

January 4, 2010 - 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, January 4, 2010 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 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 (Environment Rhode Island vs. Town of Middletown).

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 6:15 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to authorize the Town Administrator to sign the consent 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.

Town Administrator Shawn Brown recused himself from the following presentation, due to a possible conflict of interest.

PRESENTATION

East Bay Community Action Program, re: Activities within the Town of Middletown.

Dennis Roy, Chief Executive Officer, East Bay Community Action Program addressed the Council noting his appreciation for the Town history with EBCAP. Mr. Roy explained that EBCAP serves several Cities and Towns, outlining the services provided to Middletown residents as follows:

Barbara Schermack, Director of the Head Start Program, currently occupying the Joel Peckham School reviewed the following communication entered here:

Ms. Schermack requested the establishment of a mutual dialogue between the Town and EBCAP and the need from a minimum of a 5 year lease.

Carole Moreau, EBCAP Board of Directors member, addressed the Council speaking as a parent expressing support of the Head Start Program. Ms. Moreau explained the benefits her child received from services provided by the program.

Superintendent of Schools Rosemarie Kraeger noted the relationship shared by the Public Schools with the Head Start Program. Ms. Kraeger explained the seamless transition of students when leaving the program and entering the public school system.

The presentation ended at 6:45 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 6:46 P.M.

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

ACTING AS A BOARD OF LICENSE COMMISSION

1. (Public Hearing Advertised)

Application of Aquidneck Health, LLC, 66 Valley Road holder of a Class BL Alcoholic Beverage License to TRANSFER said license to McGrath Clambakes, Inc. dba Café At NAC by McGrath Clambakes 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

- 1. Approval of Minutes – Regular Meeting, December 7, 2009.**

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

2. Approval of Minutes – Special Meeting, December 14, 2009.

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

3. Communication of Amanda Frye Leinhos, Executive Director, Dr. Martin Luther King Jr. Community Center, re: Appreciation for nonperishable food donation.

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

4. Resolution of Westerly Town Council, re: To relieve the Town of Westerly and its taxpayers from unfunded mandates.

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

5. Communication from Town Clerk Portsmouth, with enclosure, re: Resolution in opposition to House Bill 5931 and Senate Bill 606.

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

6. Communication from City Clerk Newport, with enclosure, re: Resolution in opposition of locating a liquefied natural gas facility in Mount Hope Bay.

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

7. Memorandum of Town Administrator, with enclosure, re: Notice of Compliance with RIDEM Phase II Storm Water Regulations.

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

8. Application of Middletown Senior Citizens Center, 650 Green End Avenue, for RENEWAL of Bingo License for the 2010-2011 licensing year.

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

9. Continued from Regular Meeting, December 7, 2009

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 19, 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 19, 2010, regular meeting of the Council.

10. Proposed Budget Meeting Schedule.

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

TOWN COUNCIL

1. Memorandum of Town Administrator, re: Employee Recognition

Program – Pins of Service.

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

Public Works Department employees, present were Richard Silveira receiving his twenty (20) year pin and Joseph Lopes, receiving his ten (10) year pin for service with the Town, which were presented to them by Council President Semonelli.

2. Application of McGrath Clambakes, Inc. dba Café At NAC by McGrath Clambakes, 66 Valley Road for a Victualling House License for the 2009-2010 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.

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 25A – Wind Energy Conversion Facilities.

Public Hearing declared open.

Town Planner Ronald Wolanski addressed the Council reviewing the proposed ordinance history and outlining the proposed amendments for the memorandum entered here:

John W. Bagwill, 587 Tuckerman Avenue, addressed the Council referring to a report from the Town of Brewster, which addresses scenic views within Brewster. Mr. Bagwill requests a similar study be completed to determine scenic views within the Town of Middletown.

Jocelyn Sherman, 83 Indian Avenue, expressed concern that the Town's historical scenic beauty will be destroyed by wind turbines. Ms. Sherman suggests consideration of a wind farm or solar panels.

Sara Gill, 479 Wolcott Avenue, noted that artists come to paint historical views of Middletown. Ms. Gill requests preservation of rural areas.

Dave Dittman, 44 Ocean View Drive, expressed support for the Town to benefit from a wind turbine. Mr. Dittman stated he does not support placement of wind turbines in residential areas, however, is in favor of a wind farm.

Bob Ullrich, of Jamestown, noted that the Town of Jamestown is in a similar situation regarding wind energy. Mr. Ullrich is in support of an off shore wind farm as a public utility, not as the property of individuals.

Art Benner, 3 Namquid Drive, expressed support of the Council to do what is best for the Town of Middletown. Mr. Benner is in favor of a wind turbine to benefit the Town and to help to reduce the tax rate.

Don Maillinson, 201 Fairway Drive, noted his support of Council and Planning Board efforts preparing the wind turbine ordinance. Mr. Maillinson is in favor of a wind turbine to benefit the Town and requests the Council support the ordinance.

Council discussion centered around if the Town could/should be exempt from the wind turbine ordinance and amendments to said ordinance.

On motion of Councillor Bozyan, duly seconded, it was voted to amend said ordinance Section 25A03 Requirements, (D) line three remove the words “height limits for the type of”, and remove in Section 25A03 Requirements (E) the words “limit for the type”;

Council President Semonelli and Councillor Bozyan voted YES; Vice Chairman Cambra, Councillor Santos, Councillor Sylvia and Councillor VonVillas voted NO, to said motion; MOTION FAILED TO PASS.

Council President Semonelli noted the exemplary efforts by the Planning Board preparing the wind turbine ordinance. Mr. Semonelli expressed concern with the proposed ordinance not defining scenic vistas within the Town and suggests preparation of an RFP for a scenic vista study.

Councillor VonVillas explained that she would not support the request noting a prior meeting where the council explained to residents that the Town cannot define views.

Councillor Santos noted she cannot support spending funds for a study, which she believes is not needed.

Councillor Sylvia noted agreement with Councillor Santos and Councillor VonVillas explaining that the Council is appointed to do what is best for the Town as a whole.

Vice Chairman Cambra noted agreement with Councillors VonVillas, Councillor Santos, and Councillor Sylvia, explaining that view is difficult to define and the need to put this ordinance in place.

Public hearing remains open

On motion of Council President Semonelli, duly seconded, it was voted to receive said ordinance on its first reading, advertise for a RFP for a study of Town wide scenic vistas and continue said matter until the study is completed; Council President Semonelli and Councillor Bozyan voted YES; Vice Chairman Cambra, Councillor Santos, Councillor Sylvia and Councilor VonVillas voted NO, to said motion; MOTION FAILED TO PASS.

On motion of Vice Chairman Cambra, duly seconded, it was voted to receive said ordinance on its first reading; Council President Semonelli and Councillor Bozyan voted NO to said motion.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to schedule the second public hearing for the Wind Energy Conversion Facilities ordinance to February 1, 2010, regular meeting of the Council at 7:00pm.

4. Memorandum of John W. Bagwill, Member, Easton's Point Association Board, with enclosures, re: Wind Turbine Ordinance.

John W. Bagwill, 587 Tuckerman Avenue, suggests a study for historic scenic vistas within the Town, noting his offer to raise funds for the study.

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

5. Communication of Francis L. Lennon, President, USS Saratoga Museum Foundation, Inc., re: Requesting support of the possibility of mooring an aircraft carrier on waterfront property within Town boundaries.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to withdraw said communication without prejudice.

6. Communication of James J. Karam, President & CEO, First Bristol Corporation, re: Expressing support for the proposed Saratoga Museum Foundation project.

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

7. Memorandum of Councillor VonVillas, re: Saratoga Museum.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to withdraw said communication without prejudice.

8. Email Communication of Councillor Silveira, with enclosures, re: Aircraft Carrier Proposal.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to withdraw said communication without prejudice.

9. Resolution of the Council, re: Aircraft Carrier Proposal.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to withdraw said communication without prejudice.

10. Memorandum of Councillor VonVillas, re: Regional Planning Committee.

Councillor VonVillas reviewed her request from the December 14, 2009 meeting with the School Committee, to establish a formal regional planning committee, to explore the possibility of regionalization. Ms. VonVillas is requesting that Newport and Portsmouth do the same. Councillor VonVillas is in support of an educational study once the official committee is formed.

Councillor Sylvia noted his reservations if the committee would be covered statutorily and noted his support for the continued work of the ad hoc committee.

Council President Semonelli noted that regionalization could provide a savings for our community, a regional planning committee must be formed and monies should be funded to the ad hoc committee for an educational study.

Councillor VonVillas requests that the official committee review the educational study questions within Rhode Island General Law 16-3-3.1. Once the study is complete, the ad hoc committee will dissolve.

Superintendent Rosemarie Kraeger noted that the ad hoc committee has been completely transparent and has followed state law.

Vice Chairman Cambra questioned the need to form another committee at this time.

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

On motion of Councillor Sylvia, duly seconded, it was voted to

appropriated Five Thousand Dollars (\$5,000.00) to Aquidneck Island School/Municipal Advisory Group for a study regarding the Educational Benefits of Regionalization of Schools on Aquidneck Island; Council President Semonelli, Vice Chairman Cambra, Councillor Bozyan, Councillor Santos, Councillor Sylvia voted YES to said motion; Councillor VonVillas voted NO; due to, not following legislation to establish a Regional Planning Committee in accordance with RIGL 16-3-4.

On motion of Council President Semonelli, duly seconded, it was voted to establish a Regional Planning Committee in accordance with RIGL 16-3-4; the Town of Portsmouth and/or City of Newport form a Regional Planning Board in accordance with RIGL 16-3-4; Council President Semonelli, Councillor Bozyan and Councillor VonVillas voted YES; Vice Chairman Cambra, Councillor Santos and Councillor Sylvia voted NO to said motion; MOTION FAILED TO PASS.

11. Resolution of the Council, re: Regional Planning Committee and the allocation of funds to support a study regarding educational benefits of regionalization.

12. Memorandum of Town Administrator, re: Opposing LNG Operations.

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

13. Resolution of Council, re: Opposing LNG Operations.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to include “Hess, LNG, LLC.” in reference to Weaver’s Cove Energy, in the first line of the resolution.

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

14. Appointment of two (2) members to the Middletown Beach Commission for terms expiring January 2012.

On motion of Vice Chairman Cambra, duly seconded it was voted unanimously to reappoint John Crimmins and Helen F. Flynn to the Middletown Beach Commission for terms expiring January 2012.

15. Appointment of three (3) members to the Senior Citizens Board of Directors for terms expiring January 2013.

On motion of Vice Chairman Cambra, duly seconded it was voted unanimously to reappoint r Joan M. Gilleran, and Alice M. Whitney, and appoint Anne Quigley to the Senior Citizens Board of Directors for terms expiring January 2013.

16. Appointment of one (1) member to the Middletown Tree Commission for a term expiring January 2013.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reappoint Arthur E. Benner to the Middletown Tree Commission for a term expiring January 2013.

17. Communication of Senator DiPalma, re: Request to schedule a meeting to discuss the Town's Legislative Agenda for 2010.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and schedule said meeting for February 1, 2010 at 6:00 pm.

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 8:50 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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