

September 19, 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, September 19, 2011 at 6:00 P.M.

Council President Arthur S. Weber, Jr.

Vice President Bruce J. Long

Councillor Richard Cambra, arrives at 7:00 pm

Councillor Christopher T. Semonelli

Councillor Edward J. Silveira, Jr.

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.

PRESENTATION

1. Memorandum of Jan Eckhart, Chairman, Planning Board, re: West Main/Coddington Development Center Master Plan – Final Presentation.

Town Planner Ronald Wolanski reviewed the memorandum, entered here:

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

Geoffrey Morrison-Logan, representing VHB provided a brief power point presentation, which is on file in the Office of the Town Clerk.

Town Planner Ronald Wolanski noted that the Final Report of the West Main/Coddington Development Center Master Plan is on the Town website.

Council President Weber noted the importance of obtaining the Navy Lodge property and requested a timeline for the LRA process.

Town Planner Ronald Wolanski explained that the implementation of the LRA is in process at this time.

Manuel Mello, Beacon Terrace North questioned when the project will begin and cost associated with the West Main/Coddington Development Center Master Plan report.

Town Administrator Shawn Brown, responding to Mr. Mello, noted

that Town funds for the project were \$45,000 and remaining funding was from the Aquidneck Island Planning Commission and the Newport County Chamber of Commerce. The project implementation will be moving forward.

Tina Dolan, Director of the AIPC noted that the next phase for implementation is being addressed by securing funding.

Vice President Long noted that the development is an exciting opportunity for the Town.

On motion of Vice President Long, duly seconded, it was voted unanimously to recess this meeting until 7:00 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene this meeting at 7:00 pm.

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.

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

ACTING AS A BOARD OF LICENSE COMMISSION

2. (Advertised for Public Hearing; abutters notified)

Application of Custom House Coffee, LLC, 796 Aquidneck Avenue, for a Retailer's Class BV Alcoholic Beverage License, for the 2010-2011 licensing year. (NEW)

Public Hearing was declared open.

Attorney MaryJo Carr, representing the applicant, addressed the Council explaining that a Special Use permit was obtained by the Zoning Board of Review, which was issued with conditions. The applicant will serve beer, wine, coffee based drinks and smoothies. There will be a door person at all times to monitor that alcohol does not leave the premise.

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

Town Solicitor Michael W. Miller suggested that the Council place the

conditions, set by the Zoning Board of Review, on the license.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license, as determined in the Zoning Board Decision, including conditions, entered here:

**3. Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the 2011-2012 licensing year. (Requires Advertising for Public Hearing)
(See attached list)**

On motion of Vice President Long, duly seconded, it was voted unanimously to advertise said license renewal applications for a public hearing to be held at the October 17, 2011 regular meeting of the board.

CONSENT

4. Approval of Minutes, re: Special Meeting, August 24, 2011.

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

5. Approval of Minutes, re: Regular Meeting, September 6, 2011.

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

6. Notice of Public Hearing from the Zoning Board of Review, Petition of Nunes Properties, Ltd. (owner) – Sulky Rhode Island, LLC. (applicant) for a Special Use permit from Section 803 & 902 to extend and enlarge the existing non-conforming commercial mixed uses in accordance with plans submitted, expanding the footprint and envelope of the building, said real estate located at 909 East Main Road and further identified as Lot 25B on Tax Assessor's Plat 118.

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

7. Notice of Public Hearing from the Zoning Board of Review, Petition of Nunes Properties, Ltd. (owner) – Sulky Rhode Island, LLC. (applicant) for a Variance from Sections 602, 803 & 903 to extend and enlarge the existing non-conforming Winery/Wine Processing Use and Restaurant Use of the property permitted by the previous grant of Use Variances in accordance with the plans submitted, said real estate located at 909 East Main Road and further identified as Lot 25B on Tax Assessor's Plat 118.

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

8. Resolution from the Town of Burrillville, re: Requesting support of resolution requesting that RIPTA funding be added to the Rhode

Island General Assembly agenda of the special session to be held to address the pension crisis.

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

9. Communication of Kevin P. Gavin, Esquire, representing HK& S Construction Holding Corp., with enclosures, re: Esplande Drainage Improvements Project, HKS Holding Corporation (“HK&S”), Presentment of Claim and Demand Under RIGL 45-15-5.

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

10. Communication of Lincoln D. Chafee, Governor, re: Grant monies received by the Town from the Rhode Island Community Development Block Grant (CDBG) Program.

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

11. Application for Special Event Permit from Caitlin Northrup for a Wedding Ceremony at Dunlap Wheeler Park, to be held on June 29, 2012 from 6:00 pm to 6:30 pm.

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

12. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, Additional Hours of Operation, for the 2011-2012 licensing year. (Requires Advertising for Public Hearing) (See attached list)

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

unanimously to advertise said license renewal applications for a public hearing to be held at the October 17, 2011 regular meeting of the Council.

Councillor Silveira recused himself from acting on the following items #13 and #14, due to a possible conflict of interest, business related.

LICENSES

13. Application of Leaky, Inc. dba Subway, 58 Aquidneck Avenue, for a Victualling House 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.

14. Application of Chris and Mike's Place, LLC dba Kingston Pizza,

659 West Main Road, for a Mechanical Amusement Device License for the 2011-2102 licensing year. (New; one game)

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

15. Application of Neville Watson dba J.A.M. Fashion Boutique, 661 West Main Road, for a Holiday License for the 2011-2012 licensing year. (NEW)

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

COMMUNICATIONS OF BOARDS AND COMMITTEES

16. (Continued from Regular Meeting, September 6, 2011)

Memorandum of Jan Eckhart, Chairman, Planning Board, with enclosure, re: Summerfield Lane (Indian Farm) Subdivision, (Benjamin Brayton) – Recommendation for acceptance of street and public improvements for town maintenance.

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

Council President Weber noted that he visited the site twice explaining that the drainage on the proposed road is in working order. Mr. Weber recommends acceptance of the street and public improvements.

17. (Continued from Regular Meeting, September 6, 2011)

Resolution of the Council, re: Acceptance of Summerfield Lane (Indian Farm) Subdivisions road and associated public improvements for purposed of town maintenance.

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

COMMUNICATIONS OF TOWN COUNCIL

18. Memorandum of Council President, re: Wind Turbine Ordinance.

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

Council President Weber inquired if Council would like to revisit the Wind Turbine Ordinance or wait until the report concerning Wind Turbines is complete by Statewide Planning.

Richard Price, 9 Dwyer Drive, addressed the Council encouraging them to hold their course and not revisit the Wind Turbine Ordinance

until the report is complete.

Carol Cummings, Indian Avenue, urged the Council not to change the Wind Turbine Ordinance at this time.

Councillor Semonelli noted that additional data is needed before the Wind Turbine Ordinance is to be revisited.

Councillor Cambra requested that Council wait until the Wind Turbine study is complete.

Councillor Silveira questioned the urgency to change the Wind Turbine ordinance.

Vice President Long noted his agreement to hold course until the state study is complete.

COMMUNICATIONS TOWN ADMINISTRATOR

19. Memorandum of Town Administrator, re: Identifying Priorities for FY2013 Legislative Agenda.

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.

20. Memorandum of Town Administrator, with enclosures, re: Award of Contract – Commodore Perry Cured In Place Pipe Project.

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.

21. Resolution of the Council, re: Award of Contract – Commodore Perry Cured In Place Pipe Project.

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

22. Memorandum of Town Administrator, with enclosures, re: FY2011 Budget Adjustments as of June 30, 2011.

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.

23. Resolution of the Council, re: FY2011 Budget Adjustments as of June 30, 2011– General Fund.

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

24. Resolution of the Council, re: FY2011 Budget Adjustments as of June 30, 2011 – Parks and Recreation Fund.

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

25. Memorandum of Town Administrator, with enclosures, re: FFY 2013-2016 Transportation Improvement Program (TIP).

Town Administrator Shawn Brown and Town Planner Ronald Wolanski reviewed the memorandum, entered here:

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

Councillor Cambra requested that the projects should be prioritized by safety concerns/issues.

Vice President Long noted his agreement with Councillor Cambra.

It was noted that a public hearing will be held on Monday, October 3, 2011 for discussion of potential projects.

APPOINTMENTS OF BOARDS AND COMMITTEES

26. Appointment of one (1) member to the Middletown Substance Abuse Prevention Task Force to complete a term expiring March 2014 or to complete a term expiring April 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Ned Mulligan to complete a term expiring March 2014.

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), (2) Potential Litigation (HK& S Bid Protest vs. Town of Middletown), (2) Litigation (Barrett vs. Town of Middletown), (2) Potential Litigation (Boss vs. Town of Middletown) and (1) Personnel (Town Administrator).

On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 7:44 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 9:40 P.M.

On motion of Vice President Long, duly seconded, it was voted unanimously to allow the Administration to engage Attorneys Timothy C. Cavazza and Daniel K. Kinder for any matters not covered by the Trust.

Councillor Viveiros left the session at 8:36 P.M.

On motion of Vice President Long, duly seconded, it was voted unanimously to engage Attorney Daniel K. Kinder for the matter of Boss vs. Town of Middletown.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve the Collective Bargaining Agreement with the IBPO Local 534 (Police Union).

On motion of Vice President Long, duly seconded, it was voted unanimously to receive and approve the Town Administrators yearly evaluation.

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 9:45 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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