

## **July 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, July 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 Edward J. Silveira, Jr.**

**Councillor Robert J. Sylvia**

**Councillor Barbara A. VonVillas, Members Present**

**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) and (5) land acquisition (Valley Road).**

**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 6:28 P.M.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to authorize the Town Council President to sign all documents related to land acquisition and granting of any conservations easements, Valley Road.**

**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 recess this meeting at 6:30 P.M.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reconvene this meeting at 7:00 P.M.**

## **CONSENT CALENDAR**

**Vice Chairman Cambra requested to have items #5, #7, #8, #10, #11, #12 #14 and #22 to be heard under the Town Council portion of the docket.**

- 1. Approval of Minutes – Special Meeting, June 15, 2009.**

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

**2. Approval of Minutes – Regular Meeting, June 15, 2009.**

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

**3. Approval of Minutes – Special Meeting, June 17, 2009.**

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

**4. Approval of Minutes – Special Meeting, June 22, 2009.**

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

**5. Memorandum of Town Administrator, with enclosures, re: Police Station Progress Report #11.**

**Antone Viveiros, 110 Indian Hill Road, noted concern of cost over runs and change orders.**

**Town Administrator Shawn Brown, responding to Mr. Viveiros explained the voters approved an eight million dollar bond, the Town has utilized six million dollars, and the bond amount will remain at six million dollars.**

**Councillor Santos questioned the change orders, submission of Police station bids and who reviewed specifications for the facility.**

**Town Administrator Shawn Brown noted that facility is complex and some adjustments were made by Town Officials for compliance of codes.**

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

**6. Communication of Town Administrator, with enclosures, re: Tax Collector's Report for period ending June 30, 2009.**

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

**7. Communication of Town Administrator, with enclosures, re: Financial Statements for period ending May 31, 2009.**

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

**8. Memorandum of Town Administrator, re: Planning for Off-site Retreat.**

**Councillor Santos questioned who would attend the retreat.**

**Town Administrator Shawn Brown explained his request is for a subcommittee to be established to decide on attendance and agenda of the retreat.**

**On motion of Councillor Silveira, duly seconded, it was voted**

**unanimously to receive said memorandum.**

**9. Memorandum of Town Administrator, re: Assuming the Duties of Tax Assessor.**

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

**10. Memorandum of Town Administrator, with enclosures, re: Police recommendation for Stop Signs on Forest Avenue.**

**Vice Chairman Cambra noted the recommendation of the Police Department is not to erect stop signs on Forest Avenue.**

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

**11. Memorandum of Town Administrator, with enclosures, re: Four Way Stop at High Street and O'Neil Boulevard.**

**Vice Chairman Cambra noted the recommendation of the Police Department to make the intersection of High Street and O'Neil Boulevard a Four Way Stop.**

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

**12. Memorandum of Town Administrator, with enclosures, re: Priority List of Roadways for RIDOT.**

**Town Administrator Shawn Brown explained that the Town has submitted the RI-Leap Community Priority List of Potential Roadways**

**to RIDOT for review and approval. Mr. Brown reviewed the following communication submitted by Public Works Director Tom O'Loughlin entered here:**

**Councillor VonVillas questioned the intersection on West Main Road at Stop & Shop.**

**Town Engineer Warren Hall responding to Councillor VonVillas noted that DOT engineers are reviewing the request for improvements to the intersection.**

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

**13. Memorandum of Town Administrator, with enclosures, re: Request to Amend Chapter 115 Business Regulations – Hawkers and Peddlers.**

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

**14. Memorandum of Town Administrator, with enclosures, re: Request to Amend Chapter 94.32 and Chapter 90.20 Restraint of Dogs.**

**Councillor Santos questioned if there will be an elimination of electric collars on dogs.**

**Town Administrator Shawn Brown noted the recommendation is that people will be required to use a leash and an increase of the fines.**

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

**15. Memorandum of Town Administrator, with enclosure, re: Aquidneck Corporate Park Improvements – EDA Grant Application.**

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

**16. Email communication from Deputy Town Clerk, Town of Charlestown, with enclosures, re: Requesting support of resolutions in opposition of Health Insurance Rate Hikes and Electric Rate Increase.**

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

**17. Email communication from Deputy City Clerk, City of Pawtucket, with enclosure, re: Requesting support of resolution for Governor**

**Carcieri to hold an Educational summit.**

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

**18. Communication of Town Clerk, Town of Westerly, with enclosure, re: Requesting support of resolution in support of U.S. Supreme Court opinion in Carcieri v. Salazar.**

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

**19. Application of Earnest R. Budlong dba Back Room Pub/Restaurant, 999 West Main Road, for RENEWAL of Mechanical Amusement Device License (7 Games, 5 Pool Tables) for the 2009-2010 licensing year.**

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

**20. Application of HPK, Inc. dba Tickets, 15 Aquidneck Avenue, for RENEWAL of Mechanical Amusement Device License (7 Games) for the 2009-2010 licensing year.**

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

**21. Applications from the following named persons, firms or corporations for a Special Events Permit. (See attached list)**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said Special Events Permits.**

**22. Resolution of the Council, re: Preservation of historic resources.**

**Councillor VonVillas questioned the establishment of the resolution.**

**Town Planner Ronald Wolanski, responding to Councillor VonVillas, explained the request originated from the Middletown Historical Society. The passage of this resolution will increase grant opportunities for the Town.**

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

**23. Communication of Christopher E. Fay, Esquire, with enclosures, re: Notice of Claim of Bishop Carr, minor child of Danielle Unger.**

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

## **TOWN COUNCIL**

- 1. Resolution of the Council, re: Commendation for Daniel Donovan III.**

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

**Councillor Silveira recused himself from acting of the following item #2, due to a possible conflict of interest.**

- 2. Application of Becky Hanos dba Just Dogs, Portsmouth, for a Hawker's License for the 2009-2010 licensing year. (499 East Main Road (Aquidneck Grange #30) and special events by invitation only)**

**(NEW)**

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

**Council President Semonelli recused himself from acting on the following item of business, item #3, due to a possible conflict of interest.**

**Councillor Bozyan recused himself from acting on the following item of business, item #3, due to a possible conflict of interest.**

**Vice Chairman Cambra presiding.**

**3. Public Hearing (Advertised)**

## **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 4 Definitions, Article 22 – Senior Independent Living Facilities.**

**Public Hearing was declared open.**

**Town Solicitor Michael Miller explained that the matter has been before the Council and the Planning Board several times. The current version of the ordinance is not compliant with State and Federal laws.**

**The amendment before the Council at this time is compliant with State and Federal laws. Mr. Miller noted that he recommends one modification to the amendment to Article 4 Definition to be the same as Article 2201 C, definition of Senior Independent Living facility.**

**Bruce Long, 1 Winfield Court, addressed the Council expressing concern that if the amendment passes, there will be an increase in density within the area. Mr. Long also questioned the benefit of this ordinance to the Town; he requests the Council not to approve the**

**ordinance.**

**Alice Curran, 429 Forest Avenue, expressed concern that the amendment to the ordinance will increase traffic and cause an increase in the drainage for the area.**

**Patrick O’N. Hayes, Jr., Esquire addressed the Council, representing the Bay Ridge property owners noting that even with the revision to the ordinance it is not likely to have an increase of children in the area. The area will become a positive place within the community. Mr. Hayes urges the Council to pass the ordinance.**

**Ron Granchamp, Premier Property Management, 126 West Main Road, explained that the change in the ordinance is the right thing to do for the community.**

**Discussion centered around the area being a gated community which does not heavily impact Town services and that it is not expected that**

**there will be young children living within that area.**

**William Medeiros, 165 Forest Avenue, expressed concern that there will be an increase in traffic and more children living in the area.**

**Paul Hogan, Real Estate Appraiser, addressed the Council noting that he has been involved with the Bay Ridge from the creation of the development. Mr. Hogan believes there is a false assumption that the area may house many school age children. A study of Whitehall Condominiums shows that within 133 units, there are only 4 school age children. The condominium environments are not where children are raised.**

**Greg Champa, 10 Sunderland Way, resident of Bay Ridge noted his support for the ordinance explaining that he chose the area because it is 55 and over. Mr. Champa would like the Council to support this ordinance.**

**Eric Johnson, President Old Port Homes, noted that the intension of his company is not to sell to young families with children. Mr. Johnson urges the Council to pass this ordinance.**

**Antone Viveiors, 110 Indian Hill Road, expressed concern that only one resident per household will be 55 or older.**

**On motion of Councillor Sylvia, duly seconded, it was voted unanimously to receive said ordinance on its first reading, as amended, to include the recommendation by the Town Solicitor.**

**Council President Semonelli presiding.**

#### **4. Public Hearing (Advertised)**

**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 4 Definitions, Multifamily Dwelling Project and Multifamily Dwelling Structure.**

**Public Hearing was declared open.**

**Town Planner Ron Wolanski explained that the amendments would revise the current definitions addressing the following issues outlined in the memorandum received from Arthur S. Weber, Jr., Chairman, Middletown Planning Board entered here:**

**On motion of Councillor Sylvia, duly seconded, it was voted unanimously to receive said ordinance on its first reading.**

**5. Public Hearing (Advertised)**

**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 7 Supplemental Regulations, Section 705 Fences, Walls and Hedges.**

**Public Hearing was declared open.**

**Town Planner Ron Wolanski noted proposed changes in Sections 705 C, 705 F and 705 H within the Fences, Walls and Hedges ordinance.**

**On motion of Councillor Bozyan, duly seconded, it was voted unanimously to amend the ordinance by adding in Section 705 - C “or trees” after the word bushes, under F (Hedges) delete “except that as to a front yard hedge, the maximum height shall not exceed 6 feet”, under H delete the word “and” after “way,” and add the word “to” before the words “not impede pedestrians”.**

**Councillor Santos questioned barbwire fences.**

**Building Official Jack Kane noted that state law addressed barbwire fences and this ordinance only addresses new fences.**

**Paul O'Neil, 14 King Road, noted his opposition concerning the requirements of permits, fees and plans.**

**Cheryl Foster, 18 Gunning Court, expressed concern that the ordinance does not clearly indicate a distinction between stone and retaining walls. Ms. Foster suggests the 6 foot height requirement on hedges be removed from the ordinance.**

**Antone Viveiros, 110 Indian Hill Road, noted concern of the need for a Fences, Hedges and Walls ordinance.**

**Discussion centered around Town issues with hedges and residents not maintaining them.**

**George Lewis, 100 Bailey Avenue, expressed concerned with historic stone walls which are time consuming and expensive to restore. Mr. Lewis requests to exclude historic stone walls from this ordinance.**

**Building Official Jack Kane noted that restoration of a historic stone wall would be considered maintenance and not a new stone wall.**

**Art Benner, 3 Namquid Drive, explained that he is in agreement with most of the ordinance however, is concerned that the ordinance does not include hedges within the Town encroaching on intersections.**

**Robert Silva, Esquire, 1100 Aquidneck Avenue, addressed the Council noting concern of permits being required for restoration and repair of fences and walls. Mr. Silva suggests the ordinance contain an exception of work associated with restoration and repair of existing fences and walls and suggests a verbiage change in Section I to be consistent with the provisions of Section 803 of the Zoning Code.**

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

**6. An Ordinance of the Town of Middletown (Second Reading)**

**An ordinance in amendment to the Town Code of the Town of Middletown, TITLE VII, the Traffic Code. (Fenner Avenue – No Parking on Roadway)**

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

**7. Memorandum of Town Administrator, with enclosures, re: Information from Police Department – Fraudulent Identification.**

**Chief Pesare addressed the Council reviewing statistical information concerning fraudulent identification from 2008. To date, there has been a decrease in underage incidents due to an increase in enforcement.**

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

**8. Memorandum of Lori Verderosa, MSAPTF Coordinator and Nan Heroux, MSAPTF, Chair, with enclosures, re: Fact information outlining data in support of proposed ordinance.**

**Nan Heroux, Chair MSAPTF, 7 Granada Terrace, addressed the Council reviewing National statistics noting that local statistics are difficult to gather. Ms. Heroux explained that Rhode Island is number one in the Country for substance abuse, Middletown ranks fourth in the use of alcohol and ranks sixth in marijuana use. She urges the Council to pass the ordinance requiring Class A establishments to be RBS certified.**

**Lori Verderosa, MSAPTF Coordinator, addressed the Council reviewing the handout entered here:**

**Ms. Verderosa requests the Council to approve the ordinance requiring RBS training for Class A establishments.**

**Patrol Officer Kevin Parsonage, Newport Police Department addressed the Council explaining that he is involved with RBS training as well as training in identification of fraudulent ID's.**

**Discussion centered around if State Law requires Class A license holders to have RBS training, ID scanning, education needed for parents and older siblings on risks of underage drinking and penalizing parents for allowing consumption on their property. It was the consensus of the Council to support this ordinance.**

**Frank Santos, Sandy's Liquors, Aquidneck Avenue explained that he has been in business over 60 years; the burden being placed on the liquor stores should be on the parents, education for parents and students is needed. Mr. Santos does not support this ordinance.**

**Gerry Kempen, 2 JH Dwyer Drive, owner of Goode Spirits, West Main Road, noted that he is not against the training however, does not believe that there is a need. Mr. Kempen requests the Town to pay for the employees to take the course.**

**Art Benner, 3 Namquid Drive, addressed the Council questioning who was reviewing the use of fake ID's including penalty and punishment.**

**Nicole Walker, Middletown High School Student, explained that many of her friends have fake ID's and she does not want to see anything happen to them.**

**Bailey Rochefort, Middletown High School Student, representing SADD noted that she is aware of the alcohol abuse at school explaining that students obtain alcohol from friends, parents and by using fake ID's.**

**Stephanie Keefe, 21 Proof Training, Providence, addressed the Council reviewing the handout entered here:**

**John Feld, 81 Howland Avenue, employed by CODAC, a parent of four children, explained that a large portion of his patients are adolescences, education is a very important part of prevention. Mr. Feld suggests that Town fines received from alcohol violations be used for liquor store employees training.**

**Kelly Oulette, 100 Ochre Point Avenue, Newport, addressed the Council noting that underage students attending Salve will be living in Middletown and looking for housing within walking distance to package stores or bars.**

**Bruce Long, 1 Winfield Court, thanked the Council for their support of the Task Force and ordinance. Mr. Long explained that passage of the ordinance will help change the culture within the community.**

**Lauren DeSantis, Child and Family Services, Life Skills Class Instructor 6th Grade, requests the Council to support this ordinance.**

**Linda Chaves, 43 Vanicek Avenue, requests the Council to support this ordinance. Ms. Chaves noted that anything to help a child is not a burden, it's an obligation.**

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

## **9. An Ordinance of the Town of Middletown (Second 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 adopt said ordinance on its second reading.**

**10. Memorandum of Town Administrator, with enclosures, re: Jurisdiction – Naval Station Newport – Tank Farm 5.**

**Town Administrator Shawn Brown reviewed the memorandum entered here:**

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

**11. Resolution of the Council, re: Jurisdiction - Naval Station**

## **Newport – Tank Farm 5.**

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

**12. Memorandum of Town Administrator, with enclosures, re: Award of contract Miantonomi Sewer Project 2009.**

**Town Administrator Shawn Brown explained that the bid is related to the Miantonomi/ Fenner Avenues sewer system replacement.**

**Manny Mello, 31 Beacon Terrace North, questioned placement of the sewer pipes, tie in to manholes, storm drains and gas lines in the area.**

**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 is on file in the Office of the Town Clerk.**

**13. Resolution of the Council, re: Award of contract Miantonomi Sewer Project 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to award the contract; subject to the Finance Director and Town Administrator identifying the proper funding source; to be provided to the Council at its next regular meeting August 3, 2009.**

**14. Memorandum of Town Administrator, with enclosure, re: Secretary of State Local Government Records Grant.**

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

**15. Resolution of the Council, re: Accepting Secretary of State Local Government Record Grant and authorizing Town matching funds.**

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

**16. Memorandum of Councillor Sylvia, re: Limiting the appointment of residents to boards and commissions.**

**Councillor Sylvia reviewed this communication entered here:**

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

**Council President Semonelli and Councillor Silveira expressed concern of limiting involvement of residents to the committees.**

**On motion of Councillor Sylvia, duly seconded, it was voted to establish a resolution limiting residents to two committees; resolution to be drafted by the Town Solicitor; Council President Semonelli, Councillor Cambra and Councillor Silveira 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 expressing concern of the Building Department operations and questioning if permits have increased or decreased.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 10:25 P.M.**

**Wendy J.W. Marshall, CMC**

**Council Clerk**

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