

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, May 7, 2012 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 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)

There were no reconsiderations.

BUDGET

1. Review of FY 2012–2013 Proposed Budgets – Planning, Building, Civic Support, Senior Center, Substance Abuse, Library and matters related thereto

Also, present were Town Administrator Shawn Brown, Finance Director Lynne Dible, Deputy Finance Director Marc Tanguay, Deputy Town Clerk Karin Clancey, and Town Solicitor Michael W. Miller.

On motion of Vice President Long, duly seconded, it was voted unanimously to begin review of FY 2012–2013 Proposed Budgets – Planning, Building, Civic Support, Senior Center, Substance Abuse, and Library.

Senior Center

Senior Center Director Arleen Kaul noted an increase within proposed budget, due to reallocating the Christmas Tree Lighting from the Non-specific area of the budget to the Senior Center. Mrs. Kaul inquired that if emergency/rescue fund monies could be used for senior transportation to the Center.

Council President Weber suggested that a committee be formed to review the senior transportation issue.

Library

Librarian Theresa Coish noted that the Library Union contract has been ratified; there are no salary increases for this year.

Planning Department

Town Planner Ronald Wolanski reviewed the functions within the Planning Department, which are short and long term plan review, GIS, Comprehensive Community Plan and economic development. Mr. Wolanski noted that there is little change to the budget with the exception of four projects, which were placed in the proposed Planning budget; he will be the project manager for them. Three of the four projects are Navy Land - BRAC process and the fourth is the Asset Management project.

Building Department

Building Official Jack Kane reviewed the proposed budget, entered here:

Mr. Kane noted that the only increases within the proposal are contractual.

Substance Abuse

Substance Abuse Prevention Director Lori Verderosa introduced Rebecca Costello and Eve Houghton, Middletown High School Juniors. Ms. Verderosa reviewed the proposed budget summary and operating budget, entered here:

Discussion centered around Substance Abuse annual data, party patrols, a need to educate the community concerning ordinances, including consequences and the importance of a chemical health policy.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue the proposed Civic Support area of the budget to the Special Council Meeting, May 30, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to recess this meeting at 6:55 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene this meeting at 7:05 pm.

PUBLIC FORUM SESSION

2. 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.

M. Theresa Santos, 214 Morrison Avenue, questioned where the 2011 certified tax rolls where.

Town Administrator Shawn Brown responded that he will have the Tax Assessor contact Ms. Santos concerning her inquiry.

PRESENTATIONS

3. Memorandum of Town Administrator, re: Employee Recognition Program – Pins of Service First Quarter 2012.

Town Administrator Shawn Brown noted the importance of longevity of Town Employees and reviewed the memorandum, entered here:

Library employee Ann Marie Chase and Town Planner Ronald Wolanski were present to receive their pins.

4. Memorandum of Town Administrator, re: WebGIS Activated.

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

Assistant Town Planner Alison Ring demonstrated the WebGIS system for the Council, Administration and meeting attendees.

BOARD OF LICENSE COMMISSION

5. Petition of Olin D. Gambrell, President and Beverly J. Travis, Secretary of the All-Vets Club, 985 Aquidneck Avenue, re: Request for expansion of Class D Alcoholic Beverage License to provide outdoor service on June 9, 2012, beginning at 2:00 p.m. for the All-Vets Club yearly Steak Fry and Lobster fundraiser for Breast Cancer Awareness.

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

unanimously to grant said petition.

Vice President Long requested that items #22 and #24 be heard under the regular portion of the docket.

CONSENT

6. Approval of Minutes – Special Meeting, April 9, 2012.

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

7. Approval of Minutes – Regular Meeting, April 16, 2012.

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

unanimously to approve said minutes.

8. Continued from Regular Meeting, April 16, 2012

Continued from Regular Meeting, April 2, 2012

Continued from Regular Meeting, March 19, 2012

Continued from Regular Meeting, March 5, 2012

Memorandum of Town Administrator, with enclosures, re: Second Beach Equipment Rental Concession. (Administration requests to continue this item to the next regular meeting of the Council).

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 21, 2012.

9. Continued from Regular Meeting, April 16, 2012

Continued from Regular Meeting, April 2, 2012

Continued from Regular Meeting, March 19, 2012

Continued from Regular Meeting, March 5, 2012

Resolution of the Council, re: Second Beach Equipment Rental Concession.

(Administration requests to continue this item to the next regular meeting of the Council).

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 21, 2012.

10. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title IX General Regulations, Chapter 91 Fire Protection, Section 91.12 Bonfire, Rubbish Fires Regulated.

(Administration requests to continue this item to the next regular meeting of the Council).

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 21, 2012.

11. Continued from Regular Meeting, April 2, 2012

Continued from Regular Meeting, March 19, 2012

Communication of Lisa Wagenbach, Volunteer/Activist, for Surfrider Foundation Rhode Island Chapter, Narragansett, re: Request Middletown to Ban single use plastic bags. (Administration requests to continue this item to the next regular meeting of the Council).

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 21, 2012.

12. Memorandum of Town Administrator, with enclosure, re: Donated Equipment/Materials – JFK building.

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

13. Memorandum of Accounting Manager, re: Quarterly Financial Report as of 3/31/2012 – Town of Middletown.

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

14. Communication of Tax Assessor, with enclosure, re: Cancellation of Taxes for certain Middletown residents.

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

15. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.

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

16. Memorandum of Town Administrator, with enclosure, re: Independent Construction Cost Estimates.

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

17. Memorandum of Town Administrator, with enclosure, re: Hiring Lawrence Associates for Fire Station Design and Site Plans.

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

18. Communication of Barbara S. Schiaroli, Assistant Executive Director, James L. Maher Center, re: Appreciation for Civic Support appropriation.

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

19. Communication of Alexandra K. Callam, Hinckley Allen Snyder, LLP, re: Environment Rhode Island, et als. v. Town of Middletown.

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

20. Resolutions and Email Communications from Rhode Island Cities and Towns, re: Requesting support in opposition to H7617 and H7620 reject any and all binding arbitration legislation currently being considered for teacher and other school employee contracts, support for H7272 moving the teacher layoff notice deadline from March 1 to June 1, support in opposition to H7250 and S 2532 mandating expired teacher contracts must continue at the existing terms and conditions, support for a Referendum relating to the Code of Ethics, support for H7561 to provide for use of post office boxes for the purposes of acknowledgement of registration or change of address and verification of residence in those cases where the prospective voter does not receive home mail delivery, support for the legislative package submitted by Governor Chafee to assist cities and towns, support in opposition to 2012-H7867 which could result in the need to impose additional taxes, support of S2310 which would amend the general powers and duties of school committees, support in opposition to Governor Chafee's proposed 2% increase in the meals and beverage tax, support in opposition to Governor Chafee's proposed expansion of the lodging tax base, support of H7144, H7579, S2036, S2038 relating to OPEB trusts and support for 2012-S2371 and 2012-H7746 which would require that all foreclosure

deeds be recorded within thirty days of foreclosure and would increase penalties for violation of this requirement.

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

21. Application of SK Industries, Inc. dba Rusty's, 44 Wave Avenue, for RENEWAL of an Amusement License for the 2012-2013 licensing year.

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

Vice President Long recused himself from acting on the following item of business, #22, due to a possible conflict of interest.

22. Applications seven (7) from the following named persons, firms or corporations for Special Event Permits. (See Attached List)

On motion of Councillor Semonelli, duly seconded, it was voted unanimously to grant said Special Event permits.

23. Applications received from the following named persons, firms and corporations for RENEWAL of Mechanical Amusement Licenses for the 2012-2013 licensing year. (See Attached List)

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

24. Communication of Karen Roarke, 26 Renfrew Avenue, with enclosure, re: Discussion of Motion Picture Production Tax Credit Incentive program.

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

Karen Roarke, 26 Renfrew Avenue, addressed the Council and reviewed the communication above. Ms. Roarke requests the Council to endorse the legislation, regarding the Motion Picture Production tax credit incentive program, to lift the cap.

LICENSE & PERMITS

25. Continued from Regular Meeting, April 16, 2012

Application of KJ's Pub, LLC dba KJ's Pub, 59-61 Aquidneck Avenue, for expansion of Victualling House License to include the outside patio (24 seats) for the 2011-2012 licensing year. (NEW)

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

Jeremiah Lynch, Esquire, Moore Virgadamo & Lynch, representing the applicant addressed the Council seeking an expansion of the food license to include the outside patio. Attorney Lynch noted that KJ's Pub is a family restaurant and no alcohol will be allowed on the outside patio.

Robert M. Silva, Esquire, representing abutter Rosemarie Nunes, spoke in opposition to the request of food service on the outside patio. Attorney Silva reviewed the applicant's petition to the Zoning Board of Review, which is on file in the office of the Town Clerk.

Attorney Jeremiah Lynch, representing the applicant, noted the request does not require a variance and parking is not an issue. A special use permit must be issued if alcohol is to be served on the patio; however, the request is only to serve food.

Town Solicitor Michael W. Miller noted that a further investigation of

use (permitted by right or allowed by receipt of a special use permit for a restaurant which serves liquor) is necessary and requests the Council to continue the matter. Mr. Miller will meet with the Zoning Official and report back to the Council at the next regular meeting.

On motion of Council President Weber, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 21, 2012.

26. Application of Aquidneck Island All Vet's Club, 985 Aquidneck Avenue, for a one day, June 9, 2012 - Amusement License – DJ.

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

27. Application for Special Event Permit from FBI National Academy Association , FBINAA New England Chapter 5K Fun run – 5K road race, taking place at Second Beach – Sachuest Point Road, Third

Beach Road and Hanging Rocks Road on Tuesday, June 26, 2012 beginning at 8:00 am until 12:00 noon. (Request to waive fee attached)

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

28. Application for Special Event Permit from FLICKERS/Rhode Island International Film Festival, "Half pint" filming (a non-profit short film project at Boyd's Grist Mill Park, permission given by Middletown Historical Society attached, filming will be three or four days between May 15th and June 25, 2012. (Request to waive fee attached)

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

29. Application of Francis Daniel Sullivan, III for a Private Detective License for the 2012-2013 licensing year. (NEW)

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

PUBLIC HEARINGS

30. Public Hearing (Advertised)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152, The Zoning Code, Article 11 Watershed Protection District, Sections 1103, 1105 and 1107. (Planning Board recommendation attached)

Public Hearing was declared open.

Town Planner Ronald Wolanski reviewed the memorandum, entered here:

Mr. Wolanski noted that there is some language within the amendment that conflicts with the Town's Comprehensive Community Plan and requests this amendment be withdrawn.

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

31. Public Hearing (Advertised)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152, The Zoning Code, Article 4 Definitions, Sections 602B and 725 (Solar Array). (Planning Board recommendation attached)

Public Hearing was declared open.

Town Planner Ronald Wolanski explained that the amendment was requested by a petition from a business owner, referred to the Planning Board, modifications were made to the ordinance. Mr. Wolanski reviewed the memorandum entered here:

Robert M. Silva, Enquire, representing the petitioner, addressed the Council explaining that the solar array units will be used and removed as needed. There will be no effect on abutters, the principal use is subject to regulations and energy will be sold back to National Grid.

Frank Epps, President of Artara, 28 Jacome Way, addressed the Council explaining the installation of the solar panels, description of panels, and jobs will be created for installation and maintenance.

Manuel Mello, Beacon Terrace North, note that he is not against solar,

does not believe you can place units on the roof tops. Mr. Mello explained that he is against selling electricity back to National Grid because the consumer always has to pay.

Public Hearing remains open.

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

32. Public Hearing (Advertised)

Town of Middletown application for Small Cities Community Development Block Grant (CDBG-R) program for a certain project, in an amount not to exceed \$120,000.

Town Administrator Shawn Brown requests withdrawal of this item.

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

ORDINANCES

33. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code Title IX General Regulations, Chapter 93 Harbor Rules and Regulations, Section 93.60.1 Dinghy/kayak Rack Rental.

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

34. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section

33 Beach Fees.

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

35. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code Title IX General Regulations, Chapter 94 Streets, Sidewalks and Public Places, Section 94.36 Overnight dry camping.

On motion of Vice President Long, duly seconded it was voted to adopt said ordinance on its second reading; All voted NO to said motion; MOTION FAILED TO PASS.

36. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of

Middletown, Title III Administration, Chapter 36 Fee Schedule, Section 34 Campground Fees.

On motion of Vice President Long, duly seconded it was voted to adopt said ordinance on its second reading; All voted NO to said motion; MOTION FAILED TO PASS.

OTHER COMMUNICATION

37. Communication of Middletown Athletic Boosters, re: Requesting support by placing an ad in the Senior Athletic Awards Banquet program.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and authorize \$100. for a full page ad in the Senior Athletic Awards Banquet program to be allocated from the President's Discretionary fund.

COMMUNICATIONS OF TOWN COUNCIL

38. Continued from Regular Meeting, April 16, 2012

At the request of Council President Weber, Resolution of the Council, re: Opposing passage of Article 24 within House Bill 7323 – changing the term “hotel” to include houses, condominiums or other dwelling units, which are rented out for a total of fifteen (15) days or more per year.

Evan Smith, President of the NCCVB, addressed the Council reviewing the impact to the tourism industry if the governor’s legislative package is passed. Mr. Smith noted that initially the lodging tax did not include Bed & Breakfast establishments

Council President Weber requests that Mr. Smith review the legislative language; assist in rewriting the resolution and continue this matter to the next regular meeting.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 21, 2012.

39. Continued from Regular Meeting, April 16, 2012

At the request of Council President Weber, Resolution of the Council, re: Supporting Governor Chafee's Legislative Package.

On motion of Vice President Long, duly seconded, it was voted to pass said resolution; Councillor Cambra voted NO to said motion.

40. Continued from Regular Meeting, April 16, 2012

At the request of Council President Weber, Resolution of the Council, re: Opposing H7617, H7618, H7619 and H7620 "Acts Relating to Labor and Labor Relations" and H7250 and S2532 mandating expired teacher contracts must continue at the existing terms and conditions.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 21, 2012.

41. Continued from Regular Meeting April 16, 2012

At the request of Councillor Silveira, Resolution of the Council, re: Opposing Governor Chafee's proposed 2% increase in the meals and beverage tax.

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

COMMUNICATION OF TOWN ADMINISTRATOR

42. Memorandum of Town Administrator, with enclosure, re: Recommendation of Open Space & Field Committee for Purgatory

Chasm Pathway.

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

APPOINTMENTS TO BOARDS & COMMITTEES

43. Communication of Joan Westgate, re: Resignation from the Substance Abuse Prevention Task Force.

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

EXECUTIVE SESSION

44. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-26-5 (a) (5) lease (East Main Road – Plat 118, Lot 31).

On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 9:06 P.M. and reconvene in executive session.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to reconvene in open session at 9:35 P.M.

On motion of Council President Weber, duly seconded it was voted unanimously to confirm prior agreement with LAMAR; Councillor Viveiros voted NO to said motion.

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

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to adjourn said meeting at 9:40 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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