

At a Regular Meeting of the Town Council of the Town of Middletown, RI held at the Middletown Town Hall on Tuesday, February 17, 2015 at 2:45 P.M.

Council President Robert J. Sylvia, Presiding

Vice President Robert Kempenaar, II

Councillor Henry F. Lombardi, Jr.

Councillor Paul M. Rodrigues, arrives at 2:47 pm

Councillor M. Theresa Santos

Councillor Antone C. Viveiros, arrives at 2:48 pm

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)

2:45 PM - EXECUTIVE SESSION

1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (1) personnel (Interviews and discussion, re: Municipal Court Judge vacancy).

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess open session and reconvene in executive session, all applicants have been notified in writing Pursuant to RIGL 42-46-5 (a) (1), at 2:48 pm.

Councillor Viveiros moved, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 4:33 pm.

Councillor Santos moved, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.

4:30 PM - PRESENTATION

2.

Memorandum of Council President Sylvia, re: Ethics Educational Seminar presented by Attorney Jason Grammit, Educational Coordinator from the Rhode Island State Ethics Commission.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum and begin presentation.

Council President Sylvia thanked all who attended the presentation and reviewed the memorandum above.

Attorney Jason Grammit, Educational Coordinator from the Rhode

Island State Ethics Commission, reviewed financial disclosures, how to recuse from an item of business and gifts. Mr. Grammit presented the Council with a handout, which is on file in the Office of the Town Clerk.

6:00 PM - EXECUTIVE SESSION

3. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (5) Land Acquisition, (5) Lease (JFK School), (2) Collective Bargaining (NEARI – Town Hall, Teamsters - Public Works, IBPO Police and IAFF Fire Unions), Police and Fire, (2) Litigation (Oldfarm, LLC vs Silveira) and Potential Litigation.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:50 pm.

Vice President Kempenaar recused himself from Executive Session at

6:41 pm.

Vice President Kempenaar joined the Executive Session at 6:45 pm.

Councillor Rodrigues recused himself from Executive Session at 6:45 pm.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 7:00 pm.

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

Council President Sylvia announced that the Public Hearing on the

Comprehensive Community Plan is at the end of the agenda.

PUBLIC FORUM

4. 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

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

BOARD OF LICENSE COMMISSION

5. Application of Eastbay Ventures, Inc. dba Goode Spirits, holder of a Class A Alcoholic Beverage License to TRANSFER said License to Andrews at Eastgate, Ltd, for use at the same premises. (Requires advertising for public hearing.)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said application and advertise for public hearing to be heard on March 2, 2015.

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

CONSENT

6. Approval of Minutes, re: Special Meeting, January 10, 2015.

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

7. Approval of Minutes, re: Regular Meeting, January 20, 2015.

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

8.

Communication of Tax Assessor, dated January 26, 2015, with enclosures, re: Cancellation of Taxes for certain Middletown residents.

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

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

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

10. Communication of Tax Assessor, dated February 10, 2015, with enclosures, re: Cancellation of Taxes for certain Middletown residents.

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

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

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

12. Communication of Tax Assessor and Finance Director, with enclosures, re: Cancellation of Taxes for certain Middletown residents.

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

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

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

14. Memorandum of Finance Director, thru Town Administrator, with enclosure, re: FY2015 Municipal Financial Report- Quarter ending December 31, 2014.

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

15. Notice of Public Hearing from the Middletown Zoning Board of Review, re: Petition of Raymond A. Caron for a Variance from Section 603, 701 & 803 G – to construct 22' x 30' attached garage with a front yard setback of 18.4' where 25' is required, a right side yard setback of 9.7' where 15' is required and a rear yard setback of 25.7' where 30' is required on said real estate located at 3 Harold Lane, TAP 115SE Lot 7.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said notice of public hearing.

16. Resolution of the Town of Gloucester, re: Requesting to support opposition to 2015 Legislation – An Act Relating to Taxation – Levy and Assessment of Local Taxes.

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

17. Memorandum of Clean Ocean Access, re: Quarterly Report on Adopted CRMC Public Rights of Way (2014/Q3).

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

18. Memorandum of Clean Ocean Access, re: Quarterly Report on Adopted CRMC Public Rights of Way (2015/Q4).

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

19. Application of James J. Gaston, Middletown, for RENEWAL of a Private Detective License for the 2015-2016 licensing year.

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

20. Application of Middletown Senior Center, Middletown, for RENEWAL of a Bingo License for the 2015-2106 licensing year.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said license renewal and waive said fee.

LICENSES AND PERMITS

21. Application of the Aquidneck Island Police Parade Committee, Middletown, for RENEWAL of Peddler's License for (Novelties and T-Shirts) for Police Parade Day, Sunday, May 3, 2015, includes a request to waive license fee and be sole vendor for the event. (6 Vendors; Middletown Only)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said license renewals, waive said fees and approve request for sole vendor.

22. Communication of Sergeant Corey A. Huck, Newport Police Department, Chairman, AINPP, re: Requesting "in-kind" services for police details, highway department personnel, and the use of Town

owned properties.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and grant in-kind services.

23. Application for Special Event Permit from Lieutenant Richard Gamache, on behalf of the National Aquidneck Island Police Parade for the Aquidneck Island Annual Police Parade beginning on West Main Road Two Mile Corner to the One Mile Corner into Newport (Broadway) to be held on Sunday, May 3, 2015 at 9:30 am (Parade Committee respectfully requests permit fee to be waived)

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

OTHER COMMUNICATION

24. Communication of Emerson Wildes, Chair, Eastern Rhode Island Conservation District, with enclosure, re: Requesting support for ERICD this fiscal year.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and direct the Administration to respond to ERICD to submit request for Civic Appropriation during budget time.

TOWN COUNCIL

25. At the request of Council President Sylvia,

Resolution of the Council, re: In Opposition to H-5257 “Relating to Waters and Navigation – Harbors and Harbor Lines” (Moorings).

Council President Sylvia noted that if the legislation passes the Town may lose approximately \$50,000. Mr. Sylvia read the resolution below into the record.

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

26. Memorandum of Council President Sylvia, re: Impact Fee Potential Use Update.

Council President Sylvia read the memorandum below into the record.

Town Administrator Shawn Brown explained that he and the Town Solicitor have been meeting with the School Administration identifying a timeline/plan for the use of the Impact fees.

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

27. Memorandum of Council President Sylvia, re: Snow Storm Juno.

Council President Sylvia reviewed the memorandum above.

Town Administrator Shawn Brown noted that 48 hours prior to a storm the Town Administration meets to outline a strategy based on the worst case storm scenario.

Council President Sylvia explained that emails have been received with flattering comments for Town staff in the efforts to remove the snow.

Council President Sylvia thanked all who volunteered, Carmella Geer, Nicholas Hajek Cordell Maas, Joshua Denton, Rosemary Brinega, Charmaine Solis, Yun Hwang, Cara Robinson, John Caniban, Shawn Kluchinsky and Ellis Rorie at the shelter during Storm Juno.

Discussion centered around Town equipment, Town properties, snow budget, federal reimbursement for Storm Juno and the Council being well informed during the storms.

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

28. Memorandum of Fire Chief thru Town Administrator, re: Gaudet Emergency Shelter Volunteer Recognition.

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

29. At the request of Councillor Lombardi, Resolution of the Council, re: Requesting legislative support to all for the Middletown Public Schools Sponsorship Program.

Councillor Lombardi reviewed the resolution below. Mr. Lombardi noted he feels that the legislators will support this resolution and prepare legislation.

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

30. Communication of Councillor Viveiros, re: Request to discuss factors contributing to changes in both the commercial and residential tax bases over the past three years.

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

unanimously to receive said communication.

Councillor Viveiros reviewed the communication above.

Councillor Viveiros noted that he is going to request the Town Council to request the Town Administrator to have the Tax Assessor prepare a report designed to help the Council understand what contributing changes in both the commercial and residential tax base for the past 3 years and a projection of the tax base for the next 1 to 2 years based on various scenarios this could be a helpful tool in the budgeting process.

On motion of Councillor Viveiros, duly seconded, to request the Town Council to ask the Town Administrator to have the Tax Assessor prepare a report

Town Administrator Shawn Brown noted that the Town is in the middle of the revaluation. The information would be useful, but the

timing is not good. Mr. Brown requests the item be tabled, until the work has been completed.

Discussion centered around reports which can be prepared before budget, the Administrator is required by charter to submit the budget to the Council on April 1st, residential revaluation work has been completed, commercial revaluation work has just begun, residents have the right to review notices and request hearings for the revaluation of their properties.

Motion above was voted on at this time:

Councillor Viveiros voted YES; Council President Sylvia, Vice President Kempenaar, II, Councillor Lombardi, Councillor Rodrigues, Councillor Santos, and Councillor VonVillias voted NO to said motion; MOTION FAILED TO PASS.

TOWN ADMINISTRATOR

31.

**Memorandum of Finance Director thru Town Administrator, re:
FY2015-FY2017 Regional Animal Shelter Agreement – Robert Potter
League For Animals, Inc.**

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

Finance Director Lynne Dible reviewed the memorandum, above.

**Councillor Santos inquired if Newport and Portsmouth also have
contracts with the Robert Potter League For Animals.**

Town Administrator Shawn Brown, responding to Councillor Santos,

noted that both communities have contracts with the Robert Potter League for Animals.

32. Resolution of the Council, re: FY2015-FY2017 Regional Animal Shelter Agreement – Robert Potter League For Animals, Inc.

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

33. Memorandum of Finance Director, with enclosures, re: Contract Award - MIDD-015-006 Second Beach Main Building Structural Evaluation.

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

Town Administrator Shawn Brown reviewed the memorandum above.

Discussion centered around structural testing, condition of the building, building codes, FEMA regulations and a report of the results of the building condition to the Beach Commission and Town Council.

**34. Resolution of the Council, re: Award of Contract - MIDD-015-006
Second Beach Main Building Structural Evaluation.**

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

APPOINTMENT TO BOARDS AND COMMITTEES

35.

Memorandum of Council President Sylvia, re: Appointment of Municipal Court Judge.

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

Council President Sylvia read the memorandum above into the record.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to open nominations for the appointment of a Municipal Court Judge.

Councillor Lombardi nominated Robert M. Silva.

Councillor VonVillas nominated John Decubillis.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to close nominations.

On motion of Councillor Rodrigues, duly seconded, it was voted to appoint Attorney Robert M. Silva as Municipal Court Judge, Councillor VonVillas voted NO to said motion.

The Council thanked Town Solicitor Peter B. Regan for his years of service as Municipal Court Judge.

36. Memorandum of Council President, re: Appointment of Alternate Probate & Municipal Court Judge.

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

unanimously to receive said memorandum.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to open nominations for the appointment of Alternate Probate Judge.

Councillor Santos nominated Barbara A. Barrow.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to close nominations.

On motion of Councillor Santos, duly seconded, it was voted unanimously to appoint Attorney Barbara Barrow as Alternate Probate Judge, pending verification of qualification by the Town Solicitor.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to open nominations for the appointment of Alternate Municipal Court Judge.

Councillor Lombardi nominated J. Russell Jackson

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to close nominations.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to appoint Attorney J. Russell Jackson as Alternate Municipal Court Judge, pending verification of qualification by the Town Solicitor.

PUBLIC HEARING

37.

Memorandum of Town Planner thru Town Administrator, with enclosures, re: Comprehensive Plan – Preparation of Final Draft for Town Council Public Hearing.

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

Town Planner Ronald Wolanski reviewed the memorandum above. Mr. Wolanski requested the Council when adopting the Comprehensive Community Plan, it should be subject to the revisions in the memorandum above.

Council President Sylvia announced that a Public Hearing on the Proposed Recreation Facility will be held on March 2, 2015 at Gaudet School Cafeteria.

38. Public Hearing (Advertised; First Reading)

Middletown Comprehensive Community Plan – 2014 Revision.

Public Hearing was declared open.

Kathleen Davis, 500 Mitchell's Lane, addressed the Council, noting that Map F-1, within the Comprehensive Community Plan (Tibbits Farm), is incorrectly listed as recreation.

Roby Faria, 9 Cardoza Terrace, noted the importance of preserving open space and farm land in the community. Ms. Faria explained that produce cannot be grown on a recreational field.

Council discussion centered around changes to the Zoning Code once the Comprehensive Community Plan has been adopted, agriculture, open space, lot coverage on Easton's Point, Zoning of the Rural Village, the Rural Village being the gateway to the community

and senior housing.

Jason Evans, 129 Mitchell's Lane, thanked the Council for changes made to the Comprehensive Community Plan, which are outlined in the memorandum, item #37. Mr. Evans questioned if Rural Village is considered a new zoning district.

Town Planner Ronald Wolanski, responding to Jason Evans, explained that the Rural Village is a concept in the Comprehensive Community Plan. After adoption, the Planning Board drafts revisions to the zoning code and the Town Council will hold public hearings. The vote of the Council will determine if the ordinance will change.

There being no other persons present desiring to be heard, public hearing remains open.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to adjourn said meeting at 8:45 pm.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to reopen said meeting at 8:46 pm

On motion of Council President Sylvia, duly seconded, it was voted unanimously to receive said Middletown Comprehensive Community Plan – 2014 Revision on its first reading.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to adjourn said meeting at 8:47 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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