

April 6, 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 Monday, April 6, 2009 at 6:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

Councillor Edward J. Silveira, Jr., Absent

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (2) litigation (Kempen vs. Town of Middletown), (2) litigation (Dicon vs. Town of Middletown) 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 6:01P.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 7:00 P.M.

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.

ACTING AS A BOARD OF LICENSE COMMISSION

1. Petition of Richard Gamache, Secretary, Middletown Fraternal Order of Police Lodge #21, 464 Mitchell's Lane, and John Kempenaar, President, Middletown FOPA, re: Request for expansion of FOP Class D Alcoholic Beverage License to provide outdoor service on May 3, 2009, Police Parade Day.

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

CONSENT CALENDAR

Councillor Bozyan requested to have item #10 heard under the Town Council portion of the docket.

1. Approval of Minutes – Special Meeting, March 16, 2009.

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

2. Approval of Minutes – Regular Meeting, March 16, 2009.

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

3. Approval of Minutes – Special Meeting, March 23, 2009.

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

4. Application of Peckham Brothers Co., Inc., Middletown, for RENEWAL of a Drain Layer's License for the 2009-2010 licensing year.

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

5. Application of USV Optical, Inc. dba BJ's Optical #4306, 173 East Main Road, for RENEWAL of a Holiday License for the 2009-2010 licensing year.

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

6. Application of Ocean State Job Lot, 282 East Main Road, for

RENEWAL of a Holiday License for the 2009-2010 licensing year.

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

7. Application of Thanh Dao dba LA Chic Nails, 57 East Main Road, for RENEWAL of Holiday License for the 2009-2010 licensing year.

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

8. Memorandum of Town Administrator, with enclosures, re: Police Station Progress Report #8.

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

9. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, with enclosures, re: Proposed amendment to the Middletown Zoning Ordinance – Wind Energy Conversion Facilities. (Requires advertising for Public Hearing)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and advertise said amendment for hearing to be held at the May 4, 2009 regular meeting of the Council.

10. Memorandum of Town Administrator, with enclosures, re: MOA with East Bay Energy Consortium.

Councillor Bozyan questioned the liability to the Town for participation in the MOA with East Bay Energy Consortium.

Town Administrator Shawn Brown, responding to Councillor Bozyan, noted that a number of communities have moved to form a consortium between communities. The purpose of consortium is to apply for a joint grant with the other communities; cost will be approximately \$2,000.

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

11. Communication of Town Administrator, with enclosures, re: Tax Collector's Report for period ending February 28, 2009.

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

12. Communication of Town Clerk, Town of Portsmouth, with enclosures, re: Support in opposing House Bill 5122, An Act Relating

to State Affairs and Government-Department of Transportation.

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

13. Email communication of Town Clerk, Town of Burrillville, with enclosure, re: House Bill – H5679 – An Act relating to Towns and Cities – Councils and Governing Bodies – Opposition to the bill.

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

14. Memorandum of Town Administrator, re: Workshop on Bay Ridge Development.

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

unanimously to receive said memorandum.

15. Submission of Town of Middletown proposed budgets, Fiscal Year 2009-2010.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and FY10 proposed budgets – General Fund, Parks and Recreation Fund, Sewer Fund, Refuse and Recycling, and Capital Improvement Program.

TOWN COUNCIL

1. Memorandum of Town Planner, with enclosures, re: FY2009 Small Cities Community Development Block Grant Application (CDBG) – Project priorities.

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

unanimously to receive said memorandum.

Attachments referenced in the above memorandum are on file in the Office of the Town Clerk.

2. Public Hearing (Advertised)

Town of Middletown application for Small Cities Community Development Block Grant (CDBG) for certain projects, in an amount not to exceed \$250,000.

Public Hearing was declared open.

Town Planner Ronald Wolanski addressed the Council reviewing the purpose of the CDBG and noting that there is a list of 13 items to be submitted in the Community Development Block Grant. Mr. Wolanski requests the Council to approve the CDBG prioritized list.

Brigid Ryan, representing Church Community Housing, was present to answer questions. Ms. Ryan noted that Church Community Housing assists in the preparation of the grant.

Boys & Girls Club Director of Development Beth Simone noted that the organization works at Oxbow Farms implementing Club Respect and after school program for ages 4 to 18. They are requesting funding to expand the afterschool program.

Susan Schenk, East Bay Action Program Chief Operating Officer, requesting support for Health and Dental services.

Berniece Clohecy, Director of the Middletown Head Start Program, has full day and part time care for children. The program assists several hundred Middletown residents. Ms. Clohecy request support for replacement of heating zone valves in the heating system at the Joel Peckham Heat Start Center.

Jennifer Barrara, Program Manager, Lucy's Hearth, requests support for the Lucy's Hearth emergency shelter programs general operating expenses.

There being no other person present desiring to be heard on the matter, public hearing was declared closed.

3. Resolution of the Council, re: Approving prioritized list of projects for the Town's FY2009 CDBG application.

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

4. Memorandum of Town Administrator, with enclosures, re: 2008 RIDEM Non-point Source & Narragansett Bay Watershed Restoration grants.

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

5. Resolution of the Council, re: Accepting 2008 RIDEM Non-point Source & Narragansett Bay Watershed Restoration grants and authorizing Town matching funds.

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

6. Application of the Aquidneck Island Police Parade Committee, Middletown, for RENEWAL of a Peddler's License for (Novelties and T-Shirts) for Police Parade Day, May 3, 2009 includes a request to waive license fee. (6 Vendors; Middletown Only)

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

7. Applications two (2) from the Aquidneck Island National Police Parade Committee, for Special Events Permits 1) May 2, 2009, beginning at 9:00 AM, Aquidneck Island Five-O 5K (1 Mile Fun Run & 5K Road Race), Sachuest Beach Main Parking Lot and around Gardener's Pond 2) May 3, 2009, beginning at 10:00 AM, Parade and Honor Fallen Law Enforcement Officers for Their Dedication and Sacrifice, includes a request to waive permit fees.

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

8. Applications five (5) for Special Events Permits received from the following named persons, firms or corporations: 1) Beach 5 Sand Soccer Series, Beach 5 Sand Soccer Series Beach Tournament, Second Beach, on Saturday, June 20, 2009 and Sunday, June 21, 2009 from 8:00 AM until 6:00 PM both days 2) Katie Segerson, for Segerson-Zilgme Wedding Ceremony to be held at Dunlap Wheeler

Park on Sunday, July 26, 2009 from 4:00 PM until 6:00 PM 3) Kristen Fagan for a Wedding Ceremony to be held at Dunlap Wheeler Park on Friday, August 21, 2009 from 4:00 PM until 6:00 PM 4) Child & Family Services of Newport County, Child & Family Yard Sale, Valley Road, Saturday, April 25, 2009 from 9:00 AM until 4:00 PM 5) Quahaug Chapter #48, Camp-O-Rama, Second Beach West Lot, Friday, September 18, 2009 at 9:00 AM thru Monday, September 21, 2009 at 4:00 P.M.

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

9. Application of Janet Fatulli dba Fatulli's Bakery & Deli, 909 East Main Road, for a Victualling House License for 2008-2009 licensing year. (NEW)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license, contingent on Building Official, Fire Marshall, Board of Health and Public Works approvals.

10. Application of Elliot Hubert dba ZCOMM of Middletown, 881 West Main Road, for a Holiday License for 2009-2010 licensing year. (NEW)

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

11. Memorandum of Town Administrator, with enclosures, re: Award of Contract for Management of Carex Kobomugi @ Second Beach.

Councillor Bozyan noted correspondence that indicates Carex Kobomugi is a danger to the beach area.

Town Engineer Warren Hall addressed the Council noting a consultant was hired; the beach dunes area was mapped where the evasive plant is growing. The method used to control the evasive plant is applied in three (3) treatments and is administered carefully

as to not damage plants in the surrounding area. The process will be supervised and inspected before the round up is applied.

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

The Proposal and Summary of Bids – Line Item Detail referenced in the above memorandum are on file in the Office of the Town Clerk.

12. Resolution of the Council, re: Award of contract for Management of Carex Kobomugi @ Second Beach.

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

13. Memorandum of Town Administrator, re: Ordinance for

Kitesurfing and Windsurfing Regulations.

Rian Wilkinson, Middletown Beach Commission Chairman, addressed the Council reviewing the ordinance amendments and noted the changes are a housekeeping situation.

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

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

An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 94, Streets, Sidewalks and Public Places, Section 94, Sachuest Beach and Surrounding Territory, Subsection 94.35 Kitesurfing and Windsurfing Regulations.

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

unanimously to receive said ordinance on its first reading.

15. Memorandum of Town Administrator, re: Ordinance to Prohibit Discharge of Firearms in Beach Areas.

Rian Wilkinson, Middletown Beach Commission Chairman, noted an incident of an individual shooting at the far end of the beach. DEM and the Police department have indicated that this activity is allowed by law.

Town Solicitor Michael Miller noted that his office drafted the ordinance at the request of the Beach Commission; state law was reviewed when drafting the proposed ordinance.

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

16. 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 130 General Offenses, Section 130.86 Discharge of Firearms Prohibited in Beach Areas.

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

17. Memorandum of Town Administrator, re: Ordinance concerning Second Beach.

Council President Semonelli noted that the passage of said ordinance would allow the electorate to participate in decisions regarding the beach.

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

unanimously to receive said memorandum.

18. 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 30, Section 30.04 Elections Required to Transfer Interest in Second Beach.

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

19. Memorandum of Town Administrator, re: Ordinance for Dog Licenses.

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

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

An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90 Animals, Section 90.23 Licensing.

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

21. Communication of Antone C. Viveiros, 110 Indian Hill Road, with enclosure, re: Proposal to keep the PAYT trash collection system self sustainable.

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

22. Communication of Manuel J. Mello, 31 North Beacon Terrace, re:

Request to discuss the removal of the Gym equipment from Linden School.

Manuel J. Mello, 31 North Beacon Terrace, addressed the Council expressing concern that the gym equipment was removed from the Linden School area.

Town Administrator Shawn Brown noted that when the Linden school building was planning on being demolished, he did state the gym set would be removed and replaced during the spring. The Town had the gym set evaluated and the status was that the gym set had safety issues.

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

23. Memorandum of Town Administrator, re: Salary Freeze for Non-union Employees.

Council President Semonelli noted that the salary freeze is regrettably necessary and noted that he will be returning his first year stipend to the Town.

Councillor Sylvia noted that he applauds all the Town Employees which have agreed to a salary freeze.

Vice Chairman Cambra thanked all the Town Employees for their sacrifice.

Councillor Bozyan also noted that the rest of the Council feels the same as Vice Chairman Cambra and Councillor Sylvia.

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

24. Resolution of the Council, re: Salary Freeze for Non-union Employees.

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

25. Memorandum of Councillor Silveira, with enclosure, re: Request to discuss Town Council compensation.

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

26. Memorandum of Councillor Silveira, with enclosures, re: Communication and Resolution from State Representative Brain C. Newberry.

June Gibbs, 163 Riverview Avenue, addressed the Council speaking in support of the elimination of the straight party vote noting that Rhode Island is the only state that has not eliminated the straight party ticket. Ms. Gibbs presented the Council with a handout showing the affect of straight ticket votes entered here:

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

27. Resolution of the Council, re: Elimination of Straight Party Vote.

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

28. Memorandum of Councillor Sylvia, re: Funding Request for

Middletown Economic Development Committee Event.

Councillor Sylvia reviewed his communication entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum, to approve said request and authorize \$2,300. to MEDC for the National Defense Industrial Association 6th Annual National Small Business Conference.

29. Memorandum of Council President Semonelli, re: Opposing House Bill 5122, An Act Relating to State Affairs and Government-Department of Transportation.

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

30. Resolution of the Council, re: Opposing House Bill 5122, An Act Relating to State Affairs and Government-Department of Transportation.

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

31. Memorandum of Town Clerk, re: Authorization to submit Local Government Records Grant.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and authorize submission of the grant application for the Local Government Records grant.

32. Petition of National Grid Electric Company for Continental Drive proposed Pole relocation. (Recommendation of Roads/Utilities Committee included)

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

33. Communication of Meagan Griffin, Wildlife Biologist, Narragansett Bay Coyote Study, re: Request the appointment of two representatives from Middletown (at least one Council member and the other maybe the Town Administrator) to the Narragansett Bay Coyote Study committee.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to appoint Councillor Silveira to the Narragansett Bay Coyote Study committee.

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

34. Appointment of one (1) member to the Open Space and Fields Committee for a term expiring November 2010.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Alexander R. Saunders to the Open Space and Fields Committee for a term expiring November 2010.

35. Appointment of two (2) members to the Middletown Substance Abuse Prevention Task Force Committee; term limits must be set.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Rev. Chris Epperson and Carol A. Silvia to the Middletown Substance Abuse Prevention Task Force for a three year term expiring April 2012.

36. Appointment of one (1) member to the Zoning Board of Review as second alternate for a term expiring April 2010.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reappoint Gregory S. Schultz as 2nd alternate to the Middletown Zoning Board of Review for a term expiring April 2010.

Councillor Bozyan recused himself from acting on the following item #37 of business, due to a possible conflict of interest.

37. Appointment of one (1) member to the Middletown Planning Board for a term expiring February 2012.

On motion of Vice Chairman Cambra, duly seconded, it was voted to reappoint Gladys B. Lavine to the Middletown Planning Board for a term expiring February 2012; Council President Semonelli, Vice Chairman Cambra and Councillor Santos voted, YES; Councillor Sylvia and Councillor VonVillas voted NO to said motion.

38. Communication of Cheryl G. Robinson, President, Turning Around Ministries, Inc., re: Request for support by placing an ad in the Souvenir Booklet or making a contribution to TAM.

On motion Vice Chairman Cambra, duly seconded, it was voted unanimously, to receive said communication and approve a full-page ad (\$100.) in the Souvenir Booklet to be appropriated from the Council President's Discretionary Fund.

39. Proposed Budget Meeting Schedule.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said proposed Budget Meeting Schedule and approve meeting dates.

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.

No one addressed the Council during session.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 8:05 P.M.

Wendy J.W. Marshall, CMC

Council Clerk