

February 17, 2009 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Tuesday, February 17, 2009 at 7:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

Vice Chairman Cambra recognized the NAACP as the nation's oldest civil rights organization. The NAACP has celebrated its 100th anniversary on the 12th day of February, 2009, which is also Lincoln's birthday. Mr. Cambra also recognized the NAACP local chapter which is lead by Mrs. Joyce Williams.

CONSENT CALENDAR

Councillor VonVillas requested to have item # 5 heard under the Town Council portion of the docket.

- 1. Approval of Minutes – Special Meeting, February 2, 2009.**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

2. Approval of Minutes – Regular Meeting, February 2, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

3. Memorandum of Town Administrator, with enclosures, re: Police Station Progress Report #6.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and report.

4. Memorandum of Lt. Robert S. Nutt, re: Naval Station Newport Closing of Gates 10 and 11.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

5. Memorandum of Town Administrator, with enclosures, re: 1R Highway Safety Improvements to West Main Road.

Councillor VonVillas requested information concerning repaving across from Stop & Shop noting the poorly designed intersection in that area.

Town Engineer Warren Hall, responding to Councillor VonVillas, noted he has been communicating with DOT in regards to improving the intersection in the area across from Stop & Shop. To date, DOT has not responded to the inquiry however, Mr. Hall expects an answer soon.

Councillor Silveira requested that the Town Administrator notify area abutters of the current intersection status.

Town Administrator Shawn Brown noted that a meeting will be scheduled pertaining to the intersection which will include the Town Council, Roads/Utilities Committee and area residents, anticipated schedule date will be held in March 2009.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said memorandum.

6. Memorandum of Town Administrator, re: Personnel – Order – Director of EMA.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

7. Communication of Town Administrator, with enclosures, re: Tax

Collector's Report for period ending January 31, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and report.

8. Memorandum of Tax Collector, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

9. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

10. E-mail Communications of Town Clerk, Town of Burrillville, with enclosures, re: Resolutions supporting 1) Requesting the General Assembly support Articles 16, 17, 18, 19, 20, 22, 23, 25, 26, 27, 29, 40, 41, 42, 43, 46 and 47, 2) Requesting the General Assembly to give due consideration to Articles 5, 7, 21, 31, 32, 44, 45 and 48 and 3) Requesting support of House Bill 2009-H 5111, An Act Relating to Public Utilities – Excavation Near Underground Utility Facilities – Costs.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said email communications and resolutions.

11. E-mail Communication of City Clerk, City of East Providence, with enclosure, re: East Providence Resolution Supporting Municipal Tools in FY09 Supplemental Budget.

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to receive said email communication and resolution.

12. Applications received from the following named persons, firms and corporations for RENEWAL of Drain Layers Licenses for the 2009-2010 licensing year. (See Attached List)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewals.

TOWN COUNCIL

1. Applications six (6) for Special Events Permits received from the following named persons, firms or corporations: 1) Norman Bird Sanctuary, Annual 5K on Saturday, June 20, 2009, beginning at 8:00 AM, 2) Norman Bird Sanctuary, Annual Bird Ball Gala, Saturday, August 15, 2009, from 6:00 PM until 11:00 PM, 3) Norman Bird Sanctuary, 35th Annual Harvest Fair, Saturday, October 3rd and 4th, 2009, from 10:00 AM until 5:00 PM both days, 4) Ashley Bowley for a Wedding Ceremony to be held at the Dunlap Wheeler Park on

September 11, 2009 at 4:00 PM, 5) Special Olympics Rhode Island, Torch Run Plunge, Atlantic Beach, Sunday, March 8, 2009, beginning at 10:00 AM and 6) Natalie Stein for a Wedding Ceremony to be held at the Dunlap Wheeler Park on August 29, 2009 at 6:00 PM.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said permits.

2. Memorandum of Town Administrator, with enclosures, re: Zoning – Office Park.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

3. Public Hearing (Advertised; Abutters notified)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, chapter 152 Zoning Code, Article 6 – Application of District Regulations, - Section 603 – Dimensional regulations in the Office Park (OP).

Public Hearing was declared open.

Town Solicitor Michael W. Miller recused himself for this matter, due to a possible conflict of interest.

Attorney Russell Jackson was present to represent the Town in this matter.

Attorney Gregory Fater, 55 Memorial Boulevard, addressed the Council representing members of the Ocean Drive Neighborhood Association noting that the Association has been working on this project since 2007. Mr. Fater requests on behalf of his clients that the Council consider the change to the ordinance from the 40 foot height

limit back to 30 foot height limit and the lot coverage from 35% to 45%. The current ordinance as it exists effects his clients esthetic values of the neighborhood. Mr. Fater noted that both uses commercial and residential property can exist together.

Mark Puleo, 19 Ocean View Drive, addressed the Council requesting the change to maximum height be brought back to 30 feet. Mr. Puleo noted that at the time he purchased his home, he believed that the existing height of 30 feet would never change.

Mary Newman, 38 Ocean View Drive, noted that the ordinance as it is will devalue her property.

Stephanie Proske, 27 Ocean View Drive, addressed the Council noting that the current ordinance decreases the value of homes in her area, appeal and quality of life.

Keith Stokes, Executive Director, Chamber of Commerce noted that

the future of this office park will be more of a mixed use. Mr. Stokes supports leaving the ordinance as is because of all the improvements that have been made in the area. This park is a very important economic asset noting that a change will make it very hard for the Chamber to market the office park area.

Andrew Galvin, 10 Harvey Street, Newport, expressed opposition to the change to the ordinance.

Alden Anderson, 104 County Street, Providence, RI, addressed the Council noting he is a leasing agent for the corporate park. The concept to change the ordinance is not consistent with the needs of the market. Mr. Anderson is opposed to the ordinance change.

Bruce Lang, Chairman of Lang Naturals, 20 Silva Lane, noted that the occupancy within the office park has been increasing. Mr. Lang believes that there is a way to satisfy both businesses within the office park and the abutters however, he does not support a change of the ordinance.

John Eden, 2 Wilbur Avenue, Newport, RI represents Black Stone Caterers explaining that the business moved to the office park in 2001. Black Stone Caterers is the largest catering company in Rhode Island and the change in the ordinance would limit company growth.

Steve Kirby, 65 Houston Avenue, Newport, requests the Council not to change the zoning ordinance. If the ordinance is changed, there are many jobs that will have to transfer out of the Corporate Park because of limitation to company growth.

Chris Synnott, 50 Ocean View Drive, addressed the Council noting he believes that lots currently not sold in the park will sell. Mr. Synnott requests the Council consider the residents of Ocean View Drive when making the decision on this ordinance.

Eric Offenber, 55 John Clark Road, (Maloney Lane resident), noted that his company created a subdivision within the office park. If the ordinance is changed, he would be unable to expand his company

because of water quality issues. Mr. Offenberg does not support the change of the ordinance.

David Martland, Esquire, 1100 Aquidneck Avenue, representing 28 Jacome Way, LLC and Brookwood Financial Partners – Tech 2, 3 & 4, addressed the Council noting that a change of this ordinance would make the area inconsistent with the Town’s Comprehensive Community Plan. Mr. Martland requests the Council to review the overall economic impact to the Town if the ordinance is changed. Mr. Martland’s clients do not support a change to the ordinance.

Annemarie Hogan, 23 Ocean View Drive, addressed the Council noting that most corporate parks do not abut people or motels. Ms. Hogan expressed support for the change of the ordinance.

Dave Dittman, 44 Ocean View Drive, noted he is representing approximately eighty (80) residents which support the ordinance change. Mr. Dittman noted support for a suggestion by former Councillor Barrow that different heights be set for different elevations within the office park.

Robert M. Silva, 8 Circle Drive, addressed the Council noting that the economy needs to be rebuilt. The office park began as a light industrial park and as times have changed the park is now a corporate park. To amend this ordinance will not have a positive effect on Middletown; a change would be for private interest and will create a long-term negative financial impact. Mr. Silva requests the Council not to adopt this ordinance amendment.

Councillor VonVillas noted she was elected to make decisions based on fact she cannot support this amendment.

Councillor Sylvia noted that he promised that he would due diligence on this matter and he believes that has been done. This request is not in line with the Middletown Comprehensive Plan and the decision to change the ordinance will not be in the best interest of the Town causing the area to be less marketable.

Public hearing was left open.

On motion of Vice Chairman Cambra, duly seconded, it was voted to receive said ordinance on its first reading,; Council President Semonelli, Councillors Bozyan and Santos voted YES; Vice Chairman Cambra, Councillors Silveira, Sylvia and VonVillas voted NO to said motion; MOTION FAILED TO PASS.

Councillor Santos recused herself from acting on the following two items #4 and #5, due to a possible conflict of interest.

4. Communication of William Nedderman, President, Middletown Historical Society, re: Middletown Historical Society – Update of plans for the current calendar year.

Mr. Nedderman, President of the Middletown Historical Society, addressed the Council reviewing Middletown Historical Society upcoming events and projects as follows:

- 1. February 22nd, James Garman will speak at the Library**
- 2. March 22nd – Diane Rappaport will speak at the Library**
- 3. April - A program for 5th graders that will teach them to grind grain**
- 4. May 21st - Annual Meeting at the Senior Center**
- 5. July & August - Paradise School will be open (2nd & 4th Sundays) and the windmill will be open (1st & 3rd Sundays)**
- 6. Witherbee School will be open**
- 7. Paradise School was painted in 2008**
- 8. Windmill maintenance**
- 9. Veterans War Memorial is an ongoing project**

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to receive said communication.

5. Communication of Kenneth Walsh, 51 Bayberry Lane, re: Middletown Historical Society - Update for the park at the corner of Green End Avenue and Valley Road.

Kenneth Walsh, 51 Bayberry Lane, addressed the Council noting that Town Engineer Warren Hall has been assisting the Historical Society surveying the property on the corner of Green End Avenue and Valley Road. Mr. Walsh reviewed the plans for the War Memorial Park noting that the stone wall needs to be replaced and arrangements have been made for a road cut to access the park from Valley Road. Mr. Walsh requests the project to be a joint project with the Town and have a public works crew remove brush from the area.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

6. Communication of David Lawrence, Regional President, CENTURY 21 Access America, re: Discussion of protecting tenants from eviction when the property they are renting is subject to foreclosure proceedings.

David Lawrence addressed the Council handing them a press release entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

7. Memorandum of Town Administrator, with enclosures, re: Traffic Safety Improvements for Reservoir Road and Renfrew Avenue.

Town Administrator Shawn Brown noted that the Police, School Staff and residents proposed the safety improvements.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

8. An Ordinance of the Town of Middletown (First Reading)

An ordinance in amendment to the Town Code of the Town of Middletown, Title VII, Traffic Code. (Reservoir Road/Renfrew Avenue)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

There was no action taken on the following items #9 and #10 due to the need for enabling legislation.

9. Memorandum of Town Administrator, re: Senior Citizens Tax Exemption.

10. An Ordinance of the Town of Middletown (First Reading)

An ordinance in amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 34, Taxes, 34.02 Exemption On Residential Property and 34.04 Conditions of Exemptions.

11. An Ordinance of the Town of Middletown (Second Reading)

An ordinance in amendment to the Town Code of the Town of Middletown, Chapter 38A, Juvenile Hearing Board, Section 38A.02 Membership.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

12. Memorandum of Town Administrator, re: Appointment of one (1) Council Member to the East Bay Collaborative Action Program.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Frank A. Bozyan to the East Bay Collaborative Action Program.

13. Appointments to the Middletown Comprehensive Plan Update Committee.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Robert Crump, Denise D'Amico, Bruce J. Long, Barbara B. Murphy and Romeo Velasco to the Middletown Comprehensive Plan Update Committee.

14. Appointment of one (1) member to the Middletown Tax Assessment Review Board to complete a term expiring October 2009. (Bi-Partisan board)

Councillor Silveira nominated William Flynn.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to appoint William J. Flynn to the Tax Assessment Review Board to complete a term expiring October 2009.

15. Appointment of two (2) members to the Planning Board for terms expiring February 2012.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to open nominations.

Councillor Sylvia nominated Arthur S. Weber and Cheryl Foster.

Councillor Bozyan nominated Gladys Lavine.

There being no other nominations, and on motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to close nominations.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to reappoint Arthur S. Weber, Jr. to the Planning Board for a term expiring February 2012.

On motion of Councillor Sylvia, duly seconded it was voted to appoint Cheryl Foster to the Planning Board for a term expiring February 2012; Council President Semonelli, Vice Chairman Cambra, Councillor Bozyan and Councillor Santos voted NO; Councillor Silveira, Councillor Sylvia and Councillor VonVillas voted YES to said motion; MOTION FAILED TO PASS.

On motion of Council President Semonelli, duly seconded, it was voted to reappoint Gladys B. Lavine to the Planning Board for a term

expiring February 2012; Council President Semonelli, Vice Chairman Cambra, Councillor Bozyan and Councillor Santos voted YES; Councillor Silveira, Councillor Sylvia and Councillor VonVillas voted NO to said motion.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

Paul O'Neil, 14 King Road, addressed the Council noting that he wants to rebuild his garage on his property however; because of current zoning he is unable to do so without retaining a surveyor. Mr. O'Neil does not agree with the current rules because a garage had already existed on the property.

Dennis Turano, 182 Tuckerman Avenue, addressed the Council in regards to the stimulus package. Mr. Turano questioned if some monies from the stimulus package will be allocated for tax relief of residents.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (2) litigation (Narragansett Electric vs. Tax Assessor and Finance Director),(2) potential litigation (East Main Road- Plat 118 Lot 19),(5) lease (East Main Road – Plat 118 Lot 19) and (2) Collective Bargaining (Police, Fire, Public Works and Town Hall)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 10:20 P.M. and reconvene in executive session.

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to reconvene this meeting in open session at 11:22P.M.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to authorize the Town Council President to sign the settlement agreement.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 11:25 P.M.

Wendy J.W. Marshall, CMC

Council Clerk