

January 18, 2011 - 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 Tuesday, January 18, 2011 at 5:30 P.M.

Council President Arthur S. Weber, Jr.

Vice President Bruce J. Long

Councillor Richard Cambra

Councillor Christopher T. Semonelli

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

Councillor Edward J. Silveira, Jr., Absent

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4., and 42-46-5. (a) (2) litigation (NELC Law Suit), (2) Collective Bargaining (Daniel Kinder, Esquire), (2) Collective Bargaining (Police, Fire, Public Works and Town Hall Unions), (1) Personnel (Will Cronin) and (5) Land Acquisition (West Main Road) .

On motion of Council President Weber, duly seconded, it was voted unanimously to recess open session at 5:32 P.M. and reconvene in executive session.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene in open session at 7:20 P.M.

On motion of Vice President Long, duly seconded, it was voted to

unanimously to accept the award of the arbitrator from the fire arbitration.

On motion of Vice President Long, duly seconded, it was voted unanimously to retain the Law firm of Little, Medeiros, Kinder, Bulman & Whitney to act as legal Counsel to assist the Town Administrator with collective bargaining units (Police, Fire, Public Works and Town Hall).

On motion of Vice President Long, duly seconded, it was voted unanimously to retain the Law firm of Little, Medeiros, Kinder, Bulman & Whitney to act as legal Counsel to perform an overall review of collective bargaining and personnel matters.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution entered here:

On motion of Vice President Long, duly seconded, it was voted

unanimously to change the status of the Recycling Coordinator position to a full time employee.

On motion of Vice President Long, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

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.

PRESENTATIONS

1. Memorandum of Town Administrator, with enclosures, re: BRAC 2005 & West Main/Coddington Development Master Plan - Presentation by Julie Oakley, Property Reuse Coordinator for Aquidneck Island Reuse Planning Authority (AIRPA).

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

Town Planner Ronald Wolanski addressed the Council introducing Julie Oakley, Property Reuse Coordinator for Aquidneck Island Reuse Planning Authority (AIRPA) who reviewed the BRAC Planning Process entered here:

Town Planner Ronald Wolanski reviewed the following:

Enter bullets from memo and second page of invitation

2. Presentation Town Administrator and Woodard and Curran – Stormwater Long-term Control Plan - Esplanade and Newport Avenue.

On motion of Vice President Long, duly seconded, it was voted unanimously to begin the presentation.

Robert Rafferty, representing Woodard & Curran, addressed the Council concerning the Town's stormwater issues including the three watershed outfalls, which are Esplanade 1, Esplanade 2 and Newport Avenue. Mr. Rafferty noted that the overall program will resolve the bacteria problems causing beach closures. Jan Greenwood, from Woodard and Curran, was also present to answer any Council questions.

3. Memorandum of Town Administrator, with enclosures, re: General Obligation Bonds for Municipal Purposes – Authorization to issue up to \$5.0 M.

Town Administrator Shawn Brown reviewed the memorandum entered here:

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

Ellen Corneau from Edwards, Angel, Palmer & Dodge, Town's Bond Counsel, explained RIGL 45-12-4.4 Borrowing in payment of certain judgments, to the Council noting voter approval is not needed.

4. Resolution of the Council, re: Authorizing the issuance of \$5.0M – General Obligation Bonds.

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

5. Memorandum of Town Administrator, with enclosures, re: Change Order #1, Midd -01-004 - Catch Basin Repair/Reconstruction.

Item withdrawn by Town Administrator.

6. Memorandum of Town Administrator, with enclosures, re: Proposal for Engineering and Permitting Design – LTCP – Newport Avenue.

Town Administrator Shawn Brown reviewed the memorandum entered here:

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

Mr. Brown requests the Council to approve the contract proposal from Woodard & Curran for the Newport Avenue area.

Manuel Mello, 31 Beacon Terrace North, addressed the Council inquiring if Middletown is sharing the cost of the UV system, which is being installed in Newport to address storm water issues. Mr. Mello noted that he believes this project is a waste of money.

Town Administrator Shawn Brown explained that the Town is not participating in the cost of the UV system. The Town is dealing with the storm water before it gets to the UV system. Mr. Brown noted that the Town is obligated to repair the outfall.

7. Resolution of Council, re: Award of Contract – Woodard & Curran - Engineering and Permitting Design – LTCP – Newport Avenue.

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

AWARDS, PROCLAMATIONS & COMMENDATIONS

8. Memorandum of Town Administrator, re: Recognition of Fire, Police and Public Works for Recent Events.

Town Administrator Shawn Brown reviewed the memorandum entered here:

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

ACTING AS A BOARD OF LICENSE COMMISSION

9. (Public Hearing Advertised)

Application of McGrath Clambakes, Inc., 66 Valley Road holder of a Class BL Alcoholic Beverage License to TRANSFER said License to Aquidneck Health, LLC, for use at the same premises.

Public Hearing was declared open.

There being no person present desiring to be heard, public hearing was declared closed.

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

CONSENT

10. Approval of Minutes, re: Regular Meeting, December 20, 2010.

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

11. Approval of Minutes, re: Special Meeting, December 24, 2010.

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

12. Approval of Minutes, re: Regular Meeting, January 3, 2011.

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

13. Memorandum of Town Administrator, with enclosure, re: Tax collector's report for the period ending December 31, 2010.

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

LICENSES

14. Application of Aquidneck Health, LLC, 66 Valley Road, Middletown, for a Victualling House License for the 2010-2011 licensing year. (NEW)

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

15. Application of C.J. Salvatore Excavating Services, LLC, Cranston, Rhode Island, for a Drain Layers License for the 2010-2011 licensing year. (NEW)

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

OTHER COMMUNICATIONS

16. Communication of Manuel J. Mello, Jr., re: Chapter 94-1 Snow Removal.

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

Manuel Mello, 31 Beacon Terrace North, addressed the Council reviewing the following:

Mr. Mello requests the Council to find a solution to remove snow from sidewalks within the Town.

Town Administrator Shawn Brown explained that the ordinance, pertaining to snow removal on sidewalks, is not enforced. Mr. Brown will discuss with the expense of equipment to clean sidewalks with the Roads & Utilities Committee.

Councillor Viveiros suggests a snow blower be used around public buildings; schools should share the expense to clean sidewalks.

Mr. Brown noted that it is .15 cents a linear foot per storm to have the sidewalks cleaned.

COMMUNICATIONS TOWN ADMINISTRATOR

17. Resolution of the Council, re: Requesting Support to Amend Regionalization Legislation.

Councillor Viveiros suggested amendments to the resolution by adding #4 . Provide that such Regional School District shall be a body politic with only such powers and duties conferred by law upon school committees; and

and changing *5. -4.

and adding to the last paragraph of the resolution to send a copy of the resolution to the Aquidneck Island School/Municipal Advisory Committee.

Discussion centered around the current regionalization law 16-3-10, people's rights being protected, an issue within the law being governance and requesting other communities for support.

Councillor VonVillas requested that the proposed resolution drafted by the Solicitor should be approved.

On motion of Councillor Viveiros, duly seconded, it was voted to amended said resolution by adding “*4. Provide that such Regional School District shall be a body politic with only such powers and duties conferred by law upon school committees; and” ,and changing “*5. -4” , and adding to the last paragraph of the resolution to send a copy of the resolution to the Aquidneck Island School/Municipal Advisory Committee; Council President Weber and Councillor VonVillas voted NO to said motion.

On motion of Vice President Long, duly seconded, it was voted to pass said resolution, as amended; Council President Weber and Councillor VonVillas voted NO to said motion; resolution entered here:

18. Resolution of the Council, re: Town 2011 Legislative Agenda.

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

19. Resolution of the Council, re: Requesting Support of Legislators to attract the Preliminary America's Cup races to the City of Newport.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.

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

20. Memorandum of Town Administrator, re: Proposed Legislation Relating to Elections.

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

21. Resolution of the Council, re: Supporting of proposed legislation relating to Elections - amending RIGL 17-11-1.

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

22. Memorandum of Town Administrator, with enclosure, re: Policy for Flying Flags at Municipal Facilities.

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

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said Policy for Flying Flags at Municipal Facilities.

COUNCIL COMMUNICATIONS

23. Memorandum of Vice President Long, re: Economic Development Advisory Committee.

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

Vice President Long noted that the Town has many boards, the Zoning (which is in the charter) and Economic Development Advisory

Boards are the only two which have a five year term. Mr. Long suggests amending the Economic Development Advisory resolution by changing the term limit to three years.

Councillor Cambra suggests continuing this matter and reviewing all boards and their terms.

Councillor VonVillas explained that she is not comfortable making changes at this time when a vacancy is to be filled. Ms. VonVillas explained that all boards should be reviewed, noting that it would be appropriate to continue the matter.

Council President Weber noted that a continuance of the matter is appropriate.

On motion of Councillor Cambra, duly seconded, it was voted unanimously to continue this matter until a comprehensive review of boards and committees has been conducted.

APPOINTMENTS TO BOARDS AND COMMITTEES

24. Appointment of five (5) members to the Beach Commission for terms expiring January 2013.

On motion of Councillor Semonelli, duly seconded, it was voted to appoint John Bagwill and John Ceglarski for terms expiring January 2013; Councillor VonVillas voted NO to said motion.

On motion of Councillor Semonelli duly seconded, it was voted unanimously to reappoint David P. Leys Sr., Morrie W. Seiple and Rian M. Wilkinson for terms expiring January 2013.

25. Appointment of one (1) member to the Citizens Memorial Committee.

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to appoint M. Theresa Santos to the Citizens Memorial Committee.

26. Appointment of two (2) members to the Comprehensive Community Plan Update Committee.

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint John Bagwill and Richard Price to the Comprehensive Community Plan Update Committee.

27. Appointment of one (1) member to the Conservation Commission to complete a term expiring July 2012.

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to appoint Paul M. Barrow to the Conservation

Commission to complete a term expiring July 2012.

28. Appointment of one (1) member to the Economic Development Advisory Committee for a term expiring January 2016.

On motion of Vice President Long, duly seconded, it was voted unanimously to reappoint Robert M. Silva to the Economic Development Advisory Committee for a term expiring January 2016.

29. Appointment of one (1) member to the Open Space and Fields Committee to complete a term expiring November 2013.

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Christen Lambiase to the Open Space and Fields Committee to complete a term expiring November 2013.

30. Appointment of one (1) member to the Personnel Board for a term expiring December 2013.

On motion of Vice President Long, duly seconded, it was voted unanimously to reappoint Kenneth A. Kurze for a term expiring December 2013.

31. Appointment of three (3) members to the Planning Board one (1) vacancy to complete a term expiring February 2012; two (2) for terms expiring February 2014.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to reappoint Richard P. Adams and Audrey E. Rearick for terms expiring February 2014 and to appoint Joseph P. Marnane to complete a term expiring February 2012.

32. Appointment of two (2) members to the Senior Center Board of Directors for terms expiring January 2014.

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to reappoint Elizabeth A. Yashura and appoint Karen Douglas Johnson for terms expiring January 2014.

33. Appointment of three (3) members to the Substance Abuse Prevention Task Force, two (2) vacancies terms expiring March 2014; one (1) vacancy to complete a term expiring March 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to reappoint Wendy Lord Harvey and Scott McLeish for terms expiring March 2014 and appoint Alan G. Kerr to complete a term expiring March 2012.

34. Appointment of two (2) members to the Tree Commission for terms expiring January 2014.

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to reappoint Karen P. Day and Paul Lamond for terms expiring January 2014.

35. Appointment of Tree Warden for the 2011 calendar year.

On motion of Vice President Long, duly seconded, it was voted unanimously to reappoint Alan Kirby as Tree Warden for the calendar year 2011.

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to adjourn said meeting at 9:26 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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