

**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, October 3, 2016 at 5:45 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.

5:45 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) and (2) Litigation (Tax Appeal Case) Addendum - (5) Land Acquisition.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:47 p.m.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:51 p.m.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to accept the proposed modification to the Town Administrator's contract and direct the Town Solicitor to prepare the amendment.

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 Vice President Kempenaar, duly seconded, it was voted unanimously to recess this meeting at 6:52 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.

No one spoke during this session.

Vice President Kempenaar requested that items #4, #5 and #10 be heard under the regular portion of the docket.

CONSENT

3. Approval of Minutes, re: Regular Meeting, September 19, 2016.

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

4. Memorandum of Finance Director, thru Town Administrator, with enclosure, re: Municipal Budget Report – Quarter/Fiscal year ending June 30, 2016.

Discussion centered around the positive balance on the revenue received by the Town, due to an increase in licenses, building permits, real estate transactions and hotel and meal tax received the by Town. The school department savings was from savings on the expense side.

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

5. Communication of Tax Assessor and Finance Director, with enclosure, re: Cancellation of taxes for certain Middletown residents.

Councillor Santos looked for clarification regarding the abatement description – meter not installed.

Town Administrator Shawn Brown noted that he will supply the information at the next regular meeting of the Council.

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

6. 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.

7. Communication of Tax Assessor, with enclosure, 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. Resolution of the Town of Barrington, re: In support of the Goals of the Rhode Island Energy Challenge.

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

10. Resolution of the Town of Burrillville, re: Opposing the Siting of the Clear River Energy Center in Burrillville.

Claudia Gorman, 180 Vernon Avenue, addressed the Council noting opposition to the Clear River Energy Center to be built in Burrillville, Rhode Island. Ms. Gorman requests the Council to prepare a resolution to oppose the building of the facility in Burrillville.

Councillor Lombardi noted his support for a resolution opposing the facility.

Council President Sylvia noted that resolution will be placed on the next docket.

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

11. Email communication of Burrillville Town Clerk, with enclosure, re: Requesting Town Council to adopt a resolution opposing the Siting of the Clear River Energy Center in Burrillville.

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

12. Communication of Tempie Thompson, Executive Director, Rhode Island Region American Red Cross, re: Appreciation for support.

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

13. Press Release, with enclosures, re: Aquidneck Island Planning Commission.

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

14. Narragansett Electric Company dba National Grid – Aquidneck Island Reliability Project – PUC Docket 4614 documents, on file in the Office of the Town Clerk. (See Attached List)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said list of Narragansett Electric Company dba National Grid – Aquidneck Island Reliability Project – PUC Docket 4614 documents.

15. Application for Special Event Permit from Sweet Berry Farm for

Fagan/Sellar Wedding to be held on Friday, October 14, 2016 from 5:00 pm to 10:00 pm in the Barn at Sweet Berry Farm.

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.

16. Application for Special Event Permit from Savings Institute Bank and Trust, 31st Annual Pie Run taking place at the Newport YMCA and surrounding Middletown area to be held on Thursday, November 24, 2016 from 7:00 am to 10:00 am.

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.

17. Application for Special Event Permit from TriNEWPORT for a Triathlon to be held at Second Beach on Sunday, September 10, 2017 from 7:00 am to 10:00 am.

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.

LICENSES AND PERMITS

18. Application of Shanji Jin dba Charming Nail & Spa, 957 West Main Road, for a Body Works Establishment License for the 2016-2017 licensing year. (NEW)

Pam Musho, 957 West Main Road Associates, assisting the applicant, explained that massage services will be offered at this establishment.

Town Solicitor Peter B. Regan explained that the establishment has been granted a Special Use Permit by the Zoning Board to offer these services and this is the next step in the process.

Discussion centered around types of services that will be offered by the establishment and this license will only be for the establishment to offer massage services, but each individual person performing the services must also be licensed.

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

19. Application of Hangcheng An dba NAIL SPA, 238 East Main Road, for a Body Works Establishment License for the 2016-2017 licensing year. (NEW)

Robert Richards, 33 North Street, Cranston, General Manager addressed the Council explaining that the establishment will offer massage.

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

20. Application of Kim Eun Sun, Richmond Hill, New York, for a Body Works Personnel License for the 2016-2017 licensing year. (NEW)

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

21. Application of Jordy's Sandwich Shop, LLC dba Jordy's Café, 1397 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.

ORDINANCES

22. 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 72 Parking Regulation, Section 72.11 Contractor Parking Permits.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to table this item.

23. 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 150, Development Impact Fees.

Discussion centered around the timeline for the prior impact fees collected has been extended for four years, the normal course would be that monies must be spent within eight years from receipt and there is a full accounting of all impact fees received.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to amend Section 150.19 Administration of Impact Fee (a) General after (hereafter know as “Fees”) and before the second to last sentence of the paragraph to read - Six types of assessments shall be imposed: Recreation Facilities Fee, Fire Facilities Fee, Police Facilities Fee, General Government Facilities Fee, Sanitary Sewer Facilities Fee and School Facilities Fee, unless otherwise provided herein.; to amend under (5) Lots of record to insert after the word from in the first sentence and before the second to last sentence in the paragraph to read – payment of the Recreation Facilities, Fire Facilities, Police Facilities, General Government Facilities and School Facilities Fees set forth in this subchapter, but shall not be exempt from the payment of the Sanitary Sewer Facilities Fee and amend

under (G) Alternative means to satisfying assessments for subdivisions and land development projects #4 there is a review of any potential liability, environmental or otherwise, that the Town may incur by accepting the land and/or facilities.

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

24. 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 72.12 Through Traffic (Forest Avenue)

Councillor Rodrigues explained that he has heard from Oliphant Lane residents, noting that they are not opposed to the safety improvements on Forest Avenue, but are concerned with traffic increasing on Oliphant Lane. Mr. Rodrigues suggested that the situation be monitored.

Councillor Lombardi noted concern with large vehicles using Forest Avenue as a cut through and that there are more commercial businesses on Oliphant Lane.

Councillor Santos noted agreement with Councillors Lombardi and Rodrigues.

Councillor Viveiros noted the infrastructure cannot support the volume of traffic and suggests to view the issue as a whole.

Town Administrator Shawn Brown reviewed the following:

Council President Sylvia noted concern with the School on Forest Avenue. Mr. Sylvia explained that the traffic improvement upgrades on Forest Avenue will slow traffic down and if amendments are required they can be addressed in the future.

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

OTHER COMMUNICATIONS

25. Communication of Maxine Shavers, Committee Chair and James I. Winters, President, Newport County NAACP, re: Request for support by placing an ad in the Anniversary Souvenir Booklet for the Newport Country NAACP Branch's 96th Annual Awards Dinner.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and approve a full-page ad (cost \$125.) in the Anniversary Souvenir Booklet to be appropriated from the Council President's Discretionary Fund.

26. Email communication from Carol Cummings, re: Requesting to speak on the subject of public safety of an established town road verses non-town roads.

Carol Cummings, 738 Indian Avenue, addressed the Council noting concern with parking and safety issues on Peckham Avenue. Ms. Cummings reviewed handouts referencing the area, which are on file in the Office of the Town Clerk.

Discussion centered around that the area is a CRMC right of way, the Town is working with CRMC to correct issues in the area and that the Town is not liable (for persons accessing the coastline) by state statute.

Sheila McEntee, 819 Indian Avenue, addressed the Council, noting concern with the trash left by people on the right of way. Ms. McEntee noted that Middletown does not need another beach, allowing parking is an attractive nuisance.

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

TOWN COUNCIL

27. At the request of Council President Sylvia, Resolution of the Council, re: Proclaiming October 2016 as National Disability Employment Awareness Month.

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

28. Communication Councillor Viveiros, re: Discuss survey regarding taping and placing on website the Planning, Zoning and Conservation Committee meetings.

Councillor Viveiros reviewed the communication, entered here:

Mr. Viveiros noted that taping the Zoning, Planning and Conservation commission meetings allows more transparency for the Town.

Dennis Turano, 195 Tuckerman Avenue, noted support for videotaping committee meetings. Mr. Turano explained that video/technology is here to stay and creates pure transparency.

Councillor Rodrigues noted support for transparency, but is concerned about the cost.

Town Administrator Shawn Brown reviewed the Board/Committee survey, entered here:

On motion of Councillor Viveiros, duly seconded, to tape Planning Board, Zoning Board and Conservation Commission meetings

Discussion centered around why the Conservation Commission meetings would be taped, that the Conservation Commission meets at the Police Station, and the Conservation Commission makes recommendations to the Zoning Board of Review.

Council President Sylvia noted he is pro transparency, but does not want to send a message to the Boards that some are more important than others. Council President Sylvia explained all boards are equally important to the Town.

Councillor VonVillas noted that a survey conveying the sense of community interest on the subject is needed.

Vice President Kempenaar suggested that the survey include the cost of videotaping.

Dennis Turano, 195 Tuckerman Avenue, noted a camera may improve the professionalism of the committee members. Mr. Turano explained that many people travel for work and are unable to attend the meetings, videotaping will allow them to watch the meetings.

Councillor Lombardi suggests asking just one question. If the Zoning and Planning Boards are televised will you watch the meetings?

Councillor Santos requested clarification of who the Conservation Commission provides recommendations to.

Town Administrator Shawn Brown, responding to Councillor Santos, explained that the Conservation Commission primarily gives recommendations to the Zoning Board of Review.

Councillor Viveiros original motion was as follows: -

On motion of Councillor Viveiros, duly seconded, to tape Planning Board, Zoning Board and Conservation Commission meetings

Amended motion –

On motion of Councillor Viveiros, duly seconded, to take the temperature of the Town, if it's acceptable, if they would watch it with one question, not several questions, if they feel its important tape Planning Board, Zoning Board, Conservation Commission, and would you watch.

Council President Sylvia suggests the following question -

Would you watch those meetings if they were televised?

Councillor VonVillas suggests rephrasing the question as follows -

**If the following Board Meetings were televised would you watch?
And list the following boards - 1. Zoning, 2. Planning 3. Conservation
Commission.**

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

The vote was taken at this time on the amended motion, entered here:

**On motion of Councillor Viveiros, duly seconded, it was voted
unanimously to take the temperature of the Town, if it's acceptable, if
they would watch it with one question, not several questions, if they
feel its important tape Planning Board, Zoning Board, Conservation**

Commission, and would you watch.

TOWN ADMINISTRATOR

29. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-017-003 North Easton's Pond BMP, Design, Specifications, Permit & Bid Documents.

Town Engineer Warren Hall reviewed the memorandum, entered here:

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

30. Resolution of the Council, re: Award of Contract for MIDD-017-003 North Easton's Pond BMP, Design, Specifications, Permit & Bid Documents.

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

30a. Two-Mile Corner Project – Scheduling – (Documentation to follow).

Town Administrator Shawn Brown reviewed the following:

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

BOARDS AND COMMITTEES

31. Appointment of two (2) members to the Library Board of Trustees for terms expiring September 2019.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint Stephen E. Arendt and Sara M. Gauch to the Library Board of Trustees for terms expiring September 2019.

32. Appointment of one (1) member to the Tax Assessment Review Board for a term expiring October 2019.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to reappoint Tracy Taber to the Tax Assessment Review Board for a term expiring October 2019.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 9:00 p.m.

Wendy J.W. Marshall, CMC

Council Clerk

Published by ClerkBase

©2016 by Clerkbase. No Claim to Original Government Works.