

**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 Tuesday, September 6, 2016 at 6:00 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)**

## **6:00 PM - EXECUTIVE SESSION**

**1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (5) Land Acquisition, (5) Land Acquisition (West Main Road), (1) Personnel (Town Administrator), (2) Collective Bargaining (IBPO) and Addendum (2) Litigation (Samuel's Realty Co., Inc. vs. Marc W. Tangway, et als).**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 6:02 p.m.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:47 p.m.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:48 p.m.**

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

**Council President Sylvia noted an incident with Ramon Arroyo over the past weekend. Mr. Sylvia explained that the community and thoughts are with the Arroyo family.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to authorize a donation of \$2,500. to help with funeral services for Ramon Arroyo.**

**Council President Sylvia extended prayers and thoughts to the Lombardi family for their loss of Mr. Henry F. Lombardi, Sr.**

**There was a moment of silence for Ramon Arroyo and the Lombardi family.**

## **REQUEST FOR RECONSIDERATION**

**2. Email communications 1) Alexander Carrellas and 2) Mike Simpson, re: Requesting Council to reconsider An Ordinance in Amendment to the Town Code of the Town of Middletown, Title XI Business Regulations, Chapter 110 General Provisions, Section 110.01 Issuance and Renewal of Town Licenses and Permits, item #28, August 15, 2016.**

**On motion of Councillor Rodrigues, duly seconded, to reconsider**

**item #28, An Ordinance in Amendment to the Town Code of the Town of Middletown, Title XI Business Regulations, Chapter 110 General Provisions, Section 110.01 Issuance and Renewal of Town Licenses and Permits, which was adopted unanimously at the August 15, 2016 Regular Meeting of the Council**

**Town Solicitor Peter B. Regan explained that the ordinance amendment allows the Town Council not to license a business that violates local, state or federal law. There is an ordinance before the Planning Board which may impact the use of medical marijuana.**

**Michael Simpson, 215 Honey Avenue, addressed the Council reviewing the July 18, 2016 regular meeting regarding the ordinance on its first reading. Mr. Simpson requests the Council form a committee to review the ordinances pertaining to marijuana.**

**Darlene Ayala, Northgate Apartments, addressed the Council explaining her life experiences of drug awareness and noted that medical marijuana is better for people than pain pills.**

**Jared Moffat, representing Regulate RI, addressed the Council explaining that marijuana is not as dangerous as alcohol. Mr. Moffat noted that regulation is about control and suggests the Council form a committee to review the ordinances. Mr. Moffat submitted a petition requesting the ordinance above be reconsidered.**

**Kellie Simeone, 18 Pocahontas Drive, addressed the Council in support of the ordinance passed on August 15, 2016, noting the ordinance is good for the Town.**

**Carol Formica, 21 Mast Court, addressed the Council in support of the ordinance passed on August 15, 2016, noting that the ordinance is good business practice.**

**Tom Lyons, 286 Chases Lane, owner of a local package store, addressed the Council in support of the ordinance passed on August 15, 2016. Mr. Lyons reviewed all the requirements for his Class A Liquor license and explained that the ordinance does not prohibit**

**business in the Town.**

**Greg Carroll, 5 Kent Road, addressed the Council explaining that the Town may be short sighted by passing this ordinance. Mr. Carroll urged the Town Council to consider a committee to review the ordinance.**

**Courtney David, 3382 East Main Road, Portsmouth, RI, addressed the Council explaining that she works with medical marijuana patients and is concerned that the ordinance will affect the patients.**

**JoAnne Leppanen, Executive Director, RI Patient Advocacy Coalition, addressed the Council explaining that the intention of the ordinance is to prohibit co-ops and compassion centers. The co-ops cannot profit, they are not businesses and licensed cultivators can sell to compassion centers licensed by the state.**

**Asa Angel, 215 Honeyman Avenue, addressed the Council noting she**



**is in favor of regulations and requests Council to form a committee of concerned people to review the ordinances.**

**Rosalina Mills, 15 Bliss Mine Road, addressed the Council noting concern that the vote on August 15, 2016 was not transparent. Ms. Mills requests the Council to form a committee to review the ordinance explaining that people have different viewpoints.**

**Darlene Ayala, Northgate Apartments, addressed the Council explaining that she feels more endangerment from a person who goes out and has a drink with dinner than someone who uses medical marijuana.**

**Eamon Drayton, 1116 Wapping Road, addressed the Council noting that alcohol is extremely dangerous and marijuana is not.**

**Discussion center around that the ordinance passed on August 15, 2016 does not prohibit medical marijuana, the ordinance will not**

**interfere with state issued marijuana cards and the Town does not license medical marijuana or caregivers.**

**Mellissa Mather, 117 Reservoir, addressed the Council noting that people really rely on access to medical marijuana. Ms. Mather explained that it is difficult for her to get to compassion center in Portsmouth, Rhode Island.**

**Councillor Viveiros noted that those who need medical marijuana should be able to receive it.**

**Council President Sylvia noted that medical marijuana is available in pill form. Mr. Sylvia explained that until the State of Rhode Island legalizes marijuana it will not be available in the Town.**

**Rosalina Mills, 15 Bliss Mine Road, addressed the Council explaining she works for a pharmaceutical company which lobbies against legalization of marijuana and that the pill is not an avenue for all.**

**JoAnne Leppanen, Executive Director, RI Patient Advocacy Coalition, addressed the Council explaining that the marijuana pill only works for a portion of the population.**

**Motion was voted on at this time –**

**On motion of Councillor Rodrigues, duly seconded, it was voted, to reconsider item #28, An Ordinance in Amendment to the Town Code of the Town of Middletown, Title XI Business Regulations, Chapter 110 General Provisions, Section 110.01 Issuance and Renewal of Town Licenses and Permits, which was adopted unanimously at the August 15, 2016 Regular Meeting of the Council; all Councillors voted NO to said motion; MOTION FAILED TO PASS.**

**PUBLIC FORUM**

**3. 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.**

**Carol Cummings, 738 Indian Avenue, addressed the Council regarding parking issues on Peckham Avenue and at Taggarts Ferry. Ms. Cummings noted that the people parking are also leaving trash in the area. She has contacted CRMC regarding the area to the right of way. Ms. Cummings requests the Town Administration to work with CRMC to resolve the problems on Peckham Avenue and at Taggarts Ferry.**

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

## **BOARD OF LICENSE COMMISSION**

**4. Application of Norman Bird Sanctuary, 583 Third Beach Road, for a Class F Alcoholic Beverage License for use at the same premises for an Event to be held on October 1, 2016.**

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

**5. Application of Norman Bird Sanctuary, 583 Third Beach Road, for a Class F Alcoholic Beverage License for use at the same premises for an Event to be held on October 2, 2016.**

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

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

**Vice President Kempenaar requested that items #9 and #10 be heard under the regular portion of the docket.**

## **CONSENT**

**6. Approval of Minutes, re: Regular Meeting, August 15, 2016.**

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

**7. Communication of Tax Assessor and Finance Director, 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.**

**8. 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.**

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

**Councillor Santos noted concern with the abatement for the Newport National Golf Course.**

**Councillor Rodrigues questioned the amount of the request for the abatement.**

**Town Administrator Shawn Brown noted that he would provide more information for the Council at its next regular meeting regarding the abatement for the Newport National Golf Course.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to continue items #9 and #10 to the next regular meeting of the Council to be held on September 19, 2016.**

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

**11. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: FY2017 Budget Adjustments as of September 6, 2016.**



**(Library)**

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

**12. Resolution of the Council, re: FY2017 Budget Adjustments as of September 6, 2016. (Library)**

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

**13. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: School Department – FY2017 budget adjustments.**

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

**14. Resolution of the Council, re: School Department – FY2017 budget adjustments.**

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

**15. Notice of Public Hearing from the Middletown Zoning Board of Review, re: Petition of East Island Reserve, LLC (owners) – by their attorney Jeremiah C. Lynch – for a Special Use Permit from Sections 803A & 902 – to allow the enlargement of the non-conforming use by margining Lots 20 & 21 (by Administrative Subdivision) and modify the Special Use Permit approved by the Board on March 27, 2012 by making the following alternations to the previously approved plan on file in the Town of Middletown Building Inspector’s Office; on said real estate located at 969 & 985 East Main Road, Plat 118, Lots 20 & 21.**

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

**16. At the request of Council President Sylvia, Resolution of the Council, re: Centennial Anniversary of the American Red Cross.**

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

**17. Communication of Marilyn Warren Executive Director, Dr. Martin Luther King, Jr., Community Center, re: Appreciation for support.**

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

**18. Communication of Joanne M. Rodino, Executive**

**Assistant/Development, James L. Maher Center, re: Appreciation for support.**

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

**19. Communication of Jennifer Barrera, Program Director, Lucy's Hearth, re: Appreciation for support.**

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

**20. 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.**

**21. Communication of Peter V. Lacouture, Robinson & Cole, with enclosure, re: The Narragansett Electric Company dba National Grid, Aquidneck Island Reliability Project, PUC Docket No. 4616.**

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

**22. The Narragansett Electric Company dba National Grid's Need to Construct and Alter Certain Transmission Components in the Town of Portsmouth and Middletown (Aquidneck Island Reliability Project) – National Grid's Response to the Rhode Island Division of Public Utilities' Interrogatories and Requests for Production – Set II.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive National Grid's Response to the Rhode Island Division of Public Utilities' Interrogatories and Requests for**

**Production – Set II.**

**23. Communication of Peter V. Lacouture, Robinson & Cole, with enclosure, re: The Narragansett Electric Company dba National Grid, Aquidneck Island Reliability Project, PUC Docket No. 4616.**

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

**24. Application for Special Event Permit from Rhode Races & Events, Inc. for The Wine Run to be held at Newport Vineyards, East Main Road to be held on Sunday, September 11, 2016 from 3:00 pm to 6:00 pm.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said Special Event Permit, contingent upon receiving payment for any detail fees associated with the event in advance.**

## **PUBLIC HEARINGS**

### **25. (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 – Town's Zoning Map. (Plat 107SW, Lot 142)**

**Public Hearing remains open.**

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

**Councillor Rodrigues noted that the zoning change does not impact property values for the residents in the area.**

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

**26. (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 – Town's Zoning Map. (Plat 113, Lots 6A, 7, 8, 9, 10, 11 and 12)**

**Public Hearing remains 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 adopt said ordinance on its second reading.**

## **ORDINANCES**

### **27. An Ordinance of the Town of Middletown (Second 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 and Section 34 Campground Fees.**

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

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

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII Traffic Code, Chapter 70 General Provisions, Section 70.99 Penalties.**

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

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

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII Traffic Code, Chapter 74 Parking Schedules, Schedule I: Parking on Roadways South and East of Aquidneck Avenue.**

**Payson Fugitt, 1 Kent Road, addressed the Council noting support for**

**the ordinance amendments. Mr. Fugitt requests the Council to exempt Kent Road from the parking ordinance.**

**Councillor Rodrigues noted agreement with Mr. Fugitt. Mr. Rodrigues explained that issuing parking tickets to the residents is not fair; most have more cars than driveway space.**

**Discussion center around most tickets are issued at Dunlap Wheeler Park, the ordinance in effect is to be followed by the Police, one issue for the ordinance is safety allowing emergency vehicles access to all roadways, resident sticker parking for the area, enforcement issues (expense and time) with sticker parking, the passing of this amendment is a good start and the issue of parking will be reviewed with the DPW director, Police Chief, Fire Chief and Town Administrator.**

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

### **30. 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, Section 116.01 Legislative Findings And Intent, Section 116.06 Definitions, 116.17 Criminal Background Check (New Section) and 116.96 Revocation of License.**

**Town Solicitor Peter B. Regan noted that at the first reading the Council noted concern with the authority of the Town Administrator being able to revoke a license. Mr. Regan amended the ordinance to reflect that the Town Council have the authority to revoke a license.**

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

### **31. 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 34 Taxes, Section 34.01 Definitions, Section 34.02, Exemption on Residential Property and Section 34.16 Freeze of Tax Rate and Valuation.**

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

## **TOWN COUNCIL**

**32. (Continued from Regular Meeting, August 15, 2016)**

**Communication of Councillor Viveiros, re: Audio taping all Boards and Committee meetings and placing the meetings on the Town website.**

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

**33. Memorandum of Town Administrator, with enclosure, re: Tasks with audio taping boards and committee meetings.**

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

**34. (Continued from Regular Meeting, August 15, 2016)**

**Communication of Councillor Viveiros, re: To discuss a moratorium on spending not approved in the town's budgets, except for emergencies.**

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

**35. Communication of Councillor Viveiros, re: Post all Boards and Committee meetings minutes as soon as approved on the town's website and SOS.**

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

**36. Communication of Councillor Viveiros, re: Discussion of Town Administrator's response to my proposal for the creation of an inspection process that would insure that all restrictions placed on anyone requesting a new development project, special use permit, or a variance, by Boards and Committees, have been implemented, and a yearly follow up inspection be done.**

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

**37. Email communication of Town Administrator, re: Proposal –**

## **Councillor Viveiros – Inspection Restrictions.**

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

## **TOWN ADMINISTRATOR**

**38. Memorandum of Town Administrator, re: Survey Results – Lower Easton’s Point Parking.**

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

**39. Memorandum of Town Administrator, re: Petition to Change Parking Ban on Kent Road.**



**Steve Delross, 3 Kent Road, noted that he contacted the Police Department to inform them that he was having a party and was told that there are signs in place that say no parking.**

**Nina Delross, 3 Kent Road, explained that she has lived on and off at 3 Kent Road for fifty years and there has only been a few cars parked on the street.**

**Heather Locke, 4 Kent Road, noted that she appreciates the Town reviewing the parking issue on Kent Road and requests a Dead End sign be placed on Kent road.**

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

**40. Memorandum of Town Engineer, thru Town Administrator, with enclosures, re: Forest Avenue Recommended Safety Improvements.**

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

**Discussion centered around the elimination of truck traffic on Forest Avenue, only delivery truck traffic allowed, placements of speed tables and a stop sign on the road from the Airport and that all Town Road reviews are completed by using the Road Diet with standard signs.**

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

**41. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Amendment – MIDD-013-012 Sewer and Drainage improvements on Forest Avenue.**

**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.**

**42. Resolution of the Council, re: Sewer and Drainage improvements on Forest Avenue.**

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

**43. Memorandum of Human Resources Manager, with enclosure, re: Volunteer Handbook.**

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

**Human Resources Manager M. Cecelia Dursi reviewed the updates in the Volunteer Handbook.**

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

**44. Email communication from Town Administrator, with enclosures, re: Title 38 Access to Public Records Chapter 38 Section 2.2 Definitions.**

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

**45. Memorandum of Town Administrator, re: Small Trash Bags.**

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

**Councillor Santos presented the Council with a smaller trash bag she had purchased in Fall River and explained that she will contact Fall River to inquire the pricing of the refuse program in Fall River, Massachusetts.**

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

**46. Memorandum of Town Administrator, re: Discussion about Middletown Committee for the Arts.**

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

**Town Administrator Shawn Brown noted that the committee is inactive and recommends the Town Council sunset the committee until there is active interest in the committee.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to sunset the Middletown Committee for the Arts.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 9:42 p.m.**

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

**Council Clerk**

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