

## **March 21, 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 Monday, March 21, 2011 at 6:00 P.M.**

**Council President Arthur S. Weber, Jr.**

**Vice President Bruce J. Long**

**Councillor Richard Cambra**

**Councillor Edward J. Silveira, Jr.**

**Councillor Christopher T. Semonelli**

**Councillor Antone C. Viveiros**

**Councillor Barbara A. VonVillas, Members Present**

**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)**

**There were no reconsiderations.**

## **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), (5) lease – (JFK School) and (5) Land Acquisition (Forest Avenue/Buck Road).**

**On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 6:01 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 7:00 P.M.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to authorize the Town Solicitor to proceed with the land acquisition.**

**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 at this session.**

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

## **BOARD OF LICENSE COMMISSION**

### **1. (Public Hearing Advertised; abutters notified)**

**Application of Syraco Associates, LLC dba Newport Spa and Whirlpool Suites, 936 West Main Road, for a Retailer's Class BT Alcoholic Beverage License for the 2010-2011 licensing year.**

**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.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to move item #32 to the top of the docket.**

**Item #32 Communication of Chad Larcom, Coordinator, PMC Middletown Kids Ride, Requesting support for the PMC Middletown Kids Ride.**

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

**On motion of Vice President Long, duly seconded, it was voted unanimously to authorize a (\$100.00) donation to the PMC Middletown Kids Ride, to be appropriated from the President Discretionary fund.**

## **AWARDS & PROCLAMATIONS**

- 2. Memorandum of Town Administrator, re: Permitting and Licensing now live on New World software.**

**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.**

## **CONSENT**

- 3. Approval of Minutes, re: Regular Meeting, March 7, 2011.**

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

**4. Petitions received from the following named person for perpetual care of burial lots in the Middletown Cemetery:**

**a. Noula Spentzos – Sections 54, Lots 110, 111, 112 & 113**

**b. Scott Wagner – Section 54, Lot 109**

**c. Matthew Williams - Section 54, Lot 31**

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

**5. Resolution of the Town of Burrillville, re: Requesting support of**

**2011- S0063 and 2011 H5187 Acts relating to the Town of Burrillville – validating and ratifying amendments to home rule charter.**

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

**6. Resolution of the Town of Burrillville, re: Requesting support of legislation that would repeal the maximum number of voters in a polling place (RIGL 17-11-1).**

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

**7. Resolution of the Town of Burrillville, re: Requesting support of legislation to standardize poll opening and closing times.**

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

**8. Resolution of the Town of Portsmouth, re: Requesting support of resolution urging RIDEM to reconsider and not raise the current (arsenic) limit of 7mg/Kg to 40mg/Kg (nor any type above 7 ppm).**

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

**9. Notice of Public Hearing from the Town of Portsmouth Zoning Board of Review for Map 55, Lot1a and 1b 2543, 2545 & 2547 West Main Road for a Special use permit to modify an existing special use permit to allow a three family dwelling in place of the Guest House.**

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

**10. Notice from Coastal Resources Management Council of an Acceptance of Application from the Town of Middletown, Tuckerman Avenue, TAP 122, Lots 128 and 129 (File No. 2011-02-058).**

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

**11. Memorandum of Town Administrator, re: Tax Collections Office – Now accepting VISA/MasterCard for tax payments at the Collections window.**

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

**12. Memorandum of Town Administrator, re: Eco-Depot and the Bulk Waste Amnesty Day.**

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

**13. Memorandum of Town Administrator, re: Discussions with Portsmouth – Regionalization of PAYT.**

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

**14. Memorandum of Town Administrator, re: Esplanade Drainage Improvement Project Stormwater Redirection from ESP-1 Outfall to ESP-2 Outfall.**

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

**15. Communication of Tax Assessor, with enclosures, re: Cancellations of taxes for certain Middletown taxpayers.**

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

**16. Resolution of the Council, re: Cancellations of taxes for certain Middletown taxpayers.**

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

**17. Applications received from the following named persons, firms or corporations for RENEWAL of Holiday Sales License for the 2011-2012 licensing year. (See Attached List)**

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

**18. Applications received from the following named persons, firms or corporations for RENEWAL of Sunday Selling License for the 2011-2012 licensing year. (See Attached List)**

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

**Councillor Silveira recused himself from acting on the following item #19 of business, due to a possible conflict of interest, business related.**

**LICENSES**

**19. Application of Syraco Associates, LLC dba Newport Spa and Whirlpool Suites, 936 West Main Road, 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.**

## **ORDINANCES**

**20. Memorandum of Town Administrator, re: Request to add amendment to Animals Generally 90.01 Hunting Restricted, Permit Required.**

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

**Chief Pesare explained that the amendment to the current ordinance will allow for the use of a more effective weapon to hunt coyotes and authorizes the Police Chief to designate a hunter.**

**Christine Fagan, 5 Toni Lynn Terrace, expressed approval of the ordinance. Mrs. Fagan explained with spring coming people would be outside and the coyotes pose a danger to residents.**

**Stephen Fagan, 5 Toni Lynn Terrace, noted his support of the ordinance and his concern for the increased number of coyotes in Middletown.**

## **21. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90 Animals, Subsection 90.01 Hunting Redistricted, Permit Required.**

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

**22. Memorandum of Town Administrator, re: Developments in Kempenaar Valley.**

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

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

**On motion of Vice President Long, duly seconded, it was voted unanimously to direct the Town Administrator to go out for bid to construct a fence and refine the scope of the Kempenaar Valley project in consultation with the Open Space and Fields Committee.**

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

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII, Traffic Code, Chapter 74 Parking Schedules, Schedule II No Parking At Any Time.**

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

**24. Memorandum of Town Administrator, re: Resolution Relating to the Organization of the Fire Department.**

**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 noted the current budget shortfalls and upcoming issues in the FY2012 budget for both the Town and the School Department. Mr. Brown explained that the resolution was put forth to maintain services provided by the Town and keep the tax rate low. Mr. Brown noted by changing the Fire Department to a three division structure, the Town would save approximately \$300,000.**

**Brian DeFreitas, 19 Harvey Road, Middletown Firefighter, noting his opposition to the proposed changes to the Fire department shift schedule explaining the shift would only be effective for the Fire service not for the EMS. Mr. DeFreitas presented the Council with a handout explaining pros and cons of a three division shift. (Handout on file in the Office of the Town Clerk)**

**Michael Nasiff, Republican Party Chair, 1 Judith Court, addressed the Council noting the need to work with all unions and make changes to contracts unilaterally.**

**Kristopher Hopkins, Firefighter, 949 East Main Road, noted his concern with Town's ability to bargain fairly and a work schedule he feels will be unsafe.**

**Jonathan Reise, Firefighter, 66 Girard Avenue, Newport, addressed the Council explaining that the Fire department personnel are willing to work with the Town on negotiating issues. Mr. Reise expressed concern that all Town unions are not being treated equally.**

**Steven Rodrigues, 45 Sachuest Way, Retired Firefighter, requests the Council to reject the resolution explaining that firefighters are willing to negotiate fairly and equitably with the Town.**

**Peter Connerton, 152 Bliss Road, addressed the Council expressing his support for the Firefighters. Mr. Connerton noted his displeasure with the proposed resolution.**

**Tom Welch, 536 Mitchell's Lane, reviewed the pros and cons of the proposed resolution expressing opposition to the proposed three division shifts.**

**James Williams, 48 Linden Street, addressed the Council noting that he has a son on the Middletown Fire Department and a son on the Newport Fire Department. Mr. Williams explained that the proposal would create a public safety risk and a similar program was tried by the Military which was never instituted.**

**Monica Homer, 44 Loring Street, expressed her opposition to the proposed resolution explaining that this new schedule would be unsafe for firefighters and residents.**

**Peter Faerber, Jr., 25 King Road, Captain MFD, addressed the Council urging them to reject the proposed resolution.**

**25. Resolution of the Council, re: Relating to the Organization of the Fire Department.**

**Councillor Semonelli explained that the budget is difficult and tough decisions must be made. Mr. Semonelli expressed his support for the administration and the Fire Department.**

**Councillor Viveiros noted that he must make his decision based on what will benefit to the greatest number of residents.**

**Vice President Long explained the decisions made by the Council affect the entire Town. Mr. Long noted his support of the administration and the need and his unwillingness to consider a volunteer fire department.**

**Council President Weber noted that all Councillors respect the work performed by the fire department. Mr. Weber explained that all**

**Unions will be treated equally.**

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

**26. Memorandum of Town Administrator, re: Ordinance Relating to the Organization of the Fire Department.**

**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.**

**27. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III, Administrator, Chapter 37 Civil Service, Subsection Organization of the Fire Department.**

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

**28. Memorandum of Town Administrator, re: Revisions to Middletown Fire Department Rules and Regulations.**

**At the request of the Administration this item was continued to the regular meeting of April 4, 2011.**

**29. Approval of Middletown Fire Department Rules and Regulations.**

**At the request of the Administration this item was continued to the**

**regular meeting of April 4, 2011.**

**30. Memorandum of Town Administrator, re: Title III, Administration, Chapter 37 Civil Service.**

**Town Administrator Shawn Brown reviewed the memorandum, entered here:**

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

**31. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 37 Civil Service, Subsections (37.017) Negotiation of Authorized, (37.019) Performance Reviews For Unclassified Employees, (37.026) Physical and Psychological Examinations, (37.027) Placement on Eligible Lists,**

**(37.035) Notice of Rejection; Destruction of Applications, (37.036) Disqualification of Applicants, (37.037) Lateral Recruitment Appointment of Police and Fire, (37.047) Overtime Compensation, (37.061) Processing of Grievance to Department or Division Head, (37.062) Appeal to Town Administrator and Review Board, (37.075) Annual Leave Accrual, (37.078) Accrual of Sick Leave, (37.100) Separation From Classified Service, (37.103) Contributions to cost of plan and (37.105) Pension Benefits.**

**Steve Rodrigues, 45 Sachuest Way, addressed the Council noting the opposition of the Fire Department to these proposed amendments.**

**Town Administrator Shawn Brown explained that the amendments would not supersede union contracts.**

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

## **OTHER COMMUNICATIONS**

**32. Communication of Chad Larcom, Coordinator, PMC Middletown Kids Ride, re: Requesting support for the PMC Middletown Kids Ride.**

**This item was addressed after item #1.**

## **COMMUNICATIONS OF TOWN COUNCIL**

**33. Memorandum of Council President, re: Town of Middletown – Town Charter revisions.**

**Council President Weber reviewed the memorandum, entered here:**

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

**Dr. Elizabeth Bozyan, 535 Indian Avenue, addressed the Council expressing concern with how the proposed amendments were prepared and the expensive of an election.**

**Town Solicitor Michael W. Miller explained that the proposed changes were not voted on in executive session. The Council directed the Administration and Labor Counsel to review and make recommendations for charter changes related to collective bargaining.**

**34. Approval of Proposed Amendments to the Town Charter, scheduling of a public hearing and Special Election on proposed amendments.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve said proposed charter amendments to be addressed at a public hearing and voted on by the electorate at a**

**Special Election on June 7, 2011.**

**35. Memorandum of Councillor VonVillas, with enclosure, re: The Effects of Enrollment on Quality Education Grades 9-12.**

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

**Councillor VonVillas presented a power point presentation on the Effects of Enrollment on Quality Education Grades 9-12.**

**Councillor Viveiros reviewed information from prior meetings concerning regionalization. Mr. Viveiros noted that consolidation should be approached carefully and he will not consider regionalization until the current RIGL is amended.**

**Councillor VonVillas explained that her presentation was an educational study and is not requesting approval for regionalization.**

**Vice President Long expressed concern that it is not the right time to approach residents concerning regionalization, explaining that tasks assigned by this Council have not been completed to date.**

**Councillor VonVillas explained that she would like the residents to vote on a Referendum – School Regionalization/Consolidation, at this time.**

**Councillor Silveira noted that he appreciated all of Councillor VonVillas' efforts in preparing the educational study. Mr. Silveira explained that the referendum should be timed with the 2012 General Election, due to the need for another community to be on board with regionalization.**

**Councillor Semonelli noted his support to have the referendum be**

**placed on the special election ballot.**

**36. Memorandum of Councillor VonVillas, re: Referendum – School Regionalization/Consolidation.**

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

**37. Resolution of the Council, re: Approving the following non-binding referendum related to school regionalization/consolidation be placed before the voters in June 2011: “Shall the Town of Middletown initiate and/or continue collaborative discussions with each of the Newport County communities (Newport, Portsmouth, Jamestown, Tiverton, and Little Compton) regarding potential school regionalization and/or consolidation?”.**

**On motion of Councillor Silveira, duly seconded, it was voted to pass**

**said resolution; Council President Weber, Councillors Semonelli and VonVillas voted YES; Vice President Long and Councillors Cambra, Silveira and Viveiros voted NO to said motion; MOTION FAILED TO PASS.**

**38. Memorandum of Councillor VonVillas, re: Referendum – Municipal Regionalization/Consolidation.**

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

**39. Resolution of the Council, re: Approving the following non-binding referendum related to municipal regionalization/consolidation be placed before the voters in June 2011: “Shall the Town of Middletown initiate and/or continue discussions related to the sharing of municipal services with other municipalities in Newport County?”.**

**On motion of Councillor Silveira, duly seconded, it was voted to pass said resolution; Council President Weber, Councillors Semonelli and VonVillas voted YES; Vice President Long and Councillors Cambra, Silveira and Viveiros voted NO to said motion; MOTION FAILED TO PASS.**

## **TOWN ADMINISTRATOR COMMUNICATIONS**

**40. Memorandum of Town Administrator, re: Proposed Legislation Relating to Elections – “An Act Relating to Elections – Elective Meeting’s” – Time of closing of polls.**

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

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

**41. Resolution of the Council, re: Supporting Proposed Legislation Relating to Elections – “An Act Relating to Elections – Elective Meeting’s” – Time of closing of polls.**

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

**42. Memorandum of Town Administrator, with enclosure, re: Purchase of Two Uniform Cruisers.**

**Town Administrator Shawn Brown noted that he recommends the purchase of two uniform cruisers.**

**Police Chief Pesare addressed the Council reviewing the following memorandum entered here:**

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

**43. Resolution of the Council, re: Authorizing the purchase of Two Uniform Cruisers.**

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

**44. Memorandum of Town Administrator, with enclosures, re: Contract Award – Berkeley Peckham Bleachers.**

**Town Administrator Shawn Brown addressed the Council noting his support to replace bleachers at the Joel Peckham School.**

**Public Works Director Tom O'Loughlin reviewed the memorandum entered here:**

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

**45. Resolution of the Council, re: Award of Contract – Berkeley Peckham Bleachers.**

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

**46. Memorandum of Town Administrator, with enclosures, re: Kahan Tractor & Equipment, Inc.**

**Town Administrator Shawn Brown reviewed the memorandum**

**entered here:**

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

**Public Works Director Tom O'Loughlin addressed the Council noting the poor condition of the surplus equipment and high expense of repairs.**

**47. Resolution of the Council, re: Declaring Surplus property and purchase of a New Holland Boomer 3045 4WD tractor.**

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

**48. Memorandum of Town Administrator, with enclosure, re: FY2011**

**Budget Adjustments – Allocation of contingent expense budget to appropriate department budgets.**

**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.**

**49. Resolution of the Council, re: FY2011 Budget Adjustments – Allocation of contingent expense budget to appropriate department budgets.**

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

## **APPOINTMENTS TO BOARDS AND COMMITTEES**

**50. Appointment of Council liaison to the Newport County Chamber of Commerce.**

**On motion of Councillor Silveira, duly seconded, it was voted unanimously to appoint Vice President Long as Council liaison to the Newport County Chamber of Commerce.**

**On motion of Councillor Silveira, duly seconded, it was voted unanimously to adjourn said meeting at 10:51 P.M.**

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

## **Council Clerk**

**March 21, 2011 - Regular Town Council Meeting**

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