

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, May 4, 2015 at 5:30
P.M.**

Council President Robert J. Sylvia, Presiding

Vice President Robert Kempenaar, II, Arrives at 6:30 pm.

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 – ZONING BOARD INTERVIEWS

1. Interviews

5:30 pm Interview – Chris Sousa

5:40 pm Interview – Henry A. Pine

5:50 pm Interview – John M. Peixinho

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to begin said interviews.

Candidates for the Zoning Board of Review were interviewed in open session; applicant's interviews began at 5:30 pm with 1) Chris Sousa, 2) Henry A. Pine and 3) John M. Peixinho.

Human Resource Director Cecilia Dursi asked all applicants the

following questions:

- 1. Why do you want to be on the Zoning Board?**
- 2. Are you available for meetings?**
- 3. Quality of Life - How would you approach? What does it mean to you?**
- 4. Have you ever appeared before the Zoning Board?**

Councillor Viveiros asked the following question to all applicants.

If a request comes before the Zoning Board for a Special Use Permit or Variance, would you vote for what is best for the Town or be influenced by who is asking?

Some applicants gave personal background and how their personal

work experience would aide them, if appointed to the board.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 5:42 p.m.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to reconvene this meeting at 6:01 p.m.

6:00 P.M. – BUDGET

2. Review with School Committee – School Budget, related grants, CIP submissions and matters related thereto

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive and begin presentation of said Proposed School Budget for Fiscal Year 2015-2016.

Present, representing the School Department, were Superintendent Rosemarie Kraeger, Assistant Superintendent Linda Savastano, Business Manager Raquel Pellerin, Attorney Ben Scungio, Facilities Director Peter Anderson, Jr., School Committee Chair Theresa Spengler, Vice Chair Kellie DiPalma (arrives at 6:04 pm), and members Liana Ferreira Fenton, Douglas Arnold, and William O'Connell.

School Committee Chair Theresa Spengler addressed the Council, noting that the proposed budget request is 2.58%. It was a difficult budget with several cuts and a loss of state aid.

Superintendent Rosemarie Kraeger reviewed the

following:

Discussion centered around the funding formula, Charter Schools,

student enrollment, group homes, possible job eliminations, revenues, efficiencies, cost of Special Education, upcoming contract negotiations, Military and Federal reimbursement and the facilities plan.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:56 p.m.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to reconvene this meeting at 7:03 p.m.

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.

No one spoke during this session.

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

BOARD OF LICENSE COMMISSION

4. Petition of Thomas Ney, President and Donna Marley, Bar Manager, of All-Vets Club, 985 Aquidneck Avenue, re: Request for expansion of Class D Alcoholic Beverage License to provide outdoor service on Sunday, June 7, 2015 for the All-Vets Club Annual Viking Riders Blessing of the Bikers.

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

5. Application of LHM Restaurant, LLC dba Newport Beach Hotel & Suites, holder of a Class BT Alcoholic Beverage License to TRANSFER said License to First Beach, LLC d/b/a Newport Beach Hotel & Suites, 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 May 18, 2015.

6. Application of Newport Vineyards Winery, LLC dba Newport Vineyards holder of a Class BM Alcoholic Beverage License for premises located at 909 East Main Road to expand the area of service of said license to include the easterly portion of the building. (Requires Advertising for Public Hearing and notice to abutters)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said application, notify abutters and advertise for public hearing to be heard on May 18, 2015.

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

Vice President Kempenaar recused himself from acting on, item #21, due to a possible conflict of interest.

CONSENT

7. Approval of Minutes, re: Special Meeting, April 18, 2015.

On motion of Council President Sylvia, duly seconded, it was voted

unanimously to approve said minutes.

8. Approval of Minutes, re: Regular Meeting, April 20, 2015.

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

9.

Communication of Finance Director and Accounting Manager, thru Town Administrator, with enclosure, re: Quarterly Tax Collector's Report as of 03/31/2015 -Town of Middletown.

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

10. Memorandum of Finance Director, thru Town Administrator, re: FY2015 Municipal Financial Report – Quarter ending March 31, 2015.

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

11. Communication of Tax Assessor, re: Cancellation of Taxes for certain Middletown taxpayers.

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

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

On motion of Council President Sylvia, duly seconded, it was voted

unanimously to pass said resolution.

13. Communication of Tax Assessor and Finance Director, dated April 24, 2015, re: Cancellation of Taxes for certain Middletown taxpayers.

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

15. Communication of Tax Assessor and Finance Director, dated April 27, 2015, re: Cancellation of Taxes for certain Middletown taxpayers.

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

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

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

17. Memorandum of Finance Director, re: Donation of Surplus Fire oven to FOPA Lodge #21.

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

18. Resolution of the Council, re: Donation of Surplus Fire oven to FOPA Lodge #21.

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

19. (Continued from April 6, 2015 Regular Meeting)

Memorandum of Town Administrator, with enclosure, re: Draft Report: Impact Fee Study for Sanitary Sewer. (Request of Town Administration to continued this item to July 6, 2015.)

On motion of Council President Sylvia, duly seconded, it was voted unanimously to receive said memorandum and continue to the July 6, 2015, Regular Meeting of the Council.

20. Communication of Robert M. Silva, Esquire, on behalf of Samuel's Realty Company, Inc., Petition to rezone property on Aquidneck Avenue, designated as Lots 108 and 109 on Tax Assessor's Plat 114. (Requires Planning Board Recommendation)

On motion of Council President Sylvia, duly seconded, it was voted unanimously to receive said communication and refer to the Planning Board for recommendation.

Vice President Kempenaar recused himself from acting on the following item of business, due to a possible conflict of interest.

21. Notice of Public Hearing from the Zoning Board of Review, Petition of Kempenaar Real Estates, Inc., - for a Special Use Permit from Sections 602 & 605 – to allow a 3,270 sq.ft. addition to the existing hotel with restaurant facility by demolishing the existing 2,815 sq. ft entrance/lobby and replacing it with a new 6,085 sq. ft. addition resulting in a new building footprint of 43,775 sq. ft.; said real estate located at 349 – 351 West Main Road; TAP 108, Lots 19300-19301.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to receive said Notice of Public Hearing from the Middletown Zoning Board of Review.

22. Memorandum of Clean Ocean Access, re: Quarterly Report on Adopted CRMC Public Rights of Way (2015/Q1).

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

23. Resolution of the Town of Charlestown, re: Requesting support in opposition to the Surtax on Second Homes.

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

24. Resolution of the Town of Charlestown, re: Requesting support of House Bill 5594 and Senate Bill 0741 – Municipal Streetlight Investment.

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

25. Resolution of the Town of Westerly, re: Requesting support of House Bill 2015 – H5000 – “An Act Relating to Taxation – Personal Income Tax”.

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

26. Resolution of the Town of Westerly, re: Requesting support of

House Bill 2015 – H5107 – A House Resolution Creating A Special Legislative Commission to Study the Categories, Methods, and Monetary Implication of Taxing Various Personal Retirement Income and Pension Income Paid to Rhode Islanders By Out-Of-State Employers.

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

27. Resolution of the Town of Westerly, re: Requesting support in opposition of House Bill 5227 – “Relating to Waters and Navigation – Harbors and Harbor Lines”.

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

28. Resolution of the Town of Narragansett, re: Requesting support of House Bill 2015 – H5000 – “An Act Relating to Taxation – Personal

Income Tax” and its companion Senate Bill.

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

29. Resolution of the Town of Narragansett, re: Requesting support in Opposition of House Bill 5847 – “Relating to Waters and Navigation – Harbors and Harbor Lines” and its companion Senate Bill.

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

30. Resolution of the Town of East Greenwich, re: Requesting support Regarding Restoration of the Rhode Island Ethics Commission’s Authority to Prosecute Alleged Conflicts of Interest by Members of the Rhode Island General Assembly.

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

31. Resolution of the Town of East Greenwich, re: Requesting support of H6040, H6041, H6042, H6043, S816, S818 and S820 Regarding The State Guide Plan and Statewide Planning Program and Providing for Municipal Choice as to RhodeMap RI.

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

32. Resolution of the Town of Little Compton, re: Requesting support in opposition to the Surtax on Second Homes.

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

33. Application for Special Event Permit from St. George's School, Prize Day – Graduation Dinner and Luncheon to be held on Sunday, May 24, 2015 from 5:30 pm to 7:30 pm and Monday, May 25, 2015 from 12:30 pm to 2:30 pm.

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

34. Application of Johnny's Atlantic Beach, Inc., dba Johnny's Atlantic Beach Club, 53 Purgatory Road for RENEWAL of an Amusement License for the 2015-2016 licensing year.

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

35. Application of J.A.M. Construction Co., Inc. dba J.A.M. Materials,

990 Aquidneck Avenue for RENEWAL of a Holiday Sales License for the 2015-2016 licensing year.

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

LICENSES AND PERMITS

36. Application for Special Event Permit for a Car Wash fundraiser for MHS Post Prom to be held at JFK School on May 9, 2015 from 9:00 am to 3:00 pm. (The committee requests permit fee to be waived)

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

37. Application for Special Event Permit from All Saints Academy,

ASA's Aquidneck Island Yard Sale to be held at All Saints Academy, 915 West Main Road, on Saturday, May 30, 2015 from 8:00 am to 2:00 pm. (Attached is a request to waive permit fee)

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

Councillor Lombardi recused himself from acting on the following item of business, due to a possible conflict of interest.

38. Application for Special Event Permit from St. George's School – Camp Ramleh, Camp Ramleh Yard Sale to be held at St. George's School Hockey Rink on Saturday, June 13, 2015 from 9:00 am to 1:00 pm. (Attached is a request to waive permit fee)

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

39. Application for Special Event Permit from Newport County Community Mental Health Center, Inc., 7th Annual Tour de Newport, Cycling Event beginning in Newport and passing through Middletown to be held on Sunday, September 27, 2015. (Attached is a request to waive permit fee)

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

40. Application of Kim Hollen, Bristol for a Tattoo License to be used at Trouble Soul and Company, 999 West Main Road for the 2015-2016 licensing year. (NEW)

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

41. Application of NorthEast Restaurants, LLC dba Corner Bakery, 11 East Main Road, for a Victualling House License for the 2014-2015 licensing year. (NEW).

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

OTHER COMMUNICATION

42. Memorandum of Carol Cummings, re: RIGL's used in the process in presenting the 2007/2008 request by 985 East Main Road Company, LLC.

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

Carol Cummings, 738 Indian Avenue, addressed the Council, noting that all her remarks are her opinion and that she supports the sale of Sandpiper Cottages, LLC. Ms. Cummings reviewed the process regarding the recording of Zoning Board decisions and requests the Council to remand the 2012 decision regarding Sandpiper Cottages back to the Zoning Board.

Town Solicitor Peter B. Regan explained that the Council has no authority to remand a decision back to the Zoning Board.

TOWN COUNCIL

43. At the request of Council President Sylvia,

Resolution of the Council, re: Proclaiming the second full week in May as “Women’s Lung Health Week”.

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

44. Memorandum of Councillor VonVillas, re: Athletic Fields.

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

Councillor VonVillas reviewed the memorandum above.

Tom Welch, 536 Mitchell's Lane, addressed the Council noting support for Councillor VonVillas' memorandum. Mr. Welch explained the need to complete the goal building a plan for sustainability.

Councillor Lombardi noted that he will not support another committee, explaining that there is sufficient information for Little

League and Babe Ruth fields to move forward. Mr. Lombardi suggests fixing the fields once the baseball season is finished.

Town Administrator Shawn Brown noted the need for a survey or questionnaire to be sent to the school and leagues inquiring the number of teams, number of games and number of practices.

Councillor Rodrigues noted agreement with Councillor Lombardi, explaining there is a need for additional fields and repair of existing fields.

Vice President Kempenaar noted his agreement with Councillor Lombardi and Rodrigues.

Councillor VonVillas inquired who will direct the effort and take leadership of this project.

Councillor Viveiros inquired the length of time to gather survey information.

Town Administrator Shawn Brown noted a memorandum could be sent out tomorrow.

Council President Sylvia noted that he will not support another committee; the Council can see this project through.

On motion of Council President Sylvia, duly seconded, it was voted to appoint Councillor Lombardi, Councillor Rodrigues and Councillor Viveiros to spearhead the project; Councillor VonVillas voted NO to said motion.

45. Communication of Councillor Viveiros, re: Amending the Comprehensive Community Plan.

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

Councillor Viveiros reviewed the memorandum above.

Council President Sylvia noted that the June 1, 2015 regular meeting of the Council will be the appropriate time to discuss this request. The Planning Board will be attending, June 1, 2015, to discuss the prioritized list for Zoning changes, which are related to the Middletown Comprehensive Community Plan.

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to table this issue.

46. Communication of Councillor Viveiros, re: Discussion of the feasibility of having the Secretary of State Office come to Middletown

for a voter ID drive.

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

Councillor Viveiros reviewed the memorandum above.

Council President Sylvia noted support for this effort.

Town Clerk Wendy Marshall explained that the ID issued from the Secretary of State's Office is not equivalent to a State ID. Ms. Marshall noted that she will contact the Senior Citizens Director to make arrangements for a voter ID drive.

APPOINTMENT TO BOARDS AND COMMITTEES

Vice President Kempenaar recused himself from acting on the following item of business, due to a possible conflict of interest.

Councillor Rodrigues requested reconsideration of a vote taken on April 20, 2015 Regular Meeting, item #42, which he voted in the affirmative, be reconsidered.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to reconsider item #42 from the April 20, 2015 regular meeting of the Council entered here:

42. Appointment of four (4) members to the Zoning Board of Review- one (1) vacancy, regular member, to complete a term expiring April 2016 and three (3) vacancies, alternate members, for terms expiring April 2016. (Council has option to interview candidates or appoint)

Vice President Kempenaar recused himself from acting on the following item of business, due to a possible conflict of interest.

On motion of Councillor Rodrigues, duly seconded, it was voted to appoint Chris Sousa, as regular member, to complete a term expiring April 2016, appoint Henry A. Pine, as first alternate, term expiring April 2016 and appoint John M. Peixinho, as second alternate, term expiring April 2016; Councillor Santos voted NO to said motion.

Vice President Kempenaar recused himself from acting on the following item of business, due to a possible conflict of interest.

47. Appointment of four (4) members to the Zoning Board of Review- one (1) vacancy, regular member, to complete a term expiring April 2016 and three (3) vacancies, alternate members, for terms expiring April 2016.

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

unanimously to appoint Chris Sousa, as regular member, to complete a term expiring April 2016.

On motion of Councillor Rodrigues, duly seconded, it was voted to appoint Henry A. Pine, as first alternate, term expiring April 2016; Councillor Viveiros voted NO to said motion.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to appoint John M. Peixinho, as second alternate, term expiring April 2016.

48. Appointment of one (1) member to the Aquidneck Island Planning Commission to complete a term expiring July 2017.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Linda Finn to the Aquidneck Island Planning Commission to complete a term expiring July 2017.

EXECUTIVE SESSION

49. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Potential Litigation, (5) Land Acquisition, (5) Lease (Tibbits).

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 7:50pm.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 8:45 pm.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to approve lease for the Tibbits property.

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

On motion of Councillor Rodrigues, 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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