

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Fire Station on Monday, April 4, 2016 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)

6:00 P.M. - CEREMONY

1. Fire Department Ribbon Cutting Ceremony. (No Documentation)

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

The ceremony program was as follows:

Town Administrator Shawn Brown welcomed all who attended,

recognizing former Council Members, State Legislators, Former Fire Chiefs, Project Architects, Project Construction Company and Clerks of the Works.

Invocation by Pastor Paul Hoffman, Evangelical Friends Church.

Fire Chief Ronald Doire, welcomed all and expressed thanked to all who participated in the project.

Public Works Director Tom O'Loughlin, welcomed and thanked all who assisted through the project.

Town Council President Sylvia thanked all who attended recognizing former Council Members, State Legislators and Former Fire Chiefs. Mr. Sylvia recognized Town employees and their families for the sacrifices they make on a daily basis on behalf of the Town.

Ribbon Cutting -

Present cutting the ribbon were Council President Robert J. Sylvia, 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, Former Council President Christopher Semonelli, Former Vice President Bruce J. Long and Former Councillors Richard Adams and Richard Cambra.

Benediction by Pastor Paul Hoffman, Evangelical Friends Church.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:24 pm.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to reconvene this meeting at 6:35 pm.

6:30 P.M. – BUDGET

2. Receipt of Town of Middletown Proposed Budgets and Capital Improvement Plan, Fiscal Year 2016- 2017.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said Proposed Budgets and Capital Improvement Plan for Fiscal Year 2016-2017.

3. Review of FY2016–2017 Proposed Budget – Library and matters related thereto.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to begin said review of the FY2016–2017 Proposed Library Budget.

Library Board of Trustees Chair Stephen Arendt and Librarian Theresa Coish reviewed a powerpoint presentation of the budget, which is on file in the Office of the Town Clerk.

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.

No one spoke during this session.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to act on items #28 and #29, at this time.

Vice President Kempenaar requested that items #7, #8 and #9 be heard during the regular portion of the docket.

CONSENT

5. Approval of Minutes, re: Regular Meeting, March 21, 2016.

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

6. At the request of Council President Sylvia, Resolution of the Council, re: Proclaiming April 2016 as Fair Housing Month in the

Town.

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

7. Memorandum of Interim Finance Director, thru Town Administrator, re: School Department – FY2016 budget adjustments.

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

Councillor VonVillas questioned the budget transfer for \$182,000.

Raquel Pellerin, School Department Business Manager, responding to Councillor VonVillas noted that the transfer is from the CIP.

Town Administrator Shawn Brown explained that funds are received from the Federal Government and the transfer must be approved by the Council.

8. Resolution of the Council, re: School Department – FY2016 Budget Adjustments.

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

9. Communication of Gary Jablonsi, Principal Engineer, Office of Waste Management, RIDEM, re: Town Center in the Valley, Plat 109 Lots 4 and 554 (formerly portion of Lot 1), High Street and Adelaide Avenue, Middletown.

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

unanimously to receive said communication.

Discussion centered around the Kempenaar Valley Project, approved parking lot, approved construction of pathways, the Town will maintain the pathways and the Town will be unable to use the area as a revenue source.

10. Communication of Peter V. Lacouture, Robinson & Cole, with enclosures, re: The Narragansett Electric Company dba National Grid – Aquidneck Island Reliability Project.

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

11. Resolution of the Town of Warren, re: Relative to Transportation Categorical Aid to Regional Districts.

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

12. Resolution of the Town of Narragansett, re: In Support of Budget Article 15 (Relating to Municipalities) of the Governor's FY2017 Budget.

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

13. Notice of Public Hearing, re: Proposed Rule-Making and Public Hearing – Proposed Amendments of the Coastal Resources Management Program – CRMC Shoreline Change Maps.

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

14. Application of BJ Alan Company dba Phantom Fireworks, 999 West Main Road for RENEWAL of Holiday License for the 2016-2017 licensing year.

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

15. Applications received from the following named persons, firms and corporations for RENEWAL of Amusement Licenses for the 2016-2017 licensing year. (See Attached List)

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

16. Applications received from the following named persons, firms and corporations for RENEWAL of Peddler's Licenses for the

2016-2017 licensing year. (See Attached List)

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

17. Applications received from the following named persons, firms and corporations for RENEWAL of Hawker's Licenses for the 2016-2017 licensing year. (See Attached List)

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

18. Application for Special Event Permit from NAPA Auto Parts, 15 Valley Road, for the NAPA Car Show & Customer Appreciation Day to be held on Saturday, June 18, 2016 from 9:00 am to 2:00 pm.

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

LICENSES

19. Application for Special Event Permit from the Norman Bird Sanctuary, 34th Annual Birds & Breakfast at 583 Third Beach Road, on Sunday, May 15, 2016 from 8:00 am to 11:00 am, includes a request to waive said fee.

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

20. Application for Special Event Permit from the Norman Bird Sanctuary, 9th Annual 5K in honor of David Leys, Jr., begins and ends at 583 Third Beach Road, on Saturday, June 18, 2016 from 8:30 am, includes a request to waive said fee.

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

21. Application for Special Event Permit from the Norman Bird Sanctuary, 10th Annual Bird Ball, Gala Fundraiser at 583 Third Beach Road, on Saturday, August 20, 2016 beginning at 7:00 pm, includes a request to waive said fee.

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

22. Application for Special Event Permit from the Norman Bird Sanctuary, 42nd Harvest Fair at 583 Third Beach Road, on Saturday, October 1, 2016 and Sunday, October 2, 2016 from 10:00 am to 5:00 pm, includes a request to waive said fee.

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

23. Application of Newport National Golf Club, Inc. dba Newport National Golf Club, 324 Mitchell's Lane for a Holiday License for the 2016-2017 licensing year. (NEW).

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

24. Application of Flat Waves, LLC dba Flat Waves, 1130 Aquidneck Avenue for a Hawkers License for the 2016-2017 licensing year. (NEW – Special Events only).

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

25. Application of Underground Food Co., LLC, 3 Squantum Drive for a Peddlers License for the 2016-2017 licensing year. (NEW).

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

OTHER COMMUNICATIONS

26. Communication of Cheryl G. Robinson, President of Turning Around Ministries, Inc., re: Request for support by placing an ad in the Souvenir Book or making a contribution to TAM.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and place a ½ page ad in the TAM Souvenir Booklet (\$65.00) to be appropriated from the President's Discretionary Fund.

27. Communication of Lawrence Cook, representing Rolling Thunder, Inc., RI Chapter 1, re: Requesting permission to present a POW/MIA chair to be displayed in Town Hall.

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

Mr. Cook, representing Rolling Thunder, Inc., presented the Council with a picture of the chair to be displayed in Town Hall explaining that the chair will serve as a reminder that there are still service members missing in action.

Town Administrator Shawn Brown noted that he will work with the Clerk for placement of the Chair in Town Hall.

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

unanimously to allow Rolling Thunder, Inc. RI Chapter 1 to place a POW/MIA chair on display in the Town Hall.

Items #28 and #29 were acted on after item #4.

28. Memorandum of Rosemarie K. Kraeger, Superintendent of Schools, re: Contracts.

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

Mary C. Clark, 10 Wabasso Terrace, addressed the Council explaining that she is delighted to be at the new Fire Station. Ms. Clark noted the teachers have been professional and patient through the contract process and hopes the Town Council approves the teacher contract.

Kate Brennan, 206 Reservoir Road, parent, addressed the Council encouraging the Town Council to approve the teachers' contract. Ms. Brennan noted the dedication and passion of the teachers makes the schools wonderful.

Anne Coogan, 31 Wintergreen Drive, addressed the Council urging them to approve the teachers' contract, explaining the contract is not great, but fair considering the economic times.

Jennifer Holubesko, 102 Atlantic Drive, addressed the Council urging the Council to approve the teachers' contract, explaining it is a fair contract and the students and teachers are depending on the Council.

Superintendent of Schools Rosemarie K. Kraeger, addressed the Council, reviewing the following:

Discussion centered around reduction in state aid, the state funding formula, reorganization of School Department heads, eliminating

literacy teacher and math support, the teachers being the backbone of the schools and teachers' pay is from the taxpayers of the Town.

Attorney Benjamin Scungio addressed the Council, reviewing the following:

Mr. Scungio noted that if the contract is not ratified, the union will go to arbitration in June.

Discussion centered around teacher step increases, raises on step increases, concerns that taxpayers may not be able to afford the contract and the potential tax levy including this contract would be 3.25%.

Town Administrator Shawn Brown reviewed the following:

Discussion centered around the potential tax increase, the Town Council only ratifies the contracts, the Council does not negotiate the school contracts, the Council does not tell the School Administration how to spend money, the current budget is aggressive, the Town side has lost \$400,000 in revenue and the School side has lost \$600,000 in revenue.

School Committee Chair Theresa Spengler, addressed the Council thanking them for their consideration, noting the loss of revenues from the state, due to the funding formula. Ms. Spengler noted the School Department has cut between 19 and 22 positions over the past several years.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive the School Teachers Fiscal Impact Statement.

TOWN COUNCIL

29. At the request of Councillor Rodrigues, with enclosures, re: Resolution of the Council, re: In Support of 2016 – H 7243 and S 2761 on Gun Free Schools.

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

PUBLIC HEARINGS

30. Memorandum of Town Planner, thru Town Administrator, with enclosures, re: FY2016 CDBG Application – 1st Public Hearing.

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

Sam Shuford, representing Church Community Housing Corporation,

addressed the Council noting that Church Community Housing Corporation assists Middletown with the CDBG grant application. Mr. Shuford reviewed the memorandum above.

31. Public Hearing (Advertised)

Town of Middletown application for FY2016 – Small Cities Community Development Block Grant (CDBG) for certain projects, in an amount not to exceed \$250,000.

Public Hearing was declared open.

Susan Schenck, Chief Operating Officer, East Bay Community Action Program, addressed the Council requesting to be included in the Block Grant application for \$2,500. Ms. Schenck reviewed the communication, entered here:

Jennifer Barrera, Program Director, Lucy's Hearth, reviewed the

communication, entered here:

Jimmy Winters, representing Community Housing Resource Board/Housing Hot Line, addressed the Council thanking them for their support. Mr. Winters noted that past funding has assisted with housing placement for the homeless.

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

Vice President Kempenaar recused himself from acting on the following item #32, due to a possible conflict of interest.

32. (Continued from March 21, 2016, Regular Meeting)

(Public Hearing Advertised; Abutters notified)

(Public Hearing Remains Open)

An Ordinance of the Town of Middletown (Second Reading)

An ordinance in Amendment to the Town Code of the Town of Middletown, Title XV, Land Use, Chapter 152 Zoning Code, Section 605 Maximum Building Footprint. (Planning Board recommendation attached)

Public Hearing Remains open

Council President Sylvia, noted the following: -

I asked the Solicitor to prepare a revised version of this ordinance, which would provide that the amendment does not apply to existing buildings. Under this version, existing buildings could be altered if they obtain a special use permit from the Zoning Board and comply with the lot coverage requirements of the Zoning Code. This would allow existing buildings to be renovated or redeveloped, within limits, while prohibiting the construction of new "big boxes" in Middletown. The solicitor also added language stating that for a new building to

exceed the maximum allowed footprint, the property owner would be required to obtain a use variance, which is a difficult standard to meet, and which is much higher standard than the special use permit required under the current ordinance. I understand that the Solicitor has provided copies of the revised language to the Council.

On motion of Council President Sylvia, duly seconded, to amend the proposed ordinance as follows:

First, by adding Subsection (A), to read as follows: All uses permitted by right or by special use permit in Zones GB, LB, OB, OP, RM, MT and LI shall only be conducted in buildings which comply with the maximum building footprint requirements of § 605 (B). Any variance from this provision shall require a use variance as set forth in § 903. Provided however, that buildings which existed as of April 4, 2016 shall be exempt from this requirement.

Second, by adding the following footnote to Subsection (B):

Buildings in GB, LB, OB, OP, RM, MT and non- industrial uses in LI

districts, which existed as of April 4, 2016, may exceed 35,000 sq. ft. if a special use permit is granted by the Zoning Board of Review, provided that the property on which such building is located complies with the lot coverage requirements of § 603.

Councillor Viveiros noted that he has waited a long time for this to be accomplished and thanked all involved in the process.

A vote was taken at this time on the above motion.

It was voted unanimously to pass said motion above.

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

On motion of Councillor Rodrigues, it was voted unanimously to

adopt said ordinance on its second reading, as amended, entered here:

TOWN ADMINISTRATOR

33. Memorandum of Interim Finance Director, thru Town Administrator, with enclosures, re: Refunding 2007 & 2008 General Obligation Bonds.

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

34. Resolution of the Council, re: Refunding 2007 & 2008 General Obligation Bonds.

On motion of Vice President Kempenaar, duly seconded

Adam Krea, representing First Southwest, the Town's Financial Advisor, addressed the Council explaining that on a yearly basis the Town bonds are reviewed; if the bond qualifies it may be eligible for refunding with no penalty, new bonds are issued at a lower rate with no extension in time.

A vote was taken at the time on the above motion.

It was voted unanimously to pass said resolution, entered here.

APPOINTMENT TO BOARDS AND COMMITTEES

35. Appointment of two (2) members to the Juvenile Hearing Board, for a terms expiring April 2019.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint Diana Campagna Skaggs and Lisa C. Ruth to the Juvenile Hearing Board for terms expiring April 2019.

36. Email communication of Ian Clemmey, re: Resignation from the Open Space & Fields Committee.

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

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 8:43 pm.

Wendy J.W. Marshall, CMC

Town Clerk

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