

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, December 7, 2015 at
5:00 P.M.**

Council President Robert J. Sylvia, Presiding

Vice President Robert Kempenaar, II

Councillor Paul M. Rodrigues

Councillor M. Theresa Santos

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

Councillor Henry F. Lombardi, Jr., 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)

There were no reconsiderations.

5:00 PM – EXECUTIVE SESSION

1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (NEA MIDDLETOWN (NEAM)) 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 5:02 p.m.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 5:30 p.m.

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.

5:30 PM – STORMWATER PRESENTATION

2. Presentation by Fuss & O'Neill, re: Maidford River Watershed Assessment & BMP Design.

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

Town Engineer Warren Hall introduced Dean Audett, Vice President, Water Environmental Natural Resources and Kristine Baker representing Fuss and O'Neill.

Dean Audett, Vice President, Water Environmental Natural Resources and Kristine Baker presented a power point presentation of the Maidford River Watershed, Assessment & BMP Design. The power point is on file in the Office of the Town Clerk.

Discussion centered around the Paradise Valley Park BMP design and construction taking two to three days to be installed, locations of the BMP's, water quality and how the BMP's are constructed.

3.

Resolution of the Council, re: Adopting the five recommended BMP's for water quality.

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

6:00 PM - LEGISLATIVE AGENDA

4. Town's legislative concerns to be addressed at the 2016 session of the General Assembly – with the Town's General Assembly delegation.

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

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:15.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reconvene this meeting at 6:18 pm.

Present also were State Senator Louis P. DiPalma, State Representative Deborah Ruggiero and State Representative Daniel Reilly.

Also, present were Town Administrator Shawn Brown, Deputy Town Clerk Karin Clancey, Town Solicitor Peter B. Regan and Susan Schneck, Chair of the Middletown Prevention Coalition.

Present, representing the School Department, were Superintendent Rosemarie Kraeger, School Committee Chair Theresa Spengler, Vice Chair Kellie DiPalma, and members Liana Ferreira Fenton and William O'Connell.

Discussion centered around state spending, changes with the Enterprise zone, the State Budget revenues and spending running ahead, the sponsorship legislation allowing the School Department to allow advertising at the school fields, legislative changes regarding layoff notices to teachers and Housing aid moratorium being lifted.

Town Administrator Shawn Brown reviewed the

following:

Superintendent Rosemarie Kraeger reviewed the following:

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 7:06.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reconvene this meeting at 7:15 pm.

Council President Sylvia requested a moment of silence for former Council member Mary Nunes, for the anniversary of the attack on Pearl Harbor and for the victims of the California terrorist attack.

PRESENTATION

5. Citation of the Council, re: St. George's Football Team.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to continue said item to the next regular meeting of the Council be held on January 19, 2016.

Santa Claus arrived at 7:20 pm.

Council President Sylvia and Councillor Santos presented Santa Claus with a citation, entered

here:

Fire Chief Ronald Doire thank the Council for the citation.

PUBLIC FORUM

6. 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.

Richard Adams, 240 Island Drive, addressed the Council on behalf of the AIPC, updating the Council in regards to Solarize Aquidneck Island. Mr. Adams explained that the program structure and noted the public could attend upcoming meetings in Middletown and Newport for information on Solarize Aquidneck Island.

Tom Nasser, 19 Squantum Drive, addressed the Council on behalf of Middletown Little League, thanking the Council for the attention to safety issues on Town fields.

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

ACTING AS A BOARD OF LICENSE COMMISSION

7. (Public Hearing Advertised)

Application of Blue Plate Diner, Inc. dba Blue Plate Diner, 665 West Main Road, for RENEWAL of a Class BV Liquor license for the 2015-2016 licensing year to be used at the same premises.

Public Hearing was declared open.

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

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

8.

Communication of Robert Mastin, President, Custom House Coffee, re: Surrender of its BV liquor license.

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

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

unanimously to reconvene as a Town Council.

Vice President Kempenaar requested that items #10, #11, #12, #16 and #17 be heard under the regular portion of the docket.

CONSENT

9. Approval of Minutes, re: Regular Meeting, November 16, 2015.

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

10.

Memorandum of Finance Director, with enclosures, re: FY2016 Municipal Budget Report – Quarter ending September 30, 2015.

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

Councillor Santos inquired the location of the reserve contingency fund.

Finance Director Lynne Dible, responding to Councillor Santos noted the inquiry can be found on page 2 under expenses.

11. Communication of Tax Assessor, with enclosures, re: Cancellation of Taxes for certain Middletown residents.

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

Councillor Santos inquired the meaning of TA-3 Assessed in Excess?

Town Administrator Shawn Brown, responding to Councillor Santos noted that he will check with the Tax Assessor.

Councillor Santos inquired if the Tax Assessor is a Certified Real Estate Appraiser?

Town Administrator Shawn Brown requested items #11 and #12 be continued to the next meeting of the Council and be heard in Executive Session.

On motion of Council President Sylvia, duly seconded it was voted unanimously to continue items #11 and #12 to the Town Council meeting, January 19, 2016, Executive Session.

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

13. (Continued from Regular Meetings October 5 & October 19, 2015 and November 2, 2015)

Resolution of the Council, re: FY2015 School Department budget adjustments. (Receive only)

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

14. Memorandum of Rosemarie K. Kraeger Superintendent of Schools, re: Budget Amendments.

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

unanimously to receive said memorandum.

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

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

16. Communication of Kevin M. Flynn, Associate Director, Statewide Planning Program, with enclosure, re: State Review of the Middletown Comprehensive Plan.

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

Councillor Viveiros inquired if the Council could amend either the

Middletown Comprehensive Community Plan or the Zoning Ordinance?

Town Solicitor Peter B. Regan, responding to Councillor Viveiros explained that the Middletown Comprehensive Community Plan can be amended by the Town Council at least four times per year.

17. Communication of Brian C. Newberry, House of Representatives Minority Leader, re: HUD's AFFH rule – Affirmative Furthering Fair Housing.

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

Councillor Viveiros reviewed the communication above.

Councillor Rodrigues inquired if the Town has any concerns

regarding the HUD's AFFH rule.

Town Planner Ronald Wolanski, responding to Councillor Rodrigues noted he is not aware of the Town being under any obligation.

18. Communication of Rev. Alvin T. Riley, Jr., Pastor, Mount Zion African Methodist Episcopal Church, re: Appreciation for support.

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

19. Application of Blue Plate Diner, Inc. dba Blue Plate Diner, 665 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.

LICENSES

20. Application of Speedway, LLC dba Speedway #02822, 864 West Main Road, for a Victualling House License for the 2015-2016 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.

21. Application of Speedway, LLC dba Speedway #02822, 864 West Main Road, for a Holiday License for the 2015-2016 licensing year. (NEW)

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

22. Application of No Nonsense Nutrition dba Rhode Island Nutrition, 883 West Main Road, for a Victualling House License for the 2015-2016 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.

23. Application of Peabody's Beach Enterprise dba Peabody's Beach, 830 Third Beach Road, for a Victualling House License for the 2015-2016 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.

PUBLIC HEARINGS

24. (Public Hearing Advertised)

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

Public Hearing was declared open.

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

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

25. (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.

Public Hearing was declared open.

Claudia Gorman, 180 Vernon Avenue, addressed the Council noting support for the moratorium and affordable housing. Ms. Gorman expressed concern with water run off issues, car and truck traffic and the elimination of open space.

Tom Gorman, 180 Vernon Avenue, addressed the Council noting that Middletown does not need more shopping centers.

Council President Sylvia noted that the public hearing will remain open.

There being no other persons present desiring to be heard, public hearing will remain open.

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

26.

Memorandum of Town Administrator, with enclosures, re: FFY 2017-2025 Transportation Improvement Program (TIP).

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

Town Administrator Shawn Brown reviewed the memorandum, entered here:

Discussion centered around that the state working on Transportations Improvement Project from a prioritized list, improvement to the East Main Road, Aquidneck Avenue intersection and sidewalks on Aquidneck Avenue.

27. (Public Hearing Advertised)

Transportation Improvement Program (TIP) - Prioritizing approved Town Projects for the FFY 2017-2025 submission to the State Planning Council.

Public Hearing was declared open.

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

27a. Resolution of the Council, re: Approving prioritized list of projects for submission to the State Planning Council for inclusion in the FFY 2017-2025 TIP.

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

OTHER COMMUNICATION

28. Communication of Patricia Campagna, Newport, re: Request

installation of traffic light at the intersection of Boulevard and Miantonomi Avenue.

Tom Gorman, 180 Vernon Avenue, addressed the Council noting that the intersection of Boulevard and Miantonomi Avenue is very dangerous and a traffic light would be invisible. Mr. Gorman suggests a four way stop at that intersection.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and refer request to the Police Department and Town Administration for recommendation.

TOWN COUNCIL

29.

Communication of Councillor Viveiros, re: Requirement for both Comprehensive Plan and Zoning Ordinance to limit size of a

development and the number of, and size of, the building or buildings of the development. (November 2, 2015 – Item was tabled until the Moratorium will be heard)

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

Councillor Viveiros reviewed the communication above. Mr. Viveiros noted that restrictions in the prior Comprehensive Community Plan are not included in the current Comprehensive Community Plan.

Town Solicitor Peter B. Regan explained that Middletown Comprehensive Community plan is a board strategic plan and the focus should be on the Zoning code, due to zoning having a direct impact on developments.

30. Communication of Councillor Viveiros, re: To discuss a council, planning board and zoning boards meeting.

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

Councillor Viveiros reviewed the communication above.

Cathy Davis, Mitchell's Lane, addressed the Council noting that each issue with zoning and the comprehensive community plan should be addressed on a case by case basis. Ms. Davis explained that the comprehensive community plan is not carved in stone.

Councillor Viveiros explained that his intent is to sit with the boards and compare the Comprehensive Community Plan to the Zoning Ordinance and make amendments where necessary.

Council President Sylvia read the following:

Discussion centered around the process followed to amend the zoning ordinance.

31. Communication of Councillor Viveiros, re: To discuss a Fields committee meeting on Linden and the drive-in properties.

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

32. Communication of Councillor Viveiros, re: To discuss a Resolution in opposition to Governor Raimondo Rhode Works Proposal.

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

Councillor Viveiros noted concern with the Governor's proposal noting that if not enough money is raised by tolls the taxpayers will have to fund.

On motion of Councillor Viveiros, duly seconded, it was voted to request the Town Solicitor to draw up a resolution in opposition to the Governor's proposal to toll the trucking industry

Councillor VonVillas noted concern with not having enough knowledge of the proposal.

On motion of Councillor Viveiros, duly seconded, it was voted to table the matter

Council President Sylvia noted he does not have enough information

to vote on the matter.

Councillor Rodrigues noted he does not have enough information to vote on the matter.

A vote was taken on the first motion, entered here:

On motion of Councillor Viveiros, duly seconded, it was voted to request the Town Solicitor to draw up a resolution in opposition to the Governor's proposal to toll the trucking industry, Council President Sylvia, Vice President Kempenaar, Councillor Rodrigues, Councillor VonVillas and Councillor Viveiros voted NO; Councillor Santos voted YES to said motion; MOTION FAILED TO PASS.

At vote was taken on the motion to table, entered here:

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to table the matter.

TOWN ADMINISTRATOR

33. Continued from Regular Meetings September 21, October 19, and November 2, and November 16, 2015)

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 receive said memorandum.

Finance Director Lynne Dible reviewed the memorandum above.

APPOINTMENT TO BOARDS AND COMMITTEES

34. Email communication of Austin Prendergast, re: Resignation from the Open Space and Fields Committee.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said email communication and accept resignation with regret.

35. Appointment of three (3) members to the Open Space and Fields Committee, three terms expiring November 2018 and one (1) term expiring November 2016.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint Cheryl Boergesson, appoint Allan R. Gray and appoint Sara Poirier to the Open Space and Fields Committee for

terms expiring November 2018.

36.

Communication of Town Clerk, re: Resignation from Middletown Prevention Coalition.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and accept resignation of Denise Rochefort from the Middletown Prevention Coalition.

37. Appointment of two (2) Alternate Council Members to the Audit Committee.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor VonVillas and Councillor Lombardi as Alternate members to the Audit Committee.

Council President Sylvia wished all a safe Holiday season.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 8:50 pm.

Wendy J.W. Marshall, CMC

Town Clerk

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