The Regular Meeting of the Common Council of the City of Middletown was held in the Council Chamber of the Municipal Building on Monday, April 1, 2019, at 7:00 PM.

Present:
- Mayor Daniel T. Drew
- Councilman Sebastian N. Giuliano
- Councilwoman Mary Bartolotta
- Councilwoman Deborah Kleckowski
- Councilman Robert Blanchard
- Councilman Eugene Nocera
- Councilman Carl Chisem
- Councilman Gerald Daley
- Councilwoman Linda Salafia (by phone)
- Councilman Grady Faulkner, Jr.
- Councilwoman Robert Santangelo

Also Present:
- Common Council Clerk, Linda S.K. Reed
- Corporation Counsel, Daniel Ryan, Esq.
- Sergeant-at-Arms, Middletown Police Officer
- Christopher Holden, P.E., Deputy Director Public Works
- Joseph Fazzino, Director – Water & Sewer department
- Sarah Mendillo, Administrative Assistant to the Mayor

Members of the Public: 115 in Chamber
Approximately 50 people in the lobby (remote video access to meeting)

1. Call to Order

Mayor Daniel T. Drew calls the meeting to order at 7:11 PM. He asks Bishop W. Vance Cotton to lead the Pledge of Allegiance.

The Clerk reads the Call of the Meeting and Mayor Drew declares the call a legal call and meeting a legal meeting.

Before entertaining any motions, the Chair congratulated Councilman Carl Chisem in being elected president of the Connecticut Employees Union Independent, which is a very large union, representing thousands of Connecticut State employees.

2. Accept/Amend the Agenda

The Chair asks for any motions to amend the agenda.

Councilwoman Mary Bartolotta proposes to amend agenda Item 12, Resolutions, Ordinances, etc. to include the following: Item J. -- Support for Veterans Community Center with 206 Inc. and Harry Ruffin Jr., American Legion Post, 206 working with veterans and their families as well as their commitment to work in tandem to develop and operate this unique veterans facility, if the State bond funding requested by 206, Inc. and Harry Ruffin Jr., American Legion Post, 206 is awarded and funds are received for the purpose of veterans programming, a small business incubator space and a Veteran’s Community Center in the City of Middletown, then the City of Middletown commits funding of up to ten percent (10%) of the estimated total cost of $2,600,000, towards the cost of establishing this proposed veterans’ conference facility as fully described in this resolution; and that City funding will occur so long as all conditions and requirements requested by the State funding source are met by 206, Inc. and Harry Ruffin Jr., American Legion Post 206.

Councilman Sebastian Giuliano seconds the motion. There being no discussion, the Chair calls for the vote. After a voice vote, the Chair requests a show of hands, noting that a 2/3 majority is required to amend the agenda. The Chair states that the matter fails by a vote of 7 to 3. The motion fails.

Councilwoman Bartolotta states that Councilwoman Linda Salafia had asked to be on the phone for this meeting. The Chair replies that she is not on the phone. The Clerk tries to telephone Councilwoman Salafia.

Councilman Giuliano makes a point of order, saying that to amend the agenda requires nine (9) votes, which is ¾ of the total body. He explains that even with Councilwoman Salafia on the phone, it will not have the required none (9) votes.
The Chair states that the resolution can be brought up at another meeting, if someone decides to do so.

Councilwoman Bartolotta replies that, since the members of Post 206 are present this evening to speak to this matter, she asks the Council reconsider this item since this is important to them proceeding at the State level, adding the State delegation . . .

Councilman Giuliano interjects, saying that a motion to reconsider must be made by someone on the prevailing side, so, since the prevailing vote was “no,” . . . The Chair interjects, saying that is correct per Robert’s Rules of Order. He defers to Corporation Council Dan Ryan.

Attorney Ryan states that the body need ⅔ of the members present and voting to amend the agenda. The vote has been taken and it did not have the votes.

The Chair asks for a motion to approve the minutes of the Special Meeting (Questions to Directors) of March 4, 2019 at 6:00 PM.

Approval of Minutes: Special Meeting (Questions to Directors) of March 4, 2019 at 6:00 PM

The minutes have been read and approved by a vote of 11 to 0. The motion is approved.

The Chair announces that, if it is noticed on the April 11th agenda in advance, it will be on the April 11th agenda and can be deliberated at that time.

Councilwoman Bartolotta notes that this item was originally on this evening’s agenda and she was given incorrect information at the Finance & Government Committee meeting resulting in the request to amend the agenda this evening.

Councilman Pessina remarks that that some people in the audience appear to have a look on their faces (inaudible).

Councilwoman Bartolotta adds that she believes that the look is a look of disappointment.

The Chair states that there is a set of rules and we must abide. He asks Corporation Counsel Ryan to explain again so everyone is clear.

Attorney Ryan states that when something is added to the agenda, which has not previously been noticed to the public, it requires a ⅔ vote of those present and voting, noting that was not the case here. The Council is abiding by the Charter and Robert’s Rules.

The Chair calls on Councilman Gerald Daley.

Councilman Daley states that it is regrettable that some are here for the proposal that Councilwoman Bartolotta just brought forward. He points out that it was discussed at Finance & Government last month and that the vote at that meeting was to defer to the April 11th meeting. He reiterates that it was specifically stated at that meeting that this item would not be on this evening’s agenda, but on the April 11th agenda. He understands that things happened in between; however, other than those who heard directly that the matter would be brought forward tonight, the general public did not know. He believes that they should stick with the plan and take up this matter on April 11th.

The Chair calls on Councilwoman Bartolotta.

Councilwoman Bartolotta states that she was told at Finance & Government that they needed to create an appropriation, which is not correct. When she realized that the item could, in fact, be on this agenda, she reached out to the Councilmembers, including Gerald Daley. During these conversation, no one said that adding this item to this agenda would not be supported. She states that she would not have wasted time and would have kept on the April 11th agenda.

The Chair states that the Council is in unusual territory as it is debating an issue after the vote has been taken, which is unusual. He asks that all debate on this matter end since the vote has been taken. He asks that, since the body is still on agenda Item 2, someone make a motion to move Item 12D up to between Items 6 and 7 on the agenda.

Councilman Nocera moves to agenda the agenda as requested. Councilman Sebastian Giuliano seconds the motion. There being no discussion, the Chair calls for a vote. The Chair states that the matter passes unanimously by a vote of 11 to 0. The motion is approved.

3. Approval of Minutes: Special Meeting (Questions to Directors) of March 4, 2019 at 6:00 PM

The Chair asks for a motion to approve the minutes of the Special Meeting (Question to Directors) of March 4, 2019 at 7:00 PM.

Councilman Sebastian Giuliano moves to approve the minutes of the Special Meeting (Questions to Directors) of March 4, 2019 at 6:00 PM. Councilwoman Deborah Kleckowski seconds the motion.
There being no discussion, the Chair calls for the vote. The Chair states that the matter passes by a vote of 11 to 0. The motion is approved.

4. Approval of Minutes: Regular Meeting of March 4, 2019 at 7:00 PM

The Chair asks for a motion to approve the minutes of the Regular Meeting of March 4, 2019 at 7:00 PM.

Councilman Sebastian Giuliano moves to approve the minutes of the Regular Meeting of March 4, 2019 at 7:00 PM. Councilwoman Deborah Kleckowski seconds the motion. There being no discussion, the Chair calls for the vote. The Chair states that the matter passes by a vote of 11 to 0. The motion is approved.

5. Public Hearing on Agenda Items – Opens

The Chair opens the public hearing at 7:18 PM.

Maria Madsen Holzberg (Coleman Road): explained the rational for the proposed plastic bag ban, including the role of the Garden Club. She spoke in support of the proposed ordinance, emphasizing that it mirrors ordinances elsewhere in Connecticut as well as and throughout the nation. It eliminates the use of plastic bags and adds a charge for paper bags, thereby encouraging people to bring their own bags. The Garden Club survey in the downtown business district showed that about half have already stopped using plastic and are interested in doing more. She states that there are some concerns about the fee for paper bags, noting that the higher end retailers do not want to charge. Without the 10 cent change, people will not be encouraged to bring their own bags. She asks the Council to adopt the ordinance.

Trevor Charles (505 Kelsey): he is Middletown High teacher and coach for the past 15 years. He is speaking to the ordinance 19-15, which provides for resurfacing fields to grass only. Middletown High is up for resurfacing of its turf field. He shows the Council the football team’s 2017 State championship ring, which represents the training at the City’s phenomenal facilities. After practicing in grass for 13 years and moving to turf, the team won the State championship, which he believes are connected. For many years, teams were relegated to parking lots and on pavement, which led to additional concerns with shin splints and other injuries. Since grass requires more maintenance, there were times when they could not use the fields because it had rained or there was fresh fertilizer on the field or, previously, pesticides. Grass had to cut and painted, maintenance of grass field. With the turf field on site, they no longer bus across town, which had its own costs from the athletic budget. They now share that space with five (5) teams, one program after the other, with no additional maintenance. This facility has elevating practice capacity and overall program performance. It would be a travesty to go back to a grass field when they have demonstrated the success, as seen in the championship ring and overall success of programs such as track, which now dominates. To lose this facility would be awful. He also states it would go against the $300K Milone & MacBroom study, which endorsed the use of turf. He understands that there are environmental issues and other issues involving turf, but there are alternatives such as the coconut/cork mix, which is economical and boasts environmental sustainability and other benefits such as not having heat exhaustion. There are benefits from not having drainage issues. It is in use in Stamford, Greenwich, and other premier facilities. No one has to take time off and it does not have the health concerns, if that is an issue. He hopes that the Council will not take the opportunity of students to participate in sports, including expanded programs like boys’ and girls’ lacrosse. It is all possible because of the turf field. Take it away and it will take away from educational and athletic activities. He asks that they remove the clause not allowing the resurfacing with turf, adding that there are turf fields now being installed on Country Club Road.

John Killian (Ridge Road): Our investment in our recreational fields and recreational facilities is a bold initiative that promises to make our City a better place to live. It is in our common interests, for the whole city, to be able to host sports and activities that bring us health and happiness. This increases our quality of life, which, in turn, increases the value of our homes. The coaches who volunteer their time to our youth are indispensable to the lives of the children on their teams. There is no question we want our sports teams to make the most of our playing fields. But, not to be left out of the mix are every day, ordinary people, outside of any organization, who also wish to make use of the public facilities we are paying for when our taxes inevitably rise to pay for the bonds we have approved. There needs to be times and places reserved for the general public to access our fields and facilities. The schedule of who is using what and when needs to be published. Every effort should be made to share the commons with the common folks. If the kids are practicing under the lights on the field, others should be allowed to walk around the track that the kids in their cleats are not using. If this city is unwilling to make these facilities available to the general public, the general public may grow unwilling to make these facilities available to the city.

Tony Jaskol (Hillcrest Avenue) He is the Athletic Director (AD) at Xavier High School, speaking tonight for both Xavier and Mercy High Schools as the Mercy AD was unable to attend tonight. He offers reassurance that Xavier will continue in the shared service program. The school recently started, adding that in the past, no one was waiting in line to use the Xavier fields. Today, the school has a quality athletic complex and is willing to let Middletown teams use it, as they are now doing, including Vinal Tech. He notes that Vinal Tech needed a field to play a football game and he was outside with shovel to prepare that field for their use. He refers to Trevor Charles’ comments, noting that it is not about
Palmer Field, but shared services; sharing facilities with others. He notes that when Xavier was not able to use the Wesleyan pool for 3 days, they were allowed to use the Middletown High pool. A few years before that, they scrimmaged at Middletown High because their field was not ready. Shared services go beyond what most people think it is: the sharing of all facilities. He is retiring at end of this year. He publically thanks the City Mayors and Councilmembers, who have embraced Xavier’s programs, not just athletics, but also academics and the arts. Xavier and Mercy are part of the City and a part of Middletown. Having been the Xavier AD for 21 years, he stresses the importance of being part of this City, beginning with the Thanksgiving Day football game. He recalls watching Tom Serra practice football as a student — a dear friend and a long history - the new Xavier headmaster, Dave Eustice, has opened his arms to the City and will do anything they can for schools and leagues to help simply because Xavier has been helped by being able to use City facilities.

Steve Crouch (128 Skylar Avenue): He is President of Middletown Youth Soccer (MYS). In reference to scholarship for Magic, they do scholarships for Middletown Magic players only and they do have a spring rec. league, noting that the question had been asked of Public Works Director Russo, who was not able to answer. In response to the Westfield Residents’ Association remark that money was taken from the grass field’s line item to install nights at the Country Club Road facility: that is false; the money was in the budget already. The second point is that no money was used from Park budget. Middletown Youth Soccer if fronting that entire bill. The insinuation that Frank Marchese used his position on the 21st Century Parks Committee to divert fund for the 24/7 field, that MYS is paying for, is ludicrous and an irresponsible statement. Marchese has spent over 40 years devoting himself to kids and Middletown soccer. He is the reason why that program is successful; rather than slander his name, they should say thank you for all you have done. He heard some say that the City gave MYS Country Club Road. They spent years getting that property and deeded it to the City. They allow the high schools and anyone else to use all of their field, if they ask, but no one has come to ask. Finally, MYS is in complete compliance with the lease with the City.

Jason Serra (Asst. Principal MHS): On behalf of the family he extends his thanks for honoring his g Dad, Thomas J Serra. What was done is greatly appreciated and means so much to the family. His Dad was passionate about the City, with the big things being residency and defending taxpayers. On field usages, Pat Kidney Field is beautiful and now everyone wants to use it. If a decision is being made based on percentages, he asks that these decisions be based on that: don’t hurt the kids in Middletown. He is an educator, so, for him, it’s all about the kids having access to fields. It’s all about Legion. He offers personal experience on Legion. It is now regionalized, but was not when he played in the early 1990’s. He played for Middletown Legion his Sophomore and Junior years, but in his Senior year he went to Portland. The reason was that only two (2) kids were from Middletown, the rest were form all over the State. The rule has been changed so, today, kids from Durham, Middlefield, and Haddam can now only play in Middletown. Middletown Legion cannot be tied with travel teams since they are subject to this rule. His Dad saved the city millions of dollars and, as Director at Vinal. It was great that he lost the mayoral race in 1995 because he was able to be Principal of Vinal, which benefited the City on fees, saving millions. It was a cooperative. He asks that people cooperate and work together. Fees that are paid – CIAC – help and go to summer camp fund to help kids that cannot afford to go to camp. It’s all about the kids.

Eric Sawyer (Brookshire Drive, Prospect): He is a teacher at Vinal Teach and coach and Athletic Director. He is speaking on usage of fields: Cooperation, which was just mentioned, in his time as Athletic director at Vinal, the cooperation with the City relative to field usage is phenomenal. He coaches soccer and, after school, kids come out and play. He coaches softball. All fields are in use and when they need a field it is available. Usage agreement needs to be solidified. They need to keep going with the practices that Mr. (Thomas) Serra put in place years ago.

Diane Gervais: She is the owner of Amato’s Toy and Hobby of Middletown. She is speaking tonight to voice concerns about the proposed Plastic Bag ordinance. Specifically, the articles c, e, f, g under #253.30 will force her to charge consumers for paper bags. While she is willing to absorb the added cost of using paper bags, she does not want to pass this cost on to the consumer and does not believe that she should be forced to. She believes that customers will react negatively to any additional charges. As a retailer, today, they face significant challenges to online sales; there are the ever present parking issues, rising costs etc. etc. They have to do everything they can to encourage customers to shop locally and actually come into a store. A charge such as this will leave the customer unhappy with retailer, not with the City and they will choose to just shop elsewhere, probably Amazon. Upon voicing her concerns on this fee to the City’s recycling coordinator, she was told that the fee is necessary to change public behavior and encourage people to not use bags at all. She does not believe that it should fall on retailers and restaurants, who face the burden of changing public behavior. She urges the Council to reconsider this ordinance, review it further, and consult with those of us in the local business community so that an ordinance that eliminates plastic bags, but does not put an undue burden on local businesses, can be created.

Pam (last name inaudible) (Camp Street): She owns Pamela Rose Knits and Yarns. She is here to speak on the plastic bag ordinance. She has no problem switching from plastic; however, the 10 cents fee is nickle and diming and it will cause an issue. There are enough problems downtown with parking and other issues so this is adding another cost to their cost of doing business. Each business owns it supplies, which is part of doing business. She does not believe it is rights for someone to tell her that she much charge for supplies that she needs to run her business. She just heard about his ordinance the other day. She does not know what discussion about this article, adding this one spoke to her. She asks the Council to take a little more time, do some research, and take a survey, which other States have done. She has researched this issue and many States have overturned what local municipalities have done, including Texas, Florida, Michigan, Idaho, Arizona, Missouri, Tennessee, Illinois, Indiana, Wisconsin, and Utah.
for some of the same reasons that we are raising where retailers were to charge from five (5) to 10 cents for paper bags. She reiterates, more research needs to be done especially on this section, which his telling us what we need to do with our supplies. It is a cost of doing business. Most businesses that she has spoken with have no problem changing from plastic to paper, but do have a problem being told that they have to charge the customers for a paper bag, especially for senior customers, who won’t remember to bring a bag.

Joan Liska (467R Kelsey): She recently learned from Public Works agenda and correspondence that the Council has given direction that youth soccer can build artificial turf fields on City property. In 2015, she was part of the outspoken opposition to artificial turf. Scores of people stood with her, including medical and scientific processional, sports professionals, and she as an insurance professional. They detailed health and safety issues, which swayed the mayor to be the deciding vote to stop installation of artificial turf in Middletown on City property. She believes that memories have faded for some employees, who are not in the loop and who have allowed MYS Club – the same club that wanted it in2015 – to begin the process of installing banned materials. Many residents are here to refresh memoirs and to ask for a cease and desists to stop MYS and this inappropriate plan. MSY claims to be using its own funds, it is her understanding that the contract required them to do other work – lighting, parking, concession, scoreboard – and that they may not have completed those items within the contract. Her understanding of what is going on with Public Works is that somehow Middletown taxpayers are picking up the cost of improvements that are in their lease. She asks City – this Council -- to put cease and desist on this project and keep the intent of the original 2015 plan that was voted on by this Council, and put into Ordinance, that we should not have artificial turf on City property.

Katie Lenihan (Bystrick Drive): She appreciates that the Councilmembers not be on their mobile devices. She speaks on behalf of the field resolution. She is parent of 3 have been resident for 18 years. Her children have participated in Middletown sports. Two have played little league; two Xavier; one Mercy. She asks: make it equitable and make it measureable. Right now, it does not. It does not measure things equivalently. We all pay taxes, but she sees no current fiduciary accounting present, so it is impossible to qualify the monetary value of any of the teams being charged on tier-approach that does not make common sense. She asks that they looks at the distribution of residents in town and look at what is equitable. They should look at some benchmark information and take on a financial reconciliation on fees and important qualifications of the tier approach. Maybe reduce it to one or two, noting that the 3rd tier does not make sense. If they take time to consider and look at percentage of residents on teams that would make the most sense. Little league: done. MHS: done; we pay taxes. Then go from there: Xavier, Mercy, Generals – look at the distribution of residents not tiers. They are silly and inappropriate, adding that she is not trying to be rude. Look at youth residency and forget about adult distribution. As adults, they can pay to play. She reiterates; look at the youth. Reserve the right to take the time and truly review the recommendations to minimize the tiers, ensure an attribute distribution, and look at what is being signed. While it will never be 100 percent. Look at them all and rank them, but look at the residency, not just naming convention, because, frankly, names don’t mean anything, adding that her son’s Xavier team has a lower residency rate than some of the teams now ranked at tier 3. Look at these teams equitably and stop being inefficient.

John Bysiewicz (Buena Vista Road, Branford): He grew up in Middleton. He speaks on the resolution for the Middletown Summer Fun Run to be held on July 17th, noting it will be the 23rd annual event. Kids in Middletown run for free. It has generated over $200K for local non-profits. They are a nonprofit and appreciate City support for this event.

Joseph Hodilla (Hunting Hill Avenue): He supports the plastic bag ban and supports it for sustainability reasons. He is 45 years old and is scared what the world may look like in 100 years, noting that this impacts future generations. This should have been passed 30 years ago. We need to try to stay in front of this issue. There is the Great Pacific Garbage Patch which the size of Texas. There are 5 or 6 of these around the world, propelled by the currents. It is important to raise awareness.

Paul Radziewicz (62 Holly Lane): He is speaking on the field ordinance. Although it has been 8 months, he has memorized the existing ordinance as well as the proposed ordinance. They are being told that the proposed ordinance is the mirror of the existing ordinance. He asks, “Then why are we changing it?” There are changes. He looked at the current ordinance and compared to surrounding towns. Our current City ordinance is well written and detailed, it’s easy to navigate. The fee structure is in line with surrounding towns. Town that require employees to be on call; lights; fees are in line, but Pat Kidney fees seem a little high, suggesting that there has been some massaging to be done, but not a lot. He looks at the proposed fee structure and he doesn’t understand fees seem to be reduced, which he doesn’t understand since the City will lose money. As far as users – local and non-local – it is established. When he attended the meeting and the Public Works Department Director suggested a residency requirement, he thought it was great since it eliminates favoritism. If you have a percentage, you get field time. If you don’t, then you get 2nd place. Local and non-local so teams are free – Little League, Ahern. It’s a simple solution, but we argue about it with special consideration. The bottom line is that we are paying for that $33M bond, yet no one is saying Legion, Xavier, Mercy, or Vinal should not be on the field. This is transparency. We do not see transparency on the fields with the other schools. Look at the present ordinance and add a field requirement on that and it’s fine.

Darrel Ponzio (Olympus Parkway): he asks if the Council were presented with a law that would require you not to repave Route 66, but instead tear it up, and put down gravel, would you pass that law. If you could never pave another road, his guess is no. He speaks on Ordinance 19-15, the bond
ordinance, which eliminated the City's ability to spend money on installation of fields so they could only be grass. He understands that this is a recommendation that that language be made permanent. He believes this permanently handcuffs the Council for the future, eliminating options. He is not saying that fields should not be grass versus turf; rather that the Council should consider whether it wants to handcuff itself as to any future options.

Anthony Fazzino (Harbor Road): He is present of Middletown High Booster Club. He does not support replacing MHS field with grass. If it rains tonight, the field is ready to go tomorrow, they host semi-final and final soccer games. If it snows, that can still play there is no issue with rain or snow. Changing over to grass would be a big mistake because then teams in spring, if it rains, they can’t use it; if they apply pesticides, they cannot use it. They are lined for lacrosse now. There is a rumor that the Nutmeg Games for lacrosse may be held at MHS stadium in July because this stadium is a jewel to the City. Going to grass is going backwards. Keep the turf field.

Rev. Moses Harville: He is the Pastor of Cross Street AMC Zion Church on West Street. He offers his support of W. Vance Cotten filling the seat of Councilman Thomas Serra.

Rev. Paul Hilton: He is the Senior Pastor of Shiloh Christian Church, Saybrook Road. He offers his support for W. Vance Cotten to fill Tom Serra's seat, adding that he is well read, loves people, loves Middletown.

Rev. John Cotton: His is the Senior Pastor of New Hope Missionary Baptist Church in New Haven and a former Middletown resident. He offers support for W. Vance Cotten as the candidate to fill Thomas Serra’s seat, adding that he has done grassroots work to make his City better. He asks members of the audience to stand to show support for this nomination.

Deb Petrizello (Highland Avenue): She is a lifelong City resident and is speak regarding the fields. The grass fields and the existing turf fields allows for so many sports. It is amazing with the turf field. To require replacing that artificial turf field with grass would be costly and she does not support that addendum.

Michael Olean (+Barber Road): He last spoke before the Council when they approved lacrosse as a varsity sport. As Coach Charles said more sports are using the turf field, including lacrosse. Changing back to grass will force them to look for other fields, adding that there are not enough fields as it is in Middletown. As the City builds and adds more sports, where will they play. He asks where they will play. He refers to Mr. Radziewicz’s comments on residency and access to fields. He believes that there should be a residency requirement for people, who pay taxes, giving them priority.

Elizabeth Holder (Long Lane): she is the Chair of the Commission of Conservation and Agriculture. She reads the statement adopted by the Commission at its March 19, 2019 meeting.

It has come to our attention that the Middletown Youth Soccer Organization plans to install artificial turf fields on land that they lease from the city on Country Club Road. The Middletown Conservation Commission voted unanimously on July 21, 2015 in opposition to the installation of artificial turf playing fields. The Common Council voted against these fields a couple of months later in connection with a request for bond funding. It was made clear at the time that only grass fields should be constructed in Middletown. The Commission on Conservation and Agriculture remains in complete opposition to the installation of artificial turf fields.

The terms of use for the Country Club Road soccer fields require it to be "surrendered in the same condition" at the end of the lease. Tests should include cleaning agents and chemicals that can leach out of synthetic fields (including hydrocarbons and heavy metals). The topsoil depth should be measured to be sure that it will be replaced to its current depth and condition.

Additionally, water sources that receive runoff from the field should be monitored to be sure that cleaning agents and infill material are not polluting local streams. Of particular concern are the wetlands at Smith Park, which is owned by the city. What city agency has reviewed the plans and what storm water treatment elements are included in the design? The oft-quoted CT DEP study of 2010 has the following paragraph in its conclusion:

The DEP concludes that there is a potential risk to surface waters and aquatic organisms associated with whole effluent and zinc toxicity of storm water runoff from artificial turf fields. Zinc concentrations in the stormwater may cause exceedances of the acute aquatic toxicity criteria for receiving surface waters, especially smaller watercourses. The DEP suggests that use of storm water treatment measures, such as storm water treatment wetlands, wet ponds, infiltration structures, compost filters, sand filtration and biolitrification structures, may reduce the concentrations of zinc in the storm water runoff from artificial turf fields to levels below the acute aquatic toxicity criteria.

A detailed study conducted here in Connecticut showed clear results of pollution from such fields. The Connecticut Agricultural Experiment Station conclusively found four compounds which out-gassed and leached into water from synthetic turf rubber crumb under ambient temperatures:

- Benzothiazole (a skin and eye irritant),
• Butylated hydroxyanisole (a "recognized carcinogen, suspected endocrine toxicant, gastrointestinal toxicant, immune toxicant, neurotoxicant, skin and sense-organ toxicant"),
• n-hexadecane (a severe irritant) &
• 4-(t-octyl) phenol (corrosive and destructive to mucous membranes).

As rubber degrades it can leach toxic substances which can contaminate soil, plants and aquatic ecosystems. The use of tires in artificial turf has the potential to pollute the environment with PAHs, phenols and before being "a positive risk of toxic effects on biota in the water phase and in the sediment." Other metal contaminants found to leak from tire rubber include zinc, selenium, lead and cadmium. Extreme temperatures or solvents are not needed to release these metals, volatile organic compounds or semivolatile organic compounds from the rubber itself of artificial turf into the air. The rubber is in place at ambient air and water temperatures. (The Connecticut Agricultural Experiment Station, Examination of Crumb Rubber Produced from Recycled Tires, August 2007; Environment & Human Health, Inc., Artificial Turf, Exposures to Ground-Up Rubber Tires, 2007)

The Middletown Common Council voted in the summer of 2015 to reject the purchase and installation of artificial turf and pursue natural grass field maintenance instead. Since then, the Federal Environmental Protection Agency and Consumer Product Safety Council have withdrawn their claims that artificial turf is safe.

It is very important that the Middletown Youth Soccer Organization be held to a high standard of responsibility and environmental safety. They have already asked the city to supply $355,000 when they failed to raise sufficient money to complete the fields on Long Hill Road in 2011. For the Country Club Road property, they are required by their lease to pay for and install lighting, fencing, restrooms, a concession stand, a scoreboard, and a paved parking area. In view of the field construction they now propose, should they not also be required to install a storm water treatment system as recommended by DEP (now DEEP)? Have they demonstrated that they possess the funds to complete all these projects in addition to the expensive synthetic field?

We are concerned that city funds will be used for this project and diverted from the uses specified in the bond. The members of the Common Council owe it to the taxpayers of Middletown to be responsible stewards of the city's financial and natural resources in any lease agreement. We are concerned that the City of Middletown will end up making up the difference for Middletown Youth Soccer through supplemental funding in the near future or in the form of expensive environmental remediation many years from now.

The Middletown Commission on Conservation and Agriculture
Approved unanimously- March 19, 2019

Stephen Devoto (Country Club Road): He speaking as a resident of Country Club Road and only in that capacity, not as Chair of the Planning & Zoning Commission. He speaks to three (3) items. Item 12E, the bag ban: yes, please. On Item 9A, the field use policy: yes, a residency requirement for priority users, noting its makes no sense not to require this for top priority use and a requirement for the lowest level. It does not make sense. He urges that it be either amended or sent back for that addition. On Item 12L - artificial fields: It is disgraceful that this is on the agenda because the actions of five (5) made this necessary. He urges the Council to support this resolution to make up for the actions and inactions of the mayor and the four (4) members of the Council, who allowed this to come from Public Works & Facilities Commission. To refresh memories: On August 25, 2015, the Council voted that artificial turf would not be installed on City property. He is not here to speak for or against artificial turf; rather, he believes that we need to be careful about schools and artificial fields. As a government action, this was not obscure vote, noting that the room was packed during the last week of August. He recounts that he believes that we need to be careful about schools and artificial fields. As a government action, this was not obscure vote, noting that the room was packed during the last week of August. He recounts that the vote was tied and the Mayor broke that tie. No one can forget the decision of this body that the City would not install artificial turf in City parks. It is a basilisk mark of legislative law: "That which cannot be done directly shall not be done indirectly." He reads for the Public Works & Facilities Commission minutes of August 2015: Steve Crouch spoke, stating that "he knows that having turf fields has been voted out," emphasizing that this is verbatim in the minutes. A Councilmember corrected that statement, saying that the only thing that was voted was that none of the Parks Bond money could be used to purchase turf fields, adding that there is nothing saying that turf fields are not allowed in Middletown. Loophole. Mr. Couch then asked if field preparation could be done by the City. Councilman Nocera stated that the Office of General Counsel would have to check on having the City do the site work for an organization that is buying equipment or materials to be added to a parks property. In the August 8th minutes, Director Russo briefed the Commission on legal issue. Councilman Nocera stated that, when you read the attorney's position on this, there is an ordinance that excludes any synthetic surfaces. The ordinance would have to change for the City to be involved in any type of arrangement that brings in synthetic surfaces stated Councilman Pessina, adding that it is based on the discussion that synthetic cannot be installed on lease that MYS has on the Country Club Road field, the rent is to cover the cost of installing a concession stand, parking lot pavement, and restroom. The next sentence in the August 8th minutes states: Councilman Pessina asked the Commission if concession stands, pavement, and rest rooms can still be completed if the turf is completed privately. Mr. Devoto reiterates, "That which cannot be done directly shall not be done indirectly." In the September 19th meeting minutes, Director Russo states that he is going to keep the process moving forward in relation to Frank Marchese's request for Phase 1 – the paved parking lot, concession stand, and rest rooms. On January 9th, the City attorney said a front end and back end bond would be required. From the minutes: Middletown Youth Soccer feels it is being treated unfairly as the program has continued its own money for the good of the community and is now being required to put up $500K bond money. For past work, Middletown Youth Soccer has not had to put up bond for any work that it has done. A question was posed by Councilman Giuliano, asking where in the league or City ordinance does it state that a bond has to be secured, suggesting that Councilman Giuliano is trying to make sure that there is no bond. To recap, Middletown Youth Soccer is responsible for $1M in work on the soccer complex, the City is going to pick that up, and Youth Soccer will put in the fields
at $750,000. He reiterates: “That which cannot be done directly shall not be done indirectly.” He asks the Council to cease this project and prevent it from happening again.

Rebecca Macachian (Clover Street): She reads a prepared statement,

I'd like to start off with my support for the Plastic Bag ordinance. I think this is a great thing for Middletown. It will cut down on a lot of waste, and significantly reduce the use of single-use plastic as well as encourage people to bring their own bags when they shop. Middletown would be joining other towns that have also been on the forefront of this important issue, as well as California and New York State, which passed a similar ban just last week.

I do not support the changes to field usage and fees proposed in Ordinance 214-37 Field Usage and Fees. I am all in favor of supporting soccer and athletics for kids and adults. My daughter played soccer and loved it when she was young. It is all about exercise, learning how to follow the rules and play fairly.

But it has become apparent that there is a lot of fairness when it comes to us. This field usage ordinance does not give equal access to all our Middletown youth. It gives priority to the select players who are on the elite leagues that are run by the organization, Middletown Youth Soccer (MYS). [This is not fair!] I believe this issue is the result of a few of our city officials and appointees allowing private organization s to drive policies that seem not to be in the best interest of taxpayers or our children.

I'm going to briefly go through a little history here.

In 2015, playing fields were under discussion as part of the Parks Bond. The record clearly shows that the majority of citizens who came out to speak about this issue expressed their concerns about the hazards of synthetic turf fields. Close to 300 petition signatures collected in one day were presented to the council requesting that we not use our Parks bond $ to build artificial turf fields, only grass fields maintained without toxic chemicals. There was extensive testimony about the problems with artificial fields, which include health issues from children getting burned from the extreme surface temperatures of the turf in hot weather AND increasing evidence that children who play a lot on this type of surface are at higher risk of developing cancer. Since 2015 there is increasing evidence of these hazards. Presently, there is a bill (#5249) in the CT legislature that would prohibit the purchase or use of artificial turf by the state and municipalities due to the tremendous controversy surrounding the risks associated with synthetic turf fields.

The City's "no artificial fields" measure was supported by the council and supported by citizens via our Parks Bond referendum! There was also a provision that added about 6 new grass fields, which was supported by the Council, to counter the argument that artificial fields were needed because grass fields didn't allow enough playing time. But now we have learned that the Parks Bond funds that were supposed to be used for new grass fields have been reallocated for other uses. If this hadn't occurred, we would be able to have additional grass fields that are needed to cover requested playing time.

Now let's jump to 2018/2019. Middletown Youth Soccer had close to 1 million dollars according to tax documents in 2018. Many would say that maybe they are doing well enough to pay back the $355,000 of taxpayer funds the City used in 2011 to bail them out when they didn't have the money to complete the Long Hill playing fields. But instead it seems we are doing more favors for Middletown Youth Soccer by finding a loophole to allow an artificial turf field for their use at the Country Club soccer fields. Instead of requiring Middletown Youth Soccer to follow through with their lease agreement (which is $1/year, with required upgrades to the property including a parking lot, bathrooms, concession stands and more), we learn we are now going to use a million dollars of Parks Bond money to pay for these upgrades for them, and allow Middletown Youth Soccer to use $750,000 for an artificial field installation. I would suggest that this $750,000 should be used by Middletown Youth Soccer to pay for the improvements as indicated in the lease. It also appears that a private organization is deriving financial benefit from the extremely discounted exclusive use of these fields. That does not seem fair to me as a taxpayer.

Finally, I would like to voice my support for the proposed “grass fields only” resolution under Section 12 New Business, Resolutions, Ordinances, etc., Letter I. This resolution simply requires that the City follow what was already supported in 2015 by the Common Council and the majority of Middletown voters. I would also like to mention that this is critical because maintaining artificial turf fields requires the use of pesticides and herbicides to control weeds (according to the Synthetic Turf Council), which is not permitted on City playing fields.

Kate Miller (Boston Road): She is also a member of the Conservation Commission. She speaks in support of the plastic bag ban, noting that she is glad that we could bring this forward and have a discussion concerning not only local, but global impacts. There is qualitative difference between plastic bags and paper bags. Plastic bags incur toxins that are different in production. These contaminants are leached during disposal. We cannot fool ourselves that this does not affect us. Once people understand, they will pay. She echo comments of the Conservation & Agriculture Commission on the resolution that, moving forward, field be grass. It is incredible that we need to pass this resolution as it was clearly the intent of the referendum and the change in the referendum language. It was clearly the intent in the ordinance on pesticides. It is the intent to of this populace to protect its children. What is happening on Country Club Road is shocking and the Council should be aware of the dialog. People are livid hat this happened, that an organization that was bailed out of another project at a cost of $300K is now being fronted with City money, money that has been entrusted to the City to spend appropriately. This is not transparency in government. It is an example of bad government, noting that City
leasers can educate everyone. Relative to artificial turf, since some would like to re-literate, it is expensive to install and maintain. The bond ordinance was reduced by over $3M by opting for grass fields rather than artificial turf. These turf fields need to be refreshed periodically with more materials. He is interested in ground water contaminations, but there are other issues: for those who make it, install it, and lay on it, especially children. Ground water concerns cannot easily be addressed. There is also the nature deficit issue of having children not play on grass. To have children play on ground up turf and plastic grass because it is more resilient for hard play and available more quickly and for more hours. He opposes the expansion and continued support of artificial turf and asks the Council to take steps to minimize its use.

Karen Radzievicz (Holly Lane): There must be cooperation on field use in the City. The Council has heard Kori Wisneski’s take on it, but it was not the whole truth. Residents on travel teams have been denied use or several years. Also a Freedom of Information (FOI) request shows that fees were not being collected by certain teams, who played on these fields. This ordinance is now being rewritten to give preference to these teams. In last month’s Question to Directors minutes, Director Russo states that we are trying to do what other towns do. Hi Statement is false because no other towns with Legion or private schools name them as 1st priority users. The Director also stated that for over 40 years ago, Legion and other teams were bringing in the most money. That is true, but the FOI request shows that, within the past 4 years, no money was brought in, which is why the ordinance was re-written. Council members have said that have not heard from anyone saying they were unable to get on a field, noting that is not true as you have heard from us at a Commission meeting that we were not able to get on a field. Sharing fields with Xavier and Mercy is great. There was a fair trade when Xavier used City fields when their fields were being revamped. For the City it was a fair trade as we were able to use Xavier fields when Pat Kidney was under reconstruction. She adds that Xavier should not be a first priority user and, if they use the fields, they should pay the fees to help recoup the $33M or the $6M put in at Pat Kidney. There should be a percentage for 1st priority users. Someone said we would not have Legion if it was not true: we would not have Ahern. That is if we didn’t have Ahern. It was built for Ahern not Legion. There should be 6% or 67% residency requirement for 1st priority users. Someone mentioned that Durham and Middlefield use City fields as part of Legion. That’s great, but she asks we don’t we use their fields, too, as many are on the legion team. If Xavier is a 1st priority user, she asks why Xavier fields are not available to residents. The proposed ordinance needs to go back and be amended as it is not equitable for City residents. Some said that Vinal, as well, which may be correct for soccer. Please send this back for amendment as it is not equitable. Vote no on this proposed ordinance as written. There should also be more transparency and more stakeholders should be at the table. Take into consideration the residents, who have been denied use, and bring them to the table.

Elizabeth Emery (West Poplar): She is a resident and also a member of the Planning & Zoning Commission. She is speaking only as a citizen. Middletown is progressive. She supports the plastic bag ban. She supports Item 101 to stay with natural grass – it is right and health. Relative to users and fees, no one has mentioned this and it should be considered. When she hears the term historical precedent, there is something to be said for that, but she cautions on thinking that way since, with a sports metaphor, but it’s easy to go back. They should look at today and the future of field and field usage. Be fair to Middletown taxpayers first. We supported the bond for the playing fields voted for that because it was understood that there were no artificial turf field. Someone mentioned the need for measurable qualifications for use of fees. She says equitable is for all age groups, all users, and how also to measure in equitable as to gender. This has not been mentioned and she is not sure that park & Rec measures this element. She asks if young women, college students and adults, get to use these premiere fields as often as men. Perhaps there is equity, but it has not been mentioned and it is important to consider so women have the same pride to play on the best fields.

Peter Soucy (Brecklin Drive): he is resident and president of Middletown Youth Lacrosse. He knows people have strong feelings and he has no interest in was late arriving, have no interest in re-litigating. When they play in other towns, they play on artificial turf fields and they are superior in every way. No slipping in mud, no empty patches of grass; no rocks in front of the goalie. He has no information as to health and safety, but the players love these fields. In his roles, he taches children about character, to tea other fairy. He tells young players that he expects them to be gentlemen athletes. He is interested in ground water contaminations, but there are other issues: for those who make it, install it, and lay on it, especially children. Ground water concerns cannot easily be addressed. There is also the nature deficit issue of having children not play on grass. To have children play on ground up turf and plastic grass because it is more resilient for hard play and available more quickly and for more hours. He opposes the expansion and continued support of artificial turf and asks the Council to take steps to minimize its use.

Edward McKeon (High Street): When he voted for the $33M bond, he believes parks are beyond playing fields. This has turned into playing fields only. He thought that there were enough fields, only to hear that people are not able to get on the fields. His idea of parks is different: go to hangout, play horseshoes, eat at a barbecue. He doesn’t see any of this at Pat Kidney. It’s a beautiful field, but there
are no other amenities. It’s great to pay attention to kids who play sports, but that is a time percentage of the kids in town and a tiny portion of the total number of residents. In terms of equitability, Pat Kidney is an all-male park. There is no softball – he corrects, stating Palmer Field – is an all-male field: hard ball, football, locker rooms for boys. We inadvertently did something that we might not have intended. The language of this ordinance is poorly written; it is restrictive; it favors non-residents. It favors organized teams with numbers on their back, so that moms and dads, who want to get some kids together to play, by ordinance, they will need to form an organized non-profit; they cannot play there. It probably won’t happen, but that is what the ordinance says. He supports the plastic bag ban and is against artificial fields.

Jennifer Mahr (Old Farms East): She is speaking as a taxpayer, as a parent of a Mercy sophomore and a Xavier graduate, who has a child who plays for Sporting Connecticut where she manages the team; as Chair of the Westfield Residents Association. Having a Masters in Environmental Policy, crafting policy means different things to different people. I mean, Predator. Recycling plastic bags would be easier if, in taking something away with one hand, you gave back something with the other hand. You could offer a reusable bag for a small fee and the fee could go to something like sending kids to summer camp. This provides two elements to buy into: plastic bags ban and summer camp sports for kids. That’s a carrot that fits the stick. As a private resident she speaks to the field ordinance. She original spoke on this issue as Chair of the Westfield Residents Association and she stands by all the questions that she asked. She briefly sums up; there are three (3) questions. Is the ordinance ethical and fair? Does it create a community? Do taxpayers get a return on investment; that is, is it fiscally responsible? She has to say, “No.” At the heart of this is a philosophy change between the old ordinance and the new ordinance. Just an hour ago, when listening during Questions to Directors, the City Attorney said, “We sat down and looked at how we have been doing business and that’s what this ordinance is.” She takes issue with this because we had an ordinance that said how we were supposed to do business and that is very different from what the new ordinance purposes. So either the City Attorney said that we have not been following our own rules, and in some sense we know that because fees were not properly collected, either we have been following the rules or we have not.

To move to a new ordinance that codifies who the favorites are in Town, she cannot see how this is ethical or responsible policy making. It is the Council’s responsibility to legitimate for the entire community, not to take a microcosm, to look back and ask how we have been doing it in town. The 21st Century Parks bond is named for the future, not the last century. We have new parks, new facilities, so policy needs to be updated as we move forward. There is no organization that should have to fight another organization in town for who is better, who has been here longer, who has done more, and who has greater standing in the community. This tears us apart. Whether it for two (2) person organization that helps one person or a 5,000 person organization. It shouldn’t matter. We need everyone. She asks the Council to take this policy back and look at it again from the standpoint of what is good, and fair and equitable for all residents, not just sports people.

John Hall (Main Street, Portland): He reads a prepared statement regarding the plastic bag ordinance.

The Jonah Center enthusiastically supports the Bring Your Own Bag ordinance. We thank Maria Holzberg and the Middletown Garden Club for leading this campaign. We thank you Common Council members who have already voted for this at the commission level. I thank Public Works Director Russo and the Recycling Advisory Council for their many forms of support, including providing to the public the reusable shopping bags, so the ordinance doesn’t burden those who struggle financially. This isn’t just about keeping plastic bags out of our roadsides and the damage these bags do to the sorting equipment in recycling centers. Plastic bags not only hang up in the trees. Along with plastic cups, bottles, and food containers, they wash into rivers, endanger wildlife who mistake them for food, and they have accumulated now to the point where plastic pollutes even the deepest, remotest parts of the ocean. Small bits of plastic now show up in our food supply. We have to stop using a plastic item once and throwing it away. Add to that all the chemical cleaners, fertilizers, pesticides, herbicides, cosmetics, antibiotics, solvents, aerosols, mining waste, heavy metals, and climate changing carbon emissions produced by over 7 billion humans and their livestock. We’re the planet’s most destructive, invasive species. Our climate is changing before our eyes, storms and droughts are intensifying, human migration is accelerating, and our endocrine systems are being disrupted. An ordinance on plastic bags can’t fix all of this damage. But it does send a clear message. We need to change our consumer habits. We can’t wait for other people, who live in other places, to change their habits while we never change ours. The Bring Your Own Bag ordinance is a flashing signal that everyone has to change. Convenience can’t be our only priority. Bringing Your Own Bag is something we can all do. This change will not prompt some necessary re-training. In fact, this retraining might be the greatest benefit. If we change a little behavior, it will pave the way to changing other damaging habits. It’s a way of showing we’re serious about taking care of the natural world we say we love. There will be future ordinances along these lines. We will be back to support those.

Frank Marchese (Middletown): He is the vice-president of Middletown Youth Soccer. He speaks to clarify some information that has been presented tonight. He has run the league for 40 years. They have been appreciated by the City for running a program with only $6K from the City. They have had the same registration fees for 20 years. When they needed more fields, they lobbied the State and got Bow Lane. They swapped that land with a developer who built a medical center, which generates million for the City. They swapped that land on Country Club Road where they now have four (4) fields including two (2) practice fields. They provided wells and irrigation. They built the fields and turned it over to the City to maintain, the City gave them a 99 year lease. They took over Long Hill Road and were approached by the City if we would build more fields. They got another 99 year lease for Long Hill Road. They built these fields. There was $355,000. They finished the fields. Under mayor Giuliano, they were asked to give up the 99 year lease and the City paid off the $355,000. They gave up a 99
year lease on Long Hill Road and gave it to the City for the middle school and high school. They built the fields on Country Club Road, they got the land and built it. They gave it to the City biscuit they have a good relationship. For people to assert that Middletown Youth Soccer is getting it for free, there is nothing for free; they did it themselves. They did fund raising and good management of teams. They grew from 250 kids to 832 kids today, including the premier club to stay and play in Middletown. Now there are 180 kids in Middletown, who play premier. There are college players and professional players who have come from this league. They earned all they got and were not favored. The city has four (4) fields on Country Club Road so the City will maintain them. They raised $378,000 and have financed the rests.

Gordon Bosc, (Long Hill Road): He is a Middletown resident since completing his professional soccer career. He has been a professional player since age 15. Everyone plays on turf field all over the world. There are a limited number of development days, reduced by rain and snow. People are paying so the kids will or they will go to Portland or Farmington. He works in Middletown as part-time employee running camps and clinics at Long Hill Road and Snow School. When they have to cancel due to field conditions, people still show up and want to play. He can’t let them in. By building fields with tier own money will benefit the City. The Xavier team is successful since the kids developed in this program. Initially, some people had no idea about soccer. When he met Frank Marchese, he asked for his kid to join the team. They had free practices. He is the director of a program in New Brunswick, NJ. His own son now plays on turf field at Oakwood in Portland. There are no health concerns. If the grass field is installed at Middletown High, cancel all sports since kids will not be able to play anything.

6. Public Hearing on Agenda Items - Closes

There being no further comment, the Chair closes the public hearing at 9:15 PM.

**NOTE:** Only Item 12 D Is considered at this point. All other business under Item 12 is considered after disposition of items moved up by the Council in accordance with the vote, amending the order of business.

12. New Business, Resolutions, Ordinances, etc.

**D.** Approving that W. Vance Cotten, Sr. is hereby appointed to the Common Council of the City of Middletown to fill the unexpired term of Councilman Thomas J. Serra effective from the conclusion of the April 1, 2019 meeting to November 12, 2019; and that, as a Councilmember, W. Vance Cotten is appointed to the following Councilmanic Commissions and Committees: Finance & Government Operations Commission, Public Works & Facilities Commission, and Economic Development Commission.

APPROVED

RESOLUTION NO: 20-19; CC Serra vacancy Cotten appt RES 20-19 – 1 April 2019

**Whereas,** due to the death of Councilman Thomas J. Serra on February 9, 2019 the Mayor has declared a vacancy in office on March 6, 2019; and

**Whereas,** Chapter II, Section 8 "Vacancy in Office", subparagraph D states that for vacancies in office other than the offices of Mayor and Deputy Mayor, at a regular or special meeting duly warned for that purpose and next following a Declaration of Permanent Vacancy in an Elective Office, the Common Council shall by majority vote fill such vacancy and such appointee shall be a member of the same political party as the predecessor in said office and shall be appointed for the remainder of the term of office whose position he/she has been appointed to fill;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN:** That W. Vance Cotten, Sr. be and is hereby appointed to the Common Council of the City of Middletown to fill the unexpired term of Thomas J. Serra effective from the conclusion of the April 1, 2019 meeting to November 12, 2019.

**BE IT FURTHER RESOLVED:** That Councilman W. Vance Cotten, Sr. be appointed to the following Councilmanic Commissions and Committees: Finance and Government Operations, Public Works and Facilities, and Economic Development.

Councilman Grady Faulkner, Jr. reads the appropriation request and moves for approval. Councilman Carl Chisem seconds the motion.

The Chair calls on Councilman Grady Faulkner, Jr. Councilman Faulkner states that, with the opening of this seat, it is up to the Common Council to a successor the remainder of the term. Reverend Cotten put his name forward and the Committee and the caucus approved that nomination. Some have raised questions on, but this seat had to be filled in a timely manner. They were good friends, who worked together well, adding that this is what we would like to see tonight.

The Chair calls on Councilman Gerald Daley.
Councilman Daley states that he wholeheartedly supports this appointment to fill the vacancy, albeit an emotional and difficult act for all who have worked closely with Thomas Serra over the years, some as a Councilman and other also during his tenure as Mayor, including Bishop Cotten, who worked with Mr. Serra as both a Councilman and as Mayor. With respect for Mr. Cotten, knowing that he will do his best to serve on the Council and uphold the great legacy of Tom Serra. In terms of Bishop Cotton’s biography: He is the pastor of Shiloh Baptist Church for about 28 years. He holds number of other important roles: he leads Shiloh Manor Senior Housing, which provides 40 units of affordable senior housing a project that he started with then-Mayor Tom Serra in the 1990s, when the land was set aside by the State. He has an active youth group with about 100 participants. He also holds a number of positions outside of Middletown, reflecting his status both regionally and nationally, noting he is affiliated with the Christian Leadership Bible College as its Chancellor. He is an advisor to the New England Missionary Baptist Convention. He is involved with the Shiloh Baptist credit union, which is housed in their fellowship hall. He recalls the legislature debate a few years ago about repealing the death penalty, noting that reverend Cotten spoke on that matter. He states that it is important to put on the record that this is a man, who represents a large number of community, members, he has strong civil involvement as well as within the church. He believes that he will be an outstanding member of the Council and urges his colleagues to support this appointment.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina states that when Bishop Cotton’s name came forward, he was truly elated. He recalls that, as a young police officer working with youth in the City, he went to Rev. Cotten and Rev. Harville many times so he is personally aware of Rev. Cotten’s his love for the youth. What struck a chord in his heart is that as Tom Serra was for youth and children, he is certain that Rev. Cotten will take up that mantle and in the Council in dedication to the children in this community. He is an outstanding leader, who has done wonderful work.

The Chair calls on Councilman Carl Chisem.

Councilman Chisem states that Bishop Cotten is a great leader in the community and in the church. He recalls when Rev. Cotten started the credit union. While he may be with the Council a short time, Councilman Chisem welcomes him and supports his nomination.

The Chair calls on Councilman Eugene Necora.

Councilman Necora states that he supports Bishop Cotten’s nomination. As a former Middletown school principal at four (4) different schools. So often, Bishop Cotton shared his insights on various concerns, to share his love of staff and families. This impressed Councilman Necora, who recognizes this as speaking volumes about Bishop Cotten. As an aside, he hopes that, in the future, should this happen again, the Council should have an interview process, allowing Councilmembers to meet candidates beforehand.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano states that Councilman Serra is irreplaceable, adding that he likes to think that all Councilmember’s are, to some extent, as each brings a unique perspective and talents to the table. Under normal circumstances, as part of the unaffected caucus, they usually do not see how it plays out. They wait for the majority to bring a name forward. In this case, they have had a peek into this internal process. He appreciates not having to choose from among the many names that came forward. The minority caucus would have been honored to serve with any of them. He is glad that we are down to one and he is glad that it is Bishop Cotten. He is proud to count him among his friends; adding that he also knows that, in times of crisis, they can go to him. He will always have the City’s interests and the interests of its residents at heart. He warns Rev. Cotten that he will have a baptism by fire because it is budget season. He is proud to cast his vote for him and is looking forward to serving with him over the next few months.

The Chair calls on Councilwoman Mary Bartolotta.

Councilwoman Bartolotta states that she will support this resolution to appoint Bishop Cotten as the newest Councilmember. He gives back to the community and is a very well respected member of this City. He will bring insightful and thoughtful ideas to the Council. It will be a privilege to get to know him better. She echoes Councilman Necora’s comments on the process. In the future, she would like to see a more inclusive and accessible process for the community should the need again arise to fill a Council seat. On a personal note, as the only woman on the democratic caucus, she would hope to see better outreach to get more women involved. She looks forward to serving with Rev. Cotten. While it still very emotional, Mr. Serra and his family were, and continue to be, generous contributors in service to this community. There are big shoes to fill, but she believes that Rev. can do it in his own special way. She wants the Serra facility to know that they are doing this to follow procedure. The Council honors Tom Serra – their father and husband – adding that she knows that Bishop Cotten does as well. She looks forward to serving with him,

The Chair calls on Councilman Robert Santangelo.
Councilman Santangelo states that it is very easy to agree with everything that has been said this evening. They have known each other a long time and have crossed paths many times. He states that when the Mayor suggested Rev. Cotten’s name, the light came on. He is glad to see him acknowledging that he brings a lot to the table, having done a lot in the community and in the church. He will bring new ideas. He thanks Rev. Cotten for taking on this role.

There being no further discussion, the Chair calls for a vote. The Chair is reminded that Councilwoman Linda Salafia is participating via phone. The Chair states that the matter passes unanimously by a vote of 12 to 0. The motion is unanimously approved.

The Chair states that Rev. Cotten is a man of integrity, service, character, and moral leadership. The entire group looks forward to serving with him. He invites him to the podium. He adds that a sweating in ceremony will be held for Councilman-designee Cotten very soon, at a date and time to be announced.

Councilman-designee Cotten states that he gives thanks to God and to the mayor, to all Councilmembers, to all who are Shiloh and who are here tonight. He does not take this job lightly. He is deeply honored to have simply been considered for, to have been asked to fill the seat, which half of us know was filled by a great man. When he came to Middletown, he meet then-Councilman Tom Serra. Many evenings they would run into one another at the Athenian Diner. Even after his term as mayor was over, Rev. Cotton greeted him as “Mayor.” He has always been seen as the Mayor of Middletown, he is deeply moved at the passing of Chicana Serra, which is one reason that he asked who would be taking that seat. He wanted to be considered for the seat. Had he not been appointed, he would have been all right. He wanted to be considered. The steps of a good man are ordered by the Lord. He is convinced that Councilman Serra – Mayor Tom Serra’s footsteps were ordered by the Lord. He thanks the Council for allowing to fulfill this dream and counting him worthy.

7. Appointment of Deputy Director of Water & Sewer

A. Interview/Questions to Candidate, Donald Fisco

The Chair presents his nominee for the position of Deputy Director of Water & Sewer, Donald Fisco. Mr. Fisco has been with the City for a long time and has significant experience as a scientist, and engineer, a public servant both in Middletown and in West Haven. He recognizes Mr. Fisco as an expert on a number of water quality topics and department operations. He offers two (2) brief examples. First, there was recently a fire at a facility, which cleans and delivers water to the public in safe condition. Once the fire was underway, the concern was that that chlorine and other chemicals in the building, which are stored in the building, may have been exposed to the fire and damaged, which could result in leaks into the Connecticut River or into the systems that provide safe drinking water. Don Fisco was one of the first people on site and one of the first to determine that the drinking was water was safe. As many recall, about a month ago, it was bitterly cold. A number of people in Water & Sewer were on site and all were concerned that there would be safe drinking water. One person who said that the water was safe is Don Fisco. He also recounts that, not that long ago, Don Fisco received The Connecticut department of public health award assistance for his drinking water quality work. Specifically, they were honoring him for his assistance in May/June 2017 when water came out in beautiful colors at Moody School, but made people sick. The cobalt colored water was a great concern. Mr. Fisco was there the entire weekend to help solve diagnose the issue. The Chair invites Mr. Fisco to introduce himself and respond to any questions that Councilmembers may have.

Mr. Fisco steps to the podium to introduce himself as Manager of Regulatory & Technical Affairs and Acting Deputy Director. He asks what questions the Council may have for him.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera states that he has worked with Mr. Fisco on the City’s Water Pollution Control Authority (WPCA). He acknowledged the great work that Mr. Fisco does. He notes that everyone is looking at budgets and ways to keep things in the “black.” He asks if he has any thoughts as to how to save money.

Mr. Fisco replies, stating that responsibility to budgets and long term capital planning is something that is done every day. Looking at that planning, we think of public health, public safety, and environmental concerns immediately. In working with Director Joseph Fazzino, Mr. Fisco takes his direction as well as that of the committee and works to supply something that is efficient, effective, and responsible.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina states that he has known Mr. Fisco a long time. He is satisfied with his abilities, elated that the mayor has selected him. Beyond budgetary issues, there are some language issues to be worked out with the Fire Department. He knows that Mr. Fisco will work on this item. He also knows that the WPCA is in full support of his appointment.
The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano states that Mr. Fisco “knows his stuff” and understands that, after Middletown’s people, our greatest resource is water. This City is blessed with an abundance of water, not only for the City but for the region. He believes that Mr. Fisco knows the importance of this resource and what needs to be done. He has no questions. He is pleased that Mayor has selected him adding that he has institutional knowledge – knows the staff and the system – and will do a wonderful job.

The Chair calls on Councilman Robert Santangelo.

Councilman Santangelo states that he doesn’t know much about this candidate. Listening he has an idea about who he is, but would like more background information.

Mr. Fisco replies that, in preparing for this meeting, he looked at what he done for the past 27 years. On April 1, 1992, he appeared before the West Haven Mayor, Council, and Director. He was given his first job in a public utility as Assistant Superintendent, noting that this is an director position level position. In other words, his first job, in this field was a deputy director position 27 years ago. He has always been in management positions. As he considered the City’s infrastructure, which was installed in 1880, he is ready at every level to administer science, technology, engineering, finance, accounting at all levels and to be a team player. He states that he has been at this level for 27 years, adding that he is proud that, for the last 11 years, he has served as the City’s manager of Regulatory & Technical Affairs and for 11 years before that as the City’s Superintendent, and, before that, for a short time, he was the daily charge operator, hired by Thomas Serra, meeting the States licensure requirements to operate the City’s supply. In addition to water, he deals with waste water, whether the technical side or sources of treatment and supply, He is licensed at the highest level for this purpose.

The Chair calls on Councilman Grady Faulkner, Jr.

Councilman Faulkner asks Mr. Fisco what is his assessment of the City’s ability in a succession plan in that department.

Mr. Fisco replies that given his age, the Director’s age, and the age of the current Superintendent, all are over 20 years’ service. Succession planning is a primary problem to be overcome. They need to start working in it now. They have institutional knowledge and continuity so that when a call comes in at 2 AM, they know what decisions are needed. They are ready to go, adding that they have to work as a team to protect the City’s billions of dollars of infrastructure.

The chair states that, seeing no further questions he calls for a vote.

A Councilmember states that a motion to approve this nomination needs to be made.

B. Approving the appointment of Donald Fisco as Deputy Director of Water & Sewer with compensation as UPSEU #6457, Salary Grade 17, Step 5 ($52.66), 40 hours; and that this appointment shall take effect upon adoption.

APPROVED
RESOLUTION NO: 25-19; K: review/resolution/ CC W&S Dep Dir Don Fisco RES 25-19 – 1 April 2019

Councilman Sebastian Giuliano moves to approve the appointment of Donald Fisco as Deputy Director of Water & Sewer. Councilwoman Deborah Kleckowski seconds the motion.

There being no discussion, the Chair calls for a vote. The Chair states that the matter passes unanimously by a vote of 12 to 0. The motion is unanimously approved.

Councilman Gerald lad Daley states that the resolution should be read aloud in its entirety by Councilman Eugene Nocera.

The Chair asks Councilman Nocera to read the resolution. Councilwoman Deborah Kleckowski seconds the motion. There being no discussion, the Chair calls for a vote. The Chair states that the matter passes unanimously by a vote of 12 to 0. The motion is unanimously approved.

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That it confirms the appointment of Donald Fisco to the position of Deputy Director of Water & Sewer, UPSEU Local #6457 Salary Grade 17 – Step 5 ($52.66), 40 hours; and

BE IT FURTHER RESOLVED that this appointment shall take effect upon adoption.

Financial Impact: None – this position is budgeted.
Purpose of Position
The purpose of this position is to provide administrative support in the planning, directing, coordinating and supervision of all divisions of the Water and Sewer Department and to assume additional responsibility in the absence of the Director. The work is performed under the direction of the Director of Water & Sewer.

Essential Duties and Responsibilities
The following duties are normal for this position. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.

- Assists in planning, directing, coordinating and supervising all division operations; writes departmental standards operating procedures. Acts as Director of Water and Sewer in the Director’s absence.
- Conducts safety audits; makes critical decisions, acts on and monitors all environmental health and safety issues. Maintains, plans and monitors department safety training programs.
- Supervises department personnel; provides training and instruction; plans, coordinates, assigns and reviews work; allocates personnel, maintains standards and recommends discipline.
- Researches and responds to division superintendent’s administration and operating questions; researches and answers questions from other departments; responds to complaints from the public.
- Resolves procurement and billing problems.
- Prepares a variety of reports, documents and correspondence; prepares correspondence for contractors, customers, business and state agencies. Writes federally mandated water quality reports.
- Maintains department vehicle reports and insurance records. Investigates insurance claims against the department.
- Serves as a staff member on the Water Pollution Control Authority; maintains Authority records.
- Represents the department at meetings.
- Responds to and makes critical decisions regarding emergency water and sewer situations.
- Performs other related functions as assigned or required.

Minimum Training and Experience Required to Perform Essential Job Functions
Bachelor’s degree in Civil or Environmental Engineering with five years of progressively responsible utility administration experience or any combination of education and experience that provides equivalent knowledge, skills and abilities. Position requires possession of a valid Connecticut driver’s license.

Physical and Mental Abilities Required to Perform Essential Job Functions

Language Ability and Interpersonal Communication
- Requires the ability to perform mid to upper-level data analysis including the ability to coordinate, strategize, systematize and correlate, using discretion in determining time, place and/or sequence of operations within an organizational framework. Requires the ability to implement decisions based on such data, and oversee the execution of these decisions.
- Ability to manage and direct a group of workers, including the ability to provide counseling and mediation. Ability to persuade, convince and train others. Ability to advise and interpret regarding the application of policies, procedures and standards to specific situations.
- Requires the ability to utilize reference, descriptive, consulting, design and advisory data and information such as invoices, reports, forms, payroll, specifications, memos, correspondence, manuals, contracts, codes, ordinances, statutes, legal briefs, economic analysis, and organizational analysis.
- Requires the ability to communicate orally and in writing with the Director and all department personnel, other City departments, Water Pollution Control Authority, outside agencies and departments, vendors and the public.

Mathematical Ability
- Requires the ability to perform addition, subtraction, multiplication and division; calculate percentages, fractions and decimals; may require the ability to perform mathematical operations involving basic algebra and geometry.

Physical Requirements
- Requires the ability to operate, calibrate, tune and synchronize, and perform complex rapid adjustment on equipment, machinery and tools such as a computer and other office machines, a vehicle, SCBA equipment, gas detectors, and/or related materials used in performing essential functions.
- Ability to coordinate eyes, hands, feet and limbs in performing skilled movements such as keyboard use.
- Tasks involve the ability to exert light physical effort in sedentary to light work, but which may involve some lifting, carrying, pushing and pulling of objects weighing five to ten pounds.
- Requires the ability to recognize and identify similarities or differences between characteristics of colors, shapes and sounds associated with job-related objects, materials and tasks.

Environmental Adaptability
- Ability to work under conditions that require exposure to environmental factors. This exposure may cause some discomfort and presents a risk of injury.
8. Mayor requests Clerk of the Common Council to read appropriation requests and certificate of Director of Finance.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a regular meeting of the Common Council of the City of Middletown will be held in the Council Chamber of the Municipal Building on MONDAY, APRIL 1, 2019 AT 7:00 P.M. to consider and act upon the following:

A. Human Resources: $15,000 – Acct. No.1000-05000-55135-0170; appropriation to cover cost of Police Union arbitration

B. Public Works: $155,000 – Acct No. 2380-22000-55410-0000-00000-00000-00000; appropriation request from Bulky Waste Fund Balance to Waste Removal line item due to increased tonnage

A. Human Resources: $15,000 -- Acct. No.1000-05000-55135-0170; appropriation to cover cost of Police Union arbitration

APPROVED

Councilman Gerald Daley reads the appropriation request and moves for approval. Councilman Carl Chisem seconds the motion.

There being no discussion, the Chair calls for the vote. The Chair states that the matter passes unanimously by a vote of 11 to 0. The motion to amend the appropriation is unanimously approved.
B. Public Works: $155,000 -- Acct No. 2380-22000-55410-0000-00000-0000-0000; appropriation request from Bulky Waste Fund Balance to Waste Removal line item due to increased tonnage

APPROVED

Councilman Carl Chisem reads the appropriation request and moves for approval. Councilman philip Pessina seconds the motion.

There being no discussion, the Chair calls for the vote. The Chair states that the matter passes unanimously by a vote of 11 to 0. The motion to amend the appropriation is unanimously approved.
9. Old Business

A. ORDINANCE No. 4-19: Amending Section 214-37 (“Field Usage and Fees”) of the Middletown Code of Ordinances to adopt field usage priorities, rental requirements, closure and restriction guidelines, general conditions of use, insurance requirements, cancellation & refund procedures, additional supervision standards, and pesticide usage guidelines for fields at Bielefield School, Donovan Park, Hubbard Romagielli, Hubbard Barone, Lawrence School, Ron McCutchen, Snow School, Smith Park, Country Club Road, Pat Kidney, Palmer Field, Moody School, Spencer School, Vinal Technical High School, and Long Hill Road (Postponed from March 4, 2019 regular meeting).

APPROVED
ORDINANCE No. 4-19; ORD No 04-19 – field use & fees ORD NO 04-19 – 1 April 2019

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That Sections 214-37, 214-38, 214-39, 214-43, and 214-44 of the Middletown Code of Ordinances be replaced with the following:

§ 214-37. Field Usage and Fees

I. Field Usage:
This ordinance applies to the use of fields at Bielefield School, Donovan Park, Hubbard Romagielli, Hubbard Barone, Lawrence School, Ron McCutchen, Snow School, Smith Park, Country Club Road, Pat Kidney, Palmer Field, Moody School, Spencer School, Vinal Technical High School, and Long Hill Road.
The scheduled use of fields may be made available to the types of organizations listed below, in the order of preference set forth below. The assignments will be made according to the regulations and rental fees approved by the City. The scheduling of athletic games and facilities shall be done through the Superintendent of Parks or his/her designee.

For purposes of this ordinance, the term "non-profit" shall include all teams, groups, or organizations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code because they were formed to provide a public benefit. To qualify as a “non-profit” herein, the Superintendent of Parks or his/her designee may require the team, group, or organization to provide documentation showing that it qualifies as a tax-exempt entity.

Priorities for field usage will be granted in the following order:

A. First Priority Users
First Priority Users are defined as the following: Middletown Recreation and Community Services Department, Middletown Little League, Middletown Youth Soccer, Middletown Youth Football and cheerleading, Ahern-Whalen, Middletown Post 75 American Legion, Middletown Public School, Mercy High School, Xavier High School, Vinal Technical High School, Adult Softball (men and women), and Middletown Youth Lacrosse.

B. Second Priority Users
Second Priority Users are as follows: locally organized non-profit groups or teams whose membership is comprised of 60% or more of Middletown residents (submission of roster with proof of residence is required); Middletown businesses.

C. Third Priority Users
Third Priority Users are as follows: Other non-profit organizations; for-profit clubs, groups, businesses and associations; non-residents and non-resident teams comprised of less than 60% of Middletown residents.

II. Rental Requirements
All interested parties wishing to rent a field(s) must abide by the procedure set by the Superintendent of Parks or his/her designee, including the payment of all necessary fees. Any evidence of insurance must be provided to the Superintendent of Parks or his/her designee before using the field.

A. Fees
First Priority Users and Non-Profit Organizations: The field usage fees for Adult Softball (men and women) shall be set annually by the Common Council by resolution. All other First Priority Users and non-profit organizations are exempt from paying any fees for the use of any of the fields identified in Section I above, except Palmer Field. Fees for Palmer Field shall be set by the City by resolution. The City reserves the right to set up an account in the general fund for purposes of accepting donations from first and second priority users and non-profit organizations for field usage time. Any fees collected by such donations shall go to support the summer camp fund for the Recreation and Community Services Department.

Second and Third Priority Users, Not Including Non-Profit Organizations: Second and Third Priority Users, not including non-profit organizations will pay a fee per game for all fields. Said fee shall be set annually by the Common Council by resolution. The City will not charge a fee for practices at any field.

Evening Games: Except for those users who are exempt from field usage fees as set forth above, all evening games, which shall be defined as all games that start at 7:00 PM or later, will be charged a fee set annually by the Common Council by resolution.

B. Tournaments
Tournament use fees for fields used during tournaments shall be negotiated and set by the Director of Public Works or his/her designee.

III. Closed or Restricted Areas
Due to factors such as inclement weather, field safety, mechanical failures, problems arising on the fields, and poor usage conditions, the City of Middletown’s Superintendent of Parks or his or her designee reserves the right to deny the use of a park, facility, or field or cancel any pre-existing registration.

A. Closed Area: At the discretion of the Superintendent of Parks, or his or her designee, any section or part of any park, facility or field may be declared closed to the public at any time and for any interval of time, either temporarily or at regularly scheduled, stated intervals (daily or otherwise), and either entirely or just to exclude certain uses.

B. Guidelines for Cancellation of Activity on Town Athletic Fields: The Superintendent of Parks or his or her designee may deny the use of a park, facility, or field and/or require an activity to stop and the participants to vacate the area.

C. Non-Exclusive Examples of Conditions that May Require the Alteration or the Cancellation of an Activity:

1. Standing puddles of water on the field
2. Footing is unsure and slippery
3. Ground is water logged and squishy
4. Grass can be dislodged from the ground easily
5. Lightning
6. Severe weather storms
7. Unsafe facility conditions
Use proves to be destructive or detrimental to the site
Other conditions deemed appropriate by the Director of Public Works of his/her
designee.

Teams, leagues, individuals, and/or organizations that do not follow the policy will be subject to
the revocation of their field use privileges. Please refer to Section VI for cancellation and refund
procedures.

IV. Conditions of Use
A. Right to Decline
The City of Middletown, through the Director of Public Works or his/her designee, in its sole and
absolute discretion, has the authority to grant or deny rental of the parks, facilities, or fields to
any user or to cancel rental of the parks, facilities, or fields by any user.

Once scheduled, the Superintendent of Parks or his/her designee has the authority to schedule
an alternate site for the requesting party, due to, but not limited to, availability, overuse, safety,
weather conditions, and/or other reasons as determined by the Director of Public Works or
his/her designee.

B. Responsible Adult Designee
Only adults may reserve parks, facilities, or fields. The individual reserving the park, facility, or
field must follow the procedures set by the Superintendent of Parks or his or her designee for
such reservation and provide both evidence of insurance and any necessary payment in
advance of the use.

C. Prohibited Acts
Alcoholic beverages, tobacco products, smoking, and illegal drug usage are not permitted in city
parks and fields.

Those using city fields that abut private properties must respect those properties. User action
such as trespassing, littering, and harassing will not only cause the reservation and use to be
revoked but will also subject the offending user to fines, penalties, and any other action
permissible by law.

D. Reservations Mandatory
Organized athletic activities are permitted only on a reservation basis. Persons not having
permission to use the parks, facilities, or fields must give way at all times to those with such
permission.

E. Time Restrictions
Reservations for use will be issued by the City of Middletown Parks Department for municipal
fields (throughout the day).

There will be a strict adherence to published closing times of all city parks, facilities, or fields.

F. Practices/Scrimmages: Practices and scrimmages can be held at any of the facilities
mentioned above, except Palmer Field. Such practices and scrimmages must be coordinated
and reserved through the Superintendent of Parks or his/her designee.

G. Game Curfew: Except for Palmer Field, no game play is allowed after 10:00 p.m. unless
authorized by the Public Works Director or his/her duly authorized designee.

V. Insurance Requirements
Middletown affiliated sports clubs and associations, residents, businesses, and non-affiliated
clubs and associations, and non-residents must provide the City of Middletown with liability
insurance with a minimum limit of $1,000,000 coverage, listing the city as an additional named
insured. A certificate of insurance must be submitted to the Parks Department at least one week
prior to park, facility, or field usage. This minimum insurance requirement is subject to periodic
review by the City of Middletown.

Sports or games rental groups must also provide evidence of Player/Participation Accident
Insurance in the amount of at least $25,000 (accidental medical benefits limit per individual/per
accident).

A current participation roster is also required prior to the actual usage. The roster must include
each participant’s name, address (no P.O. boxes), and phone number. The roster must also
include the name of the person responsible for the team, listing name, address, phone number,
and email address.

VI. Cancellation and Refund Procedures
The City of Middletown, through the Director of Public Works, in its sole and absolute discretion,
reserves the right to cancel permission for any group to use a park, facility or field if the purpose
of such use is not considered to be in the best interest of the City, community, or the
neighborhood.

If the City cancels a reservation due to weather or field conditions, all fees will be refunded.
Please allow up to 10-15 business days for refunds to be issued.

No refunds on rental fees will be made in any amount for failure to show on the reserved rental
date.

If it is deemed necessary to cancel a reservation due to a violation of law, city policies, or city
ordinances, all user fees paid will be automatically forfeited and no refunds will be permitted.
VII. Additional Supervision

The City of Middletown, through the Public Works Department, reserves the right to require any lessee or user to provide police protection when deemed necessary. Additional attendants or park personnel will be assigned, if deemed necessary by the Director of Public Works or his or her designee; any resulting expenses or costs will be billed to the lessee or user.

VIII. Pesticide Usage

The Parks Division of the Public Works Department shall use as a guideline the use and application processes for pesticides as set forth in §§ 10-231a and 10-231b of the Connecticut General Statutes, which may be amended from time to time, for all City fields. For consistency purposes, the Parks Division shall treat all playing fields the same regardless of the age of the person using the fields.

Councilman Eugene Nocera moves to approve the proposed ordinance, amending Section 214-37 ("Field Usage and Fees") of the Middletown Code of Ordinances. Councilman Philip Pessina seconds the motion.

There being no discussion, the Chair calls for the vote. The Chair states that the matter passes by a vote of eight (8) (Councilmembers Chisem, Daley, Giuliano, Faulkner, Kleckowski, Nocera, Pessina, and Santangelo) to two (2) (Councilmembers Bartolotta and Blanchard). The Ordinance is approved.

The Chair is reminded that Councilwoman Linda Salafia is voting by phone. The Chair states that he is not sure that they can do this, adding that the Corporation Counsel has problems with it. While he appreciates Councilwoman Salafia making herself available, he is not sure it is allowed. Even if the question of doing so may be legal on a larger scale, this must be researched. He reiterates that, while he appreciate Councilwoman Salafia being available by phone, for the purpose of these votes, the number will be restricted to those present physically until the matter can be resolved by the Corporation Counsel and General Counsel.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano states that he believes that the Chair is correct. The last time this came up, the Board of Education adopted a by-law allowing them to do so, noting that the Council has not done so. He does not think that there is anything that precludes the Council from doing so; however, they cannot just surreptitiously start.

The Chair states that the Council rules would have to be amended, noting that, even before that, a review by Corporation Counsel and General Counsel should take place.

Councilman Eugene Nocera makes a point of order, stating that here was no discussion before the vote.

The Chair states that he asked for discussion.

Councilman Nocera states that the members missed it.

The Chair states that he said, “There being no further discussion, a call for a vote,” and no one turned on their lights. He literally offered an opportunity for discussion, adding that the motion to approve the ordinance has passed with eight (8) votes in favor and two (2) in opposition. He states that it is time to move on.

B. RESOLUTION No. 15-19: Approving the rates for use of the athletic fields at Bielefield School, Donovan Park, Hubbard Romagielli, Hubbard Barone, Lawrence School, Ron McCutchen, Snow School, Smith Park, Country Club Road, Pat Kidney, Palmer Field, Moody School, Spencer School, Vinal Technical High School, and Long Hill Road Field, as approved by the Public Works & Facilities Commission, as amended by the Finance & Government Operations Commission, and as outlined in this Resolution (Postponed from March 4, 2019 regular meeting).

APPROVED

RESOLUTION No. 15-19; K: review / resolution/ PW Park Fees RES 15-19 – 1 April 2019

WHEREAS, the Public Works & Facilities Commission has approved rates for use of athletic fields at Bielefield School, Donovan Park, Hubbard Romagielli, Hubbard Barone, Lawrence School, Ron McCutchen, Snow School, Smith Park, Country Club Road, Pat Kidney, Palmer Field, Moody School, Spencer School, Vinal Technical High School, and Long Hill Road fields; and

WHEREAS, the Commission has referred to the descriptions for First, Second, and Third Priority Users of City athletic facilities as outlined in the City of Middletown Code of Ordinances, Section 214-37, Field Usage and Fees; and

WHEREAS, First Priority users are defined as Middletown Recreation and Community Services Department, Middletown Little League, Middletown Youth Soccer, Middletown Youth Football and Cheerleading, Middletown Ahern-Whalen, Middletown Post 75 American Legion, Middletown Public Schools, Mercy High School, Xavier High School, Vinal Technical High School, Adult Softball (men and women), and Middletown Youth Lacrosse; and
WHEREAS, Second Priority Users are defined as locally organized non-profit groups or teams whose membership is comprised of 60% or more of Middletown residents (submission of roster with proof of residence is required); and

WHEREAS, Third Priority Users are described as other non-profit organizations; for-profit clubs, groups, businesses and associations: non-residents and non-resident teams comprised of less than 60% of Middletown residents; and

WHEREAS, the Public Works & Facilities Commission has agreed that First Priority Users and non-profit organizations, are exempt from paying any fees for the use of the City athletic fields, excluding Palmer Field, which rates have been set forth below; and

WHEREAS, Adult Softball (men and women) will be charged a flat registration rate of $150 per team per season for use of athletic fields excluding Palmer Field; and

WHEREAS, the Commission has established the following rates for Palmer Field for Middletown Post 75 American Legion as well as Second, and Third Priority users:

<table>
<thead>
<tr>
<th>Rate</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100</td>
<td>Day rate for use of the facility for a game held Monday through Friday;</td>
</tr>
<tr>
<td>$125</td>
<td>Evening rate for use of the facility for a game held Monday through Friday when Field Lighting is required;</td>
</tr>
<tr>
<td>$125</td>
<td>Day rate for use of the facility for a game held on Saturday or Sunday; and</td>
</tr>
<tr>
<td>$150</td>
<td>Evening rate for use of the facility for a game held on Saturday or Sunday when Field Lighting is required.</td>
</tr>
</tbody>
</table>

WHEREAS, Second and Third Priority Users will be subject to the following rates at all other City athletic fields:

<table>
<thead>
<tr>
<th>Rate</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$75</td>
<td>Day rate for use of the facility for a game held Monday through Friday;</td>
</tr>
<tr>
<td>$100</td>
<td>Evening rate for use of the facility for a game held Monday through Friday when Field Lighting is required;</td>
</tr>
<tr>
<td>$100</td>
<td>Day rate for use of the facility for a game held on Saturday or Sunday; and</td>
</tr>
<tr>
<td>$125</td>
<td>Evening rate for use of the facility for a game held on Saturday or Sunday when Field Lighting is required.</td>
</tr>
</tbody>
</table>

WHEREAS, Tournament rates for Adult Softball (men and women), shall be as follows:

<table>
<thead>
<tr>
<th>Rate</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$250</td>
<td>Day rate for use of the facility for game held Monday through Friday;</td>
</tr>
<tr>
<td>$275</td>
<td>Evening rate for use of the facility for a game held Monday through Friday when field lighting is required;</td>
</tr>
<tr>
<td>$350</td>
<td>Day rate for use of the facility for game held on Saturday or Sunday; and</td>
</tr>
<tr>
<td>$375</td>
<td>Evening rate of the facility for game held on Saturday or Sunday when Field Lighting is required.</td>
</tr>
</tbody>
</table>

WHEREAS, the Director, at his discretion, may accept donations from first and second priority users and non-profit organizations for tournaments or special athletic events held on City fields. Any fees collected by such donations shall go to support the summer camp fund for the Recreation and Community Services Department.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That the rates for use of the athletic fields as approved by the Public Works & Facilities Commission, and as amended by Finance & Government Operations Commission, are approved as outlined in this Resolution.

Financial Impact: Revenue received as a result of this Resolution will be deposited in the City’s General Fund for Parks User Fees and donations accepted will be deposited in the Recreation Community Fund.

Councilman Carl Chisem moves to approve the resolution. Councilman Philip Pessina Jr. seconds the motion.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera states that no one ever knows how a vote will go and, if the fee ordinance passes, he would like it to be discussed further at the General Counsel Commission to be certain that it is the strong resolution that can be presented including the parks fee usage ordinance. He believes that there is room for improvement in both and he hopes general Counsel will look at it and come back to the Council with possible amendments.

The Chair calls on Councilwoman Mary Bartolotta.

Councilwoman Bartolotta states that tonight’s vote is not against any league or team. It is about the language that has been brought forward in not having, at the very least, the 60% in the paragraph the gives 1st priority users. She believes that this is something that needs to be reviewed and brought back. She acknowledges that the vote has already happened. But it is unbalanced that we would hold the 2nd and 3rd priority users accountable, but we will not hold the 1st properly users accountable for the residency clause at the very least. She reiterates that she hopes that they can review this again.

The Chair states that he wants to clarify for everyone that the only question before the Council right now is the rate schedule. The discussion should be only on the rate schedule.
Councilwoman Bartolotta replies, yes, adding that, to that point, the Ordinance that was just passed goes along with the fee schedule and that fee schedule goes completely along with the priority users section, which is why, in her opinion, the fee structure needs to be looked at further.

The Chair calls on Councilman Gerald Daley.

Councilman Daley states that he understands that the Ordinance has already been approved. Since it was brought up again by Councilwoman Bartolotta, it is his view, his understanding as to why that percentage -- it was originally 67% and was reduced to 60% -- that threshold for 2nd and 3rd priority users. His understanding all along was that was a way, because there were no specific groups or organizations named in the criteria that was being established. As specific leagues, teams, schools -- whatever -- are mentioned in the 1st priority is why, from his interpretation, noting that others may view it differently, there was a need for a percentage threshold since they were naming specific teams. The old Ordinance, that is in effect until this one is advertised, defined "local teams," for example, as "any team or person, as defined herein, residing, located, organized, or existing within the boundaries of the City of Middletown, including non-resident taxpayers." The term "non-local" is "any person or team, as defined herein, residing, located, organized, or existing outside of the boundaries of the City of Middletown." He opines that, under the existing ordinance today, all the teams that are mentioned as 1st priority users would have been considered "local" teams because they are all based in Middletown. As far as the fee structure goes, which is what is before us now, he thinks that I where the real problems were in the current situation. It is his understanding that some people were paying very high fees just for practice use of fields and it was very lengthy -- 15 pages long -- because the fee schedules are very complex. This is a much more simplified rate structure that is before the Council tonight. The final point to Councilman Nocera states that General Counsel might look at this: obviously we can revise and amend and approved whenever it seems to be wise to do so, but he suggests that this should start with the Commission of substantive responsibility -- Public Works & Facilities -- noting that the role of the General Counsel Commission is to refine language from a legal point of view. He reiterates that Public Works & Facilities should take it up.

The Chair cautions everyone about running this thru too many Ordinance changes. This was a policy function, which was originally brought forward to improve on existing language, but that language does not necessarily mean that it is in the Council's bailiwick. He suggests they be careful about running this thru commissions all over again because, at the end of the day, this is an executive policy function, not the rate structure, but the underlying rules that were changed. The rate structure is wholly the province of the Council.

The Chair calls on Councilwoman Bartolotta.

Councilwoman Bartolotta states that, to be clear, there is a distinct difference between calling someone a "local team" and a residency requirement. The residency requirement is to be sure that what we are labeling as a "local team" actually has Middleton players on it. It was stated during Directors meeting that the reason we could not put 60% into the priority paragraph of the ordinance was because we were not sure, on particular teams, how many would be residents. She agree is that the fee structure needed to be updated, but, knowing that it reflects the ordinance as guidelines for how that fee structure is applied is still an issue. "Residency" and naming something a "local team" are two different things.

The Chair states that he is trying to give everyone a chance to speak their piece, but he is asking everyone to limit their conversation to the fee schedule. The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano states that he is supporting the fee schedule as he supported the underlying ordinance. He believes that we need to take a break and give this a chance to work. In discussion tonight, it can be characterized as to whether or not we have too many angels dancing on a pinhead. He believes we can fit them all on. Let's see how it works so we have something concrete to discuss in the future, if we need to. He states that, as Deputy General Counsel Kori Wisneski said, the prior ordinance was fee-centered. It started with fees and everything worked off that. This is now youth-centered and the fees are set by resolution of the Council. It will be less complicated and much easier to understand by users and those administering it, adding that everyone will get along under this ordinance and fee structure just fine. In there are bumps, we can deal with them, but first let's see how it works.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera states that a number of comments that seems to imply that the 21st Century bond -- the $33M -- was solely centered on fields. It is important to note that fields are a small part of the bond. There are a number of projects that have been completed: Butternut Playground, Farm Hill Playground, Spear Park, McDonough School, and, of course, Pat Kidney Field, Harbor Park where we have done some work and will continue to work on. A beautiful trail has been added along Long Hill Road, which is the beginning of a trail, which is important to the City; lighting has been added to the Little League fields; the future includes a dog park, which we are working on now; the Mattabassett Trail, on which we are getting an engineering report, and which connects to Portland's Airline Trail, which connects the City to Cromwell; Veterans’ Park pool, which is desperate need of
repair and plans call for that improvement and the addition of a splash pad. They are working with the new building committee at Woodrow Wilson Middle School to try to create a new soccer field where the current building is. The bond would pick up and it would be a whole new field. Improvements to all school fields is also down the road. It is important for people to understand that this field ordinance is a small part of a larger, comprehensive project.

There being no further discussion, the Chair calls for the vote. The Chair states that the matter passes by a vote of eight (Councilmembers Chisem, Daley, Faulkner, Giuliano, Kleckowski, Nocera, Pessina Santangelo) to two (Councilmembers Bartolotta, Blanchard). The motion is approved by a vote of 8 to 2.

10. Department, Committee, Commission Reports and Grant Confirmation Approval

Councilwoman Mary Bartolotta moves to approve all Department, Committee, Commission reports and Grant Confirmations. Councilwoman Deborah Kleckowski seconds the motion.

There being no discussion, the Chair calls for the vote. The Chair states that the matter passes unanimously by a vote of 10 to 0. The motion is unanimously approved.

A. City Clerk’s Certificate

APPROVED

City & Town Clerk’s Office
245 deKoven Drive
Middletown, CT 06457

Certification

I, Ashley A. Flynn, City and Town Clerk of the City of Middletown and custodian of the records and seal thereof, hereby certify that all ordinances and appropriations passed and adopted at the regular meeting of the Common Council on March 4, 2019 at 7:00 p.m. and the special meeting on March 4, 2019 at 6:00 p.m., have been advertised in the local newspaper.

Dated at Middletown, Connecticut, this 1st day of April 2019

Attest:
Ashley A. Flynn
City & Town Clerk

APPROVED
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C. Grant Confirmation & Approval – Public Health Emergency Preparedness – State Emergency Preparedness Grant on behalf of Mass Dispensing Area 36 for exercises, equipment, supplies, and sheltering of communities: $9,696

APPROVED

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<th>416</th>
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<tr>
<td>Amount Loaned from General Fund:</td>
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When any department, commission, office or agency is the recipient of any federal, state or other grant allocated for specific purposes, these funds shall be immediately transferred to the specific unit which has made application for such grant. Confirmation and approval of such transfer shall be given at the next regularly scheduled sessions of the Common Council. Notwithstanding any other Charter provision, the action of the Common Council in confirming and approving such transfer shall be an appropriation; no public hearing thereon shall be required and said funds may then be expended for the purposes for which they were granted.

Description of services to be provided by this Grant:
Emergency Preparedness Grant of behalf of MDA 36 - Mass dispensing Area 36 which includes Middletown, Cromwell, Durham, and Middlefield. Grant covers exercises, equipment, supplies, sheltering of communities in MDA 36.

Signature:

Requested by: Kevin Elisek
Status: Passed
Status Date: 4/1/2019
D. Grant Confirmation & Approval - Finance Department - Local Capital Improvement Program (LOCIP): $361,271

APPROVED

CITY OF MIDDLETOWN
MUNICIPAL BUILDING
MIDDLETOWN, CONNECTICUT 06457

REQUEST FOR COMMON COUNCIL CONFIRMATION AND APPROVAL OF THE FOLLOWING GRANT

Grant Number: 418  Date of Request: 3/13/2019

Name of Grant: Local Capital Improvement Program (LOCIP) - 2019

Amount Requested: $361,271.00  Code: 5050-00000-5030-0000-0000-0000-0000

Grant Period: From: 3/1/2019  To:  

Type of Grant: State  Amount Loaned from General Fund: $361,271.00

Department Administering Grant: Finance

When any department, commission, office or agency is the recipient of any federal, state or other grant allocated for specific purposes, these funds shall be immediately transferred to the specific unit which has made application for such grant. Confirmation and approval of such transfer shall be given at the next regularly scheduled sessions of the Common Council. Notwithstanding any other Charter provision, the action of the Common Council in confirming and approving such transfer shall be an appropriation; no public hearing thereon shall be required and said funds may then be expended for the purposes for which they were granted.

Description of services to be provided by this Grant:

The City has been granted funds to be used for Middletown local capital improvement projects as specified in the State LOCIP grant guidelines. The City must apply and receive approval for projects in advance. Once approval is granted, City Funds must be expended first, and OPM will provide reimbursement upon proper submission of invoices and payments for each project.

Signature: 

Requested by: Carl Erlacher
Status: Passed
Status Date: 4/1/2019
E. Grant Confirmation & Approval - Board of Education - miscellaneous grants: $2,597,411.30 APPROVED

CITY OF MIDDLETOWN
MUNICIPAL BUILDING
MIDDLETOWN, CONNECTICUT 06457

REQUEST FOR COMMON COUNCIL CONFIRMATION AND APPROVAL
OF THE FOLLOWING GRANT

Grant Number: 419
Date of Request: 3/20/2019

Name of Grant: as listed below

Amount Requested: $2,597,411.30
Code: 2450-33300-59405-X-03025

Grant Period: From: 7/1/2018 To: 6/30/2019

Type of Grant: Amount Loaned from General Fund: $0.00

Department Administering Grant: Middletown Board of Education

When any department, commission, office or agency is the recipient of any federal, state or other grant allocated for specific purposes, these funds shall be immediately transferred to the specific unit which has made application for such grant. Confirmation and approval of such transfer shall be given at the next regularly scheduled sessions of the Common Council. Notwithstanding any other Charter provision, the action of the Common Council in confirming and approving such transfer shall be an appropriation; no public hearing thereon shall be required and said funds may then be expended for the purposes for which they were granted.

Description of services to be provided by this Grant:
2064-1TLV Student Supp and Enrich $41,534.00; 2708-Nellie Mae Community $20,000.00; 2401-Excess Cost SPED $1,489,040.00; 2721-SPED Medicaid $38,037.76; 2732-SWA/M Strings Pgm $10,500.00; 2709-Food Services $183,622.61; 8001-Retirees/COSRA Ins $625,966.67; 8003-Workers Comp $4,669.20; 8004-Preschool Pgm Fees $11,695.00; 8005-Maintenance/Rentals $1,144.00; 8011-Chromebook Replacement $90.00; 8012-Sale of Electricity $51,743.00; 8074-Central Office Receipts $40,069.02; 8034-ADED Enrichment $35,000.00; 8035-ADED-GED/Pearson Receipts $222.75; 8036-Even Start Family Learn Pgm $754.00; 8037-Fingerprint Receipts $188.00; 8095-SPED Tuition Reimbursement $30,260.84; 9010-Kegwin Parent Fees $165.00; 9105-MHS Student Activities $5,000.00; 9151-JWAMS Student Activities $4,026.15. Total Special Programs through 2/19/19 $13,445,345.46 ADDITIONS $2,597,411.30 Total Special Programs through 3/20/19 $16,042,756.78.

Signature: 

Requested by: Michael Conner, Ed.D

Status: Passed

Status Date: 4/1/2019
F. Grant Confirmation & Approval - Police Department - State of Connecticut Department of Transportation, High Visibility Enforcement Grant for distracted driving, especially involving hand held mobile devices: $30,000

APPROVED

CITY OF MIDDLETOWN
MUNICIPAL BUILDING
MIDDLETOWN, CONNECTICUT 06457
REQUEST FOR COMMON COUNCIL CONFIRMATION AND APPROVAL
OF THE FOLLOWING GRANT

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<td>Department Administering Grant:</td>
<td>Police Department</td>
<td></td>
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</tbody>
</table>

When any department, commission, office or agency is the recipient of any federal, state or other grant allocated for specific purposes, these funds shall be immediately transferred to the specific unit which has made application for such grant. Confirmation and approval of such transfer shall be given at the next regularly scheduled meetings of the Common Council. Notwithstanding any other Charter provision, the action of the Common Council in confirming and approving such transfer shall be an appropriation; no public hearing thereon shall be required and said funds may then be expended for the purposes for which they were granted.

Description of services to be provided by this Grant:

This is a grant through the State of Connecticut Department of Transportation. This grant is for overtime for High Visibility Enforcement to focus on distracted driving with the objective to decrease fatalities and injuries resulting from crashes caused by distracted driving, especially those caused by hand held mobile devices. Enforcement must be conducted between 4/2/2019 - 4/30/2019 and between 6/1/2019 - 6/15/2019. This grant is 100% reimbursable and will have no overall financial impact to the City of Middletown.

Signature: [Signatures]
Requested by: Chief William McKenna
Status: Passed
Status Date: 4/1/2019

11. Payment of all City bills when properly approved

Councilwoman Mary Bartolotta moves for payment of all City bills, when properly approved. Councilwoman Deborah Kleckowski seconds the motion.

There being no discussion, the Chair calls for the vote. The Chair states that the matter passes unanimously by a vote of 10 to 0. The motion is unanimously approved.

12. New Business, Resolutions, Ordinances, etc.

A. Approving that the City of Middletown shall be the Host Community and Co-Sponsor of the 2019 Citizens Bank 5K Summer Fun Run event along with Citizen’s Bank, and Central Business Bureau, a Division of the Middlesex Chamber of Commerce; that the City Departments of Public Works and Park and Recreation, Economic Development, Police, Fire, and Health render all such assistance and support as may be required to ensure the public health and safety of the many race participants and observers; that the costs and fees, including personnel and subsidiary expenses for the Showmobile cannot be waived; that the City of Middletown shall expend no more than $5,000 for said event without further Councilmanic approval; that the organization receiving funding from the City be requested to file a report to the City indicating the expenses and accomplishments for the City of
Middletown; and that the Citizens Bank 5K Summer Fun Run is a special event, which will be subject to the provisions of Section 218-10 of the Middletown Code of Ordinances.

APPROVED
RESOLUTION No. 26-19; K: review/ resolution/ CC Citizens road race RES 26-19 – 1 April 2019

WHEREAS, the City of Middletown has served as the Host City for the Citizens Bank 5K Summer Fun Run with over 700 participants; and

WHEREAS, Citizens Bank is the title sponsor for this year’s event along Middlesex Chamber’s Central Business Bureau, a Division of the Middlesex Chamber of Commerce; and

WHEREAS, this year’s event will be held on Wednesday, July 17, 2019, from 4:30 P.M. to 8:30 P.M.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That, together with the Mayor, the Common Council congratulates the sponsoring organizations for organizing an excellent race event which attracts participants from throughout Connecticut; and

BE IT FURTHER RESOLVED: That the Common Council of the City of Middletown proudly accepts the position of Host Community and co-Sponsor of the 2019 Citizens Bank 5K Summer Fun Run event along with Citizen’s Bank, and Central Business Bureau, a Division of the Middlesex Chamber of Commerce; and

BE IT FURTHER RESOLVED: That the Common Council does request that the Departments of Public Works and Park and Recreation, Economic Development, Police, Fire, and Health render all such assistance and support as may be required to ensure the public health and safety of the many race participants and observers.

BE IT FURTHER RESOLVED: That the costs and fees, including personnel and subsidiary expenses for the Showmobile cannot be waived; and

BE IT FURTHER RESOLVED: That the City of Middletown shall expend no more than $5,000 for said event without further councilmanic approval; and

BE IT FURTHER RESOLVED: That the organization receiving funding from the City be requested to file a report to the City indicating the expenses and accomplishments for the City of Middletown.

BE IT FINALLY RESOLVED: that the Citizens Bank 5K Summer Fun Run is a special event, which will be subject to the provisions of Section 218-10 of the Middletown Code of Ordinances.

Financial Impact: The Fire Department posts an EMS crew at these events with Battalion Chief, two (2) Lieutenants, and four (4) Firefighters for four (4) hours at an estimated cost of $1,535; The Police cost in the budget is $4,660; Public Works Parks Division has no costs related to this event; Health, the cost is about $100 per event.

Councilwoman Mary Bartolotta reads the resolution and moves to approve. Councilman Philip Pessewold seconds the motion. There being no further discussion, the Chair calls for the vote. The Chair states that the vote is unanimous with a vote of 10 to 0. The motion is approved by a vote of 10 to 0.

B. Approving that the City of Middletown shall be co-sponsor of the 2019 Cruise Night on Main Street along with the Central Business Bureau, a Division of the Middlesex Chamber of Commerce, that this event be recognized as a special event and that Section 218-9 C of the Middletown Code of Ordinances be in effect for this event; that fees, including personnel for the Showmobile, cannot be waived; that City Departments of Public Works and Park and Recreation, Economic Development, Police, Fire, and Health render all such assistance and support as may be required to ensure the public health and safety for this event; that the City shall expend not more than $10,000 for said event without further Council approval; that the organization receiving funding from the City be requested to file a report to the City indicating the expenses and accomplishments for the City of Middletown; and that Cruise Night on Main Street is a special event, which will be subject to the provisions of Section 218-10 of the Middletown Code of Ordinances.

APPROVED
RESOLUTION No. 18-19; K: review / resolution/ CC Cruise Night 2019 RES 18-19 – 1 April 2019

WHEREAS, the Central Business Bureau of the Middlesex County Chamber of Commerce is planning to hold its 22nd annual Cruise Night on Main Street on Wednesday, June 12, 2019, from 4:30 p.m. to 8:30 p.m. with the rain date of Wednesday, June 19, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That the City of Middletown proudly accepts the position of co-sponsor for the 2019 Cruise Night on Main Street along with the Central Business Bureau, a Division of the Middlesex Chamber of Commerce, and that this event be recognized as a special event and that Section 218-9 C of the Middletown Code of Ordinances be in effect for this event; and

BE IT FURTHER RESOLVED: That fees, including personnel for the Showmobile, cannot be waived; and
BE IT FURTHER RESOLVED: That the Common Council does request that the Departments of Public Works and Park and Recreation, Economic Development, Police, Fire, and Health render all such assistance and support as may be required to ensure the public health and safety for this event; and

BE IT FURTHER RESOLVED: That the City of Middletown shall expend not more than $10,000 for said event without further Council approval; and

BE IT FURTHER RESOLVED: That the organization receiving funding from the City be requested to file a report to the City indicating the expenses and accomplishments for the City of Middletown.

BE IT FINALLY RESOLVED: that the Cruise Night on Main Street is a special event, which will be subject to the provisions of Section 218-10 of the Middletown Code of Ordinances.

Financial Impact: EMS crew at these events with Battalion chief, two (2) Lieutenants, and four (4) Firefighters for six (6) hours at an estimated cost at $2,305; The Police, the cost in the current budget is $5,285; Public Works, Park Division will use eight (8) employees at straight time for a cost of $400, and six (6) employees at a cost of $580; Health, the cost is $100 per event.

Councilman Robert Blanchard reads the resolution and moves to approve. Councilman Philip Pessina seconds the motion. There being no further discussion, the Chair calls for the vote. The Chair states that the vote is unanimous with a vote of 10 to 0. The motion is approved by a vote of 10 to 0.

C. Approving that $36,000 of the Art Support Services Grant (FY 18/19) be allocated as follows for general operating support:

APPROVED
RESOLUTION NO: 19-19; K: review / resolution/ Arts Grant RES 19-19 --- 1 April 2019

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That Arts & Culture Office requests that $36,000 of the Art Support Services Grant (FY 18/19) be allocated as follows for general operating support:

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<thead>
<tr>
<th>Organization</th>
<th>Amount</th>
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<tr>
<td>Oddfellows Playhouse</td>
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<tr>
<td>The Buttonwood Tree</td>
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<tr>
<td>The Greater Middletown Concert Assoc.</td>
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<tr>
<td>The Greater Middletown Chorale</td>
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</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$36,000</strong></td>
</tr>
</tbody>
</table>

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That any agency receiving an Arts & Culture Office grant award must comply with the new matching fund ordinance.

Fiscal Impact: There is no new fiscal impact; the funds are budgeted for FY18/19.

Councilman Robert Santangelo reads and moves to approve. Councilwoman Deborah Kleckowski seconds the motion.

The Chair calls on Councilman Grady Faulkner, Jr. Councilman Faulkner states that these arts events are important, noting that there was recently a great event in Town – a tribute to Aretha Franklin – which brought in many diverse people from in and outside of town. These events should be promoted and supported, noting that these grants allow the community to do more and more.

There being no further discussion, the Chair calls for the vote. The Chair states that the vote is unanimous with a vote of 10 to 0. The motion is approved by a vote of 10 to 0.

E. ORDINANCE: Amending Section 253 (“Solid Waste”) of the Middletown Code of Ordinances, adding Article IV – Plastic Bag Ban banning use of plastic bags for retail checkout of purchased goods, to require use of reusable checkout bags, encouraging retailers to make reusable bags available for sale, and allowing retail establishments to sell recyclable paper checkout bags for ten cents ($0.10) per bag; and that this Ordinance shall become effective six (6) months following date of adoption to allow retail establishments to dispose of inventory and convert to alternative packaging materials compliant with this Ordinance.

APPROVED, AS AMENDED
ORDINANCE No: 04-19; K: review / resolution/ Arts Grant RES 19-19 --- 1 April 2019

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN:
That Article IV of Chapter 253, Sections 253-27 to 253-34, be added to the Middletown Code of Ordinances as follows:

CHAPTER 253 SOLID WASTE
ARTICLE IV. PLASTIC BAG BAN
§ 253.27. Purpose.
The intent of this ordinance is to improve the environment in Middletown by encouraging the use of reusable checkout bags and banning the use of plastic bags for retail checkout of purchased goods. Retail establishments are encouraged to make reusable bags available for sale.

§ 253.28. Justification.
Plastic checkout bags pollute our local streams and rivers, disintegrate into smaller bits that contaminate soil and waterways and enter into the food supply of animals, fish and humans. They further contribute to litter and increase the volume and toxicity of waste materials in our solid waste stream costing the City considerable economic resources.

§ 253.29. Definitions.
As used in this chapter, the following terms shall have the meanings indicated:

CHECKOUT BAG
A bag provided by a store to a customer at the point of sale. The term “checkout bag” does not include reusable bags, laundry or dry cleaner bags, newspaper bags, paper gift bags, produce bags, product bags, or bags sold in packages containing multiple bags intended for uses such as garbage, food storage, pet waste, or yard waste bags.

ENFORCEMENT OFFICER
The Middletown Recycling Coordinator will enforce the provisions of this Ordinance.

PRODUCE/PRODUCT BAG
Any bag without handles used exclusively to carry produce, meats or other food items to the point of sale inside a store or to prevent such food items from coming in direct contact with other purchased items.

RECYCLABLE PAPER BAG
A recyclable paper bag means a paper bag with the following characteristics: (1) contains no old growth fiber; (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; and (3) displays the words “Reusable” or “Recyclable on the outside of the bag.

REUSABLE CHECKOUT BAG
A reusable bag means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other fabric.

RETAIL ESTABLISHMENT
Any for profit, commercial enterprise including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, food trucks and household goods stores. The term "retail establishment" does not include yard sales, tag sales, and/or other sales by residents at their home.

§ 253.30. Prohibition on Checkout Bags and Other Requirements
A. If any retail establishment provides a checkout bag to customers, the bag shall be a recyclable paper bag or a reusable checkout bag.

B. Retail establishments are strongly encouraged to make available for sale to customers reusable checkout bags and customers are encouraged to bring their own reusable checkout bags to retail establishments.

C. Any retail establishment that elects to provide recyclable paper checkout bags shall charge the consumer at the point of purchase $0.10 for each bag. The charge imposed by a retail establishment as provided herein shall be retained by the retail establishment.

D. The charge reflected in subsection (C) above shall not apply to the use of checkout bags to carry items purchased pursuant to the Supplemental Nutritional Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), or a similar governmental food assistance program.

E. All retail establishments shall indicate on the customer's transaction receipt the number of checkout bags provided and the total of amount charged for the checkout bags. It shall be a violation of this ordinance for a retail establishment to fail to separately itemize the charge upon a customer's purchase of such bag.

F. No retail establishment shall rebate or otherwise reimburse a consumer for any portion of this charge.

G. All Retail Establishments shall post signs at or near the point of purchase to notify consumers of the provisions of this article. Such signs shall include the following instruction for consumers: “All paper carryout bags provided by this store to a consumer shall be subject to a fee of ten cents per bag. Carryout bags brought by consumers into this store to carry purchased goods from this store shall not be subject to a fee.”

§ 253.31. Exemption.
The provisions of this chapter do not apply to bags used by non-profit organizations or other charities to distribute food, grocery products, clothing, or other household items.

§ 253.32. Enforcement
Upon notification that a violation of this ordinance exists, the Enforcement Officer will investigate and verify the non-compliance. If the Enforcement Officer determines that any violation has occurred, he/she shall proceed as follows for enforcement purposes:

A. Upon the first violation, the Enforcement Officer shall issue a written warning notice to the person and/or retail establishment in violation of this ordinance. The written warning shall give the person and/or retail establishment at least 7 business days to remedy the violation. The written warning shall also state that failure to cure will result in a fine of $45 for each separate violation. Each day that the person and/or retail establishment remains in violation after cure shall constitute a separate violation. No penalty shall be imposed for this first violation.

B. Upon any subsequent violation(s) or failure to cure as stated above, the Enforcement Officer shall impose a penalty of $45 for each day that the violation remains.

C. Any fines not promptly paid will be referred to the City’s collection firm.

§ 253-33. Operative date.
This ordinance shall become effective six months following its date of adoption to allow retail establishments to dispose of their existing inventory of plastic carryout bags and convert to alternative packaging materials compliant with this ordinance.

§ 253-34. Severability.
If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance, which shall remain in full force and effect.

Councilwoman Mary Bartolotta reads and moves to approve. Councilman Eugene Nocera seconds the motion.

The Chair calls on Councilman Gerald Daley.

Councilman Daley states that he fully supports this ordinance, adding he is nervous as to what might happen, hoping that Hartford doesn't muck it up for cities and towns that have adopted similar ordinance. It is a great step hopes in the tradition of Middletown being a leader in this area, encouraging environmental responsibility. He commends the Mayor Holzberg and the garden club members, who worked so hard on this item. He adds that the business people, who spoke during the public hearing, raised some valid concern. Jon Hall did a great job answering them. It is great to call this BYOB, bring your own bag, and not bring your own bottle, which is where the focus needs to be. The City is working with Jonas Center, the garden club, and other groups during this six (6) month period to implement, the focus needs to be on an education campaign to encourage people, working with the Chamber and other business people, to get reusable bags, which avoids the whole problem that has been raised by some. The idea is not to have paper bags either, which is a great thing for us to do.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina states that he has one issue with this ordinance. In looking at this ordinance, it is for the right reasons. When Mayor Holzberg spike this evening, she used the word "encouragement," adding that there is no encouragement to a retailer for City government to their doorstep and tell them, "You will charge 10 cents per bag to the customers," adding he can see it being accounted for on the slip. They cannot give away a paper bag. Go out on Washington Street to Aldi: you pay a quarter to get a carriage; you get your quarter back. They have paper bags. They do not deal in plastic bags, noting that they are the number 1 grocer in the world. When you go in there, as he has on occasion, forgetting to bring his bags with him, he purchased them; he chose to purchase the paper bag. When he asked Deputy General Counsel Kori Wisneski where they get the power that government can intrude on a merchant’s ability to market itself. If someone wants to market a business, and is obeying this ban, that business may have paper bags. They may want to put their name on the bags and might want to give it to customers, who did not bring a bag with them. That creativity is gone. We said that we need to encourage businesses, but this is not encouraging business. This is discouraging retailers from creative marketing abilities. Someone here tonight said, "It's only 10 cents." To a senior, it might be a lot. He asks how merchants, who know the customers that they are dealing with, that that merchants are going to ask for 10 cents for a bag. It is ludicrous. It is an infringement on the right of a retailer to run his/her own business and be creative as long as they are within the framework of the law. He wonders how Attorney Wisneski got this result, to cross the business threshold and tell a business owner that he/she cannot give a bag, but have to charge 10 cents, have to account for it. It will come back to the retailer, who cannot give the bag to the customer as a service. It's gone. Attorney Wisneski said something about "health." That is stretching the laws tin this nation today. It's too much government infringement on the rights of people who want to run a business. He moves to amend the ordinance to remove the 10 cent requirement, giving flexibility back to the retailer as long as they have the paper bags, and remove item D, E, and F, and change the sign. A retailer has a business and is expected to put a sign there, telling customers – you heard it here tonight, some will say, "What is this? Are they crazy? I am doing business in your place and am being asked to pay for the bags..."

The Chair interjects and asks Councilman Pessina if he is moving to . . .

Councilman Pessina replies that he is moving to amend.
The Chair asks Councilman Pessina to make the amendment.

Councilman Pessina replies that he has offered an amendment and needs a seconds.

Councilwoman Deborah Kleckowski seconds the amendment.

The Chair asks Councilman Pessina if he actually made an amendment.

Councilman Pessina replies that it is what the Chair just heard him say.

The Chair asks for him to hold on, adding that Councilman Pessina is saying that he is going to move to amend and then argues for the amendment that he has not yet made. He asks Councilman Pessina to make a motion to amend and list what he is looking to amend.

Councilman Pessina move to remove from Section 253-30: in C, removing charging customers 10 cents, removing reference to the change in D; removing the transaction in E; and in F, no rebate and give away as these eliminate the creativity of retailers because it is an insult.

The Chair asks that Councilman Pessina finish the motion before arguing. He asks if that is the motion in its entirety.

Councilwoman Deborah Kleckowski seconds the motion.

The Chair states that there a lot of lights on. He asks if anyone wants to be heard on the amendment. Seeing none that want to be heard on the amendment . . .

Councilman Gerald Daley states the he wants to speak to the amendment.

The Chair notes that Councilman Daley, Councilman Santangelo, and Councilman Giuliano all want to be heard on the amendment. The Chair calls on Councilman Gerald Daley.

Councilman Daley states that he has already spoken in favor if the ordinance in its present for, but wants to speak against the amendment. He states that, if you listened to what Mayor Holzberg said and what Jon Hall has said and what a number of others who have spoken in favor of the ordinance have said, you are missing the whole point: it's not just plastic bags that we are trying to eliminate, but paper bags, too. We do not want retailers to be handing out free paper bags and encouraging people to use more paper bags. We are trying to work with them to encourage shoppers to use reusable bags. That is the purpose of the 10 cent charge. He believes that an education campaign would help to address the concern so that businesses aren't . . . if there is a grief to be taken, it should be directed at the agency that imposed the regulation and not the businesses. We need to support them in that extent. He also wants to point out, noting that maybe he needs to elaborate on the prospect of the State mucking this up for cities. The State is talking about putting a fee on bags – to turn it into a revenue – but that does not eliminate the bags. The whole purpose is to eliminate the bags. If you understand the issue it is important to encourage the use of reusable bags and discourage the use of plastic first and paper is not as bad, but also not good.

The Chair calls on Councilman Robert Santangelo.

Councilman Santangelo states that, while he appreciates Councilman Pessina's passion and pain, he heard him mention Aldi's as a place and how they handle their bags. He states that, when you go to Europe, recalling when he was grocery shopping, something you notice is that everyone carries their own bag. They have been conditioned to do so. You have heard about plastic bags floating around the size of Texas. They don't work well in the environment. Basically it's a moral issue: sometime government needs to say, “We need to talk about this. We need to encourage you about this and this is the only way we can do this.” He likes the idea and, if someone does not want to pay 10 cents, they will quickly start carrying around their own bags. This is a wise way of doing this. What will happen, the business will keep handing out plastic bags; they will hand out paper bags. At what point do we say, "Please don't do that." We live in a country where some will say, "I'm going to hand out my bag and pour my name on my bag." I'm going to say, "Please don't," but that doesn't work anymore. It's a moral issue, not a political issue. Require someone to pay the dime or encourage people to bring their own bag. Somewhere the question is how we are going to educate people, to encourage people. He asks Councilman Pessina that, if he has a better system, please tell Mayor Holzberg and the garden club the better system because he cannot think of one. He appreciates Councilman Pessina's enthusiasm, but he cannot support the amendment.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano states that he will support the amendment, and will not the support the ordinance without it, is because, when first approached, it was aplastic bag ordinance. The argument was that that cannot be recycled; they gum up single stream recycling; they shut down the line; they are blowing all over the place at the transfer center. His reaction was that he knows how may bags he has in house that he cannot get rid of. He saw the problem with plastic bags. You go to the market and they put one item in a flimsy bag. He states that he was all for the plastic bag ordinance, adding everywhere it was discussed it was “the plastic bag ban.” It now the “bring
The Chair asks if anyone else wishes to be heard on the amendment. The Chair calls on Councilman Eugene Nocera.

Councilman Nocera thanks Mayor Holzberg, who brought this to the Public Works Commission and defended her position to a large group, noting that there was great debate. In terms of the amendment, it is what history teaches us: change happens through a paradigm shift, noting it is the first step. This was never hidden from the first presentation, noting that it was always bring your own bag. That is the paradigm shift. People will get used to it; they will understand that it is for the greater good. It does not punish anyone, so he does not support amendment.

The Chair calls on Councilwoman Deborah Kleckowski.

Councilwoman Kleckowski agrees that “bring your own bag” is different from charging 10 cents. Putting it on the business is what is important, not just the 10 cents, but a $90 fine for every offense. This means that if someone gave out five (5) bags, it is $450. She states that she, too, was not aware of the fee structure; she thought it was a plastic bag issue, but to ask people to pay 10 cents when the business is willing to shift without having a lot of controversy to bags is harmful. We should not be telling business how to run businesses beyond plastic to paper. She believes that people do bring their own bags, noting that, at Aldi’s, if you don’t have a bag, you can get a box. Some of these businesses it is different, say going into Amato’s, to have your own bag. She believes that it is harmful and unfortunate that this piece is in the ordinance. She urges her colleagues to have a plastic bag elimination and let businesses discuss how to do this as they have agreed to eat the cost states, yes, ban plastic bags these business agreed to eat the cost of the paper bags, which someone said was $1.29, which is added onto their expenses. Business owners should be able to decide for themselves how they will use bags outside of plastic.

The Chair states that seeing no further discussion . . . Councilman Philip Pessina states that he would like to speak. The Chair states that he has already spoken on the amendment, so he can speak on the underlying . . . The Chair consults Corporation Counsel Dan Ryan, Esq.

Councilmember (unidentified) he can speak twice.

The Chair asks Councilman Pessina to keep his comments brief.

Councilman Pessina states that, if, as a business person, he gives a customer a bag, he would be given a written warning, but he likes his customers and will do all he can. He notes that what Councilman Daley did not mention is the $90 fine. As far as educating businesses, he goes to all of the CBB business meeting and he heard no mention about this ordinance and the associated charges and fines. He checked with the Downtown Business District and, again, nothing. What he is asking is when we got away from public education and information.

The Chair interjects, stating that Councilman Pessina was going to speak to the amendment, no offer a soliloquy on public communication. The Chair asks that he keep it on topic or he will shut him down.

(Inaudible comments).

There being no further discussion on the amendment, the Chair calls for the vote. The Chair states that the amendment fails by a vote of 4 ayes (Councilmembers Faulkner, Giuliano, Kleckowski, & Pessina) and 6 nays (Councilmembers Bartolotta, Blanchard, Chisem, Daley, Nocera, & Santangelo). The amendment fails with four (4) votes in favor and six (6) votes in opposition.

The Chair states that the Council now has on the floor the underlying ordinance, which has not been amended and is in its original form. The Chair calls on Councilman Grady Faulkner, Jr.

Councilman Faulkner states that while he supports the idea and the initiative, he will not support this ordinance, but will abstain. He believes that this issue will be covered at the State level in terms of legislation In addition, we have to teach people to do the right thing. We keep passing laws to control behavior rather than education and training people to behave a certain way. We are losing humanity, not talking to one another, not having conversations. This is why kids get into traps with flash that causes kids to fall into those patterns. We need to educate.

The Chair calls on Councilman Sebastian Giuliano.
Councilman Giuliano states that laws always have unintended consequences and he believes that, as written, this will have significant unintended consequences. He feels badly for a business like Amato’s, which has been in Middletown his entire life and longer. It is a unique business, but could be put out of business by Amazon last week as could a lot of other businesses. Everything that is in the store at Amato’s can be bought on line, noting that, if you shop online, look at how that merchandise is packaged. Gesturing to show something “that bog” comes packed in a box “this big,” loaded with packing material. Ban a paper bag and invite something else. As Councilman Pessina has said, this is a proposed law that is overreaching, it is good intentioned, but overreaching ordinance that goes beyond what is needed to address the problem in front of us. It will hurt as many people as it helps. He cannot support it as it exists. He asks his colleagues to reject it and take a good, hard thought before doing this.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina states, not to belabor, but this is government intrusion. We have learned and we should know that we need to talk to people, as Councilman Faulkner has stated. We cannot just do some informal survey by someone walking into a store. There is a captive audience at CBB and DBD, so talk to them. He states that he is tired of government telling people how do their business. It’s gone. A little thing, like ten cents, can hurt some businesses. He states, respectfully, that when the complaints come in, they should be sent to Mayor Holzberg

The Chair notes that he is sure complaints will be sent to him. Councilman Pessina repeats that he will send complaints to Mayor Holzberg. (Inaudible comments.)

The Chair calls on Councilman Grady Faulkner, Jr.

Councilman Faulkner recommends that, based on his experience in the plastics industry, that is another entity that we need to talk to since they must have ideas about better recycling.

The Chair calls on Councilman Robert Blanchard.

Councilman Blanchard states that he will be supporting this proposed ordinance, adding that, when he first saw it, his one concern, which caused him to reach out to Jon Hall, is seeing some of the money go towards an environmental fund that is used to clean up parks or send kids to summer camp. He recounts that State Senator Kennedy was very controversial when he proposed it with a fee to go to parks. He understands that this $90 fee is meant to correct a behavior, which is why it is steep.

Councilman Blanchard proposes an amendment, reducing the fine from $90 to $45, adding that he believes that local businesses will be able to correct behavior without putting them into the red. He believes that this is a good way to bring commerce and the environment together while sending the right message. Councilwoman Mary Bartolotta seconds the motion to amend.

The Chair states that, seeing no discussion . . .

Councilwoman Bartolotta states that she would like to speak to the amendment.

The Chair calls on Councilwoman Mary Bartolotta.

Councilwoman Bartolotta states that she is agreeable to the amendment, having heard some of the opinions about undue consequences. She backs this ordinance 110 percent, noting that it needs to be done. She asks that the fine structure be reduced to $45 because this is something that we can apply for a while, and, if necessary, raise it. She would like to try to teach people without having such a grievous impact on retailers, especially if there is a lack of knowledge. If needed the Council can come back here, adding that she will be the first to raise that fine, if needed.

There being no further discussion on the amendment, the Chair calls for the vote. The Chair states that the amendment is approved by a vote of seven (7) ayes (Councilmembers Bartolotta, Blanchard, Chisem, Daley, Faulkner, Nocera, & Santangelo) and three (3) nays (Councilmembers Giuliano, Kleckowski, & Pessina). The amendment is approved with seven (7) votes in favor and six (6) votes in opposition.

The Chair states that the Council now has before it the underlying ordinance with the amended fine. There being no further discussion on the amendment, the Chair calls for the vote. The Chair states that the amendment is approved by a vote of six (6) aye votes (Councilmembers Bartolotta, Blanchard, Chisem, Daley, Nocera, & Santangelo) and two (2) nays (Councilmembers Giuliano & Kleckowski. There are two (2) abstentions (Councilmembers Faulkner & Pessina). The ordinance, as amended, is approved with six (6) votes in favor and two (2) votes in opposition.

F. Approving a revised agreement for Stubborn Beauty Brewing Company to lease an additional 8,500 square feet of space at the R. M Keating Historical Enterprise Park, 180
JOHNSON STREET ("KEATING PARK"); and, that the Mayor is authorized to sign the lease agreement, subject to review by the Office of General Counsel as to content and form.

APPROVED

RESOLUTION No. 21-19; K:review/resolution/PCD resolution lease Stubborn Beauty RES 21-19 – 1 April 2019

WHEREAS, Stubborn Beauty Brewing Company’s ("the Company") business has grown to the extent it needs more space at the City-owned building, the R. M Keating Historical Enterprise Park, 180 Johnson Street ("Keating Park"); and,

WHEREAS, the Company is currently leasing 4,160 square feet in the Building C section of Keating Park; and,

WHEREAS, to accommodate the expantion of buildout for the new space in Building C, the first 12 months of rent will be $0 monthly, exclusive of utilities, with years 2-5 leased at the market rate for the building; and,

WHEREAS, the Company, would continue to lease its current space in Building A at a minimum of the first two years of the lease to March 31, 2021 at the applicable market rate; and,

WHEREAS, if the Company will be given the right of first refusal to retain the space in Building A at the end of year two for the remainder of the 5 year lease which will end on March of 2024 at the rates in the lease document; and,

WHEREAS, Stubborn Beauty is looking to make over $150,000 in improvements to the space and in order to obtain financing are asking for 3 additional 5 year extensions on what has already been approved by the Common Council; and,

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN:

Approving a revised agreement for Stubborn Beauty Brewing Company to lease an additional 8,500 square feet of space at the R. M Keating Historical Enterprise Park, 180 Johnson Street ("Keating Park"); and, that the Mayor is authorized to sign the lease agreement, subject to review by the Office of General Counsel as to content and form.

FINANCIAL IMPACT – The lease will generate an estimated $205,079 over the 5-year term of the lease.

LEASE AGREEMENT BETWEEN THE CITY OF MIDDLETOWN AND STUBBORN BEAUTY BREWING COMPANY

THIS LEASE AGREEMENT made as of the ___ day of ___ , 201__ by and between the City of Middletown, with its offices located at 245 DeKoven Drive, P. O. Box 1300, Middletown, Connecticut 06457, hereinafter referred to as the LANDLORD, and STUBBORN BEAUTY BREWING COMPANY with its offices located at 180 Johnson Street, Middletown, Connecticut, 06457, hereinafter referred to as the TENANT.

<table>
<thead>
<tr>
<th>Location</th>
<th>Amount of Space</th>
<th>*$/SQFT</th>
<th>Annual Rent</th>
<th>Monthly Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building A</td>
<td>4,160</td>
<td>4.5</td>
<td>18,720.00</td>
<td>1,560.00</td>
</tr>
<tr>
<td>Building C</td>
<td>8,500</td>
<td>4.5</td>
<td>38,250.00</td>
<td>3,187.50</td>
</tr>
<tr>
<td>Building C ext.</td>
<td>6,400</td>
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</tbody>
</table>

Breakdown of Rent/Location in Year 1 Rental Rates

<table>
<thead>
<tr>
<th>Location</th>
<th>Amount of Space</th>
<th>*$/SQFT</th>
<th>Annual Rent</th>
<th>Monthly Rent</th>
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<td>6,400</td>
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<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indoor Space</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>4.92</td>
<td>4.5</td>
<td>18,720.00</td>
<td>1,560.00</td>
</tr>
<tr>
<td>Year 2</td>
<td>4.64</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 3</td>
<td>4.77</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 4</td>
<td>4.92</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 5</td>
<td>5.06</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Rents increase at 3% each year.
WITNESS:

ARTICLE I

Basic Data; Definitions

Section 1.1

The following sets forth basic data, hereinafter referred to in this Lease, and, where appropriate, constitute definitions of the terms hereinafter listed.

(a) TENANT: STUBBORN BEAUTY BREWING COMPANY.

(b) Present Mailing Address of TENANT: 180 Johnson Street, Middletown, CT 06457.

(c) The Demised Premises: The Demised Premises contains 8,500 rentable square feet on the first floor in Building C, 4,160 rentable square feet in the first floor in Building A, and approximately 6,400 of rentable square feet on the eastern exterior of Building C.

(d) Lease Term: Five (5) Years. Upon the written request of the TENANT, at least sixty (60) days prior to the expiration of the Term, the LANDLORD, in its sole and absolute discretion, may extend this Lease Agreement for five additional five (5) year terms, provided that the TENANT is not in default of this Lease Agreement, or is not otherwise in default of any taxes or assessment charges due to the City of Middletown. The Rental Rate set forth below in this Section shall be renegotiated and agreed upon in writing by the Parties before the commencement of the additional term.

(e) Commencement Date: March 1, 2019.

(f) Rental Rate: Rent shall be based on the amount of leased square feet of rentable space, as set forth more particularly in the attached Exhibit B, and shall be due on the first day of each month subject to a ten (10) day grace period. The TENANT shall be obligated to pay rent in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Lease Year</th>
<th>Lease Period</th>
<th>Annualized Rent</th>
<th>Monthly Breakdown</th>
<th>Computation</th>
<th>Building A Monthly Rent (Option Exercised)</th>
<th>Option Exercised Annualized Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 April 2019 - March 31, 2020</td>
<td>$18,720.00</td>
<td>$1,560.00</td>
<td>Building A Only</td>
<td>$18,720.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 April 2020 - March 31, 2021</td>
<td>$58,679.10</td>
<td>$4,889.93</td>
<td>Building A, C, and C ext.</td>
<td>$58,679.10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 April 2021 - March 31, 2022</td>
<td>$40,579.43</td>
<td>$3,381.62</td>
<td>Building A and C ext.</td>
<td>$40,579.43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 April 2022 - March 31, 2023</td>
<td>$41,796.82</td>
<td>$3,483.07</td>
<td>Building C and C ext.</td>
<td>$41,796.82</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 April 2023 - March 31, 2024</td>
<td>$43,050.71</td>
<td>$3,587.56</td>
<td>Building C and C ext.</td>
<td>$43,050.71</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(g) Use: Beer Brewery/Restaurant: Tenant will lease current space of 4,160 sqft (Building A) for years 1 and 2 of the initial contract period. Tenant will lease an additional 8,500 sqft in Building C along with the 6,400 sqft of outdoor space adjacent to Building A. Tenant will commence payment for the 8,500 sqft along with the 6,400 sqft of outdoor space at the start of year 2 of the initial contract. Tenant will retain an option to lease the 4,160 sqft of original space and upon the written request of the TENANT, at least sixty (60) days prior to the end of the two year commitment of the initial contract.

(h) Operating Expenses: Building operating expenses are included in the rental rates with the exception of all utilities including, but not limited to natural gas, steam, water, electricity charges, heating, cooling, and the like (herein "Utilities"). For those spaces whereby the Utilities are not sub-metered, the LANDLORD has the right to sub-meter any and all Utilities, in the LANDLORD’s sole and absolute discretion. If the LANDLORD sub-meters Utilities, it shall provide Tenant thirty (30) days-notice before requiring the TENANT to assume responsibility for said charges.

(i) Advanced Rent/Security Deposit: ____________________________________.

(j) In-Kind Rent: ONLY IF APPLICABLE

(k) Landlord Improvements: ONLY IF APPLICABLE

(l) Subletting: TENANT will not sublet the Lease in whole or in part without the written consent of the LANDLORD. If the TENANT sublets without the consent of the LANDLORD, the LANDLORD shall have the unilateral discretion to terminate the lease upon thirty (30) days’ notice. No subletting shall in any way impair the continuing primary liability of TENANT hereunder, and no consent, if any is given, to any sublet in a particular instance, shall be deemed to be a waiver of LANDLORD’S rights to prevent any assignment as provided herein. TENANT shall be required to sublet at fair market rental value and LANDLORD shall be entitled to receive any excess rentals or other charges payable by the subtenant over the amounts being paid by the TENANT to LANDLORD, and such sum shall be payable by TENANT as additional rent to LANDLORD on the first of each month, together with TENANT’S monthly rent.

(m) Parking: The LANDLORD shall designate in writing the number of spaces and location of where TENANT and its employees may park. Long-term parking of vehicles, registered or unregistered, shall require written permission of the LANDLORD. Long-term parking is defined as a period of 30 days or more.

(n) Capped Remediation Area: Capped Remediation Area: The Tenant is specifically prohibited from placing heavy, static loads on the area highlighted in the attached Exhibit E as or from using the area for anything other than a parking lot for passenger vehicles for itself, visitors, and guests. The TENANT further guarantees that no activity shall result in the damage to the geo-membrane or related cap infrastructure. To the extent that Tenant violates this agreement and uses the aforementioned area for anything other than parking for passenger vehicles, Tenant agrees that it shall be fully responsible for repairing the cap and the lot as required by the City. In addition, Tenant shall defend, indemnify, and save harmless, the City, its officers, agents, servants, and employees from and against any and all claims, liabilities, losses, damages, attorneys’ fees, and settlement expenses arising from property damage to the cap or parking lot as a result of the Tenant’s misuse of the parking lot as described herein.

ARTICLE II
Section 2.1 – Description of Premises

LANDLORD hereby Leases to TENANT and TENANT hereby Leases from LANDLORD, upon and subject to the terms and provisions of this Lease, the premises, hereinafter referred to as the Demised Premises and storage area, if applicable, as defined in Section 1.1 (c) herein and shown on Exhibit A and Exhibit B, which has been attached hereto and incorporated herein.

Section 2.2 – LANDLORD’S Reservations

Excepting and reserving to the LANDLORD the roof and exterior walls of the building of which the Demised Premises are a part; and further reserving to the LANDLORD the right to place in the Demised Premises, in such manner as to reduce to a minimum the interference with the TENANT’S use of the Demised Premises, utility lines, pipes and the like, to serve premises other than the Demised Premises, and to replace and maintain such utility lines, pipes and the like in, over and upon the Demised Premises as may have been installed in said building. The LANDLORD shall have free and immediate access to the infrastructure cited in Section 2.1 at all times.

ARTICLE III

Operating Expenses/ Utilities and TENANT’S Contribution

Section 3.1 – Operating Costs

Included in Gross Rent

Section 3.2 – Responsibility for Utilities

The LANDLORD, in its sole and absolute discretion, may sub-meter any Utilities at the Demised Premises, and charge the TENANT for said use at the LANDLORD’S cost. The TENANT shall pay for all the Utility charges associated with the use of the Demised Premises. Please note that open-flame heaters are prohibited.

ARTICLE IV

Use of Premises

Section 4.1 – Permitted Use

It is understood, and the TENANT so agrees, that the Demised Premises and storage area, if applicable, during the Term of this Lease Agreement and any authorized extensions of the Lease shall be used and occupied by the TENANT only for the purposes specified as the use thereof in Section 1.1 (g) of this Lease Agreement and for no other purpose or purposes.

Section 4.2 – TENANT’S Alterations and Improvements

The TENANT shall not make any alterations, improvements and/or additions to the Demised Premises without first obtaining, in each instance, the prior written consent of the LANDLORD. LANDLORD agrees in advance to all alterations requested by TENANT to renovate and improve the facility as set forth in the attached document, Exhibit C. Also set forth in Exhibit C is whether such improvements will need to be removed when this Lease Agreement is terminated. TENANT shall also obtain a building permit(s) and any other applicable construction permits necessary to legally accomplish said alterations, improvements, and/or additions.

By executing this LEASE, TENANT covenants that it has sufficient funds on hand, and has provided proof of said funds to the LANDLORD, to undertake TENANT alterations as displayed in Exhibit C. Failure to complete TENANT alterations as displayed in Exhibit C, within one year of execution of this lease agreement shall be a default of said LEASE and LANDLORD shall have all remedies as detailed in Section 8.4 of this LEASE.

Section 4.3 – Operational Covenants

The TENANT further agrees to conform to all of the following provisions during the entire Term of this Lease Agreement:

(a) The TENANT shall always conduct its operations in the Demised Premises under its present trade name unless the LANDLORD shall otherwise consent in writing.

(b) No auction, fire or bankruptcy sales may be conducted within the Demised Premises without the prior written consent of the LANDLORD. TENANT’S request for permission must be made at least 30 days in advance of when any such sale occurs;

(c) The TENANT shall not use the areas adjacent to the Demised Premises for business purposes including but not limited to the distribution of handbills or advertising of any type without the prior written consent of the LANDLORD.

(d) The TENANT shall not utilize, for any purpose, spaces other than what are allotted as part of this LEASE without written permission from the LANDLORD.

(e) TENANT hereby agrees to maintain the Demised Premises and operations within in accordance with all State and City of Middletown Health Codes, Building Codes and City Ordinances.

(f) The TENANT shall receive goods, in such areas, as may be designated by the LANDLORD. All trash, refuse and the like shall be kept in such areas as designated by the LANDLORD and must comply with all appropriate health and building code regulations and rules.

(g) The TENANT shall not perform any act or carry on any practice which may injure the Demised Premises or any other part of the LANDLORD’S Premises of which the Demised Premises are a part or cause anything beyond reasonable odor or loud noise associated with the uses listed in 1.1(g) or constitute a nuisance or menace to any other occupants or other persons in the Premises, and in no event shall any noises or offensive odors be emitted from the Demised Premises.

(h) TENANT shall disclose all toxic or hazardous substances used and/or stored within the Demised Premises. TENANT shall provide landlord with the Material Safety Data Sheet (MSDS) as well as a written description of why the material is used and/or stored within the Demised Premises and how the material shall be housed. All hazardous and toxic chemicals MUST be kept in an appropriate storage locker/cabinet and current MSDS shall be maintained on file at the TENANT at all times. Any spills or releases of hazardous or toxic substances must be reported to the LANDLORD immediately. The LANDLORD reserves the right to terminate the LEASE if it is determined by the LANDLORD that the TENANT is engaged in the misuse, improper storage,
or unsafe handling of hazardous or toxic substances within the Demised Premises. The TENANT will indemnify, defend, and save harmless the LANDLORD from any environmental claims, damages, or injury cases arising from the TENANT'S use, storage, or maintenance of hazardous materials in the Demised Premises.

(i) TENANT agrees to maintain the Demised Premises in a condition suitable and safe for employees in accordance with OSHA standards. The Demised Premises shall remain free of mold or other environmental hazards. The LANDLORD shall be notified immediately about the intrusion of water, mold, or airborne pollutants.

(ii) The TENANT agrees that its employees and others connected with the TENANT’S operations at the Demised Premises will abide by all of the reasonable rules and regulations from time to time established by the LANDLORD.

(k) The TENANT is responsible for contracting for janitorial services unless otherwise set forth herein.

### ARTICLE V

#### Maintenance

**Section 5.1 – TENANT Repair Obligations**

Except as specifically provided herein, the TENANT agrees that from and after the date that the possession of the Demised Premises is delivered to the TENANT and continuously throughout the Lease Term, the TENANT will keep neat and clean and maintain in good order, condition and repair, the Demised Premises and every part thereof. The TENANT further agrees that the Demised Premises shall be kept in a clean, sanitary and safe condition and shall in all aspects comply with the laws of the State and the ordinances of the City of Middletown and in accordance with all directions, rules and regulations of the Health Officer, Fire Marshal, Building Inspector and all other proper officers of the governmental agencies having jurisdiction over the Demised Premises.

**Section 5.2 – LANDLORD Repair Obligations**

The LANDLORD agrees to keep in good order, condition and repair foundations and structural portions of the Demised Premises including roof, walls, elevators, exteriors, glass windows and exterior doors irrespective of which party installed the same. The LANDLORD shall not be responsible to make any other improvements or repairs upon the Demised Premises except as specifically detailed in this Lease Agreement.

### ARTICLE VI

#### Indemnification

**Section 6.1 – Indemnification**

The TENANT shall at all times during the Term of this Lease Agreement, from and after the date possession of the Demised Premises is delivered to the TENANT, hold the LANDLORD, its officers, agents, servants and employees harmless and indemnified against any and all loss, damage, cost, expense or liability arising from bodily injury or death of any persons and damage or loss of any property resulting or arising out of or in connection with the TENANT’S LEASE or use of the Demised Premises or by reason of any act or thing done or omitted to be done in, upon or about the Leased Premises or any part thereof, unless such loss, damage, cost, expense or liability shall be caused by the negligence of the LANDLORD. The TENANT shall hold the LANDLORD, its officers, agents, servants and employees harmless, indemnified, and free and clear of and any and all claims, demands, penalties, liabilities, costs, expenses, including but not limited to reasonable attorney’s fees, arising in connection with the use of the site, Demised Premises, by the TENANT or its employees, agents, guests, visitors, or invitees. For the purposes of this Section, the Demised Premises shall include the service areas adjoining the same and any sidewalk adjacent to the Demised Premises. This indemnification shall survive the termination of this Lease Agreement and shall include indemnity against all costs, expenses and liabilities incurred in connection with any claim or proceeding and the defense thereof, including but not limited to reasonable attorney’s fees and court costs.

**Section 6.2 – TENANT’S Improvements**

The TENANT agrees to use and occupy the Demised Premises and to use such other portions of the Premises as it is herein given the right to use at its own risk. Any work performed by the TENANT shall require building permits from the City of Middletown Building Department. The LANDLORD shall have no responsibility or liability for any loss or damage to the TENANT’S Leasehold improvements or to fixtures or any other personal property of the TENANT or those claiming by, through or under the TENANT. The provisions of this Section shall apply during the entire Lease Term and during any earlier period that the LANDLORD has given prior written permission to the TENANT to enter the Demised Premises.

**Section 6.3 – Loss or Damage**

Except for claims arising from the LANDLORD’S wilful misconduct or negligence not covered by the insurances required of the TENANT hereunder, the TENANT waives all claims against the LANDLORD for injury or death to person, damage to property or to any other interest of the TENANT sustained by the TENANT or any party claiming through the TENANT, resulting from: (i) any occurrence in or upon the Demised Premises; (ii) leaking of roofs, bursting, stoppage or leaking of water, gas, sewer or steam pipes or equipment, including but not limited to sprinklers; (iii) wind, rain, snow, ice, flooding, freezing, fire, explosion, earthquake, excessive heat or cold or other casualty; (iv) the operating and mechanical systems or equipment of the Premises or of the Demised Premises being defective, out of repair or failing; and (v) vandalism, malicious mischief, theft or other acts or omissions of any other parties including but not limited to other tenants, contractors and invitees at the Premises. The TENANT agrees that his property loss risks shall be borne by his insurance and the TENANT agrees to look solely to and seek recovery only from his insurance carriers in the event of such losses. The TENANT agrees to waive any and all of its rights to subrogate against the LANDLORD and/or its insurer for any loss, damages or liability resulting in, on, under or around the Demised Premises.

**ARTICLE VII**
Section 7.1 – Right of Entry

The LANDLORD and its designees shall have the right to enter upon the Demised Premises (a) at any time in the case of an emergency; (b) at all reasonable hours for the purpose of inspecting; or (c) when making non-emergency repairs at a mutual reasonable time while taking care not to harm the operations or assets of the TENANT. If repairs are required to be made by the TENANT pursuant to the terms of this Lease Agreement or if the TENANT is required to perform any other obligation under this Lease Agreement, the LANDLORD may demand that the TENANT make such repairs or perform such obligation forthwith. If the TENANT refuses or neglects to commence such repairs or perform and complete the same with reasonable dispatch, after such demand, the LANDLORD may, but is not required so to do, make or cause such repairs or performance to be done and shall not be responsible to the TENANT for any loss and/or damage that may accrue as a result thereof. If the LANDLORD makes or causes such repairs or performance to be done, or endeavors so to do, the TENANT agrees that it will forthwith, on demand, pay to the LANDLORD the cost thus incurred, and if the TENANT shall be in default of such payment, then the LANDLORD shall have its remedies provided herein.

ARTICLE VIII
Miscellaneous Provisions

Section 8.1 – Insurance

TENANT shall, at its expense during the term hereof, maintain insurance for the Leased Premises in accordance with the requirements set forth in Exhibit D and deliver to LANDLORD without demand a Certificate of Insurance form showing said coverage.

TENANT further agrees, in the event of any loss, to waive all rights of subrogation against the LANDLORD.

In addition to the foregoing, LANDLORD requires TENANT, at its expense during the term hereof, to maintain adequate property insurance, including business income, to cover tenants own interests. In the event that the TENANT elects not to maintain such insurance the TENANT understands and agrees that pursuant to Section 6.3 of this Agreement, the TENANT waives all claims against the LANDLORD that would otherwise have been covered by such insurance. TENANT further agrees, in the event of any loss, to waive all rights of subrogation against the LANDLORD.

Section 8.2 – Notices.

Notices to be given by one party to the other under this Lease shall be in writing, mailed or delivered as follows:

If to the LANDLORD:
City of Middletown
Attn: Director Planning, Conservation and Development Office
245 DeKoven Drive
Middletown, CT 06457

If to the TENANT:

____________________________________
____________________________________
____________________________________

Mailed notice shall be sent by United States Certified or Registered Mail, postage prepaid. Such notices shall be deemed to have been given when mailed.

Section 8.3 – Condemnation

If all or any part of the Leased Premises is taken by eminent domain, this Lease shall expire on the date of such taking, and the rent shall be apportioned as of that date. No part of any such award shall belong to TENANT.

Section 8.4 – LANDLORD’S Rights upon Default

In the event of any material breach of this Lease by the TENANT, which shall not have been cured within THIRTY (30) DAYS, then the LANDLORD, besides other rights or remedies it may have under applicable law, shall have the immediate right of reentry and may remove all persons and property from the Leased Premises pursuant to the summary process laws of the State of Connecticut; such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, the TENANT. If the LANDLORD elects to reenter as herein provided, or should it take possession pursuant to any notice provided for by law, it may either terminate this Lease or may, from time to time, without terminating this Lease, relet the Leased Premises or any part thereof, for such term or terms and at such rental or rentals and upon such other terms and conditions as the LANDLORD in LANDLORD’s own discretion may deem advisable. Should rentals received from such reletting during any month be less than that agreed to be paid during the month by the TENANT hereunder, the TENANT shall pay such deficiency to the LANDLORD monthly. The TENANT shall also pay to the LANDLORD, as soon as ascertained, the cost and expenses incurred by the LANDLORD, including reasonable attorney’s fees, relating to such reletting.

In addition to any material breaching any agreement or covenant set forth in this LEASE, the following shall constitute a default and subject the TENANT to termination of the LEASE:

(a) Failure on the part of the TENANT to make payment of rent or any other monetary amount due under this LEASE within the prescribed time period.

(b) With respect to a nonmonetary default under this LEASE, failure of the TENANT to cure the same within thirty (30) days after receiving written notice from the LANDLORD of said default.
Section 8.5 – Quiet Enjoyment
The Landlord agrees that if the TENANT shall pay the rent as aforesaid and remain in compliance with the covenants and agreements herein contained on its part to be performed, the TENANT shall peaceably hold and enjoy the said rented premises without hindrance or interruption by the Landlord or by any other person or persons acting under or through the Landlord.

Section 8.6 – Termination and Surrender upon Termination
(a) LANDLORD’S Rights to Terminate: If the LANDLORD deems that the TENANT’S conduct could have a negative effect on the reputation of the LANDLORD, has the right, in its sole discretion, to terminate this Lease Agreement immediately. The LANDLORD also shall have the right, in its sole discretion, to terminate this Lease Agreement without cause by giving thirty (30) days written notice to TENANT of such termination specifying the date of such termination.

(b) Surrender of the Demised Premises Upon Termination: At the end of the Lease term, the TENANT shall surrender the Lease property in as good condition as it was in at the beginning of the term, reasonable use and wear excepted, and it shall be vacated of all property owned or leased by the TENANT. If the TENANT fails to surrender the Lease property in appropriate condition as set forth herein, the LANDLORD shall have all rights and remedies available to it under applicable law, including charging said TENANT for any clean-up or rehab charges or keeping any upfront rent or security deposit to cover said costs.

Section 8.7 – Subordination
This Lease and the TENANT’s Leasehold interest is and shall be subordinate, subject and inferior to any and all liens and encumbrances now and hereafter placed on the Leased Premises and all advances paid under such liens and encumbrances.

Section 8.8 – Holdover
No receipt of money by the LANDLORD from the TENANT after the termination of this Lease, the service of any notice, the commencement of any suit or final judgment for possession shall reinstate, continue or extend the term of this Lease or affect any such notice, demand, suit or judgment.

Section 8.9 – Waiver
No waiver of default of the TENANT shall be implied and no express waiver shall affect any default other than the default specified in such waiver and that only for the time and to the extent therein stated. The invalidity or unenforceability of any provision of this Lease shall not affect or impair any other provision.

Section 8.10 – Exclusivity of Remedies
All rights and remedies of the LANDLORD and the TENANT under this Lease shall be cumulative and none shall exclude any other rights and remedies allowed by law or statute.

Section 8.11 – Assignment, Provisions Binding
The TENANT shall not assign this Lease without the LANDLORD’S prior written consent, provided that the TENANT and the proposed assignee, including any owner, member, associate, or individual that is a member or officer of the TENANT and the proposed assignee are not delinquent in the payment of any and all taxes, assessments or any other charges levied lawfully against such person or entity by the City of Middletown or any other governmental entity. Any attempt to assign this Agreement in violation of this Section shall render such assignment null and void.

Each of the provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit, not only of the LANDLORD and of the TENANT, but also of their respective heirs, legal representatives, successors and permitted assigns, provided this clause shall not permit any assignment/subletting contrary to the provisions of Article 1 or this Section hereof.

Section 8.12 – Entire Agreement
All of the representations and obligations of the LANDLORD and the TENANT are contained herein and no modification, waiver or amendment of this Lease, or any of its conditions or provisions, shall be binding upon the LANDLORD and the TENANT unless in writing, signed by both the LANDLORD and the TENANT.

Section 8.13 – Installments of Rent
The receipt by the LANDLORD of any installment of the Gross Rent shall not be a waiver of any other rental payments then due or of any default of the TENANT hereunder.
Section 8.14 – No Brokerage
The TENANT warrants and represents that he has dealt with no broker in connection with the consummation of this Lease, and in the event of any brokerage claims against the LANDLORD predicated upon prior dealings with the TENANT named herein, the TENANT agrees to defend the same and indemnify the LANDLORD against any such claim.

Section 8.15 – Recording of Lease
At the request of either party, LANDLORD and TENANT shall execute a Notice of Lease in a form prescribed by Section 47-19 of the Connecticut General Statutes for the purpose of giving record notice of the appropriate provisions of this Lease.

Section 8.16 – Requirements of Law
The TENANT shall, at its own expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations of the federal, state and city governments and of all other governmental authorities having or claiming jurisdiction, directly or indirectly over the Demised Premises or appurtenances or any part thereof, including but not limited to, environmental rules, regulations and laws, and hazardous materials rules, regulations and laws.

Section 8.17 – Compliance with Law
The TENANT covenants and agrees, at its sole cost and expense, to comply with all present and future laws, orders, and regulations of all state, federal, municipal and local governments.

Section 8.18 – Payment of Taxes
The TENANT shall pay all taxes, if any, herein defined as all general and special taxes, whether ordinary or extraordinary, including existing and future assessments for roads, sewer, utilities, other local improvements, and other governmental charges which may be lawfully charged, assessed, or imposed upon all or any portion of the Demised Premises on both land and all improvements contained therein. Taxes may also be lawfully charged, assessed, or imposed on the Tenant for all fixtures and equipment of every type and also upon all personal property in the Demised Premises. The Tenant shall pay all license fees and other charges which may be imposed lawfully upon the business of the Tenant, which is conducted upon the Demised Premises.

Section 8.19 – Governing Law; Interpretation
This LEASE will be governed and interpreted by the laws of the State of Connecticut, without regard to its conflict of law provisions. To the extent that any court action is permitted consistent with or to enforce any part of this LEASE, the Parties hereby consent to the exclusive jurisdiction of the state and federal courts of the State of Connecticut. Accordingly, with respect to any such court action, TENANT (a) submits to the personal jurisdiction of such courts; (b) consents to service of process; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction, venue or service of process. Should any provision of this LEASE be declared illegal or unenforceable by any court of competent jurisdiction and such provision cannot be modified to become legal and enforceable, excluding the general release language, such provision will immediately become null and void, leaving the remainder of this Agreement in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto caused to be set their respective hands and seals on this ________ day of _______________, 20___.

Signed, Sealed and Delivered in the Presence of:

______________________________
LANDLORD, CITY OF MIDDLETOWN

By: ___________________________
Its: ___________________________, Duly
Authorized

______________________________
TENANT

By: ___________________________
Its: ___________________________, Duly
Authorized
EXHIBIT A – Locations on Demised Premises
EXHIBIT B – Description of Rentable Space

<table>
<thead>
<tr>
<th>Lease Year</th>
<th>Lease Period</th>
<th>Annualized Rent</th>
<th>Monthly Breakdown</th>
<th>Computation</th>
<th>Building A Monthly Rent (Option Exercised)</th>
<th>Option Exercised Annualized Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>April 1, 2019 - March 31, 2020</td>
<td>$18,720.00</td>
<td>$1,560.00</td>
<td>Building A Only</td>
<td></td>
<td>$18,720.00</td>
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<td>2</td>
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<td>$3,587.56</td>
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<td>$64,120.24</td>
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Breakdown of Rent/Location in Year 1 Rental Rates

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>AMOUNT OF SPACE</th>
<th>*$/SQFT</th>
<th>Computation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building A</td>
<td>4,160</td>
<td>4.5</td>
<td>$18,720.00</td>
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<tr>
<td>Building C</td>
<td>8,500</td>
<td>4.5</td>
<td>$38,250.00</td>
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<tr>
<td>Building C ext.</td>
<td>6,400</td>
<td>4.5</td>
<td>$</td>
</tr>
</tbody>
</table>

Indoor Space

<table>
<thead>
<tr>
<th>Year</th>
<th>Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>4.50</td>
</tr>
<tr>
<td>Year 2</td>
<td>4.64</td>
</tr>
<tr>
<td>Year 3</td>
<td>4.77</td>
</tr>
<tr>
<td>Year 4</td>
<td>4.92</td>
</tr>
<tr>
<td>Year 5</td>
<td>5.06</td>
</tr>
</tbody>
</table>

*Rents increase at 3% each year.

Note: Utilities and Personal Property Taxes are not included in Rental Rates

EXHIBIT C – Tenant Alterations

![Diagram of Indoor Space with annualized rent breakdown and rent increases]
EXHIBIT D – Insurance Requirements

Councilman Gerald Daley moves to approve. Councilman Debriah Kleckoswki seconds the motion. There being no further discussion, the Chair calls for the vote. The Chair states that the vote is unanimous with a vote of 10 to 0. The motion is approved by a vote of 10 to 0.

G. Approving an agreement for Good Vibes Kettle Corn LLC ("GVKC") to lease 580 square feet of space at the R. M. Keating Historical Enterprise Park, 180 Johnson Street. Building J --- 1st floor, at the rate of $4.50 per sq. ft., increasing at three percent (3.0%) per year; and that Mayor is authorized to sign the lease agreement, subject to review by the Office of General Counsel as to content and form.

APPROVED

RESOLUTION No. 22-19; K: review/ resolution/ Good Vibes Kettle Corn RES 22-19 – 1 April 2019

WHEREAS Good Vibes Kettle Corn LLC ("GVKC") is a Connecticut company which produces various flavors of kettle corn; and,

WHEREAS GVKC would like to lease approximately 500 square feet of space at the City's building at 180 Johnson Street, Middletown to produce kettle corn for wholesale to retail customers; and,

WHEREAS, at the March 12, 2019 Special Meeting of the Economic Development Committee, the members present agreed to move forward to the Common Council a proposed lease at R.M Keating Historical Enterprise Park to Good Vibes Kettle Corn LLC

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: Approving an agreement for Good Vibes Kettle Corn LLC ("GVKC") to lease 580 square feet of space at the R. M. Keating Historical Enterprise Park, 180 Johnson Street. Building J --- 1st floor, at the rate of $4.50 per sq. ft., increasing at three percent (3.0%) per year; and that Mayor is authorized to sign the lease agreement, subject to review by the Office of General Counsel as to content and form.

FINANCIAL IMPACT – The lease will generate an estimated $11,945 over the 5-year term of the lease.

LEASE AGREEMENT BETWEEN
THE CITY OF MIDDLETOWN
AND
GOOD VIBES KETTLE CORN, LLC

THIS LEASE AGREEMENT made as of the ___ day of __________________, 201___, by and between the City of Middletown, with its offices located at 245 deKoven Drive, P. O. Box 1300, Middletown, Connecticut 06457, hereinafter referred to as the LANDLORD, and Good Vibes Kettle Corn, LLC with its offices located at 379 Bow Lane, Middletown, Connecticut, 06457, hereinafter referred to as the TENANT.

WITNESS:

ARTICLE I
Basic Data; Definitions

Section 1.1 The following sets forth basic data, hereinafter referred to in this Lease, and, where appropriate, constitute definitions of the terms hereinafter listed.

(a) TENANT: Good Vibes Kettle Corn LLC
(b) Present Mailing Address of TENANT: 379 Bow Lane, Middletown, CT 06457
(c) The Demised Premises: The Demised Premises contains 580 rentable square feet on the first floor in Building J (Attachment A)
(d) Lease Term: Five (5) years. Upon the written request of the TENANT, at least sixty (60) days prior to the expiration of the Term, the LANDLORD, in its sole and absolute discretion, may extend this Lease Agreement for one additional five (5) year term, provided that the TENANT is not in default of this Lease Agreement, or is not otherwise in default of any taxes or assessment charges due to the City of Middletown. The Rental Rate set forth below in this Section shall be renegotiated and agreed upon in writing by the Parties before the commencement of the additional term.
(e) Commencement Date: April 1, 2019.
(f) Rental Rate: Rent shall be based on the amount of leased square feet of rentable space, as set forth more particularly in the attached Exhibit B, and shall be due on the first day of each month subject to a ten (10) day grace period. The TENANT shall be obligated to pay rent in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Lease Year</th>
<th>Lease Period</th>
<th>Annual Gross Rent</th>
<th>Monthly Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>4/1/2019 – 3/31/2020</td>
<td>$2,610.00</td>
<td>$217.50</td>
</tr>
<tr>
<td>Year 2</td>
<td>4/1/2020 – 3/31/2021</td>
<td>$2,688.30</td>
<td>$224.03</td>
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<td>Year 3</td>
<td>4/1/2021 – 3/31/2022</td>
<td>$2,768.95</td>
<td>$230.75</td>
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<tr>
<td>Year 4</td>
<td>4/1/2022 – 3/31/2023</td>
<td>$2,852.02</td>
<td>$237.67</td>
</tr>
<tr>
<td>Year 5</td>
<td>4/1/2023 – 3/31/2024</td>
<td>$2,937.58</td>
<td>$244.80</td>
</tr>
</tbody>
</table>

(g) Use: Manufacturing and wholesaling of Kettle Corn products.

(h) Operating Expenses: Building operating expenses are included in the rental rates with the exception of all utilities including, but not limited to natural gas, steam, water, electricity charges,
heating, cooling, and the like (herein "Utilities"). For those spaces whereby the Utilities are not sub-metered, the LANDLORD has the right to sub-meter any and all Utilities, in the LANDLORD's sole and absolute discretion. If the LANDLORD sub-meters Utilities, it shall provide TENANT thirty (30) days'-notice before requiring the TENANT to assume responsibility for said charges.

(i) Advanced Rent/Security Deposit: NONE

(j) In-Kind Rent: ONLY IF APPLICABLE

(k) Landlord Improvements: ONLY IF APPLICABLE

(l) Subletting: TENANT will not sublet the Lease in whole or in part without the written consent of the LANDLORD. If the TENANT sublets without the consent of the LANDLORD, the LANDLORD shall have the unilateral discretion to terminate the lease upon thirty (30) days' notice. No subletting shall in any way impair the continuing primary liability of TENANT hereunder, and no consent, if any is given, to any sublet in a particular instance, shall be deemed to be a waiver of LANDLORD'S rights to prevent any assignment as provided herein. TENANT shall be required to sublet at fair market rental value and LANDLORD shall be entitled to receive any excess rentals or other charges payable by the subtenant over the amounts being paid by the TENANT to LANDLORD, and such sum shall be payable by TENANT as additional rent to LANDLORD on the first of each month, together with TENANT'S monthly rent.

(m) Parking: The LANDLORD shall designate in writing the number of spaces and location of where TENANT and its employees may park. Long-term parking of vehicles, registered or unregistered, shall require written permission of the LANDLORD. Long-term parking is defined as a period of 30 days or more.

(n) Capped Remediation Area: Capped Remediation Area: The Tenant is specifically prohibited from placing heavy, static loads on the area highlighted in the attached Exhibit E as or from using the area for anything other than a parking lot for passenger vehicles for itself, visitors, and guests. The TENANT further guarantees that no activity shall result in the damage to the geomembrane or related cap infrastructure. To the extent that Tenant violates this agreement and uses the aforementioned area for anything other than parking for passenger vehicles, Tenant agrees that it shall be fully responsible for repairing the cap and the lot as required by the City. In addition, Tenant shall defend, indemnify, and save harmless, the City, its officers, agents, servants, and employees from and against any and all claims, liabilities, losses, damages, attorneys' fees, and settlement expenses arising from property damage to the cap or parking lot as a result of the Tenant's misuse of the parking lot as described herein.

ARTICLE II
Premises

Section 2.1 – Description of Premises

LANDLORD hereby Leases to TENANT and TENANT hereby Leases from LANDLORD, upon and subject to the terms and provisions of this Lease, the premises, hereinafter referred to as the Demised Premises and storage area, if applicable, as defined in Section 1.1 (c) herein and shown on Attachment A and Exhibit B, which has been attached hereto and incorporated herein.

Section 2.2 – LANDLORD'S Reservations

Excepting and reserving to the LANDLORD the roof and exterior walls of the building of which the Demised Premises are a part; and further reserving to the LANDLORD the right to place in the Demised Premises, in such manner as to reduce to a minimum the interference with the TENANT'S use of the Demised Premises, utility lines, pipes and the like, to serve premises other than the Demised Premises, and to replace and maintain and repair such utility lines, pipes and the like in, over and upon the Demised Premises as may have been installed in said building. The LANDLORD shall have free and immediate access to the infrastructure cited in Section 2.1 at all times.

ARTICLE III
Operating Expenses/ Utilities and TENANT'S Contribution

Section 3.1 – Operating Costs

Included in Gross Rent

Section 3.2 – Responsibility for Utilities

The LANDLORD, in its sole and absolute discretion, may sub-meter any Utilities at the Demised Premises, and charge the TENANT for said use at the LANDLORD'S cost. The TENANT shall pay for all the Utility charges associated with the use of the Demised Premises. Please note that open-flame heaters are prohibited.

ARTICLE IV
Use of Premises

Section 4.1 – Permitted Use

It is understood, and the TENANT so agrees, that the Demised Premises and storage area, if applicable, during the Term of this Lease Agreement and any authorized extensions of the Lease shall be used and occupied by the TENANT only for the purposes specified as the use thereof in Section 1.1(g) of this Lease Agreement and for no other purpose or purposes.

Section 4.2 – TENANT'S Alterations and Improvements

The TENANT shall not make any alterations, improvements and/or additions to the Demised Premises without first obtaining, in each instance, the prior written consent of the LANDLORD. LANDLORD agrees in advance to all alterations requested by TENANT to renovate and improve the facility as set forth in the attached document, Exhibit C. Also set forth in Exhibit C is whether such improvements will need to be removed when this Lease Agreement is terminated. TENANT shall also obtain a building permit(s) and any other applicable construction permits necessary to legally accomplish said alterations, improvements, and/or additions.

By executing this LEASE, TENANT covenants that it has sufficient funds on hand, and has provided proof of said funds to the LANDLORD, to undertake TENANT alterations as displayed in Exhibit C. Failure to complete TENANT alterations as displayed in Exhibit C, within one year of execution of

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this lease agreement shall be a default of said LEASE and LANDLORD shall have all remedies as
detailed in Section 8.4 of this LEASE.

Section 4.3 – Operational Covenants
The TENANT further agrees to conform to all of the following provisions during the entire
Term of this Lease Agreement:
(a) The TENANT shall always conduct its operations in the Demised Premises under its present
trade name unless the LANDLORD shall otherwise consent in writing;
(b) No auction, fire or bankruptcy sales may be conducted within the Demised Premises without
the prior written consent of the LANDLORD. The TENANT’S request for permission must be made
at least 30 days in advance of when any such sale occurs;
(c) The TENANT shall not use the areas adjacent to the Demised Premises for business
purposes, including but not limited to the distribution of handbills or advertising of any type without
the prior written consent of the LANDLORD.
(d) The TENANT shall not utilize, for any purpose, spaces other than what are allotted as part
of this LEASE without written permission from the LANDLORD.
(e) TENANT hereby agrees to maintain the Demised Premises and operations within in
accordance with all State and City of Middletown Health Codes, Building Codes and City Ordinances.
(f) The TENANT shall receive goods, in such areas, as may be designated by the LANDLORD.
All trash, refuse and the like shall be kept in such areas as designated by the LANDLORD and must
comply with all appropriate health and building code regulations and rules.
(g) The TENANT shall not perform any act or carry on any practice which may injure the
Demised Premises or any other part of the LANDLORD’S Premises of which the Demised Premises
are a part or cause anything beyond reasonable odor or loud noise associated with the uses listed in
1.1(g) or constitute a nuisance or menace to any other occupants or other persons in the Premises,
and in no event shall any noises or offensive odors be emit from the Demised Premises.
(h) TENANT shall disclose all toxic or hazardous substances used and/or stored within the
Demised Premises. TENANT shall provide landlord with the Material Safety Data Sheet (MSDS) as
well as a written description of why the material is used and/or stored within the Demised Premises
and the material shall be housed. All hazardous and toxic chemicals MUST be kept in an
appropriate storage locker/cabinet and current MSDS shall be maintained on-site by the TENANT at
time. Any spills or releases of hazardous or toxic substances must be reported to the LANDLORD
immediately. The LANDLORD reserves the right to terminate the LEASE if it is determined by the
LANDLORD that the TENANT is engaged in the misuse, improper storage, or unsafe handling of
hazardous or toxic substances within the Demised Premises. The TENANT will indemnify, defend,
and save harmless the LANDLORD from any environmental claims, damages, or injury cases arising
from the TENANT’S use, storage, or maintenance of hazardous materials in the Demised Premises.
(i) The TENANT agrees to maintain the Demised Premises in a condition suitable and safe for
employees in accordance with OSHA standards. The Demised Premises shall remain free of mold
or other environmental hazards. The LANDLORD shall be notified immediately about the intrusion
of water, mold, or airborne pollutants.
(j) The TENANT agrees that its employees and others connected with the TENANT’S operations at
the Demised Premises will abide by all of the reasonable rules and regulations from
time to time established by the LANDLORD.
(k) The TENANT is responsible for contracting for janitorial services unless otherwise set forth
herein.

ARTICLE V
Maintenance

Section 5.1 – TENANT Repair Obligations
Except as specifically provided herein, the TENANT agrees that from and after the date that the
possession of the Demised Premises is delivered to the TENANT and continuously throughout the
Lease Term, the TENANT will keep neat and clean and maintain in good order, condition and repair,
the Demised Premises and every part thereof. The TENANT further agrees that the Demised
Premises shall be kept in a clean, sanitary and safe condition and shall in all respects comply with
the laws of the State and the ordinances of the City of Middletown and in accordance with all
directions, rules and regulations of the Health Officer, Fire Marshal, Building Inspector and all other
proper officers of the governmental agencies having jurisdiction over the Demised Premises.

Section 5.2 – LANDLORD Repair Obligations
The LANDLORD agrees to keep in good order, condition and repair foundations and structural
portions of the Demised Premises including roof, walls, elevators, exterior glass and glass windows
and exterior doors irrespective of which party installed the same. The LANDLORD shall not be
responsible to make any other improvements or repairs upon the Demised Premises except as
specifically detailed in this Lease Agreement.

ARTICLE VI
Indemnification

Section 6.1 – Indemnification
The TENANT shall at all times during the Term of this Lease Agreement, from and after the date
possession of the Demised Premises is delivered to the TENANT, hold the LANDLORD, its officers,
agents, servants and employees harmless, indemnified and indemnified against any and all loss, damage, cost,
expense or liability arising from bodily injury or death of any persons or damage or loss of any
property resulting or arising out of in connection with the TENANT’S LEASE or use of the Demised
Premises or by reason of any act or thing done or omitted to be done in, upon or about the Leased
Premises or any part thereof, unless such loss, damage, cost, expense or liability shall be caused by
the negligence of the LANDLORD. The TENANT shall hold the LANDLORD, its officers, agents,
 servants and employees harmless, indemnified, and free and clear of any and all claims, demands,
penalties, liabilities, judgments, costs and expenses, including but not limited to reasonable
attorney’s fees, arising in connection with the use of the Leased Premises by the TENANT, or its
employees, agents, guests, visitors, or invitees. For the purposes of this Section, the Demised
Premises shall include the service areas adjoining the same and any sidewalk adjacent to the Demised Premises. This indemnification shall survive the termination of this Lease Agreement and shall include indemnity against all costs, expenses and liabilities incurred in connection with any claim or proceeding and the defense thereof, including but not limited to reasonable attorney's fees and court costs.

Section 6.2 – TENANT'S Improvements
The TENANT agrees to use and occupy the Demised Premises and to use such other portions of the Premises as it is herein given the right to use at its own risk. Any work performed by the TENANT shall require building permits from the City of Middletown Building Department. The LANDLORD shall have no responsibility or liability for any loss or damage to the TENANT'S Leasehold improvements or to fixtures or any other personal property of the TENANT or those claiming by, through or under the TENANT. The provisions of this Section shall apply during the entire Lease Term and during any earlier period that the LANDLORD has given prior written permission to the TENANT to enter the Demised Premises.

Section 6.3 – Loss or Damage
Except for claims arising from the LANDLORD’s willful misconduct or negligence not covered by the insurers required of the TENANT hereunder, the TENANT waives all claims against the LANDLORD for injury or death to person, damage to property or to any other interest of the TENANT sustained by the TENANT or any party claiming through the TENANT, resulting from: (i) any occurrence in or upon the Demised Premises; (ii) leaking of roofs, bursting, stopping or leaking of water, gas, sewer or steam pipes or equipment, including but not limited to sprinklers; (iii) wind, rain, snow, ice, flooding, freezing, fire, explosion, earthquake, excessive heat or cold or other casualty; (iv) the operating and mechanical systems or equipment of the Premises or of the Demised Premises being defective, out of repair or failing; and (v) vandalism, malicious mischief, theft or other acts or omissions of any other parties including but not limited to other tenants, contractors and invitees at the Premises. The TENANT agrees that his property loss risks shall be borne by his insurance and the TENANT agrees to look solely to and seek recovery only from his insurance carriers in the event of such losses. The TENANT agrees to waive any and all of its rights to subrogate against the LANDLORD and/or its insurer for any loss, damages or liability resulting in, on, under or around the Demised Premises.

ARTICLE VII
LANDLORD’S Access to Premises

Section 7.1 – Right of Entry
The LANDLORD and its designees shall have the right to enter upon the Demised Premises (a) at any time in the case of an emergency; (b) at all reasonable hours for the purpose of inspecting; or (c) when making non-emergency repairs at a mutual reasonable time while taking care to not harm the operations or assets of the TENANT. If repairs are required to be made by the TENANT pursuant to the terms of this Lease Agreement or if the TENANT is required to perform any other obligation under this Lease Agreement, the LANDLORD may demand that the TENANT make such repairs or perform such obligation forthwith. If the TENANT refuses or neglects to commence such repairs or perform and complete the same with reasonable dispatch, after such demand, the LANDLORD may, but is not required so to do, make or cause such repairs or performance to be done and shall not be responsible to the TENANT for any loss and/or damage that may accrue as a result thereof. If the LANDLORD makes or causes such repairs or performance to be done, or endeavors so to do, the TENANT agrees that it will forthwith, on demand, pay to the LANDLORD the cost thus incurred, and if the TENANT shall be in default of such payment, then the LANDLORD shall have its remedies provided herein.

ARTICLE VIII
Miscellaneous Provisions

Section 8.1 – Insurance
TENANT shall, at its expense during the term hereof, maintain insurance for the Leased Premises in accordance with the requirements set forth in Exhibit D and deliver to LANDLORD without demand a Certificate of Insurance form showing said coverage.

TENANT further agrees, in the event of any loss, to waive all rights of subrogation against the LANDLORD.

In addition to the foregoing, LANDLORD requires TENANT, at its expense during the term hereof, to maintain adequate property insurance, including business income, to cover tenants own interests. In the event that the TENANT elects to not maintain such insurance, the TENANT understands and agrees that pursuant to Section 6.3 of this Agreement, the TENANT waives all claims against the LANDLORD that would otherwise have been covered by such insurance. TENANT further agrees, in the event of any loss, to waive all rights of subrogation against the LANDLORD.

Section 8.2 – Notices.
Notices to be given by one party to the other under this Lease shall be in writing, mailed or delivered as follows:

If to the LANDLORD:  
City of Middletown  
Attn: Director  
Planning, Conservation and Development Office  
245 deKoven Drive  
Middletown, CT 06457

If to the TENANT:  
Good Vibes Kettle Corn, LLC  
Lisa Knapp-Wilson, Co-Owner, Agent  
379 Bow Lane  
Middletown, CT 06457
Mailed notice shall be sent by United States Certified or Registered Mail, postage prepaid. Such notices shall be deemed to have been given when mailed.

Section 8.3 – Condemnation
If all or any part of the Leased Premises is taken by eminent domain, this Lease shall expire on the date of such taking, and the rent shall be apportioned as of that date. No part of any such award shall belong to TENANT.

Section 8.4 – LANDLORD’S Rights upon Default
In the event of any material breach of this Lease by the TENANT, which shall not have been cured within THIRTY (30) DAYS, then the LANDLORD, besides other rights or remedies it may have under applicable law, shall have the immediate right of reentry and may remove all persons and property from the Leased Premises pursuant to the summary process laws of the State of Connecticut; such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, the TENANT. If the LANDLORD elects to reenter as herein provided, or should it take possession pursuant to any notice provided for by law, it may either terminate this Lease or may, from time to time, without terminating this Lease, re-let the Leased Premises or any part thereof, for such term or terms and at such rental or rentals and upon such other terms and conditions as the LANDLORD in LANDLORD’s own discretion may deem advisable. Should rentals received from such re-letting during any month be less than that agreed to be paid during the month by the TENANT hereunder, the TENANT shall pay such deficiency to the LANDLORD monthly. The TENANT shall also pay to the LANDLORD, as soon as ascertained, the cost and expenses incurred by the LANDLORD, including reasonable attorney’s fees, relating to such re-letting.

In addition to any material breaching any agreement or covenant set forth in this LEASE, the following shall constitute a default and subject the TENANT to termination of the LEASE:

(a) Failure on the part of the TENANT to make payment of rent or any other monetary amount due under this LEASE within the prescribed time period.

(b) With respect to a nonmonetary default under this LEASE, failure of the TENANT to cure the same within thirty (30) days after receiving written notice from the LANDLORD of said default.

(c) The commencement of any of the following proceedings, with such proceeding not being dismissed within thirty (30) days after it has begun: (i) the TENANT hereby created being taken on execution or by other process of law; (ii) the TENANT being judicially declared bankrupt or insolvent according to law; (iii) an assignment being made of the property of the TENANT for the benefit of creditors; (iv) a receiver, guardian, conservator, trustee in bankruptcy or other similar officer being appointed to take charge of all or any substantial part of the TENANT’s property by a court of competent jurisdiction; or (v) a petition being filed for the reorganization of the TENANT under any provisions of the Bankruptcy Code or any federal or state law now or hereafter enacted.

(d) The TENANT filing a petition for reorganization or for rearrangement under, or otherwise availing itself of any provisions of, the Bankruptcy Code or any federal or state law or hereafter enacted providing a plan or other means for a debtor to settle, satisfy, or extend the time for the payment of debts.

(e) If the TENANT abandons or vacates the Demised Premises.

Section 8.5 – Quiet Enjoyment
The Landlord agrees that if the TENANT shall pay the rent as aforesaid and remain in compliance with the covenants and agreements herein contained on its part to be performed, this TENANT shall peaceably hold and enjoy the said rented premises without hindrance or interruption by the Landlord or by any other person or persons acting under or through the Landlord.

Section 8.6 – Termination and Surrender upon Termination

(a) LANDLORD’S Rights to Terminate: If the LANDLORD deems that the TENANT’S conduct could have a negative effect on the reputation of the LANDLORD, has the right, in its sole discretion, to terminate this Lease Agreement immediately. The LANDLORD also shall have the right, in its sole discretion, to terminate this Lease Agreement without cause by giving thirty (30) days written notice to TENANT of such termination specifying the date of such termination.

(b) Surrender of the Demised Premises Upon Termination: At the end of the Lease term the, TENANT shall surrender the Lease property in as good condition as it was in at the beginning of the term, reasonable use and wear excepted, and it shall be vacated of all property owned or leased by the TENANT. If the TENANT fails to surrender the Lease property in appropriate condition as set forth herein, the LANDLORD shall have all rights and remedies available to it under applicable law, including charging said TENANT for any clean-up or rehab charges or keeping any upfront rent or security deposit to cover said costs.

Section 8.7 – Subordination
This Lease and the TENANT’S Leasehold interest is and shall be subordinate, subject and inferior to any and all liens and encumbrances now and thereafter placed on the Leased Premises and all advances paid under such liens and encumbrances.

Section 8.8 – Holdover
No receipt of money by the LANDLORD from the TENANT after the termination of this Lease, the service of any notice, the commencement of any suit or final judgment for possession shall reinstate, continue or extend the term of this Lease or affect any such notice, demand, suit or judgment.

Section 8.9 – Waiver
No waiver of default of the TENANT shall be implied and no express waiver shall affect any default other than the default specified in such waiver and that only for the time and to the extent therein
stated. The invalidity or unenforceability of any provision of this Lease shall not affect or impair any other provision.

Section 8.10 – Exclusivity of Remedies
All rights and remedies of the LANDLORD and the TENANT under this Lease shall be cumulative and none shall exclude any other rights and remedies allowed by law or statute.

Section 8.11 – Assignment, Provisions Binding
The TENANT shall not assign this Lease without the LANDLORD’S prior written consent, provided that the TENANT and the proposed assignee, including any owner, member, associate, or individual that is a member or officer of the TENANT and the proposed assignee are not delinquent in the payment of any and all taxes, assessments or any other charges levied lawfully against such person or entity by the City of Middletown or any other governmental entity. Any attempt to assign this Agreement in violation of this Section shall render such assignment null and void.

Each of the provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit, not only of the LANDLORD and of the TENANT, but also of their respective heirs, legal representatives, successors and permitted assigns, provided this clause shall not permit any assignment/subletting contrary to the provisions of Article 1 or this Section hereof.

Section 8.12 – Entire Agreement
All of the representations and obligations of the LANDLORD and the TENANT are contained herein and no modification, waiver or amendment of this Lease, or any of its conditions or provisions, shall be binding upon the LANDLORD and the TENANT unless in writing, signed by both the LANDLORD and the TENANT.

Section 8.13 – Installments of Rent
The receipt by the LANDLORD of any installment of the Gross Rent shall not be a waiver of any other rental payments then due or of any default of the TENANT hereunder.

Section 8.14 – No Brokerage
The TENANT warrants and represents that he has dealt with no broker in connection with the consummation of this Lease, and in the event of any brokerage claims against the LANDLORD predicated upon prior dealings with the TENANT named herein, the TENANT agrees to defend the same and indemnify the LANDLORD against any such claim.

Section 8.15 – Recording of Lease
At the request of either party, LANDLORD and TENANT shall execute a Notice of Lease in a form prescribed by Section 47-19 of the Connecticut General Statutes for the purpose of giving record notice of the appropriate provisions of this Lease.

Section 8.16 – Requirements of Law
The TENANT shall, at its own expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations of the federal, state and city governments and of all other governmental authorities having or claiming jurisdiction, directly or indirectly over the Demised Premises or appurtenances or any part thereof, including but not limited to, environmental rules, regulations and laws, and hazardous materials rules, regulations and laws.

Section 8.17 – Compliance with Law
The TENANT covenants and agrees, at its sole cost and expense, to comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations of the federal, state and local governments.

Section 8.18 – Payment of Taxes
The TENANT shall pay all taxes, if any, herein defined as all general and special taxes, whether ordinary or extraordinary, including existing and future assessments for roads, sewer, utilities, other local improvements, and other governmental charges which may be lawfully charged, assessed, or imposed upon all or any portion of the Demised Premises on both land and all improvements contained therein. Taxes may also be lawfully charged, assessed, or imposed on the Tenant for all fixtures and equipment of every type and also upon all personal property in the Demised Premises. The Tenant shall pay all license fees and other charges which may be imposed lawfully upon the business of the Tenant, which is conducted upon the Demised Premises.

Section 8.19 – Governing Law; Interpretation
This LEASE will be governed and interpreted by the laws of the State of Connecticut, without regard to its conflict of law provisions. To the extent that any court action is permitted consistent with or to enforce any part of this LEASE, the Parties hereby consent to the exclusive jurisdiction of the state and federal courts of the State of Connecticut. Accordingly, with respect to any such court action, TENANT (a) submits to the personal jurisdiction of such courts; (b) consents to service of process; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction, venue or service of process. Should any provision of this LEASE be declared illegal or unenforceable by any court of competent jurisdiction and such provision cannot be modified to become legal and enforceable, excluding the general release language, such provision will immediately become null and void, leaving the remainder of this Agreement in full force and effect.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]
EXHIBIT B – Description of Rentable Space
The Rentable Space comprises 500 square feet located on the first floor in Building J of 180
Johnson Street, Middletown, CT

EXHIBIT C – Tenant Alterations

EXHIBIT D – Insurance Requirements

EXHIBIT E – Map of Parking Site
Councilman Robert Santangelo moves to approve. Councilman Gerald Daley seconds the motion. There being no further discussion, the Chair calls for the vote. The Chair states that the vote is unanimous with a vote of 10 to 0. The motion is approved by a vote of 10 to 0.

The Chair states that this is an apropos time to share that the Planning & Zoning Commission has asked that with items of this sort, they apply for an 8-24 review before this body takes a vote. He believes that it is a huge mistake. He adds that, since these are City applications, they will come to this body for approval before it goes to Planning & Zoning, adding that he will no longer send any applications to Planning & Zoning before it comes to the Council because, from a policy standpoint, the will of the City's legislative branch and executive branch should be exercised and expressed publicly and debated publicly before an 8-24 goes to the Planning & Zoning Commission.

H. Approving that the Mayor is authorized to sign an application to the State of Connecticut Local Capital Improvement Program (LoCIP) requesting an additional $50,000 to hold additional public meetings and public outreach associated with the 10-year update of the City's Plan of Conservation & Development (POCD) and for final printing costs associated with the revised Plan; and that a new Capital Improvement line item entitled, Planning, Conservation & Development Phase II, Account # 3560-14000-57030-30215-2019-000 be created.

APPROVED
RESOLUTION No. 23-19; K: review/resolution/LoCIP PCD Phase II RES 23-19 – 1 April 2019

WHEREAS, the Common Council adopted resolution 123-18, 2018, authorizing the Mayor to apply for $50,000 in LOCIP funds to fund the ten-year update to the City’s Plan of Conservation and Development(POCD), as required by State statute; and

WHEREAS, the department is seeking an additional $50,000 to hold additional public meetings and public outreach, and for final printing costs associated with the revised Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That the Mayor is authorized to sign an application to the State of Connecticut Local Capital Improvement Program (LoCIP) requesting an additional $50,000 to hold additional public meetings and public outreach associated with the 10-year update of the City's Plan of Conservation & Development (POCD) and for final printing costs associated with the revised Plan; and

BE IT FURTHER RESOLVED: That a new Capital Improvement line item entitled, Planning Conservation and Development Phase II, Account #3560-14000-57030-0000-30215-2019-000, be approved.

FISCAL IMPACT – There will be no impact on the General Fund. The grant will come from LOCIP

Councilman Robert Blanchard moves to approve. Councilman Sebastian Giuliano seconds the motion.

There being no further discussion, the Chair calls for the vote. The Chair states that the vote is unanimous with a vote of 10 to 0. The motion is approved by a vote of 10 to 0.

The Chair states that, before he calls on Councilwoman Bartolotta, he wants to make some brief comments. There were some remarks by the Chair of the Planning & Zoning Commission that said in 2015 we voted to block turf on all City properties and that the City was picking up that costs that should belong to Middletown Youth Soccer. He states for the record that bother are untrue. In 2015, the City voted and the City Council voted—and subsequently the City voted in referendum -- not to allow any Parks Bond money for artificial turf. The resolution before the Council tonight essentially says that the Council is ordering the Office of the General Counsel to draft an ordinance and -- well call it order, request -- to draft an ordinance that basically says we have to follow all this stuff. To him, this is clunky and unnecessary and creates a strange precedent. He states that this body has every right to draft an ordinance. If that’s what they want, then you don’t have to pass a resolution tonight that says we want to have an ordinance later. Just do the ordinance, adding that he would support that ordinance. As many speakers stated tonight, he was the tie breaking vote moving away from turf. He states that here has been a lot of misinformation, particular at Middletown High, and some of it unfairly, and, in his opinion, can awfully close to libeling a very committed and devoted community servant, Frank Marchese. Whether you agree with the use of artificial turf or not, and if you like what Middletown Youth Soccer is doing or not, he does not think there is any denying that Frank (Marchese) has devoted decades and has a stellar reputation making this community better for kids, who live here. This organization has saved the City tremendous amounts of money. He wants to be clear because he keeps reading, particularly in the Middletown Eye, that the City is paying for the installation of these turf fields. Don’t believe it, it is not true. The City Is not paying for anything. The lease that was entered
into with Middletown Youth Soccer in 2011, when Councilman Giuliano was Mayor, and he was on the Council, noting that he voted in favor of it, as did many others who are here. This was the language of the lease that was negotiated to the time: that Middletown Youth Soccer do its level best to build concessions and parking lot. It did not, as a matter of fact, require them to do that. He adds, even if it did, it didn’t require it by any particular date. Subsequently, in 2015, we appropriated some money to make those improvements. There has been absolutely no agreement with Middletown Youth Soccer, either verbally, in writing, or in the lease documents that they have that enabled them to move away from those requirements that they entered into in 2011 and there was deal made now to cover any costs so that they could do turf. This notion from the Chair of the Planning & Zoning Commission that we somehow played a bait and switch with Middletown Youth Soccer is totally erroneous and intellectually dishonest and inconsistent with the facts. What Middletown Youth Soccer did was get a lease agreement with the City, which was widely supported, adding that he thinks unanimously supported at this Council after being negotiated by the Giuliano administration. He voted for it when he was on the City Council and has no regrets. Turf was not an issue – artificial turf – and what they have is site control for decades on that site. What they are doing with it is using their own money to install an artificial turf field. What you all know, recounting that he broke the tie, they expressed their dissatisfaction with his vote back then in 2015. We have no ability, based on the lease, to turn around and tell them now that, while we don’t like artificial turn of a personal level, that what they are doing is illegal or that we can block them. We may have an ideal as to how we think things should be, an ideal of what we aspire to from a policy point, but we live in world where we operate within the confines of the law, not what we believe the world should look like. If we want to work towards a world that we beige it should look like, then we should move in that direction thru the proper process. It is not by retroactively trying to block anyone and it certainly isn’t thru besmirching the reputation of a good man, who has given decades to the people of this community and it is not by putting out false information about what they act actual doing and the City’s involvement in it. He wanted to clear this up because there have been a lot of garbage that has been vomited up tonight and in the pages of that particular blog and he wanted to set the record straight for members of the public.

I. Approving that, since the Common Council, after considering the use of only grass fields versus artificial turf fields, approved Ordinance No. 19-15, which provides for construction of only grass fields on City properties, and since such Bond Ordinance subsequently was ratified by City voters at referendum, and since the Common Council has enacted Ordinance No. 13-17, which limits pesticide applications as set forth in Connecticut General Statutes Section 10-231a and 10-231b, in keeping with the spirit and intent of these laws, that the Office of General Counsel draft an Ordinance to clarify and memorialize this decision, thereby ensuring that any new athletic fields constructed on City-owned property, including replacement field surfaces, shall be limited exclusively to natural grass.

DEFEATED

RESOLUTION No. 24-19; K: review/ resolution/CC grass field RES 24-19 – 1 April 2019

WHEREAS, in April 2015, the City received a report entitled Evaluation of Athletic Fields & Parks, dated April 8, 2015, from its consultant, Milone & MacBroom, which included an analysis of using natural grass fields and synthetic turf fields to meet field user demands; and

WHEREAS, in September 2015, the Common Council approved Ordinance No. 19-15, a bond ordinance appropriating $33,450,000 for the redesign, renovation, replacement, reconstruction, construction, and improvement of City athletic fields, parks, and trails which included a specific provision that new athletic fields would be constructed only of natural grass; and

WHEREAS, in November 2015, the voters of Middletown approved the referendum question for this Bond Ordinance, thereby endorsing the provision that new athletic fields would be constructed exclusively of natural grass; and

WHEREAS, in July 2017, the Common Council adopted Ordinance No. 13-17, providing that the Parks Division of the Public Works Department would limit pesticides for all City fields to those applications as prescribed in Connecticut General Statutes Section 10-231a and 10-231b; and

WHEREAS, as recently as March 13, 2019, the Public Works and Facilities Commission, which is a Councilmanic Committee created by approval of Ordinance No. 25-13 in 2013 and which serves in an advisory capacity to the Public Works Department, received a letter, dated August 25, 2015, submitted in response to plans proposed by Middletown Youth Soccer to install and artificial turn field on City owned, public property; and

WHEREAS, the aforesaid letter addresses many of the various issues related to consideration of artificial turf fields, including, but not limited to, the functionality, maintenance, health issues, and associated legal/ liability concerns of artificial turf field.

NOW THEREFORE, BE IT RESOLVED THAT, since the Common Council, after considering the use of only grass fields versus artificial turf fields, approved Ordinance No. 19-15, which provides for construction of only grass fields on City properties, and since such Bond Ordinance subsequently was ratified by City voters at referendum, and since the Common Council has enacted Ordinance No. 13-17, which limits pesticide applications as set forth in Connecticut General Statutes Section 10-231a and 10-231b, in keeping with the spirit and intent of these laws, that the Office of General Counsel draft an Ordinance to clarify and memorialize this decision, thereby ensuring that any new athletic fields constructed on City-owned property, including replacement field surfaces, shall be limited exclusively to natural grass.
Councilwoman Mary Bartolotta moves to approve. Councilman Eugene Nocera seconds the motion.

The Chair calls on Councilwoman Mary Bartolotta

Councilwoman Bartolotta states that she appreciates the Chair’s comments to an extent. Tonight has nothing to do with trying to undermine the lease agreement that has been stated by the City Attorney Brig Smith that lease is solid. What this resolution seeks to do is, what this body made clear in the Parks Bond: that we did not want artificial turf fields on public land. In the future, we clarify that any lease agreements we may enter into clearly state that we do not want artificial fields. There have been comments throughout the evening. The lease agreement does state that the parking lot and concession stand are part of the requirement to get the lease agreement for $1.00. The Parks Bond put language in place that City tax dollars – the parks Bond referendum – would do that. If you are saying that we not doing that and will hold the lease agreement accountable, that is great. If you are saying that we are not doing that, then it is not okay. She agrees that Mr., Marchese has given a lot of time and effort to Middleton’s and has soccer in his heart for young people; however, sitting on this dais as an elected official, she must uphold everything that we are supposed to do financially and otherwise. We need to stand by our lease agreement and the money we are spending out of the Parks Bond to make sure it is being spent in the most efficient way to support our community. So, going back to the original realm that this resolution has been brought forward, moving forward, artificial fields is not what this Council wants to see on public lands in the future.

The Chair calls on Councilman Gerald Daley.

Councilman Daley states that during the public hearing a gentleman – Mr. Ponzio -- made an important point: we need to be careful about locking ourselves into a course of action that may or may not be the most prudent in the future. He is concerned that this may be doing just that. He is concerned that this is expanding . . . his understanding is that the bond ordinance . . . not just an understanding, it is a fact: that the bond ordinance pertained to money from that bond appropriation would not be spent on artificial turf. That’s all it did; it spoke about money from the bond appropriations. The other ordinance about pesticides is State statute. He is not certain what they are accomplishing by this resolution other than saying we have these things on the books. The last sentence makes him concerned about the leap they would be taking: “ensuring that any new athletic fields constructed on City-owned property, including replacement field surfaces, shall be limited exclusively to natural grass.” Today he might be in favor of that, adding that, today, he would not be in favor of putting in an artificial filed. Now. Tonight. Because of having heard the Board of Education needs for Capital Non-Recurring Future, he knows that they are looking in the near future to replacing the artificial turf field at Middletown High and that their intention is to have an artificial turf field. It may not be crumb rubber since technology has advanced. Someone mentioned coconut and cork. He asked Marco Gaylord if they will look at other technologies, but the reality is, as we have heard from several people, is that it would be very disruptive to put it mildly if they were not able to replace that field and were to look at various options. For that reason alone, he does not think that the Council should act on this tonight, they need to figure out what the impact is on the Middletown High field and decide if we really want to lock ourselves in to this degree at this point when there are other technologies constantly evolving. He sat thru the 2015 deliberations and there were strong arguments on both sides. There are arguments on safety being less on grass in some cases. We heard this today about shin splints, of injuries that just do not occur on artificial turf fields. It is a complex subject. His personal belief is the crumb rubber does not make sense. There is a bill in the legislature no looking at banning crumb rubber completely. At risk of invoking Earl Roberts, this seems like a feel good resolution. This may have unintended consequences that could be severe for the young people in the community. He opposes this resolution in its current form.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano opposes the resolution, asserting that is not in order. It purports to direct an employee in the executive branch to do what is essentially a task of the legislative branch: to write an ordinance. That is out job as the Mayor pointed out. Has the City Attorney’s office assisted us – yes, it has, but we cannot command it to do so. Any attempt to do so would be ineffective. There were a number of things said tonight that are just plain. What we passed in 2015 was a bond ordinance, which authorizes the borrowing and expenditure of these borrowed funds. It is limited to those funds. It does not – it has no effect beyond that project. He would think that someone, who holds the Chair of the Planning & Zoning Commission would recognize that distinction. Also, in Middletown Youth Soccer has property rights and a lease, which has the force of law. He questioned whether the Council had authority under the terms of the lease even to impose a performance bond requirement. The lease does not provide for that. He questioned whether they could alter the fact and retroactively impose one. He understands that a bond has been negotiated between Middletown Youth Soccer and the City, they have agreed to do it. That negotiation of a resolution of questionable claim and, rather than litigate, they came up with an agreement. When
it came to the Public Works Commission. It was his opinion that this was not a Public Works issue, but a legal issue. It is a property right issue that the Council should not be discussing. Finally, he agrees with the Mayor and Councilman Daley that they are compelling future Councils, future administrations to a course that may not make sense. It may not be in our interest. Even in the time since the bond ordinance was passed. It was a 6-6 tie and the Mayor broke it. He believes that even with turf fields in it, he believes it would pass again. It was not a referendum on artificial fields vs. non-artificial fields. A whole bunch of groups promised a lot of stuff turf for $33.5M and, since they were all getting a piece of the pie, they all supported it. Beyond that, since then no one would buy crumb rubber now since there are better materials. As Councilman Daley said, there is the coconut material; there are engineered materials with non-recyclable materials with no petrochemicals that behave better. They provide a better surface, which his better for people playing. Tree is no doubt in his mind that they would not have Middletown lacrosse if not for the artificial fields to play on. That program would be stuck in the mud. Middletown soccer would not have grown if they did not have Middletown High’s field and Xavier’s field to play on. There are benefits and burdens to very decision if the cost of no artificial fields is that a bunch of kids will not be able to play a bunch of sports, you wonder if you want to do that. He will not support this at all. If someone wants to come forward with an ordinance that make artificial turf fields unlawful to constructing Middletown, then bring it forward and if it passes, God bless you. This is a nullity because I has no legal effect. He is not sure it is “feel good,” but it doesn’t do anything. The Chair calls on Councilman Grady Faulkner, Jr.

Councilman Faulkner states that Councilman Daley was more eloquent than he might be at this hour. Looking back, he did not think that they were committed totally to grass fields at every level. He though that middle school and up, asking if anyone else may recall something regarding middle school to high school.

The Chair states that he believes that Councilman Faulkner may be thinking of the pesticide application law.

Councilman Faulkner continues, stating that he recalled something. He does not believe that we should be locked in. He also knows that we have Brig Smith now. When we talk about all the things that should have been in these agreements, perhaps he do a post-mortem to teach them a few things.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera states that, listening to everyone, as the Mayor indicated that he would not be opposed to the spirit of this resolution, given that and the concerns as to the purpose it serves, we should table this to write an ordinance for the future. This seems to be the best approach, so we have an ordinance that we can all agree on for the future. He does not believe that, at this point, we are getting involved in something that we will regret; rather, it is what our community has decided on for now and in the future. We can make it clear for what we stand for.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina states that, listening to Councilman Daley, he is exactly right. What is troubling him is also that last sentence. We heard that Middletown High athletic field is premier. Our football team, soccer team, lacrosse team. It is an excellent venue and the several, of this General Counsel Commission (GCC), where we vet ordinances, it is normal for her, as the creator of this resolution, to ask for help in putting an ordinance together. She was hoping that tonight, this body and the several, who agreed with this resolution, understood that and that they would move forward with language from Attorney Smith to move forward to GCC for discussion to be sure that it was properly written and executed. Secondly, we are talking about arterial field like they make athletes better. They do not. She reminds the Council that women’s professional soccer sued the league not to play on artificial fields because of the injuries, yet tonight some are asserting that grass fields cause injuries.

(Inaudible comment)

Councilwoman Bartolotta continues, saying it is a proven fact that artificial fields cause more injuries, that bacterial infections are sky-high when not treated properly, reminding that they have to be treated properly. She asks if we have forgotten when kids were burning their hands on the
fields. (Inaudible comment.) It was in the newspaper that here, at our high school field, the kids had burns on their hands from football practice because the coaches were not educated that kids are not to play on artificial fields above a certain temperature. Remember, you cannot play on these fields when it is too hot. We complain about the grass fields being too when, adding that some are not constructed with proper drainage to be called true soccer or baseball fields. They do not have the drainage and were not constructed as they should have been. So grass fields with good drainage do not have the rate of bacterial infections as when kids fall on artificial fields. We don’t have the burns and, if we had purchased the 6th field as planned rather than taking those monies out, we would have more fields to play on more consistently and we would not be tearing them down and they would not need to "rest" as much. The coconut material – do you know what is used to keep it together? No, it is not just kept together with cork. It is kept together with cork and chemicals. There is still off-gassing from these fields. Before we go divining and make excuses on options for the future . . . the best option for the future is to create green grass fields that are well designed to make sure kids on healthy fields. She expresses disgust that the Federal government has not done the needed studies to determine the effects, not just on the environment or the rise in of certain cancers. It is not a feel good motion, but something that we can use when we look for assistance in creating an ordinance that we do not use artificial fields.

The Chair calls on Councilman Eugene Nocera.

Councilman Nocera states that the last sentence reads: “the spirit and intent of these laws, that the Office of General Counsel draft an Ordinance to clarify and memorialize this decision, thereby ensuring that any new athletic fields constructed on City-owned property . . .” Basically, we are agreeing tonight to bring forward a draft ordinance for the Council to look at next month.

The Chair interjects, stating that it creates an awkward precedent. He cannot remember in his nearly eight (8) years as Mayor passing a resolution asking for an ordinance. The ordinance is brought forward to whatever various committees or commissions of the Council, vetted there and passed on to the entire Council for a vote. If there is a desire to have an ordinance, introduce an ordinance. It creates what he considers to be a strange precedent.

Councilman Nocera replies that, if this does not pass, there will be an ordinance presented within the next months.

The Chair calls on Councilman Sebastian Giuliano.

Councilman Giuliano states that, if understands what Councilwoman Bartolotta just said, she wants the backing of Council when she goes to the City Attorney to have an ordinance drafted. He doesn’t think it can be played this way, adding that he does not remember it happening this way in the past eight (8) years nor in the six (6) years prior to that. If someone wants to bring an ordinance forward, that person should meet with the City Attorney, if he is willing to draft the ordinance, and bring it forward. The Council will deal with it as it does with very other ordinance brought forward. There is nothing special about this one that we should get behind it before we see it. He states it is out of order and inappropriate. He agrees with the mayor that it opens the door to strange machinations in the future, which he does not think the Council should be part of.

The Chair calls on Councilman Gerald Daley.

Councilman Daley states that he will be brief. He agrees with everything that has been said, that if the intent is to have an ordinance, then work on an ordinance. Without getting in the debate of whether anything other than natural grass is bad, he does not want to get into that debate here. Perhaps it a debate to be had. What he wants to emphasize is that, before passing this resolution, the Council better realize the impact it will have on the Board of Education and Middletown High. The Council needs to change the langue so it does not back us into a situation that would be untenable to Middletown High and for that they have already started planning for.

The Chair calls on Councilman Philip Pessina.

Councilman Pessina states that Councilwoman Bartolotta chairs that committee. There is also a commission. He does not believe that the Council needs this (resolution). He urges her to bring it forward to the commission with the help of the City Attorney and bring it back to be vetted to see if it is something that the Council and public agree to. It is simple. He does not think it is need. He emphasizes that he is not saying this to diminish Councilwoman Bartolotta. He reiterates that Councilwoman Bartolotta, as the chair, can then bring it forward.

(Inaudible)

The Chair states that everyone has spoken twice. There being no further discussion, the Chair calls for the vote. The Chair states that the vote is two (2) ayes (Councilmembers Bartolotta and Blanchard) and eight (8) nays (Councilmembers Chisem, Daley, Faulkner, Giuliano, Kleckowski, Nocera, Pessina, and Santangelo). The motion fails by a vote of 2 to 8. The matter is defeated.

13. Mayor’s Appointments
APPROVED

The Chair offers the following appointments:

**Long Hill Estate Authority:**
- Joseph Samolis (D): appoint as regular member to fill balance of three (3) year term to August 31, 2019, seat formerly held by Thomas Archer (U), who resigned June 2018

**CVH Advisory Council:**
- Middletown Police Lt. Richard Davis: appoint to replace Middletown Police Sgt. Jorge Yepes

**Inland Wetlands & Watercourses Agency:**
- Trevor Larrubia (R): appoint as regular member to fill balance of three (3) year term to October 31, 2021, seat formerly held by Anthony Moran (R), who resigned May 2018

**Youth Services Bureau Advisory Board:**
- Brian Farrell Jr. (D): appoint as regular member to fill balance of three (3) year term to September 30, 2020, seat formerly held by Kyle Barreuther, who resigned December 2017

**Clean Energy Task Force:**
- Erin Dopfel (D): appoint as regular member to fill balance of two (2) year term to July 31, 2019, seat formerly held by Amy Albert (D), who resigned October 2018

**Mary Shepherd Home Citizens’ Advisory Committee:**
- Vincent Loffredo (D): appoint as regular member

**Youth Cabinet:**
- Recreation & Community Services:
  - Santiago Gonzalez
  - Mia Krikscuin
- Arts & Culture Commission:
  - Jade Levy
- Human Relations Commission:
  - Ani Zekarian
  - Evan Davis
- Youth Services Advisory Board:
  - Jack Higgins
  - Caroline Killan
  - Nora Smith
  - Aiden McMillan
  - Dermott McMillan
  - Jewel Lucien
- LGBTQ+ Advisory Board:
  - Rose Ramano

Councilman Gerald Daley moves to approve. Councilman Philip Pessina seconds the motion. There being no discussion, the Chair calls for a vote. The vote is 11 to 0. The Chair states that the vote is unanimous. The motion is approved with 11 affirmative votes.

14. Meeting Adjourned

The Chair states that he will entertain a motion to adjourn. Councilman Sebastian Giuliano move to adjourn. Councilwoman Mary Bartolotta seconds the motion. There being no discussion, the Chair calls for the vote. It is approved unanimously with 11 aye votes. The Chair states the matter passes with 11 affirmative votes. The meeting is adjourned at 11:25 PM.

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

K: review minutes – 19 April 01 – regular meeting minutes – 1 April 2019