

July 19, 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, July 19, 2010 at 6:00 P.M.

Council President Christopher T. Semonelli, Presiding

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

Vice Chairman Richard Cambra, Absent

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2.,42-46-4., and 42-46-5. (a) (2) Collective Bargaining (Police, Fire, Public Works and Town Hall Unions).

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to recess this meeting at 6:01 P.M. and reconvene in executive session.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to reconvene this meeting in open session at 6:57 P.M.

On motion of Councillor Bozyan, duly seconded, it was voted

unanimously to seal the minutes of the executive session pursuant to Section 42-46-7.

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

ACTING AS A BOARD OF LICENSE COMMISSION

1. (Public Hearing Advertised; abutters notified)

Application of Royal Plaza, LLC, dba Portofino Bar & Grille at Royal Plaza Hotel, 425 East Main Road, Middletown, for a Retailer's Class BT Alcoholic Beverage License for the 2009-2010 licensing year.

Public Hearing was declared open.

David Martland, Esquire, 1100 Aquidneck Avenue, representing Royal Plaza, LLC, addressed the Council noting that he was present to answer any questions the Council may have.

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

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to grant said license.

Town Solicitor Michael W. Miller recused himself from the following item of business #2, due to a possible conflict of interest.

2. Petition of Olin D. Gambrell, President and Jane Gambrell, Secretary, All-Vets Club, 985 Aquidneck Avenue, re: Request for expansion of Class D Alcoholic Beverage License to provide outdoor service on July 24, 2010, Steak Fry Fundraising event for charities.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to grant said request.

Town Council President Semonelli requested a moment of silence in honor of long time resident Arthur Benner.

Councillor Santos requested to have item #9 be heard under the Town Council portion of the agenda.

CONSENT CALENDAR

1. Approval of Minutes – Special Meeting, June 9, 2010.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to approve said minutes.

2. Approval of Minutes – Special Meeting, June 14, 2010.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to approve said minutes.

3. Approval of Minutes – Special Meeting, June 16, 2010.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to approve said minutes.

4. Approval of Minutes – Special Meeting, June 21, 2010.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to approve said minutes.

5. Approval of Minutes – Regular Meeting, June 21, 2010.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to approve said minutes.

6. Pension Investment Advisory Committee, re: Minutes.

On motion of Council President Semonelli, duly seconded, it was

voted unanimously to approve said minutes.

7. Communication of Superintendent of Schools Rosemarie K. Kraeger, re: Confirmation of appointments to the Regionalization Committee.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to receive said communication.

8. Resolutions three (3) from the Town of Cumberland, re: 1) Requesting support of Fair Education Funding Formula 2) Binding Arbitration and 3) Contract Continuation.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to receive said resolutions.

9. Memorandum of Tax Assessor, with enclosures, re: Cancellation of taxes for Middletown taxpayers.

Councillor Santos questioned if the two consultants were still retained in the Tax Assessor's office.

Town Administrator Shawn Brown, responding to Councillor Santos, noted that the consultants will remain until the completion of the tax bills.

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

10. Resolution of the Council, re: Cancellation of taxes for Middletown taxpayers.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to pass said resolution.

11. Memorandum of Town Administrator, re: Tax Collector's Report for period ending June 30, 2010.

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

12. Application of Rui F. Almeida dba Doughboy's Kitchen, Fall River, MA for RENEWAL of Mobile Food Service License for the 2010-2011 licensing year.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to grant said license.

13. Application for Special Event Permit from Newport Film for Newport Film Outdoors @ Sweet Berry Farm to be held at Sweet Berry Farm, 915 Mitchell's Lane on Wednesday, July 28, 2010 beginning at 7:00 pm until 10:00 pm.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to grant said permit.

14. Application for Special Event Permit from Caitlin A. Hill, representing Sweet Berry Farm, for The Ravers at Sweet Berry Farm to be held at Sweet Berry Farm, 915 Mitchell's Lane on Saturday, August 21, 2010 beginning at 4:00 pm until 7:00 pm.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to grant said permit.

15. Application for Special Event Permit from St. Columba's for the "Run for the Island" to be held at St. Columba's, 55 Vacluse Avenue

on Saturday, August 21, 2010 beginning at 9:00 am. (Traffic Plan attached)

On motion of Council President Semonelli, duly seconded, it was voted unanimously to grant said permit.

16. Application for Special Event Permit from Tuesday Night Athletic Foundation/USA Swimming for Second Beach Open Water Challenge to be held at Second Beach on Saturday, September 18, 2010 from 7:00 am to 12:00 pm; rain date Sunday, September 19, 2010 from 7:00 am to 12:00 pm.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to grant said permit.

TOWN COUNCIL

1. Memorandum of Town Administrator, re: Employee Recognition Program – Pins of Service.

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

Council President Semonelli presented Firefighter Adam Westman with a ten (10) year pin.

Councillor Silveira recused himself from acting on the following items #2, #3 and #4 of business, due to a possible conflict of interest, business related.

2. Application of Royal Plaza, LLC dba Portofino Bar & Grille at Royal Plaza Hotel, 425 East Main Road for a Victualling House License for the 2009-2010 licensing year. (NEW)

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to grant said license, contingent on Building Official, Fire Marshal, Board of Health and Public Works approvals.

3. Application of EvaRuth's, Inc. dba Eva Ruth's, 796 Aquidneck Avenue for a Victualling House License for the 2009-2010 licensing year. (NEW)

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to grant said license, contingent on Building Official, Fire Marshal, Board of Health and Public Works approvals.

4. Application of Flat Waves, LLC dba Flat Waves, 1130 Aquidneck Avenue for a Hawkers License for the 2010-2011 licensing year. (NEW)

On motion of Councillor Bozyan, duly seconded, it was voted

unanimously to grant said license.

5. Application of Newport Vineyards, 909 East Main Road for a one day Amusement License for a Jazz Performance – Trio to be held on Thursday, August 5, 2010.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to grant said license.

6. Application of Newport Vineyards, 909 East Main Road for an Amusement License for a Shakespeare Performance to be held on Friday, August 6, 2010 and Saturday, August 7, 2010.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to grant said license.

7. Communication of Sam Fazzio, Cumberland, Rhode Island, re: Campground fees 25% increase for fiscal year July 1, 2010 to June 30, 2011.

Sam Fazzio, 29 Taft Road, Cumberland, Rhode Island, addressed the Council requesting the Council to revisit the campground fee increase and consider a lesser amount.

Councillor Santos questioned if there is a waiting list for campground sites.

Councillor Bozyan noted that the last several increases to the campground fees were seven percent.

Council President Semonelli questioned if the Town could consider having the campground open a few extra weeks per year.

Town Administrator Shawn Brown noted that there is a waiting list for

campground sites. Mr. Brown will discuss the fee increase with the Beach Commission and report to the Council at a later date.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to receive said communication.

8. Memorandum of Town Administrator, re: Review of NBCS Coyote Best Management Practices.

Town Administrator Shawn Brown reviewed his memorandum entered here:

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

Councillor Santos expressed concern regarding live stock carcasses'

becoming prey for coyotes.

Town Administrator Shawn Brown noted that Town Ordinance states the Town is not responsible for decreased livestock; it is the responsibility of the owner.

9. Memorandum of Town Administrator, with enclosures, re: Concerns about Forest Avenue.

Town Administrator Shawn Brown reviewed the following memorandum with enclosures entered here:

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

Public Works Director Tom O'Loughlin noted that he is in contact

with National Grid concerning Forest Avenue. To date, the repairs have not been scheduled. Mr. O'Loughlin explained that National Grid will be reviewing a Town project priority list with him. The Town has negotiated performance requirements with National Grid.

10. Memorandum of Robert M. Silva, Chairman Economic Development Advisory Committee, re: Mayforth Group – Recommendation for contract extension.

Robert M. Silva, Economic Development Advisory Committee Chairman, addressed the Council noting the impact on the Town from the passing of Arthur Benner.

Mr. Silva requests the Town to consider extending the Mayforth Group contract.

Councillor Sylvia, liaison to the Economic Development Advisory Committee, explained the importance of retaining the Mayforth Group

to the Town and urged his colleagues to support the contract extension.

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

11. Resolution of the Council, re: Award of contract extension Mayforth Group, LLC.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to pass said resolution.

12. Memorandum of Town Administrator, with enclosures, re: West Main/Coddington Master Plan.

Town Administrator Shawn Brown reviewed the memorandum and

enclosures entered here:

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

Councillor Sylvia noted the project was placed in the current budget.

Councillor Santos expressed concern with the funding for the West Main/Coddington Master Plan and the library.

Town Administrator Shawn Brown explained that area contains no crosswalks and generates no tax revenue. Mr. Brown explained that the funding for the study is from the Aquidneck Island Planning Commission, Newport County Chamber of Commerce and the Town Planner operating budget.

13. Resolution of the Council, re: Award of contract to fund West Main/Coddington Master Plan.

On motion of Councillor Bozyan, duly seconded, it was voted to pass said resolution; Councillor Santos voted NO to said motion; Councillor Silveira abstained.

14. Memorandum of Town Administrator, with enclosures, re: Contract Award – Financial Audit Services.

Town Administrator Shawn Brown the following memorandum entered here:

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

15. Resolution of the Council, re: Award of contract for Financial Audit Services.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to pass said resolution.

16. Memorandum of Town Administrator, re: Increasing Penalties for Dog Control Violations and Fees for Dog Licenses.

Town Administrator Shawn Brown reviewed the following memorandum entered here:

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

Councillor Santos noted her opposition to an increase for a dog

license.

**17. Resolution of the Council, re: Amendment to RIGL 4.13.1
Regulatory ordinance – Enforcement and penalties for animal control
violation for the Town of Middletown.**

**On motion of Councillor Bozyan, duly seconded, it was voted
unanimously to amend the last line of the resolution from “for all
dogs” to “per dog”.**

**On motion of Councillor Bozyan, duly seconded, it was voted
unanimously to pass said resolution, as amended.**

**18. Memorandum of Town Administrator, with enclosures, re:
Removal of restriction on Joel Peckham lease revenue.**

Town Administrator Shawn Brown reviewed the following memorandum entered here:

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

Councillor Bozyan noted his opposition to the removal of restriction of the Joel Peckham lease revenue.

19. Resolution of the Council, re: Removal of restriction on Joel Peckham lease revenue.

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

20. Resolution of the Council, re: Opposition to Hess Weaver's Cove LNG "Offshore" Proposal Ferc Docket #CP04-36-000.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to receive said resolution.

Joseph Carvalho, 470 North Belmont Street, Fall River, MA addressed the Council noting his opposition to the proposed LNG facility and requested the Council to support the resolution in Opposition to Hess Weaver's Cove LNG "Offshore" Proposal Ferc Docket #CP04-36-000.

Councillors Sylvia and Silveira noted support for the resolution in Opposition to Hess Weaver's Cove LNG "Offshore" Proposal Ferc Docket #CP04-36-000.

Dick Lynn, representing the Jamestown Town Council, invited the Council to join the Congress of Councils, which will meet on

September 8th in Jamestown. On that date, a general working group will be developed to address the issue of Hess Weaver's Cove LNG Offshore proposal.

Mary Jo Diem, 200 Gondola Avenue, Jamestown, Rhode Island requests the Council to support the resolution in Opposition to Hess Weaver's Cove LNG "Offshore" Proposal Ferc Docket #CP04-36-000. Ms. Diem noted other Councils which have supported the resolution.

Councillor Santos noted her support for the resolution in Opposition to Hess Weaver's Cove LNG "Offshore" Proposal Ferc Docket #CP04-36-000.

Bradford S. Read, 1166 Wapping Road, addressed the Council explaining that the LNG issue is not going away and requests the Council to support this resolution.

Councillor VonVillas expressed concern with the committee, an independent group, which drafted and placed the resolution on the agenda.

On motion of Councillor Sylvia, duly seconded, it was voted to NOT pass said resolution; Council President Semonelli, Councillors Bozyan, Syliva and VonVillas voted YES; Councillors Santos and Silveira voted NO to said motion.

21. Resolution of the Council, re: Approving submission of the proposed Road Construction and Drainage and Sidewalk Improvements bond question to Office of the Secretary of State for inclusion on the November 2, 2010 General Election ballot.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to pass said resolution.

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

An Ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section

49 Hazardous Materials Response Fee.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to adopt said ordinance, on its second reading.

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

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XI, Business Regulations, Chapter 110, General Provisions, Section 110.01, Issuance and Renewal of Town Licenses and Permits.

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

24. Communication of Cheryl Sanford Jenkins, Ed.D., Director of Counseling & Health Education, St. George's School, re: Resignation from the Middletown Substance Abuse Prevention Task Force.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to receive said communication and accept resignation with regret.

25. Email Communication of Eileen (Spillane) Rice, re: Resignation from the Middletown Economic Development Advisory Committee.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to receive said email communication and accept resignation with regret.

26. Memorandum of Council President, re: Regional School District Planning Committee.

Council President Semonelli read the memorandum noting the

appointment of himself to the Regional School District Planning Committee.

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

27. Appointment of two (2) members to the Conservation Commission for terms expiring July 2013.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to reappoint Stanley L. Ehrlich and Robert Johnson to the Conservation Commission for terms expiring July 2013.

28. Appointment of one (1) member to the Economic Development Advisory Committee for a term expiring January 2013.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to appoint J. Michael Hill to the Economic Development Advisory Committee for a term expiring January 2013.

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.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to adjourn this meeting at 8:35 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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