

## **December 7, 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, December 7, 2009 at 6:00 P.M.**

**Council President Christopher T. Semonelli, Presiding**

**Vice Chairman Richard Cambra, Vice Chairman**

**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) litigation (Environment Rhode Island vs. Town of Middletown), litigation (RIDEM vs. Town of Middletown), litigation (East Main Road – Plat 118, Lot 31), (5) lease (East Main Road – Plat 118, Lot 31), (5) lease (Joel Peckham School) and (5) land acquisition.**

**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, duly seconded, it was voted unanimously to reconvene this meeting in open session at 7:00 P.M.**

**Councillor Santos requested a moment of silence in memory of Pearl Harbor.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted to pass said resolution and authorize Finance Director Lynne Dible to execute lease with Lamar Company; Vice Chairman Cambra voted NO to said motion; said resolution is entered here:**

**Town Administrator Shawn Brown recused himself from participating in discussion of (5) lease (Joel Peckham School), due to a possible conflict of interest.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Finance Director Lynne Dible as the contact person for negotiations with the East Bay Community Action (EBCA).**

**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**

**Councillor Silveira recused himself from acting on the following three items of business, #1, #2 and #3, due to a possible conflict of interest.**

**1. Application of Aquidneck Health, LLC, 66 Valley Road holder of a Class BL Alcoholic Beverage License to TRANSFER said license to McGrath Clambakes, Inc. for use at the same premises. (Requires Advertising for Public Hearing)**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to advertise said license transfer application for a public hearing to be held at the January 4, 2010 regular meeting of the board.**

**2. (Public Hearing Advertised)**

**Application of Robert Sanches dba The Briarwood, 93 Aquidneck Avenue for RENEWAL of a Class C Liquor License for the 2009-2010 licensing year.**

**Public Hearing declared open.**

**There being no person 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 license renewal.**

**3. (Public Hearing Advertised)**

**Application of Robert Sanches dba The Briarwood, 93 Aquidneck Avenue holder of a Class C Alcoholic Beverage License to TRANSFER said license to The Briarwood, LLC dba The Briarwood Lounge for use at the same premises.**

**Public Hearing declared open.**

**There being no person 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 license transfer.**

## **CONSENT CALENDAR**

**Vice Chairman Cambra requested that item #7, be heard under the Town Council portion of the docket.**

- 1. Approval of Minutes – Regular Meeting, November 16, 2009.**

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

**2. Memorandum of Luly E. Massaro, Commission Clerk, re: Procedural Schedule for Docket No. 4128 – City of Newport Water Division – Cost of Service Study/Rate Design.**

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

**3. Memorandum of Acting Tax Assessor, 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.**

**4. 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.**

**5. Memorandum of Town Administrator, re: Unreserved Fund Balance Designation – UV Storm water Treatment System.**

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

**6. Resolution of the Council, re: Approving removal of Unreserved Fund Balance for UV/Storm water Treatment.**

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

**unanimously to pass said resolution.**

**7. Communication of Mason Hawes, Chairperson, Open Space and Fields Committee, re: Requesting removal of Town billboards.**

**G. Mason Hawes Chairman, Open Space and Fields Committee, addressed the Council requesting the removal of Town billboards. Mr. Hawes was under the impression that the billboards would be removed when the Nursery property was purchased. He suggested that money be raised or donated to the Town for removal of the billboards.**

**James Peckham, Little Creek Lane, spoke in favor of keeping the billboards noting that the Town should not turn down potential revenue at this time.**

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

## **TOWN COUNCIL**

- 1. Communication of Jordan Glenning, Everett Collins, Jarrett Collins, Justin Watkins, Kristin Synnott, Sarah Black, Maggie Kerins, Lucas Christian, Gaudet Middletown School Robotic Team, re: Presentation of research on reducing summer tourist traffic.**

**Jarrett Collins, Everett Collins and Jordan Glenning, representing the Gaudet Middle School Robotics Team, addressed the Council presenting their research on reducing summer tourist traffic. Their proposed solution was to have the tourists park at Gaudet School, for a fee and work with RIPTA to transport the visitors to local areas.**

**Councillor Silveira noted that he will formally bring this proposal to the Newport County Convention and Visitors Bureau for consideration.**

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

**2. Memorandum of Councillor Santos, re: Food Drive.**

**Councillor Santos thanked all who participated in the Hunger Never Takes A Holiday food drive. There were 227 items donated which she matched 234 for a total 461 items.**

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

**3. Communication of Cheryl Foster, 18 Gunning Court, re: Food Stamp Program.**

**Cheryl Foster, 18 Gunning Court, addressed the Council noting that the food stamp program is administered by the Department of Agriculture and ineligible people may be more generously served by the food pantries.**

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

**4. Communication of Peter Gallipeau, Middletown, re: Barker Burial Ground.**

**Town Administrator Shawn Brown explained that Town staff recommends not taking responsibility for the cemetery and suggests including cemetery responsibility within the homeowners covenants.**

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

**5. Memorandum of Board of Directors by Sara Gill, President, Easton's Point Association, re: Proposed Ordinance Regarding Wind Turbines.**

**David Dittmann, 44 Oceanview Drive, noted his support of wind as alternate energy source; however, expressed concern that the proposed ordinance does not address location for wind turbines.**

**John Bagwill, 587 Tuckerman Avenue, addressed the Council reviewing the following concerns and proposals.**

**Anthony Spiratos, 333 Tuckerman Avenue, addressed the Council explaining that wind turbines are harmful to humans, citing information included in handouts he presented to the Council, which are on file in the Office of the Town Clerk. Mr. Spiratos noted support for green energy and discrete roof top wind turbines.**

**Bruce Long, 1 Winfield Court, explained that he looks at the wind turbine in two different avenues, Town owned residential/commercial owned. Mr. Long spoke in support of the Council holding back on the wind turbine decision.**

**Peter Tarpgaard, 5 Longmeadow Avenue, member of the Wind Turbine Committee, spoke in support of wind turbines noting economics and decreasing the cost of electricity.**

**Don Mallinson, 201 Fairway Drive, member of the Wind Turbine Committee, explained his passion to protect the environment. Mr. Mallinson noted a conference on December 7, 2009 in Copenhagen which will address environmental issues.**

**Bruce Ryerson, 391 Forest Avenue, addressed the Council explaining his support of alternate energy, noting that he does not expect many wind turbines within his neighborhood. Mr. Ryerson requests the Council to consider a workshop on Wind Turbines.**

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

**6. Memorandum of Council President Semonelli, re: Wind Turbine Workshop.**

**Council President Semonelli explained that he would like to discuss the Wind Turbine issue noting concern with the scenic vistas of the Town. Mr. Semonelli reviewed the following portion of Planning Board Chair Arthur Weber's memorandum entered here:**

**He noted the responsibility of the Council to develop guidance for the Planning Board. Mr. Semonelli requests a workshop to explore the following questions:**

- 1. Are wind turbines appropriate in Middletown and, if so, are they**

**appropriate in all zoning districts or areas of the town?**

**2. If allowed, should wind turbines be limited to properties that have a certain minimum size?**

**3. If allowed, can standards be developed, or can districts be identified, to insure that wind turbines do not detract from the scenic beauty and vistas of Middletown?**

**4. Do wind turbines have any impact on property values?**

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

**Councillor Silveira reviewed information from the administration concerning how many meetings/workshops and monies spent to advertise the proposed Wind Turbine Ordinance entered here:**

**Mr. Silveira noted he would not support a motion to have a workshop on the Wind Turbine Ordinance.**

**Councillor Santos noted with all the meetings and advertising the Town has spent close to \$5,000.**

**Councillor Sylvia explained that esthetically he thinks wind turbines should be prohibited. Mr. Sylvia noted that he is not anti-energy conservation and does not see a line of people applying for permits to build wind turbines. He believes each request should be reviewed on a case by case basis. Mr. Sylvia noted that he would not support a motion to have a workshop on Wind Turbines.**

**Councillor VonVillas noted appreciation for the citizens concerns however, explained that the Council supports what is in the best interest of the Town as a whole. The Council needs to make a fair decision.**

**Dave Dittman, 44 Ocean View Drive, expressed concern that locations of wind turbines are not within the proposed ordinance.**

**Christine Forster, 124 Green End Avenue, Chair Wind Turbine Committee, noted that the turbine at the Industrial park is elegant. Ms. Forster noted that a wind turbine cannot be built until a study has been completed guaranteeing a return on the investment.**

**Arthur Weber, 145 Island Drive, Planning Board Chairman, noted that information received from the Northeast Engineering Firm explained the wind turbine is able to supply electricity for 15 homes with a savings of \$20,000 yearly.**

**Councillor Bozyan noted that the ordinance requires further updates within sections 25A00 Purpose and 25A05 Procedure. Mr. Bozyan noted support for a workshop concerning wind turbines.**

**Vice Chairman Cambra expressed support for a workshop concerning the proposed wind turbine ordinance.**

**Councillor Santos noted the request for a workshop should have been made prior to the Planning Board drafting this ordinance.**

**On motion of Councillor Semonelli, duly seconded, it was voted to have a work shop to answer 1. Are wind turbines appropriate in Middletown and, if so, are they appropriate in all zoning districts or areas of the town? 2. If allowed, should wind turbines be limited to properties that have a certain minimum size? 3. If allowed, can standards be developed, or can districts be identified, to insure that wind turbines do not detract from the scenic beauty and vistas of Middletown? and 4. Do wind turbines have any impact on property values?; Council President Semonelli, Vice Chairman Cambra and Councillor Bozyan voted YES; Councillor Santos, Councillor Silveira, Councillor Sylvia and Councillor VonVillas voted NO to said motion; MOTION FAILED TO PASS.**

**7. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, with enclosure, re: Proposed Zoning Ordinance amendment - Wind Energy Conversion Facilities. (Requires Advertising for Public Hearing)**

**On motion of Councillor Silveira, duly seconded, it was voted to receive said memorandum, and advertise the proposed ordinance for hearing to be held at the January 4, 2010 regular meeting of the Council; Council President Semonelli voted NO.**

**8. Memorandum of Vice Chairman Cambra, re: Wind Turbine Moratorium.**

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

**9. Resolution of the Council, re: Wind Turbine Moratorium.**

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

**10. Memorandum of Town Administrator, with enclosures, re: Award of Contract for Recreation Facilities & Open Space Master Plan.**

**Town Administrator reviewed his memorandum entered here:**

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

**Proposal referenced in above memorandum is on file in the Office of the Town Clerk.**

**G. Mason Hawes, 431 Reservoir Road, Chairman Open Space and Fields Committee, noted support of the Town Administrators recommendation awarding the contract to Vanasse Hangen Brustlin for the study to benefit open space and recreation.**

**Councillor Silveira thanked the Open Space and Fields committee for all their hard work.**

**Vice Chairman Cambra noted that the Open Space and Fields committee is doing a great job. Mr. Cambra explained that currently there is no plan in place and the Town will receive a positive return on this investment.**

**Paul Lamond, 2 Porter Road, addressed the Council explaining he is not against this plan, however, suggests the contract be postponed, due to the current economy.**

**Councillor Sylvia noted that he applauds Mr. Lamond for his position on the subject.**

**Councillor Santos noted that she is in agreement with what Mr. Lamond explaining the beach fund this season is down 10%. Mrs.**

**Santos noted her support for open space, but suggests delaying the process.**

**Town Administrator Shawn Brown explained that Open Space /Parks & Recreation have always been provided for by this fund. Residents want more ball fields and areas to play lacrosse. There is a responsibility to keep the quality of life within the Town.**

**Councillor Silveira noted prior discussions in support of a study for Town open space.**

**11. Resolution of the Council, re: Award of Contract for Recreation Facilities & Open Space Master Plan.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted to pass said resolution; Councillor Santos and Councillor Sylvia voted NO to said motion.**

**12. Memorandum of Town Administrator, with enclosures, re: Staffing for Adequate Fire and Emergency Response (SAFER) Grant.**

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

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

**Fire Chief Ron Doire reviewed options entered here:**

**Vice Chairman Cambra noted that he was impressed with the professionalism of the department when present for a rescue call.**

**Councillor Sylvia questioned if the salary reimbursement includes benefits?**

**Fire Chief Doire, responding to Councillor Sylvia, noted that benefits are included.**

**13. Resolution of the Council, re: Authorizing submission of (SAFER) Grant application.**

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

**14. Memorandum of Town Administrator, with enclosures, re: Snow & Ice Operations.**

**Town Administrator Shawn Brown reviewed his memorandum**

**entered here:**

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

**Discussion centered around out sourcing the Snow & Ice Operations, leasing or renting a vehicle, vehicle shelf life, man power to operate the vehicle and supplying the same level of service to the Town as in the past.**

**Town Administrator Brown noted to outsource the operations may become costly; there should be a 10 to 15 year shelf life on the vehicle.**

**Public Works Director Tom O'Loughlin explained that a lease option would be considered if a new vehicle was going to be purchased, there will be enough manpower and level of service will remain the same.**

**15. Resolution of the Council, re: Authorizing Town Administrator to implement efficiencies – DPW purchases.**

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

**16. Memorandum of Town Administrator, with enclosures, re: Request from Aquidneck Island School/Municipal Advisory Group.**

**Councillor VonVillas noted that she will not support this request explaining that she does not oppose the study however; the committee requesting the support has no official standing.**

**Councillor Silveira explained that he supports a Regional Planning Committee however, cannot support a committee which has no**

**official charge. Mr. Silveira suggested this committee be consistent with other Town boards.**

**Council President Semonelli noted that the Aquidneck Island School/Municipal Advisory Group does not have an official designee from this Council however, he attends the meetings. The group requested the RIPEC regionalization study. Mr. Semonelli also noted support for the proposed educational benefits of regionalization study.**

**Vice Chairman Cambra suggested tabling this matter until after the Town Council Special meeting, December 14, 2009.**

**Councillor Sylvia noted that he agrees with Councillor VonVillas not to support this request by a committee with no official standing.**

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

**17. Resolution of the Council, re: Allocating funds to support a study regarding educational benefits of regionalization.**

**On motion of Silveira, duly seconded, it was voted to pass said resolution; Council President Semonelli and Councillor Bozyan voted Yes; Vice Chairman Cambra, Councillor Santos, Councillor Silveira, Councillor Sylvia and Councillor VonVillas voted NO to said motion; MOTION FAILED TO PASS.**

**18. (Continued from Regular Meeting, November 2, 2009)**

**Communication of Kevin and Jackie Zahm, 17 Reardon Drive, re: Requesting Town to abandon or remove improvements of a small section of Reardon Drive. (Administration requests to continue said matter to January 4, 2010 regular meeting of the Council)**

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

**unanimously to continue this matter to the January 4, 2010, regular meeting of the Council.**

**19. Appointment of one (1) member to the Substance Abuse Task Force to complete a term expiring March 2011.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Wendy Lord Harvey to the Substance Abuse Task Force to complete a term expiring March 2011.**

**20. Appointment of one (1) member to the Personnel Board for a term expiring December 2012.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reappoint Lawrence B. Kestler to the Personnel Board for a term expiring December 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 during session.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 9:32 P.M.**

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

**Council Clerk**

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