

**At a Regular Meeting of the Town Council of the Town of Middletown,  
RI held at the Middletown Town Hall on Monday, October 7, 2013 at  
7:00 P.M.**

**Council President Christopher T. Semonelli, Presiding**

**Vice President Robert J. Sylvia**

**Councillor Richard P. Adams**

**Councillor Bruce J. Long**

**Councillor Paul M. Rodrigues**

**Councillor M. Theresa Santos**

**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.**

## **PUBLIC FORUM SESSION**

**1. 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. All items discussed during this session will not be voted upon.**

**No one spoke during this session.**

## **AWARDS & PROCLAMATIONS**

**2. At the request of Vice President Sylvia, re: Resolution of the Council – Proclaiming October 7, 2013 Staff Sergeant Timothy Raymond McGill Day in the Town.**

**Vice President Sylvia presented the Proclamation to Master Sergeant Angel from Company A, 2nd Battalion, 19th Special Forces Group.**

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

**Master Sergeant Angel from the Company A, 2nd Battalion, 19th Special Forces Group thanked the Council for Proclaiming October 7, 2013 as Staff Sergeant Timothy Raymond McGill Day in the Town and noted that Staff Sergeant Timothy Raymond McGill volunteered for service in Afghanistan.**

**3. At the request of Vice President Sylvia, re: Resolution of the Council – Proclaiming November 2013 as Pancreatic Cancer Awareness Month in the Town.**

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

**4. Memorandum of Town Administration, re: Employee Recognition Program – Pins of Service Second and Third Quarters 2013.**

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

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

**Susan Lentz from the Fire Department was not present to receive her 30 year pin.**

**President Semonelli presented Chris Johnson from Support Services**

**with a 20 year pin.**

**Chris Johnson thanked the Town Council, Town Administrator and Senior Citizens Director for this recognition.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to act as a Board of License Commission.**

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

### **5. (Public Hearing Advertised)**

**Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the 2013-2014 licensing year. (See attached list)**

**Public Hearing was declared open.**

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

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

**6. (Public Hearing Advertised; abutters notified)**

**Application of Custom House Coffee, LLC dba Custom House Coffee holder of a Retailer's Class BV Alcoholic Beverage License for premises located at 797 Aquidneck Avenue to expand service removing restrictions on the types of alcoholic beverages to be served and allowing the premises to remain open Sunday through Thursday until 10 pm for private functions for the 2012-2013 licensing year.**

**Public Hearing was declared open.**

**Attorney MaryJo Carr, representing Custom House Coffee, addressed the Council requesting to lift the restrictions on the types of alcoholic beverages to be served and allowing the premises to remain open Sunday through Thursday until 10 pm for private functions.**

**Wendy Lord Harvey, 819 Aquidneck Avenue, addressed the Council requesting verification that the restriction of the Custom House Coffee license is not transferable stays in place.**

**Attorney MaryJo Carr, responding to Mrs. Harvey, explained that the restriction regarding the license not being transferable has not changed.**

**Town Solicitor Michael W. Miller noted that the restriction regarding the license not being transferable was set by the Zoning Board and remains in place.**

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

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

**7. Application of Custom House Coffee, LLC dba Custom House Coffee, 797 Aquidneck Avenue for RENEWAL of its Retailer's Class BV Alcoholic Beverage License for the 2013-2014 licensing year. (Requires Advertising for Public Hearing)**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said application and advertise for public hearing for October 21, 2013, regular meeting of the board.**

**8. Application of Royal Plaza, LLC dba Portofino Bar & Grille at**

**Royal Plaza, 425 East Main Road, for RENEWAL of its Class BT Alcoholic Beverage License for the 2013-2014 licensing year.  
(Requires Advertising for Public Hearing)**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said application and advertise for public hearing for October 21, 2013, regular meeting of the board.**

**9. Application of Andrews At Eastgate, Ltd dba Gold's Wood Fired Grille & Café, 21A Valley Road, holder of a Class BV Alcoholic Beverage License to TRANSFER said 2012-2013 license to Back of the Bus, LLC dba IDA's Restaurant, for use at the same premise.**

**(Requires Advertising for Public Hearing)**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said application and advertise for public hearing for October 21, 2013, regular meeting of the board.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to reconvene as a Town Council.**

**Councillor Santos requested that items #20 and #22 be heard under the regular portion of the docket.**

## **CONSENT**

**10. Approval of Minutes, re: Regular Meeting, September 16, 2013.**

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

**11. Approval of Minutes, re: Special Meeting, September 30, 2013.**

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

**12. Communication of Joseph P. Mansolillo, Project Manager, Prime AE Group, East Providence, re: 1R Highway Safety Improvement Program, West Main Road (Route 114)-Contract #2, From Locust Avenue to Mill Lane, Middletown/Portsmouth, Rhode Island, RI Contract No. 2000-EH-005, RIFAP No. STP-DESN(001), PEI Project #881-D, 10% Design Plans.**

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

**13. Communication of Renee Strondak, Project Geologist and Kevin D. Trainer, P.G., C.P.G., L.S.P Associate, GeoInsight Environmental Strategy & Engineering, re: Public Notice-Completion of Site Investigation Activities, Former Getty Service Station #68002, 10 Coddington Highway, Middletown, Rhode Island, LS#1917A.**

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

**14. Notice of Public Informational Meeting – Concerning the Town of Middletown’s Forest Avenue Sewer Project.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said notice of Public Informational Meeting – Concerning the Town of Middletown’s Forest Avenue Sewer Project.**

**15. Communication of Virginia Simmons, Grants Management Officer, Division of Grants Management, with enclosure, re: Notice of Grant Award.**

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

**16. Communication of Evan Smith, President & CEO, Discover Newport, with enclosure, re: Copy of fiscal year ended March 31, 2013 annual audit report.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication and report.**

**17. Communication of Evan Smith, President & CEO, Discover Newport, re: Support of USS John F. Kennedy resolution.**

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

**18. Communication of Dale S. Holberton, CMC, Town Clerk, Town of South Kingstown, re: Support of Middletown's efforts regarding the**

**USS John F. Kennedy to Newport County.**

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

**19. Communication of Councillor Adams, with enclosure, re: The Methodist Community Garden.**

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

**20. Memorandum of Tax Assessor/Tax Collector, thru Town Administrator, with enclosure, re: October 7, 2013 abatement list - Cancellation of taxes for certain Middletown taxpayers.**

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

**unanimously to receive said memorandum.**

**Councillor Santos questioned if there will always be abatements.**

**Town Administrator Shawn Brown explained that the process exists within the State of Rhode Island, abatements will continue.**

**21. Resolution of the Council, re: October 7, 2013 abatement list - Cancellation of taxes for certain Middletown taxpayers.**

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

**22. Communication of Tax Collector, thru Town Administrator, with enclosure, re: Cancellation of taxes for certain Middletown taxpayers.**

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

**Councillor Santos questioned an abatement which was in the last communication received on September 16, 2013.**

**Town Administrator Shawn Brown explained that the Assessor manually added the abatement to the September 16, 2013 list, to accommodate a taxpayer on a fixed income. The situation will not be repeated.**

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

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

**24. Application of Marylous News, Inc. dba Marylous Coffee, 207 East Main Road, for RENEWAL of Additional Hours of Operation License for the 2013-2014 licensing year. (Requires Advertising for Public Hearing)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said application and advertise for November 4, 2013.**

**25. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses for the 2013-2014 licensing year. (See attached list)**

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

**26. Application for Special Event Permit from Pamela Carreia for Carreira/Turner Wedding to be held at Second Beach on Friday, August 22, 2014 from 5:00 pm until 6:00 pm.**

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

**Councillor Long recused himself from acting on the following item #27 of business, due to a possible conflict of interest.**

## **LICENSES & PERMITS**

**27. Application of Longade, LLC dba Del's Lemanade, 729 West Main Road, for RENEWAL of a Victualling House License for the 2013-2014 licensing year.**

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

**28. Application of Aldi, Inc., 890 West Main Road, for a Holiday License for the 2013-2014 licensing year. (NEW)**

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

**29. Application of TSA Stores, Inc., dba Sports Authority, 1315 West Main Road, for a Holiday License for the 2013-2014 licensing year. (NEW)**

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

**30. Application of All Island Nutrition, 883 West Main Road, for a Victualling House License for the 2013-2014 licensing year (NEW)**

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

**PUBLIC HEARING**

**31. (Public Hearing Advertised)**

**Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, Additional Hours of Operation, for the 2013-2014 licensing year. (See attached list)**

**Public Hearing was declared open.**

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

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

## **ORDINANCES**

**32. Memorandum of Town Clerk, thru Town Administrator, with enclosure, re: Burial Lot Fees.**

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

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

**Councillor Santos inquired if other cemeteries give senior discounts for lot purchases.**

**Town Clerk Wendy Marshall, responding to Councillor Santos, noted that no cemeteries give a senior discount.**

**Town Administrator Shawn Brown noted that the Town is out of money to operate the cemetery, the monies needs to come from somewhere.**

**Councillor Rodrigues inquired if there is increase in lot fees will the cemetery support itself?**

**Councillor Santos inquired how much it costs to operate the cemetery.**

**Town Administrator Shawn Brown noted that the sale of cemetery lots do not support the cemetery operational expenses.**

**Councillor Rodrigues requests a breakdown of cemetery expenses to allow for a more informed decision.**

**Councillor Adams explained that there are two scenarios; if the Town is going to subsidize the cost of maintenance and an increase in cemetery fees.**

**Vice President Sylvia noted that there may never be enough money to support the cemetery.**

**33. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 36, Fee Schedule, Section 45, Burial Lots.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to continue receive said ordinance to the next regular meeting of the Council, October 21, 2013.**

**34. Memorandum of Town Administrator, re: Ordinance Amendment Chapter 90 Animals, 90.27 Places Prohibited to Dogs.**

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

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

**35. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in Amendment of the Town Code of the Town of Middletown, Title IX, Chapter 90 Animals, Section 90.20 Definitions and Section 90.27 Places Prohibited to Dogs.**

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

**OTHER COMMUNICATIONS**

**36. (Continued from Regular Meeting, September 16, 2013)**

**Memorandum of Superintendent, with enclosures, re: FY2014 Budget Amendments.**

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

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

**Council President Semonelli thanked the School Department for the supporting information regarding the FY2014 Budget Amendments.**

**School Superintendent Rosemarie Kraeger noted that the School Committee designated excess funds for one time expenditures in the areas of technology, facilities and curriculum.**

**Discussion centered around utilizing funds for shortfalls, impact aid funding, technology in the schools, not passing the resolution this evening will hold up curriculum materials and the need for a Special meeting regarding items #36 thru #38 to be held prior to the October 21, 2012 regular meeting of the Council.**

**On motion of Councillor Adams, duly seconded, it was voted unanimously to continue items # 36, #37, #38 and #39 to a convenient time in the next two weeks to consider, resolve and act on these items at a Special Meeting with the Town Council, School Committee and Town and School Administrations.**

**37. (Continued from Regular Meeting, September 16, 2013)**

**Resolution of the Council, re: Approval of FY2014 Budget Amendments.**

**38. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: School Department-FY2014 CIP Funds Change of Use.**

**39. Resolution of the Council, re: School Department-FY2014 CIP Funds Change of Use.**

**40. Communication of James Winters, President and John Churchwell, Vice President, Newport County NAACP, re: Request for support by placing an ad in the Anniversary Souvenir Booklet for Newport County NAACP Branch's 94th Annual Awards Dinner.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication and approve a full-page ad (cost \$125.) in the Anniversary Souvenir Booklet to be appropriated from the Council President's Discretionary Fund.**

**Item #42 was heard at this time.**

## **COUNCIL COMMUNICATIONS**

**41. Memorandum of Councillor Adams and Councillor VonVillas, with enclosures, re: Requests Related to Unified High School Planning.**

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

**Councillor VonVillas requested Town Solicitor's opinion regarding the memorandum above.**

**Town Solicitor Michael W. Miller noted concern with the first line of the memorandum above, explaining the RIGL 16-3-4 refers to the composition of a Planning Commission. The request does not follow the RIGL 16-3-4 and therefore is an exploratory information gathering committee, which would report back to the Council.**

**Councillor VonVillas noted that it is not the intention to comply or conform with current legislation, this is to bring people together.**

**Vice President Sylvia noted the following requests do not follow the existing legislation and are intended to establish a mechanism to**

**identify a process and partners interested in pursuing such an initiative. Enabling legislation requires a request that come from more than one municipality. The requests are:**

- 1. That the Town Council appoint 2 Town Councillors to a Unified High School Exploratory Committee.**
- 2. That the Town Council request that the Middletown School Committee appoint School Committee member to a Unified High School Exploratory Committee.**
- 3. That the Town Council send to each of the other Newport County Councils a request to act as above in order to facilitate joint discussions related to a Unified High School Exploratory Committee and make recommendations for changes in the enabling legislation to accomplish the foregoing.**

**Councillor Adams explained that Title 16 is set up for regionalization**

**of a school district; this is set up for a High School only. This is exploratory to get input from the Town Council, School Committee and other Municipalities.**

**Discussion centered around representation by population, sustainability, equal number of Town Council and School Committee members on the committee, this request will ultimately be on the ballot as a referendum and the Core facility committee.**

**Antone Viveiros, 110 Indian Hill Road, read the following resolution into the record, entered here:**

**Mr. Viveiros expressed concern that the formation of this committee would lead to a Regional School District Planning Board.**

**George Barcus, 2 Simmons Terrace, congratulated the Council for tackling the idea of High School regionalization which needs to be explored and considered.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously that:**

- 1. That the Town Council appoint 2 Town Councillors to a Unified High School Exploratory Committee.**
- 2. That the Town Council request that the Middletown School Committee appoint 2 School Committee member to a Unified High School Exploratory Committee.**
- 3. That the Town Council send to each of the other Newport County Councils a request to act as above in order to facilitate joint discussions related to a Unified High School Exploratory Committee and make recommendations for changes in the enabling legislation to accomplish the foregoing.**

**42. Memorandum of Town Administrator, re: High School Model.  
(Documentation to follow)**

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

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

**On motion of Councillor Long, duly seconded, it was voted unanimously to receive the document, entered above as an official part of the minutes.**

**Item #41 was heard at this time.**

## **TOWN ADMINSTRATOR COMMUNICATIONS**

**43. Memorandum of Town Administrator, with enclosures, re: Award of Community Oriented Policing Services (COPS) Hiring Program Grant.**

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

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

**Town Administrator Shawn Brown reviewed the fiscal impact statement, entered here:**

**Police Chief Anthony Pesare addressed the Council noting that in January of this year, he appeared before the Council regarding**

**school safety in the wake of the Newtown, CT tragedy. Chief Pesare noted the importance of assigning more officers to our schools explaining grant funding was applied for through the Community Oriented Policing Services (COPS) Hiring Program Grant. The Town has been notified that it is one on the four communities to receive grant funding. Mr. Pesare is requesting Council approval to accept the grant award.**

**Discussion centered around when the new hires will attend the police academy, if the new hires are allowed to attend college courses paid by the Town, funding for the new hires once grant funding is depleted, if minimum manning will increase, the financial impact if grant funding is approved, the process of filing grant applications and sustainability.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to approve said grant funding and authorize the Police Chief to execute the grant.**

**44. Memorandum of MPC Coordinator, thru Town Administration, re:**

## **Request to Submit a Frederick Henry Prince Memorial Fund Grant.**

**Middletown Prevention Coalition Coordinator Lori Verderosa reviewed the memorandum, entered here:**

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

**Councillor Long inquired if there is a Town match to this grant?**

**MPC Coordinator Lori Verderosa, responding to Councillor Long, noted that there is no Town match for this grant.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to authorize submission for the Frederick Henry Prince Memorial Fund Grant.**

## **APPOINTMENTS TO BOARDS & COMMITTEES**

**45. Communication of Kenneth A. Kurze, re: Notification that he will not seek re-appointment to the Personnel Board.**

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

**Vice President Sylvia noted that Mr. Kurze was an outstanding, hardworking member of the Personnel Board.**

**46. Memorandum of Town Administrator, re: Appointing Two Councillors to Stormwater Utility Committee.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum and appoint Councillor Adams and Councillor Santos to the Stormwater Utility Committee.**

## **EXECUTIVE SESSION**

**47. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a), (1) personnel (Town Administrator)**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 10:10 pm.**

**Councillor Santos left Executive Session at 10:38 pm. prior to the motion made in executive session.**

**Councillor Santos was present in open session.**

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 10:45 pm.**

**Repeat of motion made in executive session –**

**On motion of Council President Semonelli, duly seconded, it was voted six (6) to zero (0) to approve the Town Administrator's salary increase of \$15,000., which includes a lock in of salary for three years.**

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

**On motion of Vice President Sylvia, duly seconded, it was voted unanimously to adjourn said meeting at 10:47 pm.**

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

**Council Clerk**

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