

October 3, 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, October 3, 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.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4., and 42-46-5. (a) (2) Collective Bargaining (Public Works Union), (2) Litigation (HK& S Bid Protest vs. Town of Middletown).

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 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.

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

ACTING AS A BOARD OF LICENSE COMMISSION

- 1. 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 November 7, 2011 regular meeting of the board.

Councillor Silveira requested that item #3 on the Consent Calendar, be heard prior to item #20, under Communications of Town Council.

CONSENT

- 2. Approval of Minutes, re: Regular Meeting, September 19, 2011.**

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

3. (This item was received prior to item #20)

Email communication from Kathy Silvia, City Clerk, Newport, with enclosure, re: Resolution of City of Newport –Requesting the RI General Assembly to repeal the new tax on local tour operators.

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

4. Email communication from Claire Richards, Chief Legal Officer, Office of the Governor, with enclosure, re: The Department of Navy relinquished its legislative jurisdiction over certain parcels of land in the Town.

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

5. Communication of Steven A. Sette, Town Administrator, Town of Richmond, re: Requesting support in opposing the implementation of tolls on Interstate Route 95.

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

6. Memorandum of Town Administrator, re: Assuming the Duties of Tax Assessor.

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

7. Memorandum of Town Administrator, with enclosures, re: Tax System Abatements – Sewer Maintenance, Tangible – Personal Property.

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

8. Resolution of the Council, re: Tax Abatements – Sewer Maintenance.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution. (On file in the Office of the Town Clerk and available on Clerkbases in the resolution book.)

9. Resolution of the Council, re: Tax Abatements- Tangible – Personal Property.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution. (On file in the Office of the Town Clerk and available on Clerkbase in the resolution book.)

10. Memorandum of Middletown Planning Board Chairman, with enclosure, re: Proposed amendments to the Middletown Zoning Ordinance, Section 603, 605, 1102 & 1302. (Requires Advertising for Public Hearing)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and advertise for public hearing to be held on November 7, 2011.

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

(Continued from Regular Meeting, July 18, 2011)

Memorandum of Town Administrator, with enclosures, re: RIDEM Draft Agreement for Third Beach Boat Ramp Funding. (At the request, of the Administration item will be continued to November 21, 2011 Regular Meeting of the Council)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and continue said matter to November 21, 2011 Regular Meeting of the Council.

12. Beach Commission Minutes, re: Public Hearing on Third Beach Boat Ramp Improvements.

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

PUBLIC HEARINGS

13. (Continued from Regular Meeting, September 6, 2011; Abutters Notified)

(Continued from Regular Meeting, August 15, 2011; Abutters Notified)

Public Hearing (Advertised; Abutters Notified)

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, reclassification of Lots 8, 9 and 10, TAP 111 from Light Industrial Traffic Sensitive (LIA) to General Business A (GBA) and Lot 9A on TAP 111 from Light Industrial (LI) to General Business (GB). (Planning Board recommendation attached)

Public Hearing was declared open.

Vincent Mesolella, applicant, 27 Haddock Drive, Lincoln, RI addressed the Council requesting consideration to reclassification Lots 8, 9 and 10, TAP 111 from Light Industrial Traffic Sensitive (LIA) to General Business A (GBA) and Lot 9A on TAP 111 from Light Industrial (LI) to

General Business (GB).

Janet Hawkins, 220 Honeyman Avenue, noted her support of the area being used for retail. Ms. Hawkins explained the need to create jobs and tax revenue for the Town.

Manuel Marques, 33 Pasture Farm Road, addressed the Council requesting the Council to allow Mr. Mesolella to build, explaining the need for more tax revenue in the Town.

Manuel Mello, Beacon Terrace North, noted that Omni Drive is the only land left in the Town for industry.

David Dill, 141 Busher Drive, explained there is plenty of vacant retail space throughout the Town, which is not outside of the business corridors. Mr. Dill encourages the Council not to sacrifice the quality of life.

Karen Dill, 141 Busher Drive, addressed the Council noting concern that the facility would be close to her property line, would not compliment her neighborhood and be more of a traffic burden.

Jacob Varteresian, 4 JH Dwyer Drive, explained that he does not support the zoning change, because there is plenty of retail space available within the Town.

Vincent Mesolella, applicant explained that the only growth within the economy is retail. Mr. Mesolella requests the Council to consider the change in zoning.

Councillor Viveiros noted that there is unoccupied retail space in the Town. Mr. Viveiros explained that zoning should not be altered, due to economic concerns.

Councillor VonVillas noted here concern for traffic in the area and the effect on other businesses in the Town, if a large retail business is placed on the property.

Vice President Long noted that the property was rezoned to (LI) anticipating better paying jobs and the Town should wait for the right opportunity to occur.

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

On motion of Vice President Long, duly seconded, it was voted unanimously to include the Planning Board Recommendation as part of the Official record, entered here:

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

14. (Public Hearing Advertised; Abutters Notified)

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, reclassification of Lot 758, TAP 114 from Limited Business/Traffic Sensitive (LBA) and Residential-20 (R-20) to Limited Business/Traffic Sensitive (LBA). (Planning Board recommendation attached)

Public Hearing was declared open.

Attorney David P. Martland, representing the applicant/owner, addressed the Council explaining that zoning of Plat 114, Lot 758 is split between (LBA) Limited Business/Traffic Sensitive and (R-20) Residential-20 and the applicant is requesting that the entire lot be (LBA) Limited Business/Traffic Sensitive. Mr. Martland requests that the Planning Board recommendation be part of the Official Record, entered here:

William Gray, 238 Honeyman Avenue, addressed the Council explaining that he has no objections to the rezoning. Mr. Gray only requests that proper screening be installed for the abutters.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading and continue said Public Hearing to the next Regular Meeting of the Council, October 17, 2011.

15. (Public Hearing Advertised; Abutters Notified)

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, reclassification of Lot 7, TAP 104 from Traffic Sensitive Medium Density Residential (R-20A) to residential multi-family, traffic sensitive (RMA). (Planning Board recommendation attached)

Public Hearing was declared open.

Attorney Jeremiah C. Lynch, III, representing the applicant addressed the Council explaining that the change in zoning is to allow the current developers to complete the original plan for the property. The change to multifamily allows developers to take the next step and submit paperwork for a special use permit from the Zoning Board.

Alexander Simmons, 2028 West Main Road, abutter to the property expressed concern with the number of units to be built, sewerage and traffic.

Attorney Jeremiah C. Lynch, III explained that there is sewerage plant for the property on the Portsmouth side and a traffic light will be installed. The entrance is in Portsmouth.

Councillor Viveiros noted the need for more information on the

project and thinks the applicant should wait until construction is going to begin before changing the zoning.

Councillor Silveira noted his support and the support of the Planning Board for this request to change the zoning.

Vice President Long requested demographic of the buyers.

Chris Bicho, 96 Dianne Avenue, Owner, Prescott Point Development, addressed the Council explaining that he has been working with Portsmouth to have an exit onto Burma Road for the development. The total build out of the development will take approximately ten years. There is a wastewater treatment plant within the development. The buildings will be two bedroom townhouses with no restriction on age.

Councillor Semonelli noted his support for this amendment to the zoning ordinance

Councillor VonVillas noted that the petitioners request is consistent with the Town's Comprehensive Community Plan.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading and continue said Public Hearing to the next Regular Meeting of the Council, October 17, 2011.

16. (Public Hearing Advertised)

Transportation Improvement Program (TIP) - Prioritizing approved Town Projects for the FFY 2013-2016 submission to the State Planning Council.

Public Hearing was declared open.

Town Planner Ronald Wolanski reviewed the following project list entered here:

Council President Weber questioned Aquidneck Avenue sidewalks.

Town Planner Ronald Wolanski explained that Aquidneck Avenue will require full reconstruction.

Councillor Semonelli suggested expanding item #9 from the list to include businesses on lower Aquidneck Avenue. Mr. Semonelli requested item #9 be moved up on the priority list.

Councillor Cambra noted safety issues on Aquidneck Avenue/Purgatory Road areas.

Vice President Long expressed concern that Purgatory Road on the commercial end is dangerous.

Josephine Maguire, 6 Kent Road, expressed concern for safety in the Purgatory Road area.

John Bagwill, Tuckerman Avenue, addressed the Council noting the importance of sidewalks along the Purgatory Road area.

Manuel Mello, Beacon Terrace North, suggested that Aquidneck Avenue is the most important project, due to children walking to and from school.

Frank Maguire, 6 Kent Road, addressed the Council suggesting additional safety matters be addressed in the Purgatory Road/Tuckerman Avenue area of Town.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue the Public Hearing to the next Regular Meeting of the Council, October 17, 2011.

LICENSES

17. Application of Paul C. Graf, Middletown, for a Private Detective License for the 2011-2012 licensing year. (NEW)

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

OTHER COMMUNICATIONS

18. Communication of Theresa Coish, Library Director, with enclosures, re: Requesting approval to initiate a community project.

Librarian Theresa Coish reviewed the memorandum, entered here:

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

President Weber noted his support for the project.

Vice President Long commended the Library for the initiative of the project.

Councillor Viveiros expressed concern for liability.

Town Solicitor Michael W. Miller suggested a release be drafted and signed by all participants.

Councillor Silveira noted his support for the project.

Councillor Semonelli commended the Library Director and Friends of the Library for the proposed project.

On motion of Vice President Long, duly seconded, it was voted unanimously to support the Library initiative and have the Town Solicitor draft a liability release form.

COMMUNICATIONS OF TOWN COUNCIL

19. Memorandum of Councillor VonVillas, re: Library Facilities – Update.

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

Councillor VonVillas requests a facility report of the Library be submitted at the next regular meeting of the Council.

Town Administrator Shawn Brown requests to submit a plan to the Council, at the next regular meeting, outlining the process that will be followed to address the Library facility report.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council, October 17, 2011.

Item #3 on the Consent Calendar was acted on at this time.

**20. At the request of Councillor Silveira, Resolution of the Council, re:
Requesting the RI General Assembly to repeal the new tax on local
tour operators.**

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

Councillor Silveira read the resolution entered here:

**On motion of Councillor Silveira, duly seconded, it was voted
unanimously to pass said resolution and forward to all RI Cities and
Towns, requesting support.**

**Mr. Silveira explained that the legislation is a non-sensible proposal
and tax is contradictory to move the state forward.**

COMMUNICATIONS TOWN ADMINISTRATOR

21. Resolution of the Council, re: Endorsing the West Main/Coddington Development Center Master Plan.(Council received final report on September 19th;final report is on the Town website within the Planning Department)

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

Manuel Mello, Beacon Terrace North, addressed the Council expressing concern that the plan should not be endorsed until the residents receive more information pertaining to the purchase of land for the project.

Town Administrator Shawn Brown, responding to Mr. Mello explained that the only parcel of land to be purchased is the Navy Lodge, which is currently in the BRAC process.

Vice President Long noted this is the most exciting economic proposal since the Corporate Park.

Councillor Semonelli noted his support for the master plan explaining the importance of being proactive.

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

22. Memorandum of Town Administrator, with enclosures, re: Pension Trust Fund Investment Advisory Services Agreement.

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.

Finance Director Lynne Dible reviewed the Pension Trust Fund Advisory Services Agreement entered here:

23. Resolution of the Council, re: Approving Pension Trust Fund Investment Advisory Services Agreement.

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

24. Memorandum of Town Administrator, with enclosures, re: Award of Contract – Proposal for Additional Environmental Consulting, Wastewater Services for the Town of Middletown Collection System

Inflow Investigation: Smoke Testing Field Program.

Town Administrator Shawn Brown explained the process and reviewed the memorandum entered here:

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

25. Resolution of the Council, re: Award of Contract – Proposal for Additional Environmental Consulting, Wastewater Services for the Town of Middletown Collection System Inflow Investigation: Smoke Testing Field Program.

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

26. Memorandum of Town Administrator, with enclosures, re: 2011 John Deere 410J Backhoe.

Town Administrator Shawn Brown reviewed the following memorandum and recommendation entered here:

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

27. Resolution of the Council, re: Approval of purchase for a 2011 John Deere 410J Backhoe.

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

APPOINTMENTS OF BOARDS AND COMMITTEES

28. Email communication of Ned Mulligan, re: Resignation from the Middletown Substance Abuse Task Force.

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

On motion of Councillor Silveira, duly seconded, it was voted unanimously to adjourn said meeting at 8:49 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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