



Watertown Town Council

Administration Building
149 Main Street
Watertown, MA 02472
Phone: 617-972-6470

ELECTED
OFFICIALS:

Mark S. Sideris,
Council President

Vincent J. Piccirilli, Jr.,
Vice-President

Michael F. Dattoli,
Councilor At Large

Aaron P. Dushku,
Councilor At Large

Susan G. Falkoff,
Councilor At Large

Anthony Palomba,
Councilor At Large

Angeline B. Kounelis,
District A Councilor

Lisa J. Feltner,
District B Councilor

Kenneth M. Woodland,
District D Councilor

**SPECIAL TOWN COUNCIL MEETING
TUESDAY, JUNE 7, 2016 AT 6:00 P.M.
RICHARD E. MASTRANGELO COUNCIL CHAMBER
ADMINISTRATION BUILDING
MINUTES**

1. ROLL CALL

Council President Sideris called to order a special meeting of the Town Council at 6:00 p.m. in the Richard E. Mastrangelo Chamber, Administration Building. Those present were Councilors Michael F. Dattoli, Aaron P. Dushku, Susan G. Falkoff, Lisa J. Feltner, Angeline B. Kounelis, Anthony Palomba, Vice President Vincent Piccirilli, Jr., Kenneth M. Woodland, and Council President Mark S. Sideris. Also present were Michael J. Driscoll, Town Manager, Mark Reich, Town Attorney, and Marilyn W. Pronovost, Town Council Clerk.

President Sideris asked for a motion to change the order of the agenda to include the Pledge of Allegiance. Councilor Piccirilli so moved; Councilor Woodland seconded the motion. The motion was adopted unanimously by a voice vote.

2. THE COMMITTEE OF THE WHOLE AND FINANCE

Public Hearing and Vote on the Fiscal Year 2017 Budget and Related Matters

President Sideris read a statement regarding the reading of the budget.

Mr. Driscoll stated that the budget was amended to decrease Account 0121051-511111 – Police Prior Years Full Time Salaries by \$400,000 and to increase Account 0111152-570780 – Town Council Reserve by \$400,000.

President Sideris opened the Public Hearing; there being no speakers, the Public hearing was closed. Mr. Tracy, Town Auditor presented the budget details for Fiscal Year 2017 for a total of \$126,306,000. There being no passes, President Sideris declared that the budget was passed. Councilor Falkoff made a motion to reconsider the budget; Councilor Piccirilli seconded the motion. The motion failed unanimously on a voice vote.

President Sideris thanked all parties involved in preparing the budget as well as the town citizens for their support.

3. MOTIONS, ORDERS, AND RESOLUTIONS

- A. Resolution Authorizing the Establishment of a [Revolving Fund for the Organized Crime Drug Enforcement Task Force Lease](#) Activity During Fiscal Year 2017

Mr. Driscoll requested that the Town Council approve the Revolving Fund for the Organized Crime Drug Enforcement Task Force Lease for FY 2017. Councilor Piccirilli moved to approve the above Revolving Fund; Councilor Feltner seconded the motion.

Councilor Palomba asked for an explanation of how the money is used. Mr. Driscoll explained that the money is used for items related to the Task Force's lease that the Federal government then reimburses the Town for the expended funds.

The motion was adopted unanimously on a voice vote.

- B. Resolution Authorizing the Establishment of a [Revolving Fund for the Commander's Mansion](#) Activity During Fiscal Year 2017

Mr. Driscoll requested that the Town Council approve the Revolving Fund for the Commander's Mansion. Councilor Piccirilli moved to approve said Revolving Fund; Councilor Dattoli seconded the motion. The motion was adopted unanimously on a voice vote.

- C. Resolution Authorizing the Establishment of a [Revolving Fund for the Watertown Free Public Library Printing Program](#) Activity During Fiscal Year 2017.

Mr. Driscoll requested that the Town Council approve the Revolving Fund for the Watertown Free Public Library printing program. Councilor Piccirilli moved to approve said Revolving Fund; Councilor Dattoli seconded the motion. The motion was adopted unanimously on a voice vote.

4. PUBLIC HEARINGS

- A. Public Hearing and Vote on a Proposed Loan Order authorizing the Town Treasurer with the approval of the Town Manager to borrow and/or expend monies in the amount of \$3,088,891, in addition to the \$224,400 previously appropriated by vote of this Council on November 24, 2015, under and pursuant to Chapter 44 of the General Laws, or pursuant to any other enabling authority, for the purpose of paying [costs of partial window/door replacement at the Watertown Middle School, 68 Waverley Ave, Watertown, Massachusetts](#), including the payment of costs incidental or related thereto (the "Project"), which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the School Committee. The Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based

on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided further that any grant that Town may receive from the MSBA for the Project shall not exceed the lesser of (1) forty-eight and forty-seven one hundredths percent (48.47%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; provided that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Town and the MSBA.

Mr. Driscoll presented Mr. Charles Kellner, the Watertown Schools Business Manager and Mr. Sivalogan of exPERTcon, the Project Manager. Mr. Kellner stated his support for the project and introduced Mr. Sivalogan, who presented his findings of the condition of the windows and the projected cost of the project.

Councilor Dattoli asked for a clarification as to what brought a project in under budget. Mr. Sivalogan stated that if the requirements are finished soon, the bidding can be completed in the months when construction workers are seeking jobs. This often brings in lower bids. Another factor is good control of the contingency fund.

Councilor Dattoli also asked if the project comes in under budget, would this alter the reimbursement rate. Mr. Sivalogan stated the rate remains fixed.

Councilor Dattoli asked what effect the new windows would have on the current air-conditioning units. Mr. Sivalogan stated they would have to be recycled and could not be used in the new windows.

Mr. Driscoll asked for a favorable consideration of the Loan Order.

Councilor Falkoff asked if the ADA fixes related to the ease of opening the windows. Mr. Sivalogan stated that this was accurate; however, when the changes are more than 33% of the building's value, other related ADA fixes also need to be completed and that this has already been considered.

Councilor Falkoff further asked how the bricks would be fixed where there is damage. Mr. Sivalogan stated that has been considered and some framing fixes will be required.

Councilor Dushku asked when the windows were last replaced. Mr. Sivalogan stated that he believed they had only been repaired but not replaced.

Councilor Kounelis asked if there would be any insulation added. Mr. Sivalogan stated that there would be thermal insulation around the windows but not in the entire building.

President Sideris opened the Public Hearing for comment; there being no comments or questions, the Public Hearing was closed.

Councilor Feltner asked about the air-conditioning units in the other parts of the building. Mr. Romanelli, Director of Facilities, stated that the Junior High part of the building had no units.

Councilor Piccirilli asked what is likely to cause change orders. Mr. Sivalogan stated costs could increase if the concrete is broken and needs repairs as an example.

Councilor Palomba raised questions on the bidding process. Mr. Sivalogan stated that he hoped to have the bid requests completed after Thanksgiving and to have the bids back by January 7, 2017 with the hope that there would be more than three bidders. If there are less than three, the Town Manager has the option to vacate the bids and restart the bidding process. The Town has the final say as to the contractor, but it needs to demonstrate to MSBA why the lowest bid was not accepted.

Councilor Dushku suggested that when the specific designs are being considered that the windows be designed to open onto the garden area for the kitchen on the south side of the building.

President Sideris stated the project is long overdue and that the present condition does not allow the community to save energy. Also, these windows are not conducive to good teaching conditions.

Councilor Piccirilli moved to authorize the above Loan Order for \$3,088,891 regarding the School Windows; Councilor Falkoff seconded the motion. The motion was adopted unanimously on a roll call vote.

B. Public Hearing and Vote on a [Single-Use Plastic Bag Reduction Ordinance](#)

Councilor Woodland provided an overview of the ordinance for the Town Council's review.

President Sideris opened the Public Hearing for public comment.

Russ Arico – Thanked the Committee for its willingness to be reasonable regarding the use of biodegradable plastic bags and Board of Health regulations regarding food borne illnesses.

Joan Blaustein - Thanked the Committee for its efforts and felt that this ordinance is doable for Watertown.

John Labadini – The Town needs to improve its policies and procedures regarding communication.

Elan – Asked the Town Council to vote against the ordinance because it was undesirable, onerous, and punitive.

Deborah Peterson – Offered the help of Rethink Plastic in creating an education campaign.

Charlo Maurer – Strongly supported the ordinance.

Eileen Ryan – Supports the ordinance because of the health and environment issues related to plastics.

John Labadini – Concerned with the process, which can be done better.

Russ Arico – Asked that education include the health issue of cross contamination of food groups.

Deborah Rosati – She spoke on behalf of the Health Department and the Board of Health. Her concerns were

- The expansion of the Health Department's role in regulation and enforcement from food establishments to all retailers
- The expanded enforcement is beyond the scope of the Health Department
- There is no current data base for all retailers
- The Health Department wants to retain a focus on food borne illness and food safety education
- The plastic ban should be regulated by another body
- The cost of implementing an education and enforcement program needs to be considered and the time to do both duties well
- These activities seem to be more aligned with a Green Initiatives program
- There are other health issues of larger concern at this time
- That the program be delayed to July 1, 2017 if the Health Department is to be involved to allow for planning and funding of the program.

Wendy Gullie – Looking forward to a cleaner environment with the passage of the ordinance

Pat Gold – the ordinance goes too far in regulation

Carol Bates – As a physician, she felt this is a public health issue. Given that Watertown does not have the ability to recycle plastic, there is a need to implement the ban.

Misako Fillian – Although he is not against the ordinance, he raised a concern that as the owner of a small business, the ban could affect his business adversely, especially with his out-of-town customers.

John Straus – As the Chair of the Board of Health, he stated the Board is in favor of the ban, but he is concerned with the enforcement provisions for the Board of Health given that the Board has limited resources.

Russ Arico – The Board of Health should be given the time it needs to create the regulations to implement the ban.

President Sideris closed the Public Hearing and opened it to the legislative portion. He recognized Councilor Woodland, who presented suggested amendments to the current plastic bag ban. The suggested changes were

- To change the title from “An Ordinance to Reduce Single-Use Plastic Bags in Watertown” to “Bring Your Own Bag Ordinance”.
- To insert a new second Whereas clause which will read “**Whereas**, the long-term elimination and short-term reduction of environmentally dangerous petrochemical and natural gas products, and a return to environmentally sustainable materials that are rapidly renewable and biodegradable is desired; and”
- To change in §115.02 (1) (a) (vi), the numeric value from “3” to “4”
Councilor Kounelis raised a concern as to what the change in values for 3 to 4 mils meant and that standards differ among communities. She also wanted to know what would happen when the state implements the law, will that law supersede the ordinance. Attorney Reich explained that when a state law is passed, the town ordinance may be more restrictive than the state standard but not less restrictive. At that time, it would be determined what the proper course of action is.

She stated her preference for a 3 mil standard.

Councilor Piccirilli raised a concern about the ambiguities of the definitions. The definition of “Single-use plastic bag” states that it is a bag of less than 1.5 mils and if bags of more than 4 mils are excluded, what is the status of bags between 1.5 and 4 mils. The words “with a thickness of less than 1.5 mils” in the definition “Single-use plastic bag” should be deleted to remove those ambiguities.

He also raised the point that the value of 3.0 millimeters in the definition “Reusable Paper Bag” should be 4 mils instead of 3.0 millimeters.

Councilor Palomba stated his support for the change.

Councilor Dushku agreed with the change. He stated that other communities with such ordinances felt that 3 mils thickness still allowed for the use of disposable bags. By using the 4 mils standard, it would close up a loop hole.

- To delete in §115.03 the words “six months after passage” and insert in its place the words “July 1, 2017”.
Councilor Falkoff stated her opposition to this change because there has been enough time to consider the changes. Small businesses have been consulted and large corporations are ready to make the change. There is a hardship exemption of up to 6 months to delay the implementation.

Councilor Woodland explained that the change did not relate to implementation but to the ability to create regulations.

Councilor Piccirilli agreed with the delay; the ordinance would go into effect with the new budget year and costs would be covered at that time.

Councilor Dushku felt 6 months was sufficient to complete the needed changes.

Councilor Palomba stated that the delay was significant and that 6 months is sufficient.

Mr. Driscoll stated that the delay request was more than just education and regulation. The concern relates to enforcement and the ability to follow up for purposes of compliance.

Councilor Feltner empathized with the need for more time but she stated that the ordinance could go forward and enforcement could then be concentrated on.

Councilor Falkoff stated that the Department of Health needed to promulgate regulations but that the Department of Health was not designated as the sole enforcement agency. The Town Manager could designate several agencies or employees. Also under the FY'17 budget, a Code Enforcement Officer would be available.

Councilor Dushku felt that the six months was for regulations and not for enforcement.

- To delete in §115.05 (3) the words “, acting through the Town’s Board of Health,”
Councilor Kounelis stated that if the Department of Health is determined to be the enforcer then she supports the July 1, 2017 implementation date.
- To have a minimum charge for the bags.
Councilor Woodland stated that this change will not be recommended as it is a similar situation to charging for parking in the RMUD regulation.

Attorney Reich stated that this would place a burden on consumers and that it would be regulating how vendors do their business. The change does not relate to public safety or health but on commerce, and it might be subject to challenge because it goes beyond the intent of the ordinance.

Councilor Falkoff stated that vendors should be able to charge for the bags as long as the Town does not set the rate. Attorney Reich stated the ordinance allows that.

Councilor Piccirilli raised the point that §115.03 paragraphs (1) and (2) seem to be contradictory. Based on the stated definitions, there could be a

degradable single use plastic bag. Attorney Reich stated that although it may seem confusing, they were differentiated.

Councilor Piccirilli felt that the words “, except for degradable plastic bags as noted in (2) below,” should be inserted after the words “Single-use plastic bag”. The current wording would allow a business to provide a single-use degradable plastic bag. Attorney Reich felt that by using a definition for degradable plastic bags, the intent is not to include them as single use plastic bags. Councilor Piccirilli suggested the removal of the words “‘biodegradable’ ‘compostable’ or ‘oxo-biodegradable’” after the word “Town” at the end of the paragraph. Attorney Reich stated that the definitions are separated so the removal of these words becomes a policy decision.

Councilor Feltner agreed with Attorney Reich; she would like to retain the definitions as written.

Councilor Dushku agreed with the removal of the words Councilor Piccirilli suggested.

Councilor Palomba stated that it is important to follow the intent of the ordinance.

Councilor Falkoff felt that by removing the 1.5 mil standard the intent of the ordinance is being changed.

Councilor Piccirilli stated he was looking for precision because imprecision leaves things open. He reiterated the change in paragraph (1) as a clarification.

- To renumber paragraph (3) to (4) and to insert a new paragraph (3) that will read as follows:
“(3) Public information advising customers on the proper care and maintenance of reusable bags shall be available through the Public Health Department.”
- To insert in the definition (f) “Retail Establishment” the words “over 3,000 square feet or with at least three (3) locations within the Commonwealth of Massachusetts” after the words “commercial enterprise”.
Councilor Woodland stated that he was introducing the amendment as it was consistent with the State initiative and that other communities have provided similar exemptions for small businesses.

Councilor Kounelis stated that she is concerned that this ordinance not place a hardship on the small business owner.

Councilor Palomba asked if a business had more than 3,000 square feet and only two locations, they would not be subject to the ordinance. Councilor Woodland agreed with that understanding.

Councilor Palomba stated he could not support that standard. He stated that small business owners were consulted prior to the writing of the ordinance and that many supported the change. There is an appeal process in the ordinance allowing additional time for the owners to use up their stock. In addition, he stated that it is everyone's responsibility to reduce pollution, both the small and large business owners. Therefore, he would not support the change.

Councilor Dushku agreed with Councilor Palomba's statement. He stated that businesses are spending a considerable amount of money on bags and this change might be beneficial for the businesses.

Councilor Piccirilli asked how this affected franchises – was it common ownership or individual franchise.

Councilor Feltner preferred not to have the exception and keep the definition as is.

Councilor Dattoli stated that this language muddies the ability to enforce the regulation.

Councilor Woodland stated he would be willing to insert common ownership in the definition. He stated that there is a need to help small businesses.

Councilor Dushku felt this is an inconvenience but not a hardship.

President Sideris stated that under §115.04, the word "Director" should be changed to "the Manager or his designee". Attorney Reich stated that it was clarified that the Director will be whoever heads up the enforcing department.

Councilor Piccirilli stated that the first sentence in §115.05 should be amended by deleting the words "Town Manager, The Superintendent of Public Works, all Watertown police officers, Health Department, and any other".

Councilor Woodland moved to change the name of the ordinance from "An Ordinance to Reduce Single-Use Plastic Bags in Watertown" to the "Bring Your Own Bag Ordinance"; Councilor Dattoli seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to insert a new second Whereas clause in the Ordinance to read "**Whereas**, the long-term elimination and short-term reduction of environmentally dangerous petrochemical and natural gas products, and a return to environmentally sustain able materials that are rapidly renewable and biodegradable is desired; and"; Councilor Piccirilli seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to delete in §115.02 (1) (c) in the definition of Single-use plastic bag, the words “with a thickness of less than 1.5 mils”; Councilor Palomba seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to change in §115.02 (1) (c) (vi) in the definition of Single-use plastic bag, the words “3 mil or more” to “4 mil or more”; Councilor Piccirilli seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to delete in §115.02 (1) (e) in the definition of Reusable Bag, the words “either polyester, polypropylene, cotton, or other durable material, or durable plastic that is” and to change the words “3.0 millimeters” to “4 mils”; Councilor Palomba seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to insert in §115.02 (1) (f) the definition of Retail Establishment, the words “over 3,000 square feet or with at least three (3) locations within the Commonwealth of Massachusetts”; Councilor Dattoli seconded the motion. The motion was not adopted on a roll call vote of 3-6. Councilors Kounelis, Piccirilli, and Woodland voted in the affirmative; Councilors Dattoli, Dushku, Falkoff, Feltner, Palomba, and President Sideris voted in the negative.

Councilor Woodland moved to change in §115.03 (1) in the Requirements section, the words “6 months after passage” to “July 1, 2017”; Councilor Dattoli seconded the motion.

Councilor Dattoli asked if the enforcement piece is not part of the Department of Health’s requirement, could the ordinance be in place in six months. Mr. Driscoll stated that if enforcement is not a prime concern, then six months is sufficient; however, if enforcement is needed, then the added six months is essential.

Councilor Dushku offered a friendly amendment to increase the enactment period from 6 to 8 months. Councilor Palomba seconded the friendly amendment.

Mr. Driscoll stated that the responsibilities of the newly created Code Enforcement Officer position did not include Plastic Bags. Also there will be the competing interest from the upcoming Snow Removal Ordinance.

Councilor Palomba felt this is the type of ordinance that will eventually be implemented even if enforcement is not present in six months. He would prefer to use the six months standard.

Councilor Piccirilli stated that both Cambridge and Newton used the one-year standard for implementation.

President Sideris called for a roll call on the 8-month enforcement date. The motion was not adopted by a vote of 4-5 on a roll call vote. Councilors Dushku, Falkoff, Feltner, and Palomba voted in the affirmative; Councilors Dattoli, Kounelis, Piccirilli, Woodland, and President Sideris voted in the negative.

President Sideris called for a roll call on a July 1, 2017 enforcement date. The motion was adopted on a vote of 5-4 on roll call vote. Councilors Dattoli, Kounelis, Piccirilli, Woodland, and President Sideris voted in the affirmative and Councilors Dushku, Falkoff, Feltner, and Palomba voted in the negative.

Councilor Woodland moved to insert in §115.03 (1) at the end of the paragraph, the words “, except for degradable plastic bags as noted in (2) below.”; Councilor Palomba seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to add in §115.03 a new paragraph (3) to read “(3) Public information advising customers on the proper care and maintenance of reusable bags shall be available through the Public Health Department.”; Councilor Piccirilli seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to renumber the current paragraph (3) to (4) and to delete the words “, acting through the Town’s Board of Health,”; Councilor Palomba seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Woodland moved to delete in §115.05 in the first paragraph, the words “The Town Manager, the Superintendent of Public Works, all Watertown police officers, Health Department, and any other” and to add the word “as” before the word “designated” in the same paragraph; Councilor Palomba seconded the motion. The motion was adopted unanimously on a roll call vote.

Councilor Piccirilli moved to adopt the Ordinance as adopted; Councilor Feltner seconded the motion.

Councilor Falkoff stated she was voting in favor of the ordinance in honor of Janet Bunbury, a long-time environmental activist who died last December at the age of 95.

Councilor Piccirilli stated that he favored the ordinance because plastic bags have a cost to the Town of Watertown beyond the environmental and pollution concerns.

Councilor Palomba congratulated the people of Rethink Plastic who worked diligently to create the ordinance as well community behavioral change.

Councilor Dushku thanked all who participated in making this change occur and the Committee for the work it put into the ordinance to make its passage happen.

Councilor Dattoli thanked all who worked on this. The ordinance is a reasonable compromise and a good step forward.

Councilor Feltner thanked all who worked on making this happen.

Councilor Woodland stated that the Committee did a good job with the ordinance and worked meticulously on the wording. He expressed his regret that the small business amendment was not implemented.

President Sideris thanked the Committee and the public for their participation. The ordinance is another piece of legislation that responds to community needs. He stated that he felt small businesses would adapt; therefore, he supports the ordinance.

The motion was adopted on a vote of 8 for and 1 present on a roll call vote. All Councilors present voted for the Ordinance except for Councilor Woodland who voted present.

5. ADJOURNMENT

Councilor Piccirilli moved to adjourn the meeting; Councilor Woodland seconded the motion. The motion was adopted unanimously on a voice vote. The meeting adjourned at 9:12 p.m.

ADDENDUM

I hereby certify that at a regular meeting of the Town Council for which a quorum was present, the above minutes were adopted by a voice vote of 8 for, 0 against, 0 present on July 12, 2016.

Vincent J. Piccirilli, Jr., Council Vice-President
s/MWP