

**At a Regular Meeting of the Town Council of the Town of Middletown,  
RI held at the Middletown Town Hall on Monday, June 4, 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 ADOPTION – 6:00 PM**

### **1. An Ordinance of the Town of Middletown**

**An Ordinance in amendment to the ordinances of the Town of Middletown entitled “Appropriating Revenues of the General Fund for the Fiscal Year July 1, 2012 to June 30, 2013, as amended”.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the attached Town of Middletown Final FY2013 General Fund Budget Adjustments dated June 4, 2012, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to appropriate to the School Department tax revenues in the amount of \$23,479,413 for education – an increase of \$475,000 over FY 2012.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the FY 2013 through FY 2017 Capital Improvement Program, in accordance with Town Ordinance Chapter 35 Capital Improvements, as summarized in the attached Projects and Funding Sources by Department report dated June 4, 2012, and**

**To appropriate revenues to the Capital Improvement Program Special Revenue Fund in the amount of \$1,257,977, and**

**That the following restricted appropriations shall be made from the Capital Improvement Special Revenue Fund for the projects specified in the approved Capital Improvement Plan dated June 4, 2012:**

**1) General Fund - \$1,375,763**

**a) \$ 40,000 – Information Services**

**b) \$ 5,000 – Town Clerk**

**c) \$1,195,000 – Public Works**

**d) \$ 37,851 – Library**

**e) \$ 97,912 – Debt Service Payments**

**2) School Department - \$474,290**

**a) \$390,000 – Paving & Sidewalk Replacement – High School**

**b) \$ 84,290 – High School and Gaudet Roof Replacement**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve Civic Appropriations from the General Fund for FY2013 in the amount of \$101,913.00 per attached, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the Fiscal Year 2013 General Fund Budget**

**dated June 4, 2012, entered here:**

**2. Resolution of the Council, re: Tax Levy Resolution.**

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

**3. An Ordinance of the Town of Middletown**

**An Ordinance in amendment to the ordinances of the Town of Middletown entitled “Appropriating Revenues of the Parks and Recreation Fund for the Fiscal Year July 1, 2012 to June 30, 2013, as amended”.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the attached Town of Middletown Final FY2013 Parks & Recreation Fund Budget Adjustments dated June 4, 2012, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the Civic Appropriations from the Parks & Recreation Fund for FY2013 in the amount of \$49,550.00 per attached, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the Fiscal Year 2013 Parks & Recreation Fund Budget dated June 4, 2012, entered here:**

#### **4. An Ordinance of the Town of Middletown**

**An Ordinance in amendment to the ordinances of the Town of Middletown entitled “Appropriating Revenues of the Sewer Fund for the Fiscal Year July 1, 2012 to June 30, 2013, as amended”.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to:**

- 1) Increase the Sewer Rate from \$12.15 to \$13.05 per 1,000 gallons for all connected sewer users and,**
  
- 3) Establish a Newport Customer Service Charge of \$32.92 for all connected sewer users**

**Detail entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the Fiscal Year 2013 Sewer Fund Budget dated June 4, 2012, entered here:**

## **5. An Ordinance of the Town of Middletown**

**An Ordinance in amendment to the ordinances of the Town of Middletown entitled “Appropriating Revenue of the Refuse and Recycling Fund for the Fiscal Year July 1, 2012 to June 30, 2013, as**

**amended”.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve the Fiscal Year 2013 Refuse and Recycling Fund Budget dated June 4, 2012, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to recess said meeting until 6:15 p.m.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene said meeting at 6:15 p.m.**

#### **CHARTER REVISIONS - 6:15 PM**

**6. Memorandum of Town Administrator, with enclosures, re: Proposed Charter Amendments for November Ballot.**

**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.**

**Section 207. Power to determine policy; other enumerated powers.**

**The town council shall be the policy-determining body of the town, and shall exercise all the powers of the town, except as otherwise provided by this Charter, or by the Constitution and laws of the state. Among the powers of the council to be exercised in accordance with relevant provisions of this Charter and of the Constitution and laws of the state, shall be the power:**

**(c) To create, change and abolish town departments and agencies**

**to the fullest extent not prohibited by the Constitution and valid state laws of general application and to create, change and abolish town offices not established by this Charter, the Constitution or valid state laws.**

**(d) Notwithstanding any other provision of this Charter to the contrary, the Town Council shall have the authority to merge common duties, functions and/or services of any agency or department of the Town and another department or agency of the Town including but not limited to any department or agency established by or enumerated in this Charter or by the Constitution and state laws.**

**Councillor Semonelli noted that he would not support the amendment to this section for the ballot, explaining that the current procedure is safe and works well.**

**Vice President Long explained that the change may be more than a Council should be able to do.**

**Councillor Cambra noted the current process is good and will vote against this amendment.**

**On motion of Vice President Long, duly seconded, it was voted to forward the proposed amendment, Sec. 207 Power to determine policy; other enumerated powers, paragraph (c), to the Town Solicitor's office for proper form to be included on the November 6, 2012 General Election ballot; Council President Weber and Councillor Viveiros VOTED YES; Vice President Long, Councillors Cambra, Semonelli and VonVillas VOTED NO; MOTION FAILED TO PASS.**

#### **Section 207 (d)**

**Vice President Long noted support of this amendment, explaining it will create efficiencies.**

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

**unanimously to forward the proposed amendment, Sec. 207 Power to determine policy; other enumerated powers, paragraph (d), to the Town Solicitor's office for proper form to be included on the November 6, 2012 General Election ballot.**

### **Section 911 Personnel review board.**

**There shall be a personnel review board consisting of three qualified electors of the town appointed by the town council to serve for three-year terms. There shall be no more than two board members belonging to the same political party. The jurisdiction of the board shall extend to all cases of appeals from dismissals, suspensions, demotions, or layoffs of employees of the town in the classified service, except those provided for otherwise in the Charter.**

**Any such person against whom any disciplinary action is taken by the appointing authority, may appeal in writing to the personnel review board within ten days of his receipt of written notification of said action. Unless said appeal has been withdrawn, the personnel review board, within ten days from the filing of said appeal, shall**

**conduct a hearing, at which it shall give the appellant, the appointing authority, and the department head, board or other agency involved, an opportunity to be heard. After said hearing, which shall be public at the option of the appellant, the personnel review board may affirm, or if it finds disciplinary action to be arbitrary and capricious or based upon erroneous understanding of facts reverse or modify the disciplinary action taken, and the action of the personnel review board shall be final and binding. The review accorded herein shall be deemed to be alternative to that granted by general and special state laws to certain classes of town employees. Upon reinstatement for any reason, the employee shall be paid in full for the wages lost during the period of said disciplinary action against him less all interim earning or amounts reasonably earnable by the employee, including but not limited to wages and wage substitutes (such as workers compensation or unemployment compensation). At any hearing it shall be right of the appellant to be represented by counsel.**

**(Amended, December 6, 1976; Amended, November 5, 2002; Amended, November 4, 2008.)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to forward the proposed amendment, Sec. 911 Personnel review board, to the Town Solicitor's office for proper form to be included on the November 6, 2012 General Election ballot.**

## **Section 913 – Paragraph 1**

### **Sec. 913. Right to organize; strikes.**

**The right of municipal employees to associate together and to join any lawful organization of their own choosing for the purpose of collective bargaining to the fullest extent authorized and required by the General Laws of Rhode Island is recognized by this Charter, subject to the terms of this Charter, the Constitution and laws of this State. The town council and school committee are empowered to recognize such organizations, negotiate with them, and sign written agreements either directly or through the town administrator or superintendent of schools, as the case may be; provided, that no right whatsoever of employees to strike against the government of the town is herein implied or sanctioned, and provided further that no agreement shall be binding to the extent that it is inconsistent with the terms of this Charter, the Constitution or laws of this State or the lawful enactments of the Town.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to forward the proposed amendment, Sec. 913 Right to organize; strikes, first paragraph, to the Town Solicitor's office for proper form to be included on the November 6, 2012 General Election ballot.**

### **Section 913 – Paragraph 2**

**All collective bargaining agreements affecting employees of any department including but not limited to the School Department, shall have no force or effect until and unless they are first ratified by a majority vote of the town council. No such vote shall be taken until the council has had a full and complete cost impact study detailing the short-term and long-term costs of the agreement in its possession for at least seven days. (Amended, November 5, 2002.)**

**Vice President Long noted that the Town Council appropriates 100% of monies to the School department, which is 60% of the Town budget; this amendment will ensure the bottom line.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to forward the proposed amendment, Sec. 913 Right to organize; strikes, second paragraph, to the Town Solicitor's office for proper form to be included on the November 6, 2012 General Election ballot.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to recess said meeting until 7:00 p.m.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene said meeting at 7:00 p.m.**

## **PUBLIC FORUM SESSION**

**7. 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 spoke during this session.**

## **PRESENTATION**

**8. Resolution of the Council, re: Commendation Middletown High School Boys Tennis Team.**

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

**Council President Weber read and presented said commendation to the Middletown High School Boys Tennis Team, entered here:**

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

## **BOARD OF LICENSE COMMISSION**

**9. Petition of Olin D. Gambrell, President and Vilma Parsonage, Bar Manager of the All-Vets Club, 985 Aquidneck Avenue, re: Request for expansion of Class D Alcoholic Beverage License to provide outdoor service on June 24, 2012, beginning at 12:00 noon for the All-Vets Club annual Viking Riders Blessing of the Bikers Fundraiser.**

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

**10. Petition of Olin D. Gambrell, President and Vilma Parsonage, Bar Manager of the All-Vets Club, 985 Aquidneck Avenue, re: Request for**

**expansion of Class D Alcoholic Beverage License to provide outdoor service on August 25, 2012, beginning at 1:00 p.m, for the All-Vets Club Annual Clam Boil Fundraiser for Charities, all Veterans and Families and also the Children's Christmas Party.**

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

**11. Petition of Olin D. Gambrell, President and Vilma Parsonage, Bar Manager of the All-Vets Club, 985 Aquidneck Avenue, re: Request for expansion of Class D Alcoholic Beverage License to provide outdoor service on September 22, 2012, beginning at 12:00 noon, for the All-Vets Club Memorial Dedication – 2nd Anniversary for all fallen Sisters and Brothers and all Branches of the Military.**

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

## **CONSENT**

### **12. Approval of Minutes – Regular Meeting, May 21, 2012.**

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

### **13. Approval of Minutes – Special Meeting, May 23, 2012.**

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

### **14. Communication of Tax Assessor, with enclosures, 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. Proclamation of Town of East Greenwich, re: Proclaiming the month of May 2012 at Brain Tumor Awareness Month.**

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

**17. Application of HPK, Inc. dba Tickets, 15 Aquidneck Avenue, for**

**RENEWAL of a Mechanical Amusement License for the 2012-2013 licensing year. (1 Juke Box, 1 Pool Table and 6 Games)**

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

**18. Application of Lee Patrick Richardson dba Richardson's Ice Cream, Portsmouth, RI, for RENEWAL of a Peddler's License for the 2012-2013 licensing year.**

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

**19. Application of William Anthony Excavating, Inc., North Kingstown, RI, for RENEWAL of a Drain Layer's License for the 2012-2013 licensing year.**

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

**Vice President Long recused himself from acting on the following item of business, #20, due to a possible conflict of interest, business related.**

## **LICENSE & PERMITS**

**20. Application of Longade, LLC dba Del's Lemonade, Middletown, for RENEWAL of a Hawker's License (Benny's Parking Lot) for the 2012-2013 licensing year. (Permission given from Benny's)**

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

**21. Applications (2) of John Messenger dba Jay Vending Company, Maryland, for a Hawker's License (Second Beach) for the 2012-2013 licensing year. (NEW)**

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

**22. Application of John Ashley, Jr. dba Castaway Gourmet, LLC, Portsmouth, Rhode Island for a Hawkers License for the 2012-2013 licensing year. (NEW; Permission given from Linear Title & Closing, 127 John Clarke Road)**

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

**23. Application of Newport Vineyards, 909 East Main Road, for a one day Amusement License on June 16, 2012 – Comedy Show.**

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

**24. Application of Newport Vineyards, 909 East Main Road, for a two day Amusement License on July 27 & 28, 2012 – Shakespeare Performance.**

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

**25. Application of Newport Vineyards, 909 East Main Road, for a one day Amusement License on August 2, 2012 – Jazz Performance.**

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

**26. Application of American Promotional Events dba TNT Fireworks, 1315 West Main Road, for a Holiday Sales License for the 2012-2013 licensing year. (NEW)**

**M. Theresa Santos, 214 Morrison Avenue, addressed the Council expressing concern that the Town only receives minimal money for this type of business.**

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

**27. Application of BJ Alan Company dba Phantom Fireworks, 741 West Main Road, for a Holiday Sales License for the 2012-2013 licensing year. (NEW)**

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

**unanimously to grant said license.**

## **ORDINANCES**

### **28. An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title XI: Business Regulations, Chapter 116 Taxicabs.**

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

### **29. 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. (Speed Limit – Casey Drive, Donald Drive, Murphy Circle and Orville Drive)**

**Vice President Long noted that this ordinance was recommended by the Police department.**

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

## **OTHER COMMUNICATIONS**

**30. Email memorandum of William F. Horan, Middletown, re: East Bay Energy Consortium.**

**Vice President Long noted that the EBEC legislation should be resolved by the State legislators within the week.**

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

## **TOWN ADMINISTRATOR COMMUNICATION**

**31. Memorandum of the Town of Town Administrator, with enclosures, re: Revised Legislation for East Bay Energy Consortium 2012 – S2870 Sub A.**

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

**Town Administrator Shawn Brown noted that the EBEC 2012 – S2870 Sub A changes the original legislation by eliminating power of eminent domain, no ability for the Town to take debt, each community will have one representative chosen by the Governor (after 3 names are submitted to him) and ratified by the state. The Governor can remove a board member only with cause, EDC is not a member of the Consortium, the board member is not eligible to receive a pension and there is an ability to competitively bid projects. A Sub A 2 will be heard tomorrow by the legislature with provisions allowing**

**communities to opt out, eliminate a word from eminent domain, the state would not take EBEC debt and employees will not receive pensions.**

**Christine Forester, 124 Green End Avenue, reviewed that the Town Council approved a resolution in April supporting legislation, Sub A changes the legislation, however; the mission and goal has remained the same, to protect Middletown and the current legislation still reaches that goal. Ms. Forester is requesting continued support from the Council, noting that the Council can opt out at any time.**

**Council President Weber noted that he is not comfortable with the Governor choosing the Town Representative to the committee.**

**Councillor Semonelli noted the need to track the legislation and his agreement with Council President Weber.**

**Vice President Long noted that the legislation is moving in a**

**favorable direction.**

**32. Memorandum of Town Administrator, with enclosure, re: Revised Wind Turbine Ordinance.**

**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.**

**33. Resolution of the Council, re: Wind Turbine Moratorium.**

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

## **APPOINTMENTS TO BOARDS AND COMMITTEES**

**34. Appointment of one (1) member to the Substance Abuse Prevention Task Force for a term expiring April 2015.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Tina Vars to the Substance Abuse Prevention Task Force for a term expiring April 2015.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adjourn said meeting at 8:04 p.m.**

---

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

**Council Clerk**

**Published by ClerkBase**

**©2012 by Clerkbase. No Claim to Original Government Works.**