

**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, September 19, 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)**

**There were no reconsiderations.**

**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) (1) Personnel (Town Administrator), (5) Land Acquisition, (5) Land Acquisition and Litigation (NEA MIDDLETOWN – NEAM vs. Town of Middletown).**

**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 6:54 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 6:55 p.m.**

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

## **PUBLIC FORUM**

**2. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation**

**form to the Council Clerk prior to the start of the meeting. All items discussed during this session will not be voted upon.**

**Evelyn L. Wheeler, 347 Ashaway Road, Ashaway, RI, representing the RI Historical Cemetery Commission, addressed the Council requesting them to adopt an ordinance which would abate taxes for property owners who take care of Historical Cemeteries on their property.**

**Carol Cummings, 738 Indian Avenue, presented the Council with handouts regarding Peckham Avenue and Shoreline Access to Pebbly Beach, which are on file in the Office of The Town Clerk. Ms. Cummings requests the area to be maintained by the Town.**

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

**BOARD OF LICENSE COMMISSION**

**3. Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the 2016-2017 licensing year. (Requires Advertising for public hearing; see attached list)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said applications and advertise for public hearing for October 17, 2016 Regular Meeting of the Board.**

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

## **CONSENT**

**4. Approval of Minutes, re: Regular Meeting, September 6, 2016.**

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

**5. At the request of Council President Sylvia, Proclamation of the Council, re: Proclaiming Saturday, November 26, 2016 at Small Business Saturday in the Town.**

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

**6. (Continued from September 6, 2016, Regular Meeting)**

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

**(The Administration requests this item be continued to October 17, 2016)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to continue said item to the October 17, 2016, Regular Meeting of the Council.**

**7. Communication of Hunter Armstrong, Middletown Safety Town, re: Appreciation for support.**

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

**8. Email communication of Cynthia G. Wilson-Frias, Deputy Chief of Legal Services, Rhode Island Public Utilities Commission, re: Docket No. 4614 – Aquidneck Advisory Opinion Hearing dates.**

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



**unanimously to receive said email communication.**

**9. Application of Paul C. Graf, Middletown, for RENEWAL of a Private Detective License for the 2016-2017 licensing year.**

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

**10. Application received from Rocky's Hardware, Inc., 278 West Main Road, for a Closing Sale License beginning September 29, 2016.**

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

**11. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, Additional**

**Hours of Operation, for the 2016-2017 licensing year. (Requires Advertising for public hearing)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said applications and advertise for public hearing for October 17, 2016, Regular Meeting of the Council.**

## **PERMIT**

**12. Application of Middletown High School for Homecoming Parade, Leaving MHS, down Valley Road, Up East Main Road, Wyatt Road to Turner Finishing at Gaudet School to be held on Friday, October 21, 2016 at 1600 hours. (Applicant requests fee to be waived)**

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

## **ORDINANCES**

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

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title 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 adopt said ordinance on its second reading.**

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

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII Traffic Code, Chapter 72 Parking Regulation, Section 72.11 Contractor Parking Permits.**

**Discussion centered around the ordinance only allowing one vehicle to be parked adjacent from the property with a permit and the \$25.00 permit fee is per company vehicle per year.**

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

#### **15. 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, Chapter 150, Development Impact Fees.**

**Discussion centered around the ordinance is based on Rhode Island State Statute, the fees are for new dwelling units and the formula used for hotel impact fees.**

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

## **OTHER COMMUNICATION**

**16. Communication of Robert M. Silva, Esquire, with enclosures, re: Easement Agreement between the Town of Middletown and Philip J. Rondina and Sandra B. Rondina, Cordeiro Terrace.**

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

**Robert M. Silva, Esquire, 1100 Aquidneck Avenue, representing Philip J. Rondina and Sandra B. Rondina, addressed the Council requesting an Easement Agreement between the Town of Middletown and the Rondinas for a septic system.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said Easement Agreement and authorize the Town Council President to execute said agreement and easements on behalf of the Town.**

## **TOWN COUNCIL**

**17. Communication of Councillor Viveiros, re: Propose having Boards and Committee meetings taped and placed on the town's website.**

**Councillor Viveiros explained that he has received an estimate from the Town Administrator for taping the Zoning, Planning and Conservation Commission meetings. The estimate is \$9,765.00 per year. Mr. Viveiros noted that he would like further investigation, maybe a retired person or volunteer to tape the meetings.**

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

**Discussion centered around getting feedback from Board and Committee members regarding taping meetings in which they are participating, the possibility of a student taping the meetings, the need for a professional to tape the meetings and the Town Administrator will provide feedback from the Boards and Committee members regarding the video taping of their meetings.**

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

**18. Communication of Councillor Viveiros, re: Propose enforcing the town code, Chapter 50, Garbage and Refuse, as it pertains to the towns PAYT trash collection system, Mandatory Recycling.**

**Councillor Viveiros requests mandatory recycling for private haulers.**

**Town Administrator Shawn Brown explained that there is no enforcement procedure for private haulers to require mandatory recycling.**

**Discussion centered around that the request by Councillor Viveiros to be clarified, changing the licensing of private haulers, that the agreement between resident and private haulers is only between the resident and private hauler and the current ordinance requires everyone in the Town to recycle.**

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

**TOWN ADMINISTRATOR**

**19. (Continued from September 6, 2016, Regular Meeting)**



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

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

**Discussion centered around the process followed by the Tax Assessment Review Board when determining the abatement for R-2016-00218 Newport National and the Council requesting more information from the Tax Assessment Review Board regarding the abatement for R-2016-00218 Newport National.**

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

**20. (Continued from September 6, 2016, Regular Meeting)**

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

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to pass said resolution, minus R-2016-00218 Newport National to seek further clarification from Tax Assessor regarding the abatement.**

**21. Email communication of Town Administrator, with enclosures, re: Fall River Trash Program.**

**Town Administrator Shawn Brown reviewed the email communication, entered here:**

**Discussion centered around Fall River using the same manufacturer for trash bags as Middletown, a trial run for the small trash bags, Fall River putting their trash program on the tax rate, the cost to the residents for small bags, Middletown's program is partially funded by**

**the sale of trash bags and reviewing data that would show the need in Town to provide a smaller trash bags.**

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

**22. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-017-001 Services – Town Wide Asphalt Patching.**

**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.**

**23. Resolution of the Council, re: Award of Contract - Town Wide Asphalt Patching.**

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

**24. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-017-002 Services – Upper Easton’s Point Sewer Spot Repair.**

**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.**

**25. Resolution of the Council, re: Award of Contract – Upper Easton’s Point Sewer Spot Repair.**

**Discussion centered around the areas from Purgatory Road up to Prospect Avenue to Aquidneck Avenue and all roads in between being affected by this contract and that all the residents in the area will be notified prior to the work beginning.**

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

**26. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Equipment Purchase: AFIS Live Scan Fingerprint Machine.**

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

**27. Resolution of the Council, re: Equipment Purchase: AFIS Live Scan Fingerprint Machine.**

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

**28. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Equipment Purchase: John Deere 5100E-MFWD Tractor with Tiger Boom Mower and Snow Panther.**

**Discussion centered around the current tractor with the tiger boom mower and snow panther will remain in use and the purchase is in the current CIP.**

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

**29. Resolution of the Council, re: Equipment Purchase: John Deere 5100E-MFWD Tractor with Tiger Boom Mower and Snow Panther.**

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

**30. Memorandum of Town Administrator, with enclosure, re: Drive Feedback Signs – Speed.**

**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.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 9:20 p.m.**

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

**Council Clerk**

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