

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, May 18, 2015 at 6:00
P.M.**

Council President Robert J. Sylvia, Presiding

Councillor Henry F. Lombardi, Jr.

Councillor Paul M. Rodrigues

Councillor M. Theresa Santos

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

Vice President Robert Kempenaar, II, Absent

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

6:00 PM - EXECUTIVE SESSION

- 1. 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 and (5) Land Acquisition.**

ADDENDUM TO TOWN COUNCIL AGENDA

POSTED – May 15, 2015

REGULAR MEETING – May 18, 2015

Meeting to be held at the Middletown Town Hall, 350 East Main Road, Middletown, Rhode Island.

6:00 PM - EXECUTIVE SESSION

Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (NEA Middletown, Middletown Association of Auxiliary Personnel/NEARI/NEA, RI Council 94, AFSCME, AFL-CIO on behalf of Local 1823)

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 6:02 p.m.

On motion of Councilor Rodrigues, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:29 p.m.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to

Section 42-46-7. RIGL.

Council President requests a moment of silence in memory of former Town Solicitor Vernon Gorton.

6:30 P.M. – BUDGET

2.

Communication of Councillor Viveiros, re: To discuss the 12/31/2014 tax rolls – before reflecting the impact of the re-assessment.

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

Councillor Viveiros read the above communication into the record.

Councillor Viveiros inquired if state law requires that the new revaluation figures be implemented in the next tax bills.

Town Solicitor Peter B. Regan, responding to Councillor Viveiros, yes, you must implement the new assessment.

Town Administrator Shawn Brown noted that taxpayers have the right to file an appeal of their taxes.

3. Review of Town of Middletown Proposed Budgets and Capital Improvement Plan, Fiscal Year 2015 – 2016 and matters related thereto.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive and begin said review of the Proposed

Budgets and Capital Improvement Plan, Fiscal Year 2015-2016.

Councillor Santos recused herself from the Civic Appropriation discussion, due to a possible conflict of interest.

Town Administrator Shawn Brown reviewed the following:

Council President Sylvia requested Town Administrator Shawn Brown to follow the prior year practice, to see if additional monies can be found to fund all Civic Support requests.

Discussion centered around the wrestling request, wrestling programs and the volunteer wrestling coaches providing outstanding service to the Town.

Town Administrator Shawn Brown reviewed the following:

Town Administrator Shawn Brown noted that the CIP now includes the Elementary School Building additions, which was added at the suggestion of Bond Counsel.

Town Administrator Shawn Brown reviewed the proposed Budget Ordinance, entered here:

Town Administrator Shawn Brown noted that the education line is based on a 2% increase. The School requests a 2.58% increase, which equates to approximately \$144,000.

Councillor Rodrigues requested the Sewer fund rates.

Discussion centered around City of Newport sewer facility upgrades, facility design phase, the Town has been in contact with the city of

Newport regarding upgrades, funding source for the upgrades and the decrease in the sewer rate.

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.

Frederick Baillarger, 47 Harvey Road, suggested the Council purchase body cameras for Middletown Police Officers to wear.

Dennis Turano, 195 Tuckerman Avenue, addressed the Council inquiring input regarding a flat tax in the Town. Mr. Turano explained

that a conversation with the Department of Revenue indicated that tax assessments are not mandated by the state.

PRESENTATION

5. Continued from the March 16, 2015 Regular Meeting

Continued from April 6, 2015 Regular Meeting

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

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

**Town Administrator Shawn Brown noted that the item was continued;
however, the pins have been distributed.**

The Town Council acted on item #32, at this time.

The Town Council acted on item #34, at this time.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to act as a Board of License Commission.

BOARD OF LICENSE COMMISSION

6. (Public Hearing Advertised)

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.

Public Hearing was declared open.

Councillor Santos inquired if the establishment was once known as the Green House Restaurant.

Town Clerk Wendy J.W. Marshall, responded yes to said inquiry.

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

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to grant said transfer of license.

7. Notice of Public Hearing for of Newport Vineyards Winery, LLC

dba Newport Vineyards dba Brix dba Fatulli's holder of a Class BM Alcoholic Beverage License for premises located at 909 East Main Road to expand the area of service.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said notice of public hearing.

8. (Public Hearing Advertised and abutters notified)

Application of Newport Vineyards Winery, LLC dba Newport Vineyards dba Brix dba Fatulli's 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.

Public Hearing was declared open.

There being no person present desiring to be heard, public hearing

was declared closed.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to grant said expansion of license.

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

Councillor Santos requested that items #10 and #12 be heard under the regular portion of the agenda.

CONSENT

9. Approval of Minutes, re: Regular Meeting, May 4, 2015.

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

10.

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

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

Councillor Santos noted that she spoke to Town Administrator Shawn Brown regarding the number of abatements on the listing above. Mr. Brown explained that the Assessor's office is reviewing the tax rolls to eliminate defunct companies within the Town.

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

Middletown taxpayers.

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

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

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

Councillor Santos noted that she spoke to Town Administrator Shawn Brown regarding the number of abatements on the listing above. Mr. Brown explained that the Assessor's office is reviewing the tax rolls to eliminate defunct companies within the Town.

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

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

14. Communication of Steven W. Pristawa, P.E., Secretary, State Traffic Commission, re: Date set for request of RIDOT to restrict left turns entering and exiting the new driveway proposed on West Main Road for 1 Corporate Place.

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

15. Notice of Public Hearing from the Town of Portsmouth to be held on Tuesday, May 26, 2015 at 7:00 pm for Map 55, Lot 1A.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said notice of public hearing.

16. Communication of Lesley R. Muir, Director of Special Events, Norman Bird Sanctuary, re: Appreciation for Council waiving Special Events fees.

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

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

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to grant said license renewals.

LICENSES AND PERMITS

18. Application of First Beach, LLC d/b/a Newport Beach Hotel & Suites, 1 Wave Avenue, for a Victualling House License for the 2014-2015 licensing year. (NEW)

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

19. Application of Newport Vineyards Winery, LLC dba Newport Vineyards dba Brix dba Fatulli's, 909 East Main Road, for a Victualling House License for the 2014-2015 licensing year. (NEW)

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to grant said license contingent on Building Official,

Fire Marshal, Public Works and Board of Health approvals.

20. Application of LaPetite Gourmande dba The Power of Juice, 796 Aquidneck Avenue, for a Victualling House License for the 2014-2015 licensing year. (NEW)

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

21. Application of Hawaiian Jim's Shave Ice & Co. II dba Hawaiian Jim's Shave Ice & Co, Portsmouth, for a Peddler's License for the 2015-2016 licensing year. (NEW)

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

Council President Sylvia noted that there cannot be two road races in the Town of Middletown on the same day and time.

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

(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. (New route submitted, April 21, 2015 is only in Middletown)

On motion of Councillor Rodrigues, duly seconded, it was voted to grant said Special Event Permit; Council President Sylvia, Councillor Lombardi, Councillor Rodrigues, Councillor Santos, Councillor Viveiros and Councillor VonVillas voted NO to said motion; MOTION FAILED TO PASS.

23. Communication of Scott Hallman, Hallman Portable Toilets, re:

Letter on behalf of Gray Matter Marketing.

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

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

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 Councillor Rodrigues, duly seconded, it was voted unanimously to grant said Special Event Permit.

25. Application of Kristina Gatta, Portsmouth 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 Councillor Rodrigues, duly seconded, it was voted unanimously to grant said license.

ORDINANCE

26. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII Traffic Code. (Buck Road Extension)

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

Town Engineer Warren Hall explained that the ordinance has been reviewed by himself, Police Chief Anthony Pesare, Fire Chief Ronald Doire and Town Administrator Shawn Brown. The uniform code for

signage was followed when placing the signs.

OTHER COMMUNICATIONS

27. Email communication of Linda Sullivan, MHS Post Prom Committee, re: Requesting support for Junior and Senior Post Proms.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said communication and approve \$100.00 for the Senior Post Prom activities and \$100.00 for the Junior Post Prom activities to be appropriated from the Council President's Discretionary Fund.

28. Communication of MHS Music Boosters, re: Requesting support by the Town donating a 2015 Sachuest Beach Season Pass for the silent auction.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said communication and approve donation of a 2015 Sachuest Beach Season Pass for the MHS Music Boosters silent auction.

29. Communication of Middletown Athletic Boosters, with enclosures, re: Requesting support by placing an ad in the Senior Athletic Awards Banquet program.

On motion of Councillor Rodrigues, it was voted unanimously to receive said communication and authorize \$100. for a full page ad in the Senior Athletic Awards Banquet program to be appropriated from the Council President's Discretionary fund.

30. Communication of Forum Lodge #391- Sons of Italy, re: Requesting support by placing an ad in the souvenir program, for the "Il Cenenario" celebrating its 100th Anniversary of this event.

On motion of Councillor Rodrigues, it was voted unanimously to receive said communication and authorize \$100. for a full page ad in the souvenir program to be appropriated from the Council President's Discretionary fund.

TOWN COUNCIL

31.

Memorandum of Council President Sylvia, re: Smoking Ban at Town Playgrounds, Recreational Areas, Parks & Beaches.

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

Council President Sylvia read the memorandum above, into the record.

Councillor Viveiros explained that he has reservations banning smoking noting he is unsure if legislation allows; but agrees with banning smoking in closed areas. Mr. Viveiros noted support for public input regarding the issue.

Councillor VonVillas noted support for the issue.

Rian Wilkinson, 41 Prospect Avenue, Chair of the Middletown Beach Commission explained that the Council requested the Beach Commission to investigate the issue of banning smoking on the beach after Council received a request from a Mr. Palmer. Mr. Wilkinson noted support for the issue; however, explained that it will not be easy to police.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to schedule a public hearing for June 1, 2015, regarding a Smoking Ban at Town Playgrounds, Recreational Areas, and Parks

& Beaches.

Items #32 was addressed after item #5.

32. Memorandum of Council President Sylvia, re: MHS is ranked 2nd within Rhode Island, by US News & World Report.

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

Council President Sylvia requested that School Committee Chair Theresa Spengler, School Committee members Douglas Arnold, Liana Ferreira Fenton, William O'Connell, Superintendent of Schools Rosemarie Kraeger and Middletown High School Principal Gail Abromitis come to the front Council Dias for a presentation.

Council President Sylvia read the memorandum above into the record.

Council President Sylvia, Councillor Lombardi and Councillor Rodrigues presented the School Committee Chair Theresa Spengler and School Administration with a citation.

Middletown High School Principal Gail Abromitis thanked the Council for the award, noting that the work is done from K-12, Middletown has great kids, parents, teachers and administration.

School Committee Chair Theresa Spengler noted it is an honor to be recognized by the Council. Mrs. Spengler explained it is an exciting time and she is proud of the entire district.

Superintendent Rosemarie Kraeger thanked the Town Council for recognition, explaining it is a culmination of the K-12 program in the Town. Mrs. Kraegar recognized the teachers and principal in the

audience.

33. At the request of Council President Sylvia and Vice President Kempenaar, Resolution of the Council, re: Opposing Fire Arbitration Legislation H5473 and S0533.

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

Item #34 was addressed after item #32.

34. At the request of Councillor Lombardi, Resolution of the Council, re: 100th Anniversary of The Forum Lodge #391.

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

Councillor Lombardi presented and read the resolution above to Shirley Ripa, President and Sandra Flowers, Secretary of the Forum Lodge #391- Sons of Italy. Mr. Lombardi explained that the purpose of the Forum Lodge #391- Sons of Italy is for scholarships, cultural exchange and part of the Columbus Day Parade.

Item #6 was addressed, at this time.

TOWN ADMINISTRATOR

35.

Memorandum of Finance Director thru Town Administrator, with enclosures, re: 2014 RI EMA Emergency Management Preparedness Grant (EMPG) program.

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

Town Administrator Shawn Brown reviewed the memorandum, above.

36. Resolution on the Council, re: Approving the acceptance of the 2014 RI EMA Emergency Management Preparedness Grant (EMPG) program.

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

Councillor Viveiros recused himself from acting on the following item #37, due to a possible conflict of interest.

APPOINTMENT TO BOARDS AND COMMITTEES

37. Appointment of one (1) member to the Tax Assessment Review Board Commission to complete a term expiring October 2017. (Bi-Partisan Board – Republican Representative)

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to appoint Paul Mankofsky to the Tax Assessment Review Board to complete a term expiring October 2017.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 7:55 pm.

Councillor Rodrigues recused himself from executive session, due to a possible conflict of interest.

Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (NEA Middletown, Middletown Association of Auxiliary Personnel/NEARI/NEA, RI Council 94, AFSCME, AFL-CIO on behalf of Local 1823)

On motion of Councilor VonVillas, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 8:58 pm.

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

On motion of Council President Sylvia, duly seconded, it was voted unanimously to adjourn said meeting at 9:00 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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