

At a Regular Meeting of the Town Council of the Town of Middletown, RI held at the Middletown Town Hall, 350 East Main Road, Middletown, RI on Monday, June 6, 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, arrives at 6:50 p.m.

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.

6:00 P.M – Meeting with Office of Regulatory Reform

1. Communication of Julietta T. Georgakis, Office of Regulatory Reform, with enclosure, re: Meeting with the Office of Regulatory Reform (ORR) – Efforts to ease regulatory burdens in Rhode Island.

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

Julietta T. Georgakis, Office of Regulatory Reform, addressed the Council explaining that the office reviews state regulations that impact cities and Towns. The regulations will not go into effect without knowing the impact on Rhode Island.

Discussion centered around the proposed building permit formula and the impact on cities and towns.

Eric Godwin, Director of the Office of Regulatory Reform, arrived at 6:18 pm.

Discussion centered around the following questions:

Discussion included what the Office of Regulatory Reform will do for the Town, all Municipalities have unique issues, education funding formula, sharing of services between cities and towns, solvent communities being penalized for being fiscally responsible, senior housing within the state and within Middletown, RIPTA flex bus and the PILOT program.

Town Solicitor Peter Regan arrived at 6:40 p.m.

Eric Godwin noted that the Council could provide him with questions

regarding regulations or issues that may arise.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:51 p.m.

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

PRESENTATION

2. Continued from May 16, 2016 Regular Meeting.

At the request of Councillor Rodrigues, Citation of the Council, re: Middletown Unified Basketball Team.

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

unanimously to begin said presentation.

Council President Sylvia and Councillor Rodrigues presented the Unified Basketball Team and Coaches with a citation and signed basketball.

CONTRACT

3. Memorandum of Rosemarie K. Kraeger, Superintendent of Schools, re: Middletown Association of Auxiliary Personnel/NEARI/NEA.

On motion of Vice President Kempenaar, duly seconded, to receive said memorandum.

Attorney Benjamin Scungio, addressed the Council reviewing the

following, entered here:

Motion was voted on at this time.

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

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said Fiscal Impact Statement for the Middletown Association of Auxiliary Personnel/NEARI/NEA.

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 Vice President Kempenaar, duly seconded, it was voted unanimously to act as a Board of License Commission.

BOARD OF LICENSE COMMISSION

5. Petition of Newport Beach House, Inc. dba Newport Beach House by William Wilk, 53–55 Purgatory Road, re: Request for expansion of Class BV Alcoholic Beverage License to provide outdoor service on Thursday, June 9, 2016 from 4:00 pm to 8:00 pm.

On motion of Vice President Kempenaar, duly seconded, to grant said petition.

Discussion centered around where the service of alcohol would be, the parking spaces designated for Middletown residents, who will police the area during the event, new Town signage for parking and the right-of-way on the beach area and the event is a grand opening one time event.

Motion was voted on at this time.

On motion of Vice President Kempenaar, duly seconded, to grant said petition; Vice President Kempenaar, Councillor Lombardi, Councillor Santos and Councillor VonVillas voted YES; Council President Sylvia, Councillor Rodrigues and Councillor Viveiros voted NO to said motion.

6. Application of Newport Beach House, Inc. dba Newport Beach House, 53-55 Purgatory Road, holder of a Class BV Alcoholic Beverage License to expand the service area to include service in connection with privately hosted events, primarily wedding ceremonies on the beach areas for the 2015-2016 licensing year. (Requires advertising for public hearing and notification to abutters)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said application, notify abutters and advertise for public hearing for June 20, 2016, regular meeting of the board.

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

Councillor VonVillas requested that items #10, #12, #16, and #19 heard under the regular portion of the docket.

CONSENT

7. Approval of Minutes, re: Regular Meeting, May 16, 2016.

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

8. Approval of Minutes, re: Special Meeting, May 18, 2106.

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

9. Approval of Minutes, re: Special Meeting, May 25, 2016.

On motion of Councillor VonVillas, duly seconded, it was voted

unanimously to approve said minutes.

10. 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 noted concern with the abated properties which were reviewed by the Tax Assessment Review Board.

Town Administrator Shawn Brown noted that all tax assessments are the responsibility of the Tax Assessor.

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

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

12. Memorandum of Finance Director thru Town Administrator, with enclosures, re: FY2016 Municipal Budget Report – Quarter ending March 31, 2016.

On motion of Councillor Santos, duly seconded, to receive said memorandum and report.

Councillor Santos requested a list of purchases from the Town credit card, including what was purchased, who made the purchase and the amount of the purchase.

Motion was voted on at this time.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum and report.

On motion of Councillor Santos, duly seconded, for the Town Administration to provide the Council with a list of purchases from the Town credit card, including purchases, who made the purchase and the amount of the purchase.

Discussion centered around why a motion was made for this request.

Councillor Santos withdrew the above motion.

13. Communication of Patricia S. Lucarelli, Energy Facility Siting Board, re: SB-2016-01 – Aquidneck Island Reliability Project.

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

14. Town of Middletown Motion to Intervene, re: Energy Facility Siting Board – Aquidneck Island Reliability Project.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to receive said Motion to Intervene.

15. Town of Portsmouth Motion to Intervene, re: Energy Facility Siting Board – Aquidneck Island Reliability Project.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to receive said Motion to Intervene.

16. Application of Narragansett Electric Company d/b/a National Grid, Aquidneck Island Reliability Project, requesting relief from Noise Abatement Chapter. (Requires Advertising for Public Hearing and Notice to abutters)

On motion of Vice President Kempenaar, duly seconded, to receive said application, notify abutters and advertise for public hearing to be held July 18, 2016.

Discussion centered around the request for relief of the noise ordinance, the request is due to the building and the inability to stop during construction (example if concrete is being poured) and what relief if any has been provided for the residents in the area.

Motion was voted on at this time.

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

unanimously to receive said application, notify abutters and advertise for public hearing to be held July 18, 2016.

17. Memorandum of Exeter Town Clerk Lynn M. Hawkins, CMC, re: Letter to Governor Gina M. Raimondo regarding Legislation Restoring Funding for the State Aid to Libraries to the Full Twenty-five Percent (25%).

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

18. Communication of Exeter Town Clerk, with enclosure, re: Resolution in Support of Article 15 (Relating to Municipalities) of the Governor's FY 2017 Budget.

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

19. Resolution of the Exeter-West Greenwich Regional School District, re: School Committee Resolution – Gun Free Schools.

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

Councillor VonVillas noted that she is not opposed to guns and reviewed the support of this resolution by School Committees and Town Councils though out the state.

Councillor Viveiros urged the Council to reject the proposal of Gun Free Schools.

Motion was voted on at this time.

On motion of Vice President Kempenaar, duly seconded, to receive said resolution, Council President Sylvia, Vice President Kempenaar, Councillor Lombardi, Councillor Santos and Councillor VonVillas voted YES; Councillor Rodrigues and Councillor Viveiros voted NO to said motion.

20. Application of Wayne A. Beebe Sr. and Deborah M. Beebe, Middletown, for a License of Burial, Middletown Cemetery, Section 49, Graves 51 and 52.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to grant said license.

21. Application for Special Event Permit from Jeremiah O'Connor for BULLFROGFIT "Beach Workouts" to be held at Sachuest Beach (Path 8) on Thursdays, Saturdays and Sundays from 7:00 am to 8:00 am.

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

22. Application for Special Event Permit from Kyle Borsare for Beach Fitness (Outdoor Fitness Training) to be held at Second Beach (Weather Permitting) on Tuesdays and Thursdays from 5:30 am to 7:30 am.

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

23. Application for Special Event Permit from Emily Mayer for Yoga at the Beach with Newport Community Yoga to be held at Second Beach (on sand by 2nd parking lot) Tuesday, Wednesday and Fridays 7:00 am to 8:00 am.

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

24. Application for Special Event Permit from Rhode Races Events, Inc. for a Newport Rhode Race – Marathon – Half Marathon to be held on Sunday, April 16, 2017 from 7:30 am to 1:30 pm. (Roads are in Newport and Middletown – see map) – This application was approved by Newport City Council on April 27, 2016.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to continue said matter to July 18, 2016, due to the applicant requesting a change for the date of the event.

25. Application for Special Event Permit from Newport Beach House, Inc. dba Newport Beach House, 53-55 Purgatory Road for a Private Grand Opening Party (Band and Photo Booth on the Beach) to be held on June 9, 2016 from 4:00 pm to 8:00 pm. (Subject to Town Department Approvals)

On motion of Councillor VonVillas, duly seconded, it was voted

unanimously to grant said Special Event Permit.

26. Applications ten (10) for Special Event Permits from the following named persons for events to be held at Sweet Berry Farm, 915 Mitchell's Lane: 1) Sipprelle/Merrill Rehearsal Dinner on Friday, June 10, 2016. 2) Klewin/Silvia Wedding on Saturday, June 18, 2016. 3) Fernandez/Kosboski Rehearsal Dinner on Saturday, June 25, 2016. 4) Arcari/Rodrigues Rehearsal Dinner on Friday, July 8, 2016. 5) Wiederhoeft/Hathaway Wedding on Saturday, July 16, 2016. 6) Gorski Graduation on Saturday, July 30, 2016. 7) Dufresne/McHale Wedding on Saturday, August 13, 2016, 8) Lathan/Kinman Wedding on Saturday, August 27, 2016. 9) Berman/Patrissi Wedding on Saturday, September 10, 2016. 10) Cerniglia/Rand Wedding on Saturday, September 17, 2016. All events will be held from 5:00 pm to 10:00 pm.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to grant said Special Event Permits.

LICENSES AND PERMITS

27. Application of Rebecca Madeiro, Portsmouth, for a Hawker/Peddler License for the 2016-2017 licensing year. (Including Special Events by Invitation only; NEW)

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

28. Application for a Special Event Permit from the Aquidneck Land Trust for Fiesta Verde, Annual Gala to be held at Sweet Berry Farm, 915 Mitchell's Lane on Saturday, July 23, 2016 from 6:00 pm to 11:00 pm. (Attached is a request to waive permit fee)

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

OTHER COMMUNICATION

29. Communication of Nancy Crockett, representing Purgatory Road and Ellery Avenue, re: To discuss “Party Houses”.

On motion of Vice President Kempenaar, duly seconded, to receive said communication.

David Rushlow, 32 Ellery Avenue, addressed the Council noting concern for himself and some of his neighbors, that other neighbors which are Salve students, are playing loud music, littering, parking issues and noise issues. Mr. Rushlow requests the administration to investigate the issues.

Nancy Crockett, Crescent Road, addressed the Council noting she is a 45 year resident. Ms. Crockett reviewed the communication above. Ms. Crockett explained that she is hoping the Town Council would assist in the matter.

Discussion centered around the Town Administration working with the Police Department and Salve regarding the issue, the current noise ordinance be reviewed and consider reviewing other noise ordinance in other cities and towns, installing a temporary noise meter around the property and noise ordinance violations fines.

Motion was voted on at this time.

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

On motion of Councillor Lombardi, duly seconded, it was voted unanimously to request the Town Administrator and Town Solicitor to explore ordinances that would effectively deal with noise and party houses with more teeth.

ORDINANCE

30. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section 33 Beach Fees.

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

Councillor Santos inquired when the ordinance would take effect and the estimated revenue.

Town Administrator Shawn Brown, responding to Councillor Santos explained that the ordinance would take effect July 1, 2016, with estimated revenues of \$300,000.

Motion was voted on at this time.

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

TOWN COUNCIL

31. Communication of Council President Sylvia, with enclosure, re: Senior Exemptions.

On motion of Vice President Kempenaar, duly seconded, to receive said communication.

Council President Sylvia reviewed the communication above.

Councillor VonVillas inquired the fiscal impact of the proposal.

Tax Assessor George Durgin reviewed the following:

Draft ordinance and handout here

Discussion centered around that seasonal residents, if registered to vote, will qualify for the exemption; the reduction of income tiers in the current ordinance compared to the draft ordinance and that the ordinance would take effect next year.

Motion was voted on at this time.

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 request the Town Clerk to prepare an ordinance for the next Regular Meeting of the Council, June 20, 2016.

32. At the Request of Council President Sylvia, re: Approval of 2016 Summer Council Schedule – June 20, 2016, July 18, 2016 and August 15, 2016. (No Documentation)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to approve the 2016 Summer Council Schedule.

33. Communication of Councillor Viveiros, re: Charter Amendment to Section 208 Town budget; expenditures prior to adoption of annual budget, and loans in anticipation of tax revenues; fiscal year defined.

On motion of Vice President Kempenaar, duly seconded, to receive said communication.

Councillor Viveiros reviewed the communication above.

Town Solicitor Peter B. Regan explained that under the current charter the Council has the ability to make amendments to the Town budget. Mr. Regan noted that during the last public hearing on the budget the Council did make amendments to the budget.

Councillor VonVillas noted that no action was brought back to the Council from the budget sub-committee regarding amendments to the budget.

Motion was voted on at the time.

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

34. Communication of Councillor Viveiros, re: Establishing a temporary moratorium on development and grant Special Use Permits and Variances until the DEM study of water quality has been completed.

On motion of Vice President Kempenaar, duly seconded, to receive said communication.

Councillor Viveiros reviewed the communication above.

Town Engineer Warren Hall noted that at least 70% and up to 90% of Middletown is in a watershed area.

Kathleen Davis, 500 Mitchell's Lane, noted support for Mr. Viveiros' request to establish a moratorium on development. Mrs. Davis explained that water quality and stormwater are issues which need to be addressed.

Terri Flynn, 34 Warren Avenue, addressed the Council noting that conditions placed on development are not enforced. Mrs. Flynn explained that a temporary moratorium on development is good for the residents.

Robi Faira, 9 Cardoza Terrace, noted concern that watershed areas are over developed.

Discussion centered around the development on West Main Road (Senior Housing) is awaiting DEM approval, completion of the DEM Study could take up to a year, concern with the request for a temporary moratorium is too broad, concern with stopping development in the Town waiting for a DEM study could adversely

affect the Town, and the scope of a moratorium not being appropriate for this issue.

Motion was voted on at the time.

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

TOWN ADMINISTRATOR

35. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-016-002 Services – Sewer and Roadway Improvements on Fenner Avenue.

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

36. Resolution of the Council, re: Award of contract – Sewer and Roadway Improvements on Fenner Avenue.

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

Councillor Santos inquired about tree clearing for the project.

Town Engineer Warren Hall, responding to Councillor Santos, explained that the trees in the right of way would be inspected by the tree warden.

Motion was voted on at this time.

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

APPOINTMENT TO BOARDS AND COMMITTEES

37. Email communication of Michael Richard, re: Resignation from the Open Space and Fields Committee.

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

38. Appointment of two (2) members to the Conservation Commission for terms expiring July 2019.

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

unanimously to reappoint Robert Johnson and appoint James C. Gedney to the Conservation Commission for terms expiring July 2019.

39. Appointment of one (1) member to the Prevention Coalition (Healthcare Professional sector) to complete a term expiring April 2017.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Jon Brett to the Prevention Coalition (Healthcare Professional sector) to complete a term expiring April 2017.

40. Appointment of one (1) member to the Tax Exploration Sub-Committee, term to be set by Council.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Larry Connell to the Tax Exploration

Sub-Committee.

EXECUTIVE SESSION

41. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Potential Litigation, (2) Potential Litigation, (5) Lease (Turner Road), (5) Lease (Tibbits), (2) Collective Bargaining (IBPO).

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 9:35 pm.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 10:06 pm.

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

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to engage Attorney Marisa Desautly to represent the Town regarding the Aquidneck Island Reliability Project.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to renew lease with Newport Vineyards.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to renew lease for the Tibbits property with Louis Escobar.

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 10:10 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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