

**At a Regular Meeting of the Town Council of the Town of Middletown,  
RI held at the Middletown Town Hall on Monday, April 15, 2013 at 5:30  
P.M.**

**Vice President Robert J. Sylvia, Presiding**

**Councillor Richard P. Adams**

**Councillor Bruce J. Long, arrives at 6:05 pm**

**Councillor Paul M. Rodrigues**

**Councillor M. Theresa Santos**

**Councillor Barbara A. VonVillas, Members Present**

**Council President Christopher T. Semonelli, 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 we no reconsiderations.**

**Also, present were Town Administrator Shawn Brown, Finance Director Lynne Dible, Deputy Finance Director Marc Tanguay, Town Solicitor Michael W. Miller, Deputy Town Clerk Karin Clancey, Public Works Director Tom O'Loughlin, Town Engineer Warren Hall and Refuse & Recycling Coordinator Will Cronin.**

**Vice President Sylvia requested a moment of silence for the Boston Marathon victims.**

**5:30 P.M. – BUDGET**

**1. Review of FY 2013–2014 Proposed Budgets – Public Works, Wastewater, Refuse & Recycling, General Government and matters**

**related thereto.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to begin review of Public Works, Wastewater, Refuse & Recycling and General Government.**

**Town Administrator Shawn Brown reviewed the Public Works budget, entered here:**

**Mr. Brown noted that the budget is level funded. There is a 2% increase in salaries, due to the contractual obligations.**

**Discussion centered around the reorganization of Public Works and Recreation Departments, Public Works summer help, GPS data trackers on mowers, catch basin maintenance, salt brine, reimbursement for grass cutting in the Purgatory Road area, time**

**clocks, Citizens request system, storm water issues, jet vac truck, purchase of a basin truck, sharing services with the school department, snow removal and sharing of materials with state and local services.**

**Town Administrator Shawn Brown reviewed the Sewer fund, entered here:**

**Finance Director Lynne Dible noted the sewer rate remains the same, a slight decrease in the customer service charge and the addition of an I&I charge.**

**Town Administrator Shawn Brown reviewed the Capital Improvement budget, entered here:**

**Town Administrator Shawn Brown reviewed the condition index of Roads, Sidewalks, culverts, sewer lines and manholes, which is on file in the Office of the Town Clerk.**

**Town Administrator Shawn Brown reviewed the Refuse & Recycling budget, entered here:**

**Mr. Brown noted there will be a \$6.00 permit fee increase to help cover the cost of the ACH payment program.**

**Discussion centered around the increase of 40 participants in the Refuse and Recycling program, the green containers being picked up from participants, North Smithfield is interested in the green containers and the need for more participants to stabilize the cost of the program.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to recess this meeting at 7:05 pm.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to reconvene this meeting at 7:10 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.**

**No one addressed the Council during this session.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to act as a Board of License commission.**

## **ACTING AS A BOARD OF LICENSE COMMISSION**

**3. Application of Main Hotel, LLC dba Homewood Suites, 348 West Main Road, for a Retailers Class BT Alcoholic Beverage License for the 2012-2013 licensing year. (Requires advertising for public hearing and notice of abutters; NEW)**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said application, advertise for public hearing and notify abutters for May 20, 2013, regular meeting of the board.**

**On motion of Councillor Santos, duly seconded, it was voted unanimously to reconvene as a Town Council.**

**Councillor Santos requested that items #10, #12 and #13 be heard under the regular portion of the docket.**

**CONSENT**

**4. Approval of Minutes, re: Regular Meeting, April 1, 2013.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to approve said minutes.**

**5. Communication of Dennis DeMarinis, Jr., Director of Development & Communication, James L. Maher Center, re: Appreciation for support.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to receive said communication.**

**6. Notices of Public Hearings from the Zoning Board of Review – two (2) Petitions of Daniel G. Kamin, BJ's of Middletown, LLC (owner) – BJ's Wholesale Club, Inc. (applicant), one (1) petition for a Special Use Permit from Section 602(B) – to allow the construction of a propane dispensing facility in a (GBA) General Business/Traffic**

**Sensitive zoning district consisting of two 1,000 gallon above ground LPG tanks and related appurtenances and one (1) petition for a Variance from Section 1304 to allow 345 off – street parking spaces where 355 parking spaces are required, both petitions for real estate located at 173 East Main Road, TAP 107SE, Lot 107.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to receive said notices of public hearings.**

**7. Notices of Public Hearings from the Zoning Board of Review – two (2) Petitions of Linda Phelan (owner), one (1) petition for a Special Use Permit from Section 1106 – to allow the construction of a single family dwelling in Zone 1 of the Watershed Protection District and one (1) petition for a Variance from Article 4 & Section 603 – to allow the construction of a single family dwelling with developable land area of 38,902 sq. ft. where 40,000 sq. ft. is required, both petitions for real estate located on Mitchell’s Lane, TAP 123, Lot 13.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to receive said notices of public hearings.**

**8. (Continued from Regular Meeting, April 1, 2013)**

**Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: Town Hall Bathroom Renovations. (Attached is a request by the Administration to withdraw)**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to withdraw said memorandum, at the request of the Administration.**

**9. (Continued from Regular Meeting, April 1,2013)**

**Resolution of the Council, re: Award of Contract: Town Hall Bathroom Renovations. (Attached is a request by the Administration to withdraw)**

**On motion of Councillor VonVillas, duly seconded, it was voted**

**unanimously to withdraw said resolution, at the request of the Administration.**

**10. Communication of Finance Director, thru Town Administrator, with enclosures, re: Sewer Maintenance Abatement – 29 Phillips Avenue.**

**Councillor Santos noted that the Town charges interest on late tax payments; can the Town give interest regarding the abatements?**

**Town Administrator Shawn Brown explained there is not provision in state law or the Town Ordinances allowing for the payment of interest.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said communication.**

**11. Resolution of the Council, re: Sewer Maintenance Abatement – 29 Phillips Avenue.**

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

**12. Memorandum of Accounting Manager, thru Finance Director, re: Quarterly Tax Collector's Report as of 03/31/2013 – Town of Middletown.**

**Councillor Santos passed on this item.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said memorandum and report.**

**13. Communication of Tax Assessor, with enclosure, re: Cancellation of taxes for certain Middletown taxpayers.**

**Councillor Santos questioned when the Town would see the end of Military exemptions.**

**Town Administrator Shawn Brown, responding to Councillor Santos, noted that Military issue may never end.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said communication.**

**14. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.**

**On motion of Councillor VonVillas, duly seconded, it was voted**

**unanimously to pass said resolution.**

**15. Resolutions from Rhode Island Cities and Towns, re: Request support in opposition to the OWTS Bills, Request support in opposition to Dry Lands Bill, Request support in opposition to Municipal Notice Registry Bill, and Request support Contract Continuation – Binding Arbitration – to oppose and reject any and all mandatory binding arbitration legislation being considered for teacher and other school employee contracts. (See Attached List)**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to receive said resolutions.**

**16. Applications received from the following named persons, firms and corporations for RENEWAL of Holiday Sales Licenses for the 2013-2014 licensing year. (See Attached List)**

**On motion of Councillor VonVillas, duly seconded, it was voted**

**unanimously to grant said license renewals.**

**17. Application of Peter Kelly's Ice Cream, Portsmouth, for RENEWAL of a Peddler's License for the 2013-2014 licensing year.**

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

**18. Application of Island Management, Inc. dba Flo's Clam Shack, 4 Aquidneck Avenue, for RENEWAL of an Amusement License for the 2013-2014 licensing year.**

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

**19. Application of SK Industries, Inc. dba Rusty's, 44 Wave Avenue,**

**for RENEWAL of an Amusement License for the 2013-2014 licensing year.**

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

**20. Applications received from the following named persons, firms and corporations for Special Event Permits. (See Attached List)**

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

**21. Email communication of Gary D. Paquette, Chairman, Middletown Conservation Commission, re: Conservation Commission Liaison to the Tree Commission.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to confirm Robert Johnson as Conservation Commission Liaison to the Tree Commission.**

## **LICENSES & PERMITS**

**22. Application of AW Food Mart, Inc. dba Kennedy's Grill, Food Mart, 390 West Main Road, for a Vitualling House License for the 2012-2013 licensing year. (NEW)**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to grant said license contingent on Building Official, Fire Marshal, Public Works and Board of Health approvals.**

**23. Application for Special Event Permit from Water Brothers, Ryan Roberts Surf Classic, Surfing Event, Second Beach on one of the following dates (depending on surf conditions) May 4th , 5th , 11th , or 12th , 2013, includes a request to waive permit fee.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to grant said Special Event Permit and waive said fee.**

## **OTHER COMMUNICATIONS**

**24. Memorandum of Robert M. Silva, Chairman, Middletown Economic Development Advisory Committee, re: Resolution in support of Enterprise Zone Legislation.**

**Robert M. Silva, Chairman of the Economic Development Advisory Committee, reviewed the memorandum, entered here:**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said memorandum.**

**25. Resolution of the Council, re: Support of 2013 H5892 and S0741 – Enterprise Zone Legislation.**

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

## **TOWN ADMINISTRATOR COMMUNICATIONS**

**26. Memorandum of Town Administrator, with enclosures, re: Two-Mile Corner Intersection Improvement Project.**

**Town Administrator Shawn Brown reviewed the memorandum, entered here:**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said memorandum.**

**Town Administrator Shawn Brown noted that the administration will prepare a memorandum of issues form the Council and residents.**

**Discussion centered around traffic flow in Maple Avenue area, impact on Symthe Street and Bank Newport area, possibility of another workshop with DOT and emailing the Town Administrator with specific concerns regarding the improvements.**

**27. Memorandum of Finance Director thru Town Administrator, with enclosures, re: Contract Award: Site Work – Precast Concrete Restrooms at the Berkeley Peckham School.**

**On motion of Councillor VonVillas, duly seconded, it was voted to receive said memorandum, Councillor Santos voted NO to said motion.**

**Councillor Santos noted that the site work area is on the War Memorial Field, not Berkeley Peckham School.**

**28. Resolution of the Council, re: Award of Contract for Site Work – Precast Concrete Restrooms at the Berkeley Peckham School.**

**Discussion centered around amending the resolution to include War Memorial Field after the words Berkeley Peckham School.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to pass said resolution, as amended.**

**29. Memorandum of Finance Director thru Town Administrator, with enclosures, re: Judgment Bond Anticipation Notes (BANs) – Esplande Drainage Improvements – redesign change order.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to receive said memorandum.**

**30. Resolution of the Council, re: Authorizing the Town of Middletown to Finance the payment of costs in connection with that Certain Consent Decree in the Matter of Environment Rhode Island, Burton Hoffman, Henry Rosemond, Jr., David Wixted and Henry T. Wrobel v. The Town of Middletown, C.A. 08-3235 by Issuance of not more than \$3,000,000 Bonds and Notes therefor.**

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

## **APPOINTMENTS TO BOARDS & COMMITTEES**

**31. Appointment of one (1) member to the Middletown Committee for the Arts for term expiring April 2016.**

**On motion of Councillor VonVillas, duly seconded, it was voted to reappoint Diane Andrews to the Middletown Committee for the Arts for a term expiring April 2016.**

**32. Appointment of one (1) member to the Beach Commission to complete a term expiring January 2014.**

**On motion of Councillor Rodrigues, duly seconded, it was voted to appoint John F. Ceglarski to the Beach Commission to complete a term expiring January 2014.**

**33. Appointment of one (1) member to the Conservation Commission to complete a term expiring July 2013 or complete a term expiring July 2014.**

**On motion of Councillor VonVillas, duly seconded, it was voted to appoint David Michael Huntoon to the Conservation Commission to**

**complete a term expiring July 2014.**

**34. Appointment of one (1) member to the Middletown Prevention Coalition to complete a term expiring April 2015 (Parent Slot).**

**On motion of Councillor Rodrigues, duly seconded, it was voted to appoint Karen Davis to the Middletown Prevention Coalition to complete a term expiring April 2015, parent slot.**

## **COUNCIL RESOLUTIONS**

**35. At the request of Councillor Long, Resolution of the Council, re: Supporting Senate Bill 209 - This act would change the composition of the Rhode Island Turnpike and Bridge Authority.**

**Councillor Long noted the passage of this legislation would change the composition of the RI Turnpike and Bridge Authority Board.**

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

**36. At the request of Councillor Long, Resolution of the Council, re: Supporting Senate Bill 242 - This act would provide various amendments restricting tolls on bridges and would establish a bridge maintenance fund to provide for said bridge maintenance.**

**Councillor Long noted the language of this legislation provides funding to maintain bridges.**

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

**On motion of Councillor Rodrigues, duly seconded, it was voted**

**unanimously to adjourn said meeting at 7:46 p.m.**

---

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

**Council Clerk**

**Published by ClerkBase**

**©2013 by Clerkbase. No Claim to Original Government Works.**