

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, April 6, 2015 at 5:30
P.M.**

Council President Robert J. Sylvia, Presiding

Vice President Robert Kempenaar, II

Councillor Henry F. Lombardi, Jr.

Councillor Paul M. Rodrigues

Councillor M. Theresa Santos

Councillor Antone C. Viveiros

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)

5:30 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 (Town Administrator), (5) Land Acquisition, (5) Land Acquisition and (1) Personnel (Deputy Police Chief).

ADDENDUM TO TOWN COUNCIL AGENDA

5:30 PM - EXECUTIVE SESSION

Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Litigation (State Pension Lawsuit) and (2) Potential Litigation.

Vice President Kempenaar announced that Town Administrator

Shawn Brown was notified in writing Pursuant to RIGL 42-46-5 (a) (1).

Vice President Kempenaar announced that Acting Deputy Police Chief Ferenc Karoly was notified in writing Pursuant to RIGL 42-46-5 (a) (1).

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:32 pm.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:33 pm.

On motion of Vice President Kempenaar, duly seconded, it was voted to approve the Deputy Police Chief contract and authorize the Council President to execute; Councillor Santos and Councillor Viveiros voted NO to said motion.

On motion of Vice President Kempenaar, duly seconded, it was voted to ratify the appointment of Ferenc Karoly to the position of Deputy Police Chief; Councillor Santos and Councillor Viveiros voted NO to said motion.

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.

6:30 P.M. – BUDGET

2. Receipt of Town of Middletown Proposed Budgets and Capital Improvement Plan, Fiscal Year 2015 - 2016.

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

unanimously to receive said Proposed Budgets and Capital Improvement Plan for Fiscal Year 2015-2106.

Town Administrator Shawn Brown reviewed the power point

presentation regarding the Proposed Budgets and Finance Director Lynne Dible reviewed the financial portion of the budget presentation.

The entire presentation is entered here:

Town Administrator Shawn Brown noted that the Sewer rate is decreasing.

PUBLIC FORUM

3. 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.

Tom Welch, 536 Mitchell's Lane, addressed the Council reviewing the following, entered

here:

Dennis Turano, 195 Tuckerman Avenue, addressed the Council noting concern that residents only have ten days to apply for an appeal of their new tax assessment. Mr. Turano suggested a flat tax system for the Town.

Carol Cummings, 738 Indian Avenue, noted concern that the revaluation is conducted by the appraisal company driving by the property and not entering the premises to evaluate the entire property.

PRESENTATION

4. Continued from the March 16, 2015 Regular Meeting

**Memorandum of Town Administrator and Human Resources Manager,
re: 2015 Employees Service Awards Ceremony.**

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

**Town Administrator Shawn Brown requested the Council to continue
this matter to May 4, 2015, Regular Meeting of the Council.**

**On motion of Council President Sylvia, duly seconded, it was voted
unanimously to continue this item to the May 4, 2015, Regular
Meeting of the Council.**

Councillor Santos requested that items #7 and #9 be heard under the regular portion of the agenda.

CONSENT

5. Approval of Minutes, re: Regular Meeting, March 16, 2015.

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

6. Approval of Minutes, re: Special Meeting, March 27, 2015.

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

7.

Communication of Tax Assessor and Finance Director, dated March 24, 2015, with enclosures, re: Collector Abatement - Cancellation of Taxes for certain Middletown tax payers.

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

Councillor Santos inquired why a defunct company has been receiving tax bills and what happens when the bill is undeliverable?

Town Administrator Shawn Brown explained that the Tax Assessment Clerks investigate undeliverable tax bills searching for a new/current address for the tax payer.

Councillor Viveiros noted concern that uncollectable taxes have a direct effect on the budget.

Town Administrator Shawn Brown explained that there are calculations in every budget for uncollectable taxes.

8. Resolution of the Council, re: Collector Abatement - Cancellation of Taxes for certain Middletown tax payers.

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

9. Communication of Tax Assessor, dated March 24, 2015, with enclosures, re: Cancellation of Taxes for certain Middletown tax payers.

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

10. Resolution of the Council, re: Cancellation of Taxes for certain Middletown tax payers.

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

11. Communication of Paul F. Ford, Acting Regional Administrator, FEMA, re: Appreciation for the opportunity to review the Middletown, RI Strategy for Reducing Risks Form Natural Hazards in Middletown, Rhode Island; A Multi-Hazard Mitigation Strategy.

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

12. Communication of Robert Kempenaar, II, re: Notice of Conflict of Interest and Recusal.

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

13. Resolutions (9) nine from Rhode Island Cities and Town, re: Requesting support in opposition to 2015 House Bill 5473 relating to platoon structure and/or shift schedule as items covered by collective bargaining for firefighters, in opposition to House Bill 5257 “Relating to Waters and Navigation-Harbors and Harbor Lines” and any companion Senate version which may be introduced, in opposition to House Bill 5044, House Bill 5173 and Senate Bill 559 relating to taxation, requesting support of March 2015 and going forward as Women’s History Month, in opposition of 2015 Legislation relating to taxation-Levy and assessment of local taxes and support in correcting the conflict in RIGL to enable School Committees to return surplus taxpayers monies to Cities and Towns appropriating authority for deposit in the corresponding municipality’s reserve fund. (See Attached List)

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

14. Applications received from the following named persons, firms and corporations for RENEWAL of Amusement Licenses for the 2015-2016 licensing year. (See Attached List)

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

15. Applications received from the following named persons, firms and corporations for RENEWAL of Peddler's Licenses for the 2015-2016 licensing year. (See Attached List)

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

unanimously to grant said license renewals.

16. Applications received from the following named persons, firms and corporations for RENEWAL of Hawker's Licenses for the 2015-2016 licensing year. (See Attached List)

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

17. Application of Aquidneck Health, LLC dba Newport Athletic Club, 66 Valley Road for RENEWAL of a Holiday Sales License for the 2015-2016 licensing year.

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

18. Application of Sleepy's, LLC dba Sleepy's, 1305 West Main Road for RENEWAL of a Holiday Sales License for the 2015-2016 licensing year.

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

19. Application of Chaves Gardens, Inc., 935 East Main Road for RENEWAL of a Holiday Sales 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 for Special Event Permit from TRIMOM Productions, LLC for the Sprint Triathlon to be held at Second Beach on Sunday, September 13, 2015 beginning at 7:00 am until 10:30 AM.

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

LICENSES AND PERMITS

21. (Continued from March 16, 2015; City of Newport did not grant permit)

Application for Special Event Permit from Eident Sports Marketing for Newport Marathon Road Race to be held on Sunday, October 11, 2015 from 7:30 am to 1:30 pm.

Council President Sylvia noted that this item will be continued to May 18, 2015.

Jason Paganelli, 918 Main Street, Warren, RI, addressed the Council

noting he is a Business owner, runner and race director. Mr. Paganelli noted concern that the race is Eident's property and should not be given to another entity. Jason Paganelli requests the Council to protect Eident's assets and not issue a permit to another organization.

On motion of Vice President Kempennar, duly seconded, it was voted unanimously to continue this matter to the May 18, 2015, Regular Meeting of the Council.

22. Application for Special Event Permit from Gray Matter Marketing, LLC for Newport Marathon Road Race to be held on Sunday, October 11, 2015 from 7:30 am to 1:30 pm.

On motion of Vice President Kempennar, duly seconded, it was voted unanimously to continue this matter to the May 18, 2015, Regular Meeting of the Council.

23. Application for Special Event Permit from Troop 77 Boy Scouts of Middletown for a Car Wash Fundraiser to be held at the Kennedy School, West Main Road on Saturday, April 11, 2015 from 9:00 AM to 1:00 pm and Sunday, April 12, 2015 from 10:00 am to 1:00 pm. (Attached is a request by the applicant to waive said fee)

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

24. Application of Longade, LLC dba Del's Lemonade for a Hawker's License for the 2015-2016 licensing year. (NEW)

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

OTHER COMMUNICATION

25. Memorandum of Harbor and Mooring Committee, re: Response to Mr. Boliver's request for Middletown to follow Newport Harbor guidelines regarding moorings.

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

Town Administrator Shawn Brown noted that Mr. Boliver's letter had been referred to the Mooring Committee for recommendation. The Committee reviewed the Town ordinances and policies and found the Town is in compliance.

TOWN COUNCIL

26.

Communication of Councillor Viveiros, re: Revoked, LLC's.

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

Carol Cummings, 738 Indian Avenue, noted concern with corporations, not in good standing with the Secretary of State, filing zoning and planning petitions in the Town.

Councillor Viveiros reviewed the memorandum above.

Vice President Kempenaar noted he filed a zoning application with the Town and was required to submit a Certificate of Good Standing from the Secretary of State's Office.

Councillor Rodrigues inquired if a Town Policy is adequate or if the Council should pass a resolution requiring LLC's to file a certificate of good standing with their applications.

Town Solicitor Peter B. Regan, responding to Councillor Rodrigues, explained that the Council could choose a policy or resolution requiring a Certificate of Good Standing from the Secretary of State when filing a Zoning, Planning or License application.

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to enact a resolution stating that any applicant which is not a natural person or persons, such as a corporation, limited partnership, limited liability partnership or limited liability company, whether domestic or foreign, must present proof with the application that the entity exists and is in good standing according to the law under which it is organized.

27. Communication of Councillor Viveiros, re: Opposition to House Bill 5847 "An Act Relating to Waters and Navigation – Harbors and Harbor Lines"

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

Councillor Viveiros reviewed the memorandum above.

Councillor Lombardi noted support for this resolution explaining that the proposed legislation clearly generates revenue on the backs of communities along the coast.

28. Resolution of the Council, re: Opposition to House Bill 5847 “An Act Relating to Waters and Navigation – Harbors and Harbor Lines”

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

TOWN ADMINISTRATOR

29. Memorandum of Town Administrator, with enclosure, re: Draft Report: Impact Fee Study for Sanitary Sewer.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to continue said item to the next regular meeting of the Council to be held on May 4, 2015.

30.

Memorandum of Town Administrator, with enclosures, re: Impact Fees.

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

Town Administrator Shawn Brown reviewed the memorandum, entered above.

31. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-015-004 Second Beach Surfer's West End Parking Lot BMP, Design & Permit.

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

Town Engineer Warren Hall reviewed the following:

Town Administrator Shawn Brown reviewed the memorandum of Finance Director entered above.

Discussion centered around the project being paid for with a federal grant, the need for clean water, repaving under DEM new standards, the parking lot having been used for storing construction equipment and supplies, the parking lot being restored prior to the beach season and the type of asphalt used for repaving.

Councillor VonVillas reviewed the following:

32. Resolution of the Council, re: Award of Contract Second Beach Surfer's West End Parking Lot BMP, Design & Permit.

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

33. Memorandum of Finance Director, thru Town Administrator, with

enclosures, re: Contract Award: MIDD-015-009 Engineering Service – Development Plan Review & On-Call Engineering Services.

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

Town Planner Ronald Wolanski reviewed the memorandum, entered above.

Town Administrator Shawn Brown explained that the service is mostly used by Zoning and Planning applicants, which pay for the service.

34. Resolution of the Council, re: Award of Contract Engineering Service – Development Plan Review & On-Call Engineering Services.

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

35. Memorandum of Town Administrator, re: Street Light Request – Valley Road (Johnny Cake Hill Road to Aquidneck Avenue)

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

Town Administrator Shawn Brown reviewed the memorandum, entered above.

36. Memorandum of Town Administrator, re: Street Light Request – Intersection of Winthrop Drive & Valley Road.

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

unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed the memorandum, entered above.

APPOINTMENT TO BOARDS AND COMMITTEES

37. Appointment of one (1) member to the Citizens Memorial Committee for an indefinite term.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Betty Jane Owen to the Citizens Memorial Committee for an indefinite term.

38. Appointment or Confirmation of twelve (12) members to the Middletown Prevention Coalition, School Sector, term expiring

November 2016, Youth Sector, term expiring September 2016, Parent Sector, term expiring April 2018, Faith Community Sector, term expiring April 2018, Business Sector, term expiring April 2018, Law Enforcement Sector, term expiring November 2016, Youth Serving Organization Sector, term expiring April 2018, Healthcare Professional Sector, term expiring April 2018, Other Organization Involved in reducing substance abuse Sector, term expiring April 2018, Media Sector (no applications received at this time), State, local tribal governmental agency with expertise in the field of substance abuse Sector, term expiring November 2016 and Military Sector, term expiring April 2018.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint Denise Rochefort, Parent Sector, term expiring April 2017, to appoint Jeff Lewis, Faith Community Sector, term expiring April 2018, to reappoint Danielle Domingoes, Civic or Volunteer Organization Sector, term expiring April 2017, to appoint Tom Lyons, Business Sector, term expiring April 2018, to reappoint Susan Schenck, Youth Service Organization Sector, term expiring April 2018, to reappoint Margaret Barrett, Healthcare Professional Sector, term expiring April 2017, to reappoint Karen Davis, Other Organization Involved in Reducing Substance Abuse Sector, term expiring April 2018, to confirm appointment of Kellie DiPalma Simeone for a term expiring November 2016, to confirm appointment

of Alexa Simard, Youth Sector term expiring September 2015, to confirm appointment of Kevin Ferreira, Community Policing Officer, Law Enforcement Sector term expires when another is appointed as Community Policing Officer and to confirm appointment of Councillor Lombardi, State, Local, tribal governmental agency with expertise in the field of substance abuse Sector term expiring November 2016.

Councillor Lombardi explained that the appointments are required by the grant.

EXECUTIVE SESSION

39. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (Middletown Public Library Employees Association/NEARI).

Council addressed this item at the 5:30 pm executive session.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 8:20 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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