

**At a Regular Meeting of the Town Council of the Town of Middletown,  
RI held at the Middletown Town Hall on Monday, June 15, 2015 at 6:00  
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)**

**There were no reconsiderations.**

**Present representing the Planning Board were Chair Charlene A. Rose-Cirillo, Vice Chair Arthur Weber and members John Ciummo, Paul A. Croce, Jan Eckhart, Betty Jane Northrup-Owen and Matthew Sullivan.**

**Also present were Town Planner Ronald Wolanski and Assistant Town Planner Alison Ring.**

**6:00 P. M. - JOINT MEETING WITH PLANNING BOARD**

**1.**

**Memorandum of Charlene Rose-Cirillo, Chair, Middletown Planning Board, re: Comprehensive Plan Implementation priorities – Zoning.**

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

**Council President Sylvia noted that the list above will be prioritized.**

**Discussion centered around that some items on the Comprehensive Plan implementation list may take a few years to accomplish, implementation of affordable and elderly housing and jobs within the Town.**

**Council developed the following priorities list to implement the Comprehensive Community Plan, entered here:**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:38 pm.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to reconvene this meeting at 7:00 pm.**

## **PUBLIC FORUM**

**2. 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.**

**Vice President Kempenaar recused himself from acting on the Consent Calendar, (items #3 to #15), due to a possible conflict of**

**interest.**

## **CONSENT**

**3. Approval of Minutes, re: Special Meeting, May 20, 2015.**

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

**4.**

**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.**

**5. 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.**

**6. Memorandum of Town Engineer, thru Town Administrator, with enclosure, re: Public Information Meeting, Lower Aquidneck Avenue.**

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

**7. Resolution of the Town of Foster, re: In 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 Councillor Rodrigues, duly seconded, it was voted unanimously to receive said resolution.**

**8. Resolution of the Smithfield Public Schools, re: In Support of 2015-H5861 and 2015-S0743 disallowing non-law enforcement to carry concealed firearms onto school grounds.**

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

**9. Communication of Town of East Greenwich, re: H6100 A, non-agricultural uses.**

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

**unanimously to receive said communication.**

**10. Resolution of the Town of East Greenwich, re: School Calendar.**

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

**11. Resolution of the Town of Charlestown, re: In opposition to Overreaching State Regulation of the Right to Farm H6100 Sub A.**

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

**12. Communication of Cheryl G. Robinson, President, Turning Around Ministries, Inc., re: Appreciation for support of TAM's 10th Anniversary Celebration.**

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

**13. Notice of Public Hearing from the Zoning Board of Review, Petition of Kempenaar Real Estates, Inc. – for a Variance from Sections 603, 701 & 803G – to allow a 3,270 sq. ft. addition to the existing hotel in order to provide conference rooms and breakfast area with a south side yard setback of 1’ where 10’ is required; on real estate located at 349-351 West Main Road; TAP 108, Lots 19300-19301.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said Notice of Public Hearing.**

**14. Application for Special Event Permit from Brittany Burgess, Endless Summer Camp, Youth Summer Camp to be held at Third Beach, the weeks of June 22-26, July 6-10, July 13-17, July 20-24, July**

**27-31, 2015 from 9:00 am to 4:00 pm.**

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

**15. Application for Special Event Permit from Cape Codders Chapter of Family Motor Coach Association for the Memorial Day Weekend Motor Home (RV) Rally - Memorial Day Weekend – Annual Second Beach Rally to be held at Sachuest Beach arriving on Thursday, May 26, 2016 and Friday, May 27, 2016 with all coaches departing Monday, May 30, 2016.**

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

**LICENSES**

**16. Application of First Beach, LLC dba Newport Beach Hotel & Suites, 30 Wave Avenue, for an Amusement License for the 2015-2016 Licensing year. (NEW)**

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

**17. Application of Manuel Silva dba Any And Everything, 785 West 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.**

**ORDINANCE**

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

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title XIII General Offenses, Section 130.40 Smoking Prohibited On Public Beaches, Recreational Areas and Parks.**

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

**OTHER COMMUNICATIONS**

**19.**

**Email communication of Carol Cummings, re: Peckham Avenue to the Sakonnet River (Parking).**

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

**Carol Cummings, 738 Indian Avenue, addressed the Council noting she has researched Kingfisher Road. Ms. Cummings suggests if the Council considers parking, signage should be posted and requests signage to swim at your own risk. Ms. Cummings urged the Council to revert back to no parking in the area.**

**Councillor Rodrigues noted that the area is Town commonage, a public right away and all residents can utilize the right of way.**

**Town Solicitor Peter B. Regan noted that the issue of parking is complicated and the issue is under review.**

**Discussion centered around if the Town owns Kingfisher Road, CRMC regulations regarding Public Rights of Ways, if the area could have resident parking only, the area not being operated as a Town**

**beach and parking also being an issue at other Public Rights of Ways in the Town.**

**John Boucheller, 791 Indian Avenue, noted his property borders the right of way, explaining he is concerned with safety and the impact on the environment with people utilizing the right of way.**

**Darrel Hazel, 819 Indian Avenue, noted his property borders north of the right of way. Mr. Hazel explained that he shares the same issues with Mr. Boucheller.**

**David Bazarsky, 59 Kay Boulevard, Newport, addressed the Council explaining that he is the owner of properties at the corners of Indian Avenue and Peckham. Mr. Bazarsky explained that the area becomes filled with cars and trash.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to forward said email communication to the Town**

**Administrator and Town Solicitor for review and recommendation.**

**Councillor Rodrigues recused himself from item #20, due to a possible conflict of interest.**

**20. Petition submitted by Jack Terlisner, re: North Wolcott Avenue Resident Petition requesting Town to halt any further construction in the area.**

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

**John “Jack” Terlisner, 32 Wolcott Avenue, reviewed the petition above.**

**Discussion centered around two houses built on Fitten Terrace, if**

**flooding is a direct result of new development in the area, water runoff from Draper Avenue and Fitten Terrace, water being difficult to manage in the area, if the problem is a Town or private issue, Fitten Terrace being a private road, a high water table in the area and drainage system in the area.**

**Ronald DeAscentis, 45 Wolcott Avenue, presented the Council with a diagram from the area, entered here:**

**Mr. DeAscentis noted that the flooding issue has increased over the past fifteen years and requests relief from the Town.**

**Discussion centered around the north side of Wayside Avenue having a small swale, the land changing in the area and grading changes of properties in the area.**

**Jeff Soderberg, 44 Wolcott Avenue, noted that the water issue is getting worse in the area, explaining that he has had times when**

**there was 32 inches of water in his front yard and water up to his knees in his driveway. Mr. Soderberg requests Council to stop construction in the area.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to task the Town Administrator and Town Solicitor to look into this issue and come up with a recommendation for the area.**

## **TOWN COUNCIL**

**21. At the request of Council President Sylvia, Councillor Lombardi and Councillor VonVillas,**

**Resolution of the Council, re: In opposition to S961 and H6278 “An Act Relating to Labor and Labor Relations – Minimum Wage”.**

**On motion of Vice President Kempenaar, duly seconded to pass said resolution.**

**Town Administrator Shawn Brown noted that passage of S961 and H6278 would require the Town to pay public safety overtime for hours over 42.**

**Council President Sylvia noted that the legislation would take management rights away.**

**A vote was taken at this time.**

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

**22. At the request of Councillor Lombardi, Request for Support, re: MADD RI's 25th Annual Youth Leadership Training Conference.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said request and authorize \$300.00, which will sponsor three students to participate in the MADD RI's 25th Annual Youth Leadership Training Conference to be appropriated from the Council Presidents Discretionary Fund.**

## **TOWN ADMINISTRATOR**

**23. Memorandum of Town Administrator, with enclosures, re: Letters of USF&W regarding improvements to Sachuest Point area.**

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

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

here.

**Charles E. Vandemoer, Refuge Manager, US Department of the Interior, Fish and Wildlife Service, addressed the Council noting that sand and loam will be stored on approximately half of the parking lot.**

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

**Town Administrator Shawn Brown noted that a few issues exist with the Undergrounding Utilities along Sachuest Point Road and he will bring the issue back in a resolution at the next regular meeting of the Council, July 6, 2015.**

**24. Memorandum of Cecilia Dursi, Human Resource Manager, thru Town Administrator, with enclosures, re: Employee Handbook for Seasonal/Temporary Employees.**

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

**Human Resource Manager Cecilia Dursi reviewed the memorandum above.**

**On motion of Vice President Kempenaar, duly seconded, it was voted to approve the Employee Handbook for Seasonal/Temporary Employees.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to remove items #25 and #26 at this time and the items can be brought back at a later date.**

**25. Memorandum of Finance Director, thru Town Administrator, with**

**enclosures, re: Contract Award: MIDD-015-011 Second Beach Dune Restoration and Walkover Structures-Design and Permit.**

**26. Resolution of the Council, re: Award of contract for MIDD-015-011 Second Beach Dune Restoration and Walkover Structures-Design and Permit.**

**27. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-015-013 JH Dwyer – Slipline Sewer and Storm Drain.**

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

**Town Administrator Shawn Brown reviewed the memorandum above.**

**Town Engineer Warren Hall noted that the mains and laterals of the sewer systems will be sliplined. The lines in the JH Dwyer Drive area are thirty-five years old and are in need of replacement.**

**28. Resolution of the Council, re: Award of contract for MIDD-015-013 JH Dwyer – Slipline Sewer and Storm Drain.**

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

## **EXECUTIVE SESSION**

**29. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (5) Lease (JFK School) and (1) personnel (Non-Classified Municipal Positions).**

## **ADDENDUM TO TOWN COUNCIL AGENDA**

**POSTED –June 10, 2015**

**REGULAR MEETING – June 15, 2015**

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

**EXECUTIVE SESSION**

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

## **ADDENDUM TO TOWN COUNCIL AGENDA**

**POSTED –June 11, 2015**

**REGULAR MEETING – June 15, 2015**

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

**EXECUTIVE SESSION**

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

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 8:17 pm.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 9:10 pm.**

**Councillor Rodrigues recused himself from acting on the Land Acquisition portion of the agenda, due to a possible conflict of interest, leaving the session at 8:56 pm.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to authorize the Council President to execute the payment.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to approve said lease keeping the 4% escalator within the lease.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to approve working with the Aquidneck Island Land Trust to pursue this opportunity and authorize the Finance Director to remit payment for half of the contracted cost, not to exceed \$3000.00.**

**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.**

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

**unanimously to adjourn said meeting at 9:15 P.M.**

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

**Council Clerk**

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