

**At a Regular Meeting of the Town Council of the Town of Middletown,  
RI held at the Middletown Town Hall on Monday, November 2, 2015 at  
6:30 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)**

**There were no reconsiderations**

**On motion of Vice President Kempenaar, duly seconded it was voted unanimously to add an item to Executive Session Pursuant to RIGL §42-46-6(b), which allows the Council to add additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official. The item which would be added to Executive Session is Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Litigation (Old Farm, LLC – NC 2015-0320).**

**6:30 PM - EXECUTIVE SESSION**

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

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 6:34 p.m.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 7:30 p.m.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 7:31 p.m.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reconvene this meeting at 7:35 p.m.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to extend the JFK Lease to July 2017 and freeze the escalator.**

**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.**

## **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.**

**Thomas Welch, 536 Mitchell's Lane, addressed the Council explaining**

**he is happy to see the progress for the recreation fields and agrees with the safety improvements. Mr. Welch noted concern that the plan for the fields does not include the need for more fields.**

**Councillor Viveiros requested that item #3 be heard under the regular portion of the docket.**

## **CONSENT**

### **3. Approval of Minutes, re: Regular Meeting, October 19, 2015.**

**Councillor Viveiros noted that he would like to clarify that he feels the Comprehensive Community Plan is too weak and opens up the Town to run away development; explaining the laws were changed because of developers and representatives and I did not use the word bribe.**

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

**4. Resolution of the City of East Providence, re: Support of the Quonset Air Museum.**

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

**5. Resolution of the City of Providence, re: Support of the Quonset Air Museum.**

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

**6. Resolution of the City of Warwick, re: Support of the Quonset Air**

**Museum.**

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

**7. Application of AW Food Mart, Inc. dba Kennedy's Grill Food Mart, 390 West Main Road, for RENEWAL of a Victualling House License for the 2015-2016 licensing year.**

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

**8. Application of Wendy's International Inc. dba Wendy's, 62 Valley Road, for RENEWAL of a Victualling House License for the 2015-2016 licensing year.**

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

**9. Application of Speedway, LLC dba Speedway #02822, 864 West Main Road, for Additional Operating Hours License for the 2015-2016 licensing year. (NEW)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said application and advertise for public hearing on December 7, 2015 Regular Meeting of the Council.**

**10. Continued from Regular Meetings September 21, and October 19, 2015)**

**Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Preliminary Operating Results – General Fund – Fiscal year ending June 30, 2015. (Administration requests item to be continued to November 16, 2015)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to continue this matter to the November 16, 2015, Regular meeting of the Council.**

## **PUBLIC HEARINGS**

### **11. (Public Hearing Advertised)**

**Amendments to the Town's Comprehensive Community Plan (First Reading)**

**Amendments to Town's Comprehensive Community Plan – Land Use Element, page IX-25 and the Implementation Program table, Housing Element, p. VII-15 - Add language to clarify affordable housing units, Housing Element, p. VII-32 - Add a paragraph describing the concept of collaborating in potential efforts to convert existing mobile home parks to cooperatives, Housing Element, p. VII-33 & 37 - Revise language to clarify the town's intent to meet the state's 10% affordable housing goal, Housing Element p. VII-34-37 - Revise the Affordable Housing Strategy table and Housing Element, p. VII-38 and the Implementation Program table. (Planning Board memorandum**

**attached)**

**Public Hearing was declared open.**

**Town Planner Ronald Wolanski addressed the Council explaining that the Middletown Comprehensive Community Plan was reviewed in draft form by Statewide Planning and after review Statewide Planning has requested that additional items be modified before final approval.**

**Councillor Viveiros inquired if the amendments to the Middletown Comprehensive Community Plan are based on Smart Growth principals and what will happen if the Council rejects the proposed amendments?**

**Town Planner Ronald Wolanski, responding to Councillor Viveiros, explained that Growth Smart Principals are followed. If the Council rejects the State's request to amend the plan, the state will not approve the Middletown Comprehensive Community Plan and the**

**Town will not be in compliant with State Statute. Mr. Wolanski noted that the amendments are language clarifications within the plan.**

**Casey Ackerman, 633 Aquidneck Avenue, suggests the Council not rush to amend the Comprehensive Community Plan and make sure the plan is done correctly. Mr. Ackerman requests the Council to do what is right for the community.**

**Roby Faria, 9 Cardoza Terrace, addressed the Council explained that amending the Comprehensive Community Plan to match zoning is a good idea. Ms. Faria noted concern with the possibility of run-away developments in the Town.**

**Morris Hirsh, Renfrew Avenue, noted support for residential housing explaining that commercial areas along Aquidneck Avenue make it difficult for walkers.**

**Jim Cronin, 904 Fairway Drive, addressed the Council noting concern**

**with big box development and traffic on West Main Road.**

**Frank Freitas, Newman Avenue, noting concern with zoning and the Town comprehensive community plan. Mr. Freitas supports senior housing and opposes commercial sprawl, it is a quality of life issue.**

**Town Planner Ronald Wolanski reviewed the**

**following:**

**Council discussion centered around affordable senior housing, the changes to the Comprehensive Community Plan only for clarification of language in the plan, the Comprehensive Community Plan being a goal/vision for the Town and the ability for the Comprehensive Community Plan to be amended.**

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

**On motion of Vice President Kempenaar, duly seconded, it was voted to receive said ordinance on its first reading, leave the public hearing open and schedule the second reading of the ordinance for November 16, 2015, Regular Meeting of the Council; Councillor Viveiros voted NO to said motion.**

**12. (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 Use, A Temporary Moratorium on Construction and Development of Large Scale Shopping Centers & Buildings with Footprints Exceeding 35,000 Square Feet in the General Business and Traffic Sensitive General Business Zoning Districts.**

**Council President Sylvia noted that the Council cannot have a public hearing on this item, due to the Town Administration failing to**

**properly notify abutters.**

**Town Solicitor Peter B. Regan explained that notice to all affected property owners was not provided within fourteen days prior to the hearing. The Council does not have authority to act on this matter. The matter would have to be re-noticed and re-advertised.**

## **ORDINANCES**

### **13. An Ordinance of the Town of Middletown (Second Reading)**

**An ordinance in Amendment to the Town Code of the Town of Middletown, Title XIII, General Offenses, Section 130.04, “Smoking Prohibited on Public Beaches, Recreational Areas and Parks”.**

**Council discussion centered around if smoking was allowed inside trailers.**

**Town Solicitor Peter B. Regan responded that the ordinance prohibits smoking anywhere in the campground.**

**On motion of Vice President Kempenaar, duly seconded, it was voted to adopt said ordinance on its second reading; Councillor Viveiros voted NO to said motion.**

#### **14. An Ordinance of the Town of Middletown (Second Reading)**

**An ordinance in Amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 95 Tow Trucks and Parking Lots.**

**Council discussion centered around if the Tow companies are registered, if employees are required to have background checks and where the vehicles are towed to.**

**Police Chief Anthony Pesare, responded that the vehicles are towed**

**to designated areas in Portsmouth, Newport and North Kingstown. All company must be registered with the Police Department and employees are required to have a background check.**

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

## **OTHER COMMUNICATIONS**

**15. (Continued from Regular Meetings October 5 & October 19, 2015)**

**Memorandum of Superintendent of Schools, with enclosures, re: FY 2014-15 Budget Amendments.**

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

**16. (Continued from Regular Meetings October 5 & October 19, 2015)**

**Resolution of the Council, re: FY2015 School Department budget adjustments.**

**Town Administrator Shawn Brown reviewed the following:**

**Mr. Brown explained that the Council has no authority to approve the expenditures, the School Committee makes the decision on how the monies are spent.**

**Council President Sylvia noted concern with approving the budget adjustments, explaining that the monies were not transparent in the budget.**

**Discussion centered around the docket item not being part of the**

**Town investigation and if the item is postponed the Town audit may be delayed.**

**On motion of Councillor Lombardi, duly seconded, it was voted to continue this matter to the first meeting in December; Councillor Rodrigues and Councillor Santos voted NO to said motion.**

**17. Communication of Robert S. Edenbach, Colonel Commanding, Artillery Company of Newport, with enclosure, re: Request for support by placing an ad in the Program Book for the US Navy Chorister Christmas Concert.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and approve a full-page ad (cost \$100.) in the Artillery Company of Newport Program Book to be appropriated from the Council President's Discretionary Fund.**

**TOWN COUNCIL**

**18. (Continued from Regular Meetings September 8th, September 21, & October 19, 2015)**

**Communication of Councillor Viveiros, re: Request to continue proposal to prohibit shopping centers and big box stores. (Attached is original communication from September 8, 2015)**

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

**On motion of Councillor Viveiros, duly seconded, it was voted unanimously to table this item until the moratorium on big box stores is discussed.**

**19. At the request of Councillor Lombardi,**

**Resolution of the Council, re: Support for Solarize Aquidneck**

**Program.**

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

**Thomas Ardito, AIPC Executive Director, addressed the Council noting that Middletown has been selected to participate in the Solarize Aquidneck Program, which promotes residential installation of home solar arrays.**

**Councillor Lombardi noted that this project is a good example of what the Aquidneck Island Planning Commission is doing.**

**TOWN ADMINISTRATOR**

**20. (Continued from Regular Meetings April 6, May 4, July 6,**

**September 8, & 21, 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 receive said memorandum and refer to the Planning Board for recommendation.**

**21. (Continued from Regular Meetings October 5, & October 19, 2015)**

**Memorandum of Town Administrator, with enclosure, re: LOI – PPV – Solar.**

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

**here.**

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

**22. (Continued from Regular Meetings October 5, & October 19, 2015)**

**Resolution of the Council, re: LOI – PPV – Solar.**

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

**23. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-016-001 Maidford River Culvert at Paradise Avenue Project.**

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

**Discussion centered around the lowest bid being non-responsive, the road being closed for approximately four weeks, the location of the failed culvert being around 655 Paradise Avenue and the projected being completed by Memorial day.**

**24. Resolution of the Council, re: Award of Contract MIDD-016-001 Maidford River Culvert at Paradise Avenue Project.**

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

## **APPOINTMENT TO BOARDS AND COMMITTEES**

**25. Appointment of three (3) members to the Beach Commission, for terms expiring November 2017.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint John Ceglarski, reappoint Gary Lapida and appoint Charlene A. Rose-Cirillo to the Beach Commission, for terms expiring November 2017.**

**26. Appointment of one (1) member to the Coastal Resources Management Council, Alternate Seat, term set by CRMC expiring 2017.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Nicholas P. Coogan, for a term expiring 2017.**

**27. Appointment of three (3) members to the Library Board of Trustees, for terms expiring September 2018.**

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

**unanimously to reappoint Lucie-Anne Dionne-Thomas, reappoint Susan J. Hester and reappoint Ellrony Williams to the Library Board of Trustees for terms expiring September 2018.**

**28. Appointment of two (2) members to the Open Space and Fields Committee, for terms expiring November 2018.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint Thomas Welch and appoint Jason Evans to the Open Space and Fields Committee for terms expiring November 2018.**

**29. Appointment of one (1) member to the Personnel Board, for a term expiring December 2018.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint Lawrence B. Kestler to the Personnel Board for a term expiring December 2018.**

**30. Appointment of one (1) member to the Middletown Prevention Coalition, Other Organization Involved in Reducing Substance Abuse sector, to complete a term expiring April 2018.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Joseph Pratt to the Middletown Prevention Coalition, Other Organization Involved in Reducing Substance Abuse sector, to complete a term expiring April 2018.**

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

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

**Town Clerk**

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