

October 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, October 4, 2010 at 6:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

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) (5) Land Acquisition (The Valley), (5) lease (JFK School), (2) litigation (Key Law Suit) and (1) personnel (Town Administrator).

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 6:01 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 6:55 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to continue with a settlement of said lawsuit.

On motion of Councillor Sylvia, duly seconded, it was voted to approve the Town Administrator's salary increase, including a lock in of salary for three years; Vice Chairman Cambra voted NO to said motion.

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.

Council President Semonelli addressed the audience explaining that soldiers overseas have a lack of chocolate. Mr. Semonelli requests the Town's citizens to donate chocolate to be sent to the soldiers and challenges the neighboring communities to do the same.

PRESENTATIONS

- 1. Memorandum of Fire Chief, re: Swearing in ceremony – Fire Marshal.**

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

Fire Chief Ronald Doire announced the promotion of the Adam Westman as Fire Marshal. Mr. Westman was sworn in by the Town Clerk and pinned by his wife Traci Westman.

2. 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.

Barbara Gadoury from the Middletown Library was present to receive her ten (10) year pin, which was presented by Council President Semonelli.

3. Memorandum of Town Administrator, re: MSAPTF Volunteer of the Year Award.

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

Nan Heroux was recognized as MSAPTF Volunteer of the Year. Mrs. Heroux was presented a plaque by Council President Semonelli.

Mrs. Heroux thanked the MSAPTF for the award noting that the award belongs to all the volunteers.

ACTING AS A BOARD OF LICENSE COMMISSION

1. (Advertised for Public Hearing)

Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the 2010-2011 licensing year. (See attached list)

Public Hearing was declared open.

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

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

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

CONSENT CALENDAR

1. Approval of Minutes – Regular Meeting, September 20, 2010.

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

2. Approval of Minutes – Special Meeting, September 27, 2010.

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

3. E-mail communication from Town of Jamestown, with enclosure, re: Resolution in Opposition to Hess Weaver's Cove LNG "Offshore" Proposal FERC Docket #CP04-36-000.

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

4. Communication of Ian Larcom, Safety Town Coordinator 2010, re: Appreciation for support of the Safety Town program.

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

5. Communication of Barbara Schermack, Head Start Director, re: Progress related to repairs at the Joel Peckham School.

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

6. Communication of Donald L. Carcieri, Governor, re: Grant monies received by the Town from the RI Community Development Block Grant (CDBG) Program.

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

7. Memorandum of Town Administrator, with enclosures, re: Tax Collector's Report for period ending August 31, 2010.

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

Councillor Santos questioned the reported vehicle tax within this report.

Town Administrator Shawn Brown, responding to Councillor Santos, explained that an addendum to the tax bills will be issued at a later date and the taxpayers will not be penalized.

8. Memorandum of Town Administrator, with enclosure, re: Forest Avenue Gas Main Replacement Schedule.

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

Councillor Santos questioned if the all of Forest Avenue from East Main Road to West Main Road will be replaced.

Public Works Director Tom O'Loughlin, responding to Councillor Santos, explained that only the cast iron sections will be replaced.

9. Memorandum of Town Administrator, re: Request to Continue Second Reading of Ordinance for Streets Closed to Traffic.

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

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

An Ordinance in amendment to the Town Code of the Town of Middletown, Title VII, Traffic Code, Chapter 71, Traffic Regulations, Section 71.08, Driving on Streets Closed to Traffic Prohibited.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council, October 18, 2010.

11. Application of Middletown Columbus Club, Inc., 7 Valley Road, for

RENEWAL of a 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.

12. Application of Laurin Enterprises dba Gold's Auto Wrecking Co., 113 Fenner Avenue, for RENEWAL of a Junk Dealer's License (Auto Wrecking) for the 2010-2011 licensing year.

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

13. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, for the 2010-2011 licensing year. (See attached list)

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

TOWN COUNCIL

1. Application of Wiame Con, Inc., dba Town Mart, 390 West Main Road, for a Holiday License for the 2010-2011 licensing year. (NEW)

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

2. Application of Wiame Con, Inc., dba Town Mart, 390 West Main Road, for a Victualling House License for the 2010-2011 licensing year. (NEW)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license, contingent on Building Official,

Fire Marshal, Board of Health and Public Works approvals.

3. (Advertised for Public Hearing)

Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, Additional Hours of Operation, for the 2010-2011 licensing year. (See attached list)

Public Hearing was declared open.

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

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

4. (Advertised for Public Hearing)

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.

Council President Semonelli expressed support for the proposed Wind Energy Conversion Facilities amendments. Mr. Semonelli noted the need to protect scenic views and vistas within the Town. The amendments align the ordinance with the Town’s Comprehensive Community Plan.

Vice Chairman Cambra requested the Town Solicitor to explain the amendments.

Town Solicitor Michael W. Miller explained that the Public Hearing, on the amendments to the Wind Energy Conversion Facilities ordinance,

inserts language from the Town's Comprehensive Community Plan. The amendments do not affect the current petition, for a wind turbine, on Paradise Avenue.

Councillor Santos reviewed the wind turbines within the Town. Ms. Santos also noted the current application filed for a new wind turbine.

Councillor VonVillas presented and reviewed the statement entered here:

Councillor VonVillas mad a motion, which was duly seconded, to table this matter.

Town Solicitor Michael W. Miller explained that a motion to table this matter is out of order. The proper motion is to continue the matter.

Councillor VonVillas mad a motion, which was duly seconded, to continue this matter until a decision is made on the Paradise Avenue wind turbine; until the first meeting in January 2011.

Vice Chairman Cambra questioned the proposed amendments.

Arthur Weber, Chairman of the Middletown Planning Board, explained that the amendments bring the Wind Energy Conversion Facilities ordinance in alignment with the Town's 2008 Comprehensive Community Plan.

Councillor Bozyan noted that he had received forty-three emails endorsing and one email opposing the proposed amendments to the ordinance.

Councillor VonVillas explained that the emails she received mentioned the petition for the Paradise Avenue wind turbine and the proposed amendments will not affect the petition.

There is a motion and a second on the floor entered here:

On motion of Councillor VonVillas, duly seconded, it was voted to continue this matter until a decision is made on the Paradise Avenue wind turbine until the first meeting in January 2011; Councillor Santos, Councillor Sylvia and Councillor VonVillas voted YES; Council President Semonelli, Vice Chairman Cambra and Councillor Bozyan voted NO to said motion; MOTION FAILED TO PASS.

Public Hearing was declared open.

Manuel Mello, 31 Beacon Terrace North, expressed concern of the size of the requested Paradise Avenue wind turbine and the monies National Grid will earn if the wind turbine is allowed to be built.

Peter Tarpgaard, 5 Longmeadow Avenue, urged the Council to deny the proposed amendments to the ordinance.

Richard Price, 9 JH Dwyer Drive, noted his agreement with Councillor VonVillas that the proposed amendments to the ordinance will not affect the current application. Mr. Price expressed his support for the proposed amendments explaining the amendments will complete the ordinance and be a useful tool for the Town.

Don Mallinson, 201 Fairway Drive, addressed the Council noting his support for wind turbines.

Anthony Spiratos, 333 Tuckerman Avenue, noted his support for the proposed amendments to the ordinance. Mr. Spiratos explained that it only makes sense to align the wind turbine ordinance with the Town's Comprehensive Community Plan.

Susan Adie, 43 Willow Avenue, noted that she feels if the proposed

amendments are passed, it will limit future green energy. Ms. Adie explained that she was looking forward to postponing the proposed amendments to the ordinance.

Karen Roarke, 26 Renfrew Avenue, noted that the Town cannot have scenic preservation and wind turbines together. Ms. Roarke gave the Council handouts entered here:

Beth Milham, 108 Champlin Place North, Newport, addressed the Council expressing concern for the passing of the proposed amendments. Ms. Milham noted that the zoning code should not be used to keep good things from happening.

Bruce Long, 1 Winfield Court, addressed the Council requesting them to impose a moratorium on wind turbines until an appropriate ordinance is established.

Carol Cummings, 738 Indian Avenue, expressed concern that wind

turbines affect property values.

Archie Van Bueren, 15 Indian Avenue, noted that there are many negatives to wind turbines and hopes that the negatives are being considered.

Richard Sayer, 617 Paradise Avenue, urged the Council to support the proposed amendments to the ordinance.

Joselyn Sherman, 83 Indian Avenue, noted that she endorses the proposed amendments to the wind turbine ordinance. Mrs. Sherman explained that the passage of the proposed amendments to the ordinance will assist the Planning and Zoning Boards.

John Bagwill, 587 Tuckerman Avenue addressed the Council in support of the proposed amendments to the wind turbine ordinance. Mr. Bagwill noted the proposed amendments will assist the Planning and Zoning Boards with consistency.

Public Hearing remains open.

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

5. (Continued from Regular Meeting, September 20, 2010)

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 54, Burning Permit Fee.

Councillor Santos questioned if there are any areas in Town which will be restricted from burning.

Fire Chief Ronald Doire, responding to Councillor Santos, explained that an ordinance is being developed to address the issue.

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

6. 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 34, Taxes, Section 34.86, Motor Vehicle Excise Tax.

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

7. Memorandum of Councillor Bozyan, re: Proposed Ordinance amendment – Title III, Chapter 36, Section 35, Annual User Fees and

Bulky Waste Pickup. (2010-15)

Councillor Bozyan noted that in the past senior citizens received a discount on their transfer station stickers. Mr. Bozyan reviewed his memorandum entered here:

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

Councillor Santos expressed concern regarding how to monitor the senior discount.

Councillor Boyzan, responding to Councillor Santos, explained that an application would need to be filed.

Councillor VonVillas expressed concern that this proposal will affect

the current budget. Ms. VonVillas noted that this request should have been addressed during the budget process.

Councillor Sylvia noted his agreement with Councillor VonVillas. Mr. Sylvia explained if this request was granted, the shortfall in the budget would have to be appropriated from the Town's savings.

Council President Semonelli noted his support for a Senior Citizens discount.

Councillor Santos noted the concept is favorable; however, should have been presented during the budget process.

Town Administrator Shawn Brown explained that the Finance Director and Refuse Director assist residents, on a case by case basis, with a payment plan.

Vice Chairman Cambra noted that the proposal should be addressed during the next budget cycle.

Paul Lamond, 2 Porter Road, addressed the Council explaining that he is an advocate for the PAYT program. Mr. Lamond suggested that a discount should be based upon household income, not Senior Citizens status.

Denise D'Amico, 77 Briarwood Avenue, expressed support for the PAYT program and questioned eligibility for a discount.

Councillor Bozyan explained that both adults within the household must be seniors.

8. Memorandum of Town Planner, with enclosures, re: Navy surplus land (BRAC 2005) PBC application – Green Lane Park.

Town Planner Ronald Wolanski addressed the Council reviewing the memorandum entered here:

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

9. Resolution of the Council, re: Authorizing the Town Administrator to submit PBC application – Green Lane Park.

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

At the request of the Town Administrator, items #10, #11, #12 and #13 are withdrawn.

10. Memorandum of Town Administrator, with enclosures, re: Award of Contract – 2010 Catch Basin Repairs.

11. Resolution of the Council, re: Award of Contract – 2010 Catch Basin Repairs.

12. Memorandum of Town Administrator, with enclosures, re: Award of Contract – Town Hall Building Management System Installation and Controls & Condensing Units Replacement.

13. Resolution of the Council, re: Award of Contract – Town Hall Building Management System Installation and Controls & Condensing Units Replacement.

14. Memorandum of Councillor VonVillas, re: LNG Resolution.

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

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

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

Councillor VonVillas requested that the passed resolution be forwarded to the Congress of Councils.

16. Memorandum of Tom Newman, re: Proposal to create Boat Ramp Improvement Sub-Committee.

Tom Newman, 101 Orchard Avenue, requested approval to create a Boat Ramp Improvement Sub-Committee. Mr. Newman reviewed the following handout entered here (photographs in the handout are on file in the Office of the Town Clerk):

Mr. Newman reviewed the following memorandum entered here:

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

Town Administrator Shawn Brown explained that the Beach Commission Chair has the ability to create a sub-committee. Mr. Brown noted that he will prepare a document adding additional seats to the Beach Commission for Council consideration at its next regular meeting, October 18, 2010.

Councillor Bozyan noted CIP funding for this project.

Councillor VonVillas expressed concern with process of the proposal. Ms. VonVillas explained that the request should have been presented by the Beach Commission.

Bill Seiple, Beach Commission member, noted that the committee is on the right track.

17. Memorandum of Vice Chairman Cambra, with enclosure, re: Middletown Committee for the Arts Joint Application for RI Foundation Grant.

Withdrawn by Vice Chairman Cambra.

18. Communication of Barry W. Clark, re: Resignation from the Middletown Juvenile Hearing Board.

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

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 this session.

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

Wendy J.W. Marshall, CMC

Council Clerk

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