

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, September 21, 2015
at 6:15 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.

Councillor Rodrigues recused himself from acting on a Collective Bargaining portion of the following item #1 of business, due to a possible conflict of interest.

6:15 PM - EXECUTIVE SESSION

1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (Council 94 and NEA MIDDLETOWN (NEAM)) and (1) Personnel (Town Administrator; continued to October 5, 2015).

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 6:17 p.m.

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

On motion of Vice President Kempenaar, duly seconded, it was voted to ratify the NEA Memorandum of Understanding; Councillor Santos voted YES; Council President Sylvia, Vice President Kempenaar, Councillor Lombardi, Councillor Viveiros and Councillor VonVillas voted NO to said motion; MOTION FAILED TO PASS.

Council President Sylvia, reviewed the

following:

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to ratify the tentative Council 94 contract.

Council President Sylvia, reviewed the following:

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.

PRESENTATIONS

2. Presentation of Thomas C. Ardito, Executive Director, Aquidneck Island Planning Commission, re: Update on AIPC Strategic Plan and Priorities for 2015-2016.

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

Thomas C. Ardito, Executive Director, Aquidneck Island Planning

Commission, presented a powerpoint presentation, outlining the

following:

Discussion centered around the Aquidneck Island Transportation Study completed by the AIPC, rail lines, traffic, creation of bike paths and broadband.

3. Communication of Dr. Kenneth M. Walsh, PhD. P.E., Director of Research, Middletown Historical Society, re: Grant from the National Park Service.

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

Dr. Kenneth M. Walsh, PhD. P.E., Director of Research, Middletown Historical Society, reviewed the memorandum, enclosure and map,

entered here:

Mr. Walsh noted that one of the most important battles in the American Revolution was here in Middletown.

Discussion centered around use of ground radar, construction of a museum on Historical Society property left by Ray Durfee and applying for additional grants.

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.

John Burns, Representing Council 94, 88 Mill Street, Woonsocket, RI, addressed the Council noting union member sacrifices in contracts over the years. Mr. Burns explained that if proper pay and benefits do not continue, the school will not get qualified employees.

Dave Rodrigues, 755 Wapping Road, addressed the Council reviewed the following handout, entered

here:

Mr. Rodrigues suggested the school and town work together.

Ray Abraham, 999 Aquidneck Avenue, noted concern with the dust and dirt on his property from the JAM Material yard across from his house. Mr. Abraham explained that he has contacted DEM and now will engage an environmental attorney.

Vice President Kempenaar recused himself from acting on item #5, due to a possible conflict of interest.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to act as a board of license commission.

ACTING AS A BOARD OF LICENSE COMMISSION

5. Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the 2015-2016 licensing year. (Requires Advertising for public hearing; see attached list)

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said applications and advertise for public hearing for October 19, 2015, regular meeting of the board.

6. Application of Gilbert-Burton VFW Post #4487 dba Captain Kenneth L. Gilbert Post #4487, 52 Underwood Lane, for a Class D Liquor license to be used at the same premises. (NEW; 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 for October 19, 2015, regular meeting of the board.

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

CONSENT

7. Approval of Minutes, re: Regular Meeting, September 8, 2015.

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

8.

Communication of Finance Director and Accounting Manager, thru Town Administrator, with enclosure, re: Quarterly Tax Collector's Report as of 06/30/2015 – Town of Middletown.

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

9. Communication of Charlene Rose-Cirillo, Chair Middletown Planning Board, with enclosure, re: Proposed Comprehensive Plan Amendments – Amendments needed to gain state approval of the Middletown Comprehensive Community Plan. (Requires advertising for public hearing)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and advertise for public hearing for November 2, 2015, regular meeting of the Council.

10. Communication of Denise Panichas, Executive Director, Samaritans of Rhode Island, re: Appreciation for support.

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

11. Resolution of the Town of Jamestown, re: In support of the Quonset Air Museum.

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

12. Resolution of the Town of Warren, re: In support of the Quonset Air Museum.

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

13. Resolution of the City of Cranston, re: In support of the Quonset Air Museum.

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

14. Application of Paul C. Graf, 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.

15. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, Additional Hours of Operation, for the 2015-2016 licensing year. (Requires Advertising for public hearing)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said applications and advertise for public hearing for October 19, 2015, regular meeting of the Council.

LICENSES AND PERMITS

16. Application for Special Event Permit from Chris Semonelli for a Special Need's Car Wash to be held at Blue Wave Car Wash, 1379

**West Main Road on September 27, 2015 from 11:00 am to 2:00 pm.
(Applicant requests permit fee to be waived).**

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

PUBLIC HEARING

17. Public Hearing (Advertised; Abutters notified)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XV Land Usage, Chapter 152 Zoning Code, seeking to change the zoning classifications of Lots 14, 23 and 23B on TAP 111 from Medium Density Residential Traffic Sensitive (R-20A) to High Density Residential (R-10). (Planning Board recommendation attached)

Public hearing was declared open.

Attorney Jeremiah C. Lynch, Jr., representing Mr. & Mrs. William Gill and David Lawrence, owners of the property for rezoning, noting that the parcels are approximately 11.3 acres which access from Thelma Lane. The area is presently zoned R-20A and the rezoning to R-10 would come in line with the Comprehensive Community Plan.

Chris Duhamel, DiPrete Engineering, 90 Broadway, Newport, addressed the Council noting that bring the zoning to R-10 would be in compliance with the Comprehensive Community Plan. If the zoning is amended to R-10, the proposal for the area would be Senior Independent homes, for over 55. There is a potential for 47 units, each with two car garage and two car driveway. An emergency access for police and fire would be on Arruda Terrace.

Council discussion centered around safety exit from the development, a gate being constructed for the emergency exit, Bailey's brook environmental issues, traffic on West Main Road,

impact on the value of neighbors land, impact on infrastructure, 3 acres of the land is wetlands, construction of buffers for the neighbors, price range lower to mid \$300,000 per unit and if all requirements are not satisfied the project will not go forward.

Wendy Riel, 48 Swan Drive, addressed the Council noting concern that some people in her area were not notified of the public hearing, along with Bailey's Brook overflowing during heavy rains. Ms. Reil also noted concern with traffic and impact on wildlife.

Michael Quink, 20 Arruda Terrace, addressed the Council noting concern with the emergency access on Arruda Terrace explaining the entrance to the road is currently in shambles and if Police and Fire vehicles use the road it will create more of a mess.

Dave McLaughlin, Clean Ocean Access, addressed the Council noting concern with the Bailey Brook and watershed access, suggesting to explore another right of way to get the best value from the land to protect the environment.

Phillip Douglass, 93 Amesbury Circle, addressed the Council noting that his yard is always flooded.

Michael Cassese, 25 Arruda Terrace, noted opposition to the zoning change and proposed development of the area explaining that traffic would increase and property values would decrease.

Council discussion centered around having to a balance between development and the environment, increases in traffic and the comprehensive community plan having to match the zoning in Town.

Jeff Carpenter, 1607 West Main Road, noted concern with Baily Brook and an easement through his property.

John Cawley, 1653 West Main Road, addressed the Council explaining that his backyard floods and noted concern for wildlife and

traffic in the area.

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

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to leave the public hearing open and schedule the second reading of the ordinance for October 19, 2015, Regular Meeting of the Council.

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

18. Public Hearing (Advertised)

Town of Middletown application for FY 2015- Small Cities Community Development Block Grant (CDBG) for certain projects, in an amount not to exceed \$250,000.

Public hearing was declared open.

Town Planner Ronald Wolanski reviewed the memorandum, entered

here:

Christian Belden, representing Church Community Housing, Newport, RI, addressed the Council noting that since 1986 Church Community Housing has assisted the Town with the Small Cities Community Development Block Grant application.

Mike Miller, Executive Director, Newport County YMCA, 792 Valley Road, Middletown, addressed the Council requesting funding for membership and program assistance.

Jennifer Barrara, Director of Lucy's Hearth, Middletown, RI, addressed the Council requesting support for general operating funds.

Cheryl Robinson, representing Turning Around Ministries, requested support for assistance for programs relating to homelessness and the elderly.

Jimmy Winters, Housing Hotline, addressed the Council requesting support and noting that the Housing Hotline recently assisted the residents at the Sandpiper Cottages.

There being no other person present desiring to be heard, public hearing is declared closed.

19. Resolution of the Council, re: FY2015- Small Cities Community Development Block Grant – Project priorities.

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

TOWN COUNCIL

20. Communication of Councillor Viveiros, re: Request to continue proposal to prohibit shopping centers and big box stores to the October 19, 2015, regular meeting of the Council.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to continue this item to the October 19, 2015, regular meeting of the Council.

21.

Communication of Councillor Rodrigues, re: Requesting funding for

Middletown Pop Warner Football.

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

Councillor Rodrigues reviewed the memorandum above.

Council President Sylvia noted concern of being a victim's indemnity fund explaining that the Town provides a civic appropriation to Middletown Pop Warner yearly. Mr. Sylvia noted that banks receive money twenty-four hours a day and suggests reviewing how funds are handled.

Vice President Kempenaar noted that the police are available, if an escort is necessary to go to the bank.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to allocate \$1,500.00 towards the Middletown Pop Warner youth banquet; the association shall submit bills to the Finance Office for reimbursement.

ORDINANCE

22. An Ordinance of the Town of Middletown (Second Reading)

An

ordinance in Amendment to the Town Code of the Town of Middletown, Title XI, Business Regulations, Chapter 116 Body Works Services.

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

TOWN ADMINISTRATOR

23. (Continued from Regular Meetings April 6, May 4, July 6, & September 8, 2015)

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 this matter to the November 2, 2015 regular meeting of the Council.

24. Memorandum of MPC Coordinator, thru Town Administrator, with enclosure, re: Proposed MPC Bylaws.

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

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

25. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Preliminary Operating Results – General Fund – Fiscal year ending June 30, 2015.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to continue to October 19, 2015.

APPOINTMENT TO BOARDS AND COMMITTEES

26. Appointment of one (1) member to the Middletown Prevention Coalition for the media sector, to complete a term expiring March 2018.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Alexa Furtado to the Middletown Prevention Coalition, media sector to complete a term expiring March 2018.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 9:32 pm.

Wendy J.W. Marshall, CMC

Town Clerk

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