

June 1, 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, June 1, 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 Barbara A. VonVillas, Members Present

Councillor Robert J. Sylvia, Absent

ACTING AS A BOARD OF LICENSE COMMISSION

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

1. (Public Hearing Advertised)

Application of First Beach, LLC d/b/a Newport Beach Hotel & Suites holder of a Class BT Alcoholic Beverage License for premises located at 1 Wave Avenue, Middletown to TRANSFER said license to LHM Restaurant, Inc. d/b/a Newport Beach Hotel & Suites for use at the same premises.

Public Hearing was declared open.

There being no persons present desiring to be heard, public hearing was declared closed.

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

CONSENT CALENDAR

Vice Chairman Cambra requested that items #7, #8, #9 and #10, be heard under the Town Council portion of the docket.

1. Approval of Minutes – Special Meeting, May 9, 2009.

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

2. Approval of Minutes – Special Meeting, May 11, 2009.

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

3. Approval of Minutes – Special Meeting, May 18, 2009.

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

4. Approval of Minutes – Regular Meeting, May 18, 2009.

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

5. Email Communication of Town Clerk, Town of Burrillville,

Requesting support in opposition to House Bill H5123.

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

6. Email Communication of Town Clerk, Town of Burrillville, Requesting support in opposition to House Bill H5971.

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

7. Memorandum of Town Administrator, with enclosures, re: Police Station Progress Report #10.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to receive said memorandum 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. Memorandum of Robert M. Silva, Chairman Economic Development Advisory Committee, re: Economic Development Assessment Tool Grant.

Bob Silva, Chairman Middletown Economic Development Advisory Committee, addressed the Council noting that the Town received a \$5,000 grant allowing the Town to participate in the Economic Development Assessment Tool. The exercise will provide information on the Town's economic attributes compared to other communities based on Access to Customers/Markets, Concentration of Businesses & Services, Real Estate and Infrastructure, Labor Market Factors, Municipal Permit Processed, Community Quality of Life, State Related Amenities, Business Incentives and Local Tax Rates.

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

11. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Proposed Zoning Ordinance amendment, Article 4, relating to definitions: Multifamily Dwelling Structure & Multifamily Dwelling Project. (Requires advertising for public hearing)

Town Solicitor Michael Miller explained that the amendment to the ordinance applies to definitional changes.

Alice Curran, Forest Avenue, addressed the Council expressing concern that the ordinance is being expanded and how the ordinance relates to the Bayridge development.

Town Planner Ron Wolanski explained the amendments to Multifamily Dwelling Project and Multifamily Dwelling Structure which will address the following issues:

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

On motion of Councillor Silveira, duly seconded, it was vote unanimously to advertised said amendment for hearing to the held at the July 2009 regular meeting of the Council.

12. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Proposed Zoning Ordinance amendment, Section 705, relating to fences and walls. (Requires advertising for public hearing)

Councillor Bozyan expressed concern that the ordinance may need further review before advertising.

Patrick Baker, 79 Miantonomi Avenue, expressed concern that he may need a permit to trim his hedges.

On motion of Vice Chairman Cambra, duly seconded, it was voted to receive said memorandum and advertise said amendment for hearing to be held at the July 2009 regular meeting of the Council; Council President Semonelli, Vice Chairman Cambra, Councillor Santos, Councillor Silveira and Councillor VonVillas voted YES; Councillor Bozyan voted NO to said motion.

13. Application of Rui F. Almeida d/b/a Doughboy's Kitchen, Fall River, MA, for RENEWAL of Industrial Caterers License (Mobile Food Service Unit) for the 2009-2010 licensing year.

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

14. Application of Carlone's Green End Florist, 174 Green End Avenue, Middletown, for RENEWAL of Hawkers License for the 2009-2010 licensing year.

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

TOWN COUNCIL

1. Communication of Senator Louis P. DiPalma, District 12, re: Senate Legislative update.

Senator Louis P. DiPalma addressed the Council presenting the following legislative update entered here:

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

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

2. Application of LHM Restaurant, Inc. d/b/a Newport Beach Hotel & Suites, 1 Wave Avenue for a Victualling House License for the 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.

Council President Semonelli recused himself from acting on the following item of business, due to a possible conflict of interest.

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

Vice Chairman Cambra presiding.

3. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Request for an advisory recommendation on a proposal to amend the Middletown Zoning Ordinance, Article 4 and Article 22 regarding Senior Independent Living Facilities. (Requires

advertising for public hearing)

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said memorandum and advertise the original zoning ordinance, as recommended by the Town Solicitor's office, for hearing to be held at the July 2009 regular meeting of the Council.

Council President Semonelli presiding.

4. Continued from the May 18, 2009, Regular Meeting.

Public Hearing (Advertised)

(Public Hearing Remains Open)

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152 Zoning Code, Article 25A – Wind Energy Conversion Facilities.

Arthur Weber, Chairman Middletown Planning Board, noted that the wind ordinance is important, and requests the Council to refer the issue to the Planning Board for further review on the matter.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to request the Town Solicitor to draft a resolution placing a moratorium on wind turbines; the expiration date would be the passage of a Wind Turbine Ordinance.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to forward this matter to the Planning Board for review and recommendation.

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

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 93, Harbor Rules and Regulations, Sub-section

(93.30), Registration Fees.

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

6. Memorandum of Town Administrator, re: Proposed Amendment to Town Code 111, Alcoholic Beverages.

Lori Verderosa, Substance Abuse Prevention Task Force Coordinator, explained the grant received by the MSAPTF requires review of the existing ordinances. When amending this ordinance, the MSAPTF made use of the adolescent usage statistics. The amendment adds Class A Liquor License holders (package stores) to require Alcoholic Beverage Training, which will be provided at no cost to the vendor by the MSAPTF.

David Champagne, Maple Avenue, Owner of Aquidneck Liquors, noted that his staff has been trained since 1993; training is renewed

every three years. Mr. Champagne noted that his business receives a 5 to 10% reduction on insurance due to this training. Mr. Champagne supports this training.

Gerry Kempen, Owner of Goode Spirits, addressed the Council noting that he does not see the benefit of this ordinance and expressed concern that this amendment may become an unfunded mandate for establishments.

Councillor Silveira requests that additional information be supplied on the issue before moving forward with this matter.

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

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

An Ordinance in amendment to the Town Code of the Town of

Middletown, Title IX Business Regulations, Chapter 111, Alcoholic Beverages, Section 111.10 Alcohol Training Certification.

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

Carmella Geer, 10 Wood Road, addressing the issue as a parent, noted her support of this amendment to the ordinance. Mrs. Geer requests the Council to treat all alcohol vendors the same, expressing concern that this is a public safety issue.

On motion of Councillor Silveira, duly seconded, it was voted to continue the second reading to the July 2009 regular meeting of the Council to allow time for the Substance Abuse Task Force to supply additional data to the Council concerning this matter; Council President Semonelli, Vice Chairman Cambra, Councillor Santos, Councillor Silveira, and Councillor VonVillas voted YES; Councillor Bozyan voted NO to said motion.

8. Communication of Patrick Baker, Miantonomi Avenue, re: Request for removal of No Parking signs on Fenner Avenue.

Patrick Baker, 79 Miantonomi Avenue, addressed the Council explaining that his request to remove the no parking signs on Fenner Avenue has been reviewed by the police department and requests the Council to remove the signage at this time.

Town Solicitor Michael Miller noted there is an ordinance in place and the Council is not able to have the signs removed until the ordinance, which placed the signs in the area, has been amended.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and refer request to the Middletown Police department for review and recommendation.

9. Memorandum of Town Administrator, re: Budget Transfers –

School Department.

Town Administrator Shawn Brown noted that the budget transfers are related to restricted funds.

Antone Viveiros, 110 Indian Hill Road, noted that Mr. Brown answered his question.

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

10. Resolution of the Council, re: Budget Transfers – School Department.

On motion of Vice Chairman Cambra, duly seconded, it was voted to pass said resolution; Council President Semonelli, Vice Chairman

Cambra, Councillor Bozyan, Councillor Silveira, Council VonVillas voted YES; Councillor Santos voted NO to said motion.

11. Memorandum of Rosemarie K. Kraeger, Superintendent of Schools, re: Purchase of Playground Equipment.

Town Administrator Shawn Brown noted that at a prior meeting he recommended the Town to move the playground from JFK to the Gaudet School; funded by the Parks and Recreation budget. The Council requested that the School Department provide information on the cost of new playground equipment for Gaudet School.

Councillor Santos noted that she is not against playgrounds, only opposed to where the funds are appropriated from.

Middletown School Department Facilities Director Ed Collins noted that Gaudet is school property; however the property is used by the community.

Councillor VonVillas noted that the school equipment is not just for recess; this project is for the community.

Mason Hawes, 431 Reservoir Avenue, Chairman Open Space and Fields Committee, addressed the Council expressing support for moving the playground from JFK to Gaudet School.

Antone Vivierios, 110 Indian Hill Road, expressed concern that funding was used for resurfacing the tennis and basketball courts last year. He is also noted concern regarding spending funds that were not budgeted and future requests of the school department.

Manny Mello, 31 Beacon Terrace North, requests the Council not to appropriate \$30,000. to relocate the playground equipment from JFK to Gaudet School. Mr. Mello believes the school department can fund this project on their own.

On motion of Vice Chairman Cambra, duly seconded, it was voted to receive said memorandum and to authorize \$30,000. for the relocation of the playground equipment from J.F. Kennedy School to the Gaudet School; Council President Semonelli, Vice Chairman Cambra, Councillor Bozyan, Councillor Silveira, Councillor VonVillas voted YES: Councillor Santos voted NO to said motion noting that she does not support funding from the Parks and Recreation.

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

12. Appointment of one (1) member to the Middletown Personnel Review Board for a term expiring June 2012. (Bi-partisan Board)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Ellen Bozyan to the Middletown Personnel Review Board for a term expiring June 2012.

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 at this session.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (2) collective bargaining (Fire, Public Works and Town Hall).

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 9:15 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 10:11P.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.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 10:12 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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