

July 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 Monday, July 18, 2011 at 6:00 P.M.

Council President Arthur S. Weber, Jr., Presiding

Vice President Bruce J. Long

Councillor Richard Cambra

Councillor Christopher T. Semonelli

Councillor Barbara A. VonVillas, Members Present

Councillor Edward J. Silveira, Jr., Absent

Councillor Antone C. Viveiros

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.

6:00 PM PRESENTATIONS

1. Memorandum of Vincent J. Palumbo, P.E., Highway Managing Engineer, RIDOT, re: Reconstruction of Two Mile Corner, West Main Road – Commercial Street to Maplewood Road, East Main Road – West Main Road to Bailey Brook, Middletown, RI – RI Contract No. 93116, R.I.F.A.P. NO. AF-0138(011), Roundabout vs. Signalized Concept.

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

Also present, representing RIDOT, were Amphone Soupharath, Senior Transportation Engineer, James M. Pisano, P.E., Senior Project Manager, Anita Marshall, Principal Chief Engineer and Chief Civil Engineer Lambri Zerva.

Senior Transportation Engineer Amphone Soupharath presented a powerpoint presentation concerning the differences between Roundabouts and Signalized Intersections, which is on file in the Office of the Town Clerk.

Sara McFarland, 116 Ridgewood Road, addressed the Council explaining that currently it is difficult to get out of her neighborhood. Ms. McFarland noted her support for signalization explaining that roundabouts have different rules in other states.

Mike Murphy, 102 Ridgewood Road, noted his opposition to roundabouts. Mr. Murphy explained that there is a five year learning curve with roundabouts. He also noted concern that the Wood Road

area will be a cut through.

Carmella Geer, 10 Wood Road, addressed the Council noting her support for a roundabout, explaining that it helps traffic to slow down.

On motion of Councillor Cambra, duly seconded, it was voted unanimously to recess this meeting for five minutes at 7:10 P.M.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene this meeting at 7:15 P.M.

The Town Council acted on items #27 through #32 at this time.

2. Memorandum of Jan Eckhart, Planning Board Chairman, re: Request of the Town Council for Planning Board review and

recommendation on proposed RIDOT improvement options for the West Main Road intersections with East Main Road and Coddington Highway.

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

On motion of Council President Weber, duly seconded, it was voted to continue said memorandum, for full consideration to the August 15, 2011 Regular Meeting of the Council; Vice President Long voted NO to said motion.

Vice President Long expressed concern that the matter is moving quickly and should be addressed in September, noting that residents are not aware of the proposed project.

3. Memorandum of Town Administrator, re: Employee Recognition Program – Pins of Service Fourth Quarter 2010.

Town Administrator Shawn Brown reviewed the memorandum entered here:

There were no recipients present to receive their pin.

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

PUBLIC FORUM SESSION

4. 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.

ACTING AS A BOARD OF LICENSE COMMISSION

5. Application of Applebee's Restaurant North, LLC dba Applebee's Neighborhood Grill and Bar, 349 West Main Road, holder of a Class BV Alcoholic Beverage License to TRANSFER said License to Apple New England, LLC dba Applebee's Neighborhood Grill and Bar, for use at the same premises. (Requires Advertising for Public Hearing)

On motion of Vice President Long, duly seconded, it was voted unanimously receive and advertise said application for public hearing

to be heard on August 15, 2011.

Vice President Long requested that item #18 be heard under the Town Council portion of the agenda.

CONSENT

6. Approval of Minutes, re: Special Meeting, June 1, 2011.

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

7. Approval of Minutes, re: Regular Meeting, June 6, 2011.

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

8. Approval of Minutes, re: Regular Meeting, June 20, 2011.

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

9. Approval of Minutes, re: Special Meeting, June 27, 2011.

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

10. Resolution of West Warwick School Committee, re: Requesting Support of the Senate Bill 2011-0071 which bill would amend the

mandatory March 1 deadline in RIGL 16-13-2, as amended, to June 1.

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

11. Communication of Susan S. Erstling, PhD, Chair, Board of Directors, Lucy's Hearth, re: Appreciation for Civic appropriation.

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

12. Communication of Michelle F. Burnett, CFM, State Floodplain Coordinator, Rhode Island Emergency Management Agency, re: National Flood Insurance Program, Community Assistance Visit.

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

unanimously to receive said communication.

13. Notice of Public Hearing from the Zoning Board of Review, Petition of the Assigns of John Clarke (owner), Newport County Regional YMCA (applicant) by their Attorney Robert M. Silva, Esquire for a Special Use from Section 1211 (D) (1) (a) to allow a monument sign 7'-21/8' in height where 4' is allowed and 45 square feet in size where 24 square feet is allowed, said real estate located at 792 Valley Road and further identified as Lot 1 on Tax Assessor's Plat 115.

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

14. Communication of Attorney Joseph F. Hook, representing Deborah Barrett, re: Presentment of Claim or Demand of Deborah Barrett against the Town of Middletown (Wage Discrimination based upon sex).

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

15. Communication of Laurent L. Rousseau, Esquire, representing Prescott Point, LLC and Prescott Point Investor, LLC, with enclosures, re: Petition to Rezone Lot 7 on TAP 104 from Traffic Sensitive Medium Density Residential (R-20A) to RMA, Traffic Sensitive Residential Multifamily. (Requires Planning Board Recommendation)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and refer to the Planning Board for recommendation.

16. Communication of David P. Martland, Esquire, representing Middletown Self-Storage, LLC, with enclosures, re: Petition to rezone certain property at 909 Aquidneck Avenue, Lot 758 on TAP 114 from Limited Business/Traffic Sensitive (LBA) and Residential-20 (R-20) to Limited Business/Traffic Sensitive (LBA). (Requires Planning Board Recommendation)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and refer to the Planning Board for recommendation.

17. Petition of CVDD II, LLC, with enclosure, re: to amend the Zoning Ordinance, adopted effective August 21, 2000, by changing the classification of Lots 8, 9, 9A & 10, Tax Assessor's Plat 111 from Light Industrial Traffic Sensitive (LIA) to General Business Traffic Sensitive (GBA). (Planning Board Recommendation Attached; Requires Advertising for Public Hearing)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said petition and advertise for public hearing to be held on August 15, 2011.

18. Memorandum of Town Administrator, re: 2011 State Legislative Update.

Councillor Semonelli read the following memorandum into the record.

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

19. Communication of Town Administrator, 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 communication.

20. 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.

21. Memorandum of Town Administrator, with enclosure, re: Tax Collector's Report for the period ending June 30, 2011.

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

22. Applications four (4) from the following named persons, firms or corporations for a Special Event Permit. (See Attached List)

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

23. Applications from the following named persons, firms or corporations for RENEWAL of a Mechanical Amusement Device 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.

Vice President Long recused himself from acting on the following item #24 of business, due to a possible conflict of interest.

LICENSES

24. Application of Longade, LLC dba Del's Lemonade, Middletown, for a Hawker's License for the 2011-2012 licensing year. (NEW; 533 East Main Road – Vacant Lot)

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

PUBLIC HEARINGS

25. (Public Hearing Advertised)

Application of TECS DONUTS, INC. dba Dunkin Donuts, 159 East Main Road, for Additional Operating Hours License for the 2010-2011 licensing year. (NEW)

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.

26. (Public Hearing Advertised)

Application of Middletown Taco, Inc. dba Taco Bell, 641 West Main Road, for Additional Operating Hours License for the 2010-2011 licensing year. (NEW)

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.

The Town Council acted on items #27 through #32 after item #1.

OTHER COMMUNICATIONS

27. Memorandum of Michael F. Crowley, School Committee Chair and Rosemarie K. Kraeger, Superintendent of Schools, re: Aquidneck School Project.

Superintendent of Schools Rosemarie K. Kraeger reviewed the following memorandum entered here:

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

Vice President Long inquired when the School Committee voted to request the Council to reallocate the monies from the Aquidneck School Project to the Middletown High School Art Studio project.

Superintendent of Schools Rosemarie K. Kraeger, responding to Vice President Long, explained there was no vote taken to reallocate the funds. The School's Solicitor advised the School Committee that no vote would need to be taken.

28. Communication of Councillor Viveiros, re: School Department request for funding to refurbish the Metal Fabrication Shop at the Middletown High School.

Town Clerk Wendy J.W. Marshall read Councillor Viveiros' communication into the record, entered here:

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

Superintendent Rosemarie Kraeger, responding to Councillor Viveiros' communication, explained that the new accounting system was not purchased using grant monies. Mrs. Kraeger also noted that the Aquidneck School project would not be completed in time for school to begin in September.

29. Memorandum of Town Administrator, re: Request of Middletown School Administration to Fund MHS Art Center.

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.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve the Town Administrators recommendations, referenced in the above memorandum.

30. Resolution of the Council, re: General Fund FY2012 budget adjustments.

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

31. Memorandum of Town Administrator, with enclosures, re: Request for Funds for Middletown Public Schools Summer Program.

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.

On motion of Vice President Long, duly seconded, it was voted unanimously to authorize \$15,000 for the Middletown Public Schools Summer Program to be appropriated from the Parks and Recreation Fund.

32. Communication of Ali Borges, Sponsorship Coordinator: Middletown Safety Town 2011, re: Request for support of the Safety Town program.

On motion of Vice President Long, duly seconded, it was voted unanimously to authorize \$200.00 to the Safety Town Program to be appropriated from the Council Presidents Discretionary Fund.

The Town Council acted on items #2 through # 26, at this time.

COMMUNICATIONS OF TOWN ADMINISTRATOR

**33. Memorandum of Town Administrator, with enclosures, re:
Enabling Legislation to Increase Municipal Court Fines.**

**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.**

**Town Administrator Shawn Brown recommends the Council send the
other recommendations found in Sergeant Karoly's memorandum to**

the Solicitor for a more comprehensive review entered here:

34. Resolution of the Council, re: Seeking enactment of legislation to amend RIGL 45-2-37 Municipal Court fines.

Council President Weber read the resolution into the record, entered here:

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

35. Memorandum of Town Administrator, with enclosures, re: RKG Associates Proposal for a New Beach Pavilion.

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.

Councillor Semonelli commends the administration on all their hard work and now suggests the residents get involved.

Bill Seiple, 27 White Terrace, former Beach Manager, Beach Commission Member, addressed the Council explaining that the current beach facility is inadequate. Mr. Seiple noted that there is no intention to disrupt the scenic vista.

Manny Mello, Beacon Terrace North, suggests the Town review the height requirement for facilities at the beach.

36. Resolution of the Council, re: Award of Contract Business Plan

Development - 2nd Beach Pavilion project.

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

37. Memorandum of Town Administrator, with enclosures, re: RIDEM Draft Agreement for Third Beach Boat Ramp Funding.

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.

Council President Weber suggested the application be forwarded to the Planning Board for review.

Councillor Semonelli explained that a major change will be made to the Third Beach area and need for resident input.

Councillor Cambra noted that input is needed from the Administration and residents.

Vice President Long expressed concern that if improvements are made with Federal monies than there may be Federal restrictions. Mr. Long noted the need to protect the rights of the Middletown citizens.

Bill Seiple, 27 White Terrace, addressed the Council noting the need for public input. Mr. Seiple explained that there would only be an issue, if fees were charged to use the boat ramp.

Carol Cummings, 738 Indian Avenue, noted that she is in favor of improving the boat ramp; however, objects to the use Federal funding for the improvements.

Rian Wilkinson, 41 Prospect Avenue, Chair of the Beach Commission, addressed the Council explaining that the improvements are for safety reasons and there is no intention of harming the beach.

Jocelyn Sherman, 83 Indian Avenue, urges the Council to request the Planning Board and Beach Commission to review the project before a decision is made to improve the Third Beach area.

Sarah Gill, 479 Wolcott Avenue, addressed the Council noting her concern that the project will harm habitat in the area. Ms. Gill also expressed concern with pollution and safety of non-motorized water craft.

Hope VanBuren, Indian Avenue, noted concern that the project will change the character of the beach area.

Jason Goldfarb, 10'Donnell Road, addressed the Council noting the need for a new boat ramp at Third Beach and support for handicapped accessibility. Mr. Golfar suggests reviewing Federal funding for the project.

Mitch Thurman, 86 Bailey Avenue, presented the Council with a petition supporting the improvements to Third Beach. Mr. Thurman noted his involvement with the construction of the Fort Adams boat ramp.

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to refer the grant agreement and application to the Town Solicitor for legal review and comment, to refer the grant agreement and application to the Beach Commission and request the Beach Commission conduct a public hearing and report back to the Council with a summary of public comment received, to refer the grant agreement and application to the Finance Director to determine how the project will be funded based on the anticipated project timeline and the availability of funds within the Town's Treasury, to refer the grant agreement and application to the Planning Board for review and to continue this matter to the Regular Meeting of the Council,

September 6, 2011.

38. Memorandum of Town Administrator, with enclosures, re: Contract Award: Prospect Avenue, Green End Avenue Culvert Replacement.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue said item to the next regular meeting of the Council to be held on August 15, 2011.

39. Resolution of the Council, re: Award of contract for Prospect Avenue, Green End Avenue Culvert Replacement.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue said item to the next regular meeting of the Council to be held on August 15, 2011.

40. Memorandum of Town Administrator, with enclosures, re: Composition of Middletown Substance Abuse Prevention Task Force Committee.

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.

Vice President Long explained that there are issues with all existing boards/committees, noting that he does not support the request. Mr. Long expressed the need to review all Town committees.

Town Administrator Shawn Brown explained the need for expertise from the committee members.

Carmella Geer, Chair of the Middletown Substance Abuse Prevention Task Force Committee, expressed the need for the committee to have expertise in the fields which will satisfy Federal guidelines.

On motion of Councillor VonVillas, duly seconded, it was voted to allow up to four (4) non-residents who are qualified and experienced community stakeholders to serve on the MSAPTF committee; however, Middletown residents will take preference; Vice President Long voted NO to said motion.

COMMUNICATIONS OF BOARDS AND COMMITTEES

41. Email communication of Frank Lawrence, re: Resignation from the Citizens Memorial Committee.

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

42. Communication of Don Mallinson, re: Resignation from Wind Turbine Feasibility Committee.

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

43. Communication of Nancy D. McAuliffe, Artistic Director, Rhode Island's Ballet Theatre, re: Resignation from the Middletown Committee for the Arts.

Councillor Cambra noted the Art Festival on August 20, 2011 at Paradise Park.

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

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4., and 42-46-5. (a) (2) Collective Bargaining (Police and Public Works Unions) and (1) Personnel (Town Administrator).

On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 9:10 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 9:35 P.M.

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.

On motion of Vice President Long, duly seconded, it was voted unanimously to adjourn said meeting at 9:38 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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