTES**

Present: Commissioners Bartolotta, Giuliano, Kleckowski, and Thazhampallath, Chief Howley, Fire Department members and members of the public.

1) CALL TO ORDER Secretary Kleckowski called the meeting to order at 7:01 p.m.

2) PLEDGE OF ALLEGIANCE was recited.

3) ELECTION OFFICERS

MOTION to nominate Geen Thazhampallath as Secretary by Comm. Giuliano/Comm. Bartolotta.
Unanimously approved.

MOTION to nominate Deborah Kleckowski as Vice Chairman by Comm. Bartolotta/Comm. Giuliano.
Unanimously approved.

MOTION to nominate Mary Bartolotta as Chairman by Comm. Thazhampallath/Comm. Giuliano.
Unanimously approved.

4) OPEN PUBLIC SESSION Chairman Bartolotta opened the Public Session at 7:04 p.m.

Daniel Penney

Mr. Penney spoke to agenda item #6A-Regular Minutes of January 13, 2020 to be approved. Mr. Penney expressed his concern about the Commission voting to accept the new Local 3918 contract without discussion during the meeting.

Commissioner Giuliano called point of order because the topic was not on the agenda. The item on the agenda was the approval of the minutes, and Mr. Penney's complaint was not that the minutes were incorrect. Chairman Bartolotta accepted Commissioner Giuliano's point of order, and it was ruled well taken.

Mr. Penney also spoke agenda item #15A-New Business, Set Special Election Date. Mr. Penney expressed his disagreement with the special election, and requested the Commission to appoint him to the remaining term of the commissioner vacancy which occurred on February 2, 2020. He supports his request with a copy of the legal opinion he obtained. (Copy attached.)

Phil Russo, Local 3918 Secretary, and SFD Building Committee Member

Mr. Russo expressed the Local 3918 union point of view regarding the building renovation to the Commission. The Union is of the opinion the project should be downsized to use the available grant funds, instead of seeking additional funding. The Building Committee was formed in October 2016, and the renovation has not started.

5) CLOSE PUBLIC SESSION Chairman Bartolotta closed the Public Session at 7:11 p.m.

6) MINUTES TO BE APPROVED

A) Regular Meeting of January 13, 2020

MOTION to approve the minutes of the January 13, 2020 regular meeting by Comm. Kleckowski/Comm. Thazhampallath. Unanimously approved.

B) Annual Meeting of February 3, 2020

MOTION to approve the minutes of the February 3, 2020 annual meeting by Comm. Giuliano/Comm. Kleckowski. Unanimously approved.

7) TAX COLLECTOR'S REPORT was reviewed by the Commission.

A) **TAX REBATES**

MOTION to approve tax rebates to various taxpayers in the amount of \$239.87 by Comm. Kleckowski/Comm. Giuliano. Unanimously approved.

B) The Commission reviewed the Tax Collector's report submitted by Tax Collector Cindy Gotta.

MOTION to approve the Tax Collector's Report by Comm. Kleckowski/Comm. Giuliano. Unanimously approved.

8) MONTHLY FINANCIAL REPORTS were reviewed by the Commission.

MOTION to approve the Monthly Financial Reports by Comm. Giuliano/Comm. Thazhampallath. Unanimously approved.

9) CHIEF'S REPORT

The Commission reviewed the reports submitted by Chief Howley.

MOTION to approve the Chief's report by Comm. Thazhampallath/Comm. Giuliano. Unanimously approved.

10) DEPUTY CHIEF'S REPORT

The Commission reviewed the report submitted by Deputy Chief Trzaski.

MOTION to approve the Deputy Chief's report by Comm. Giuliano/Comm. Kleckowski. Unanimously approved.

11) FIRE MARSHAL'S REPORT

The Commission reviewed the report submitted by Fire Marshal James Mastroianni.

MOTION to approve the Fire Marshal's report by Comm. Thazhampallath/Comm. Kleckowski. Unanimously approved.

12) CAPTAIN'S REPORT

The Commission reviewed the report submitted by Captain Fischer.

MOTION to approve the Captain's report by Comm. Thazhampallath/Comm. Giuliano. Unanimously approved.

13) COMMISSIONER'S REPORT

BUILDING COMMITTEE

Commissioner Thazhampallath advised the February meeting was cancelled, but provided a status update.

MOTION to direct the Building Committee to take all steps to value engineer the project in order to complete the renovation and to fall within the amounts approved and budget not to exceed the grant by Comm. Giuliano/Comm. Kleckowski. Unanimously approved.

14) OLD BUSINESS

None.

15) NEW BUSINESS

A. SET SPECIAL ELECTION DATE

MOTION to set the special election date to Tuesday, March 31, 2020 by Comm. Kleckowski/Comm. Giuliano. Unanimously approved.

B. SET BUDGET WORKSHOPS

MOTION to set Budget Workshops follows:

Wednesday, March 18th at 6:30 p.m.

Wednesday, April 1st at 6:30 p.m.

Tuesday, April 14th at 6:30 p.m.

by Comm. Thazhampallath/Comm. Giuliano. Unanimously approved.

16) ADJOURNMENT

MOTION to adjourn by Comm. Kleckowski/Comm. Giuliano. Unanimously approved.

Meeting adjourned at 8:57 p.m.

Submitted by,



Kathleen M. Kiley



FARRELL, GEENTY, SHEELEY & BOCCALATTE, PC

Susan Perrin Geenty *

Richard S. Sheeley

Kelly S. Therrien

Elizabeth N. Byrne ***

Jason J. Lewellyn**

Sundee Gill Harper

Dylan B. Shaw

Howard M. Gould
Partner, Old Saybrook

John L. Boccalatte, *Retired*

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**Also admitted in New York*

***Also admitted in Rhode Island
and Massachusetts*

****Also admitted in Florida*

February 10, 2020

Dan Penney
101 Chamberlain Hill Road
Middletown, CT 06457
(860) 347-3987
danpenney0628@gmail.com

RE: Commissioner vacancy

Dear Mr. Penney,

You have requested this office to consider whether there must be a special election to fill the Commissioner vacancy for the South Fire District of the City of Middletown.

When William Gregorio, Sr. resigned as Chairman of the South Fire District of the City of Middletown on February 2nd, 2020, there were two vacancies for South Fire District Commission. After a thorough review of the Connecticut General Statutes, the Charter of the South Fire District of the City of Middletown, the By-Laws of the South Fire District of the City of Middletown, and other relevant documents provided by you, I have concluded that no special election must occur for the second vacancy in the Commission of the South Fire District.

Article II, Section 4. "Voting Procedures" establishes the rules for which the South Fire District of the City of Middletown (hereinafter referred to as "the District") must conform in elections. This section states that the District shall follow Connecticut General Statutes, Title 9, Chapters 141-154. C.G.S. Section 9-459, entitled "Vacancy elections," states that "[n]ominations for any state, district or municipal office to be filled under the provisions of any law relating to elections to fill vacancies, unless otherwise provided therein, shall be made in accordance with the provisions of this chapter."

C.G.S. Section 9-164, governs regular and special municipal elections. In relevant part, the statute states: "[u]pon the occurrence of a vacancy in a municipal office ... a special municipal election may be convened either by the board of selectmen of the municipality or upon application of twenty electors of the municipality filed with the municipal clerk... Except as otherwise provided by general statute, the provisions of the general statutes pertaining to elections and

primaries shall apply to special municipal elections. No such election may be held unless the municipal clerk first files notice of the office or offices to be filled at such election with the town chairman of the town committee of each major and minor party within the municipality and with the Secretary of the State at least three weeks in advance of the final time specified for the selection of party-endorsed candidates for municipal office in section 9-391." Note that the town clerk filed notice for the election on February 3rd, 2020.

There are no statutory requirements for municipal vacancy elections with multiple vacancies that differ from established rules regarding municipal vacancy elections.

Section 3. "Election" of the By-Laws of the District sets forth the process. It provides "[i]f a Commissioner vacancy shall occur and it shall be filled by a special election duly called for said purpose, the Commissioner elected shall be elected for a term equal to the unexpired term of the Commissioner vacancy to be filled, said term to commence at 12:00 Noon the day next succeeding the date of such special election... That candidate for Commissioner with a plurality of the ballots cast shall be the successful candidate for Commissioner. **However, in the event that multiple vacancies exist in the Commission membership and as such there shall be more than one Commissioner to be elected, then and in that event the candidate for Commissioner with the highest number of votes cast shall be elected to fill the longest Commissioner term available and the candidate for Commissioner with the next highest number of votes cast shall be elected to fill the next longest Commissioner term available.**" (Emphasis added).

Regarding notice, within the text of the enabling statute, the Charter of the District, the By-Laws of the District, there is a requirement of notice, as described above. However, there is no language that requires specific notice when there are multiple vacancies, nor is there language indicating that when there are multiple vacancies there must be notice specific to the multiple vacancies. In other words, the entirety of the rules governing elections does not differentiate notice required as to when there is an election with one vacancy or multiple vacancies.

Furthermore, a second election to fill this vacancy departs from past practice of the District. As noted by the Middletown Press in the article entitled "Ex-Middletown Mayor Wins S. Fire District Commissioner Election," Thirteen years ago, the now-Commissioner David Darling was appointed to a second vacancy after garnering the second-highest number of votes. The article mentions that Fire Chief Michael Howley felt that the by-laws do not permit such a process, but failed to state where in the by-laws such a process was not permitted.

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To conclude, there is no language within the governing statute, the Charter, or the By-Laws which require specific notice or separate special elections in the event of multiple vacancies. Indeed, the relevant language and past practice indicate that the second highest vote earner from the election held on February 3rd, 2020 should be elected to the next longest Commissioner term available per Section 3 of the By-Laws.

Very truly yours,



Dylan B. Shaw

DBS