

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, February 6, 2017 at 6:00 P.M.

Council President Robert J. Sylvia, Presiding

Vice President Paul M. Rodrigues

Councillor Henry F. Lombardi, Jr.

Councillor M. Theresa Santos

Councillor Dennis B. Turano

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 PM – LEGISLATIVE AGENDA

1. Town's legislative concerns to be addressed at the 2017 session of the General Assembly – with the Town's General Assembly delegation.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to begin said legislative agenda discussion with the Town's General Assembly delegation.

Present also were State Senator Louis P. DiPalma, State Representative Deborah Ruggiero and State Representative Kenneth Mendonca.

Also, present were Town Administrator Shawn Brown, Deputy Town Clerk Karin Clancey, and Town Solicitor Peter B. Regan.

Present, representing the School Department, were Superintendent Rosemarie Kraeger, School Committee Chair Kellie DiPalma, and members Douglas Arnold, Liana Ferreira Fenton and William O'Connell.

Senator Louis P. DiPalma reviewed the following:

The agenda above was reviewed and discussed line by line.

Superintendent Rosemarie Kraeger reviewed the following:

The agenda above was reviewed and discussed line by line.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:56 pm.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reconvene this meeting at 7:07 pm.

Council President Sylvia announced that Councillor Santos will be making a motion to reconsider an item from the last Town Council meeting, held on January 17, 2017, after the first three presentations.

PRESENTATIONS

2. Recognition of former Vice President Kempenaar. (No documentation)

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

Council President Sylvia, Vice President Rodrigues and Councillor Lombardi presented former Council Vice President Kempenaar with a gift for his years of service to the Town.

3. (Continued from January 17, 2017)

Citation of the Council, re: Jr Pee Wee Pop Warner Football State Champions.

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

Council President Sylvia, Vice President Rodrigues and Councillor Lombardi presented the Jr. Pee Wee Pop Warner Football State Champions and Coaches with a Citation and a football signed by the Town Council.

4. (Continued from January 17, 2017)

Citation of the Council, re: Pee Wee Pop Warner Rhode Island Southern Massachusetts Champions.

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

Council President Sylvia, Vice President Rodrigues and Councillor Lombardi presented the Pee Wee Pop Warner Football Warner Rhode Island Southern Massachusetts Champions and Coaches with a Citation and a football signed by the Town Council.

Councillor Turano recused himself from acting on the motion to reconsider, due to a possible conflict of interest.

On motion of Councillor Santos, duly seconded, it was voted to

reconsider item #35 (An Ordinance of the Town of Middletown (Second Reading) An ordinance in Amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 98 Short-Term Residential Leases, Section 98.01 Legislative Findings and Intent, 98.02 Definitions, Section 98.04 Registration And Inspection Required, Section 98.05 Registration Form, Section 98.09 Occupancy Limits, Section 98.10 Owner's Obligations, Section 98.11 Tenant's Obligations, and adding a new Section 98.12 Local Representative.), which was voted on at the January 17, 2017, Regular meeting of the Council; Council President Sylvia, Councillor Lombardi and Councillor VonVillas voted NO; Vice President Rodrigues, Councillor Santos and Councillor Viveiros voted YES; MOTION FAILED TO PASS.

5. Molly Andrade – PowerPoint Presentation - Rape Aggression Defense Training (RAD), with a request of a one-time donation of \$2,500. to purchase equipment for the program.

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

Molly Andrade presented a powerpoint presentation which is on file in the Office of the Town Clerk.

Discussion center around the excellent presentation, reported rapes within the Town, the class is for women of all ages, the class benefits raising level of awareness of the issue of rape and sexual assault.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to approve \$4,427.00 from the Rescue Wagon Fund to the Middletown Police Department for Instructor Training and the purchase equipment for the Rape Aggression Defense Training Program (RAD).

6. Email communication of Karen Day, Chairperson Middletown Tree Commission, with enclosure, re: Presentation of Plans for the Valley Park project.

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

Karen Day, Chairperson Middletown Tree Commission presented a powerpoint which is on file in the Office of the Town Clerk.

Discussion centered around reaching out to the Schools as a resource for education, dogs on leashes, signage at the park, average cost of trees and grant monies and donations received for the project.

7. Memorandum of Town Administrator, with enclosures, re: Tree Commission Plan for Middletown Valley.

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

Town Administrator Shawn Brown thanked the Tree Commission for their assistance and the Department of Public Works for an outstanding job for the construction of the paths in the Valley. Mr. Brown requests the Council to approve the following resolution.

8. Resolution of the Council, re: Tree Commission Plan for the Valley.

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

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 8:01 p.m.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reconvene this meeting at 8:04 p.m.

PUBLIC FORUM

9. 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 Rodrigues, duly seconded, it was voted unanimously to act as a board of license commission.

BOARD OF LICENSE COMMISSION

10. (Public Hearing Advertised and abutters notified)

Application of Mizu Wei Japanese Restaurant Corporation dba Mizu Wei Japanese Restaurant for a Class BV Alcoholic Beverage License for the 2016-2017 licensing year on premises located at 250 East Main Road, Middletown.

Public Hearing was declared open.

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

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

11. (Public Hearing Advertised)

Application of Michael Santos dba Sandy's Liquors, 717 Aquidneck Avenue, holder of a Class A Alcoholic Beverage License to TRANSFER said 2016-2017 License to BREWTUS INCORPORATED for use as the same premises.

Public Hearing was declared open.

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

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

12. (Continued from January 17, 2017)

Application of St. Lucy's Church, 909 West Main Road for a Class F Alcoholic Beverage License for use at the same premises - Event

February 18, 2017.

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

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

Vice President Rodrigues requested that items #14, #17, #21, #23 and #28 be heard under the regular portion of the agenda.

CONSENT

13. Approval of Minutes, re: Regular Meeting, January 17, 2017.

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

14. At the request of Council President Sylvia, re: Letter informing Congress that the FAA should not privative our national air traffic control system.

Councillor Santos requested explanation of the letter.

Town Solicitor Peter B. Regan, responding to Councillor Santos, explained that the FAA proposal is to privatize the national air traffic control system, which would most likely cut service to small airports and Federal level funding would be eliminated.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said letter and authorize the Council President to execute on behalf of the Town.

15. Memorandum of Town Administrator, with enclosure, re: Draft of Collection Bin Ordinance.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said memorandum and draft ordinance.

16. Memorandum of Town Administrator, with enclosure, re: Draft of Plastic Bag Ban Ordinance.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said memorandum and draft ordinance.

17. Communication of Tax Assessor and Finance Director, with enclosures, re: Cancellation of Taxes for certain Middletown Taxpayers.

Councillor Santos commended the Tax Assessor for bringing deceased taxpayer records up-to-date.

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

18. Resolution of the Council, re: Cancellation of Taxes for certain Middletown Taxpayers.

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

19. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: School Department – FY2017 Budget Adjustments.

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

20. Resolution of the Council, re: School Department – FY2017 Budget Adjustments.

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

21. Memorandum of Finance Director, thru Town Administrator, with enclosure, re: Salvage of Surplus of DPW 2000 GMC Dump Truck, 2002 Ford Explorer, 1989 Sweeper and 1984 CB Cleaner.

Councillor Santos inquired if money was received for the salvage of surplus.

Town Administrator Shawn Brown, responding to Councillor Santos, explained that money is received and placed in the General Fund.

Councillor Turano inquired if Mr. Brown knew the estimated amount of monies the Town will realize from the salvage surplus.

Town Administrator Shawn Brown, responding to Councillor Turano, noted that the Finance Director and DPW Director are in the processing the surplus.

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

22. Resolution of the Council, re: Authorizing disposition for Salvage of Surplus of DPW 2000 GMC Dump Truck, 2002 Ford Explorer, 1989 Sweeper and 1984 CB Cleaner.

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

23. Communication of Accounting Manager, with enclosure, re: Quarterly Tax Collector's Report as of 12/31/2016 – Town of Middletown.

Discussion centered around updating the Council with detail regarding the miscellaneous billing by the Town, any miscellaneous billing issues and the capability of public to review the information on the website.

The Council will be provided the aging report of miscellaneous billing.

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

24. Resolution of the Town of Charlestown, re: In Opposition to the Preferred Alternative in Charlestown, RI.

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

25. Resolution of the City of Warwick, re: To the General Assembly requesting that Multi-Unit Rental Housing be Classified as Non-Smoking.

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

26. Email communication of Andrea Richardson, Paralegal, Sayer, Regan & Thayer, LLP, with enclosures, re: 1) Advisory Opinion Letter from James Miller and Chris Sousa on behalf of Middletown Zoning Board of Review and 2) Advisory Opinion Letter from Middletown Building Inspector Jack Kane.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said email communication and Advisory Opinion Letters.

27. Email communication of Town Solicitor, with enclosure, re: Advisory Opinion Letter from the Middletown Town Council.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said email communication and Advisory Opinion Letter.

28. Communication of Robert M. Silva, Esquire, on behalf of Samuel's

Realty Company, Inc., Petition to rezone property on Aquidneck Avenue, designated as Lots 108 and 109 on Tax Assessor's Plat 114. (Planning Board Recommendation attached; Requires Advertising for Public Hearing and notification to abutters)

Vice President Rodrigues announced that the Public Hearing will be held on March 6, 2017 and requests the abutters be notified in advance of the Public Hearing.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said communication, notify abutters and advertise for public hearing on March 6, 2017.

Councillor Turano recused himself from acting on the following item of business, due to a possible conflict of interest.

ORDINANCE

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

An ordinance in Amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 98 Short-Term Residential Leases, Section 98.08 Fees.

On motion of Vice President Rodrigues, duly seconded, it was voted to adopt said ordinance on its second reading

Council President Sylvia noted David Rushlow's communication to the Council, entered here:

Vice President Rodrigues noted concern with the increase to the Short-Term rental fee being 1000% increase. Mr. Rodrigues suggested a split fee, \$50.00 for Resident Owners and \$100.00 for Non-Resident Owners. Vice President Rodrigues explained that the penalty fines for non-compliance requires increasing.

Town Solicitor Peter B. Regan, responding to Vice President Rodrigues, explained that he is uncomfortable with a split fee and suggests the Council amend the fee. Mr. Regan noted that short term rentals are six months or less.

Council President Sylvia noted concern with the residents who live next to the rentals. Mr. Sylvia explained that \$10.00 per bedroom is too low of a fee and supports the increase of \$100.00 per bedroom. The Short term rentals must be policed evenly throughout the Town.

Councillor Santos explained that the increase is unfair to the resident landlords.

Councillor Lombardi noted agreement with Vice President Rodrigues regarding the penalty fines requiring to be increased. Mr. Lombardi explained that everything should be even across the board and noted support for the increase per bedroom.

Councillor Viveiros noted agreement with Vice President Rodrigues.

Councillor VonVillas suggested adopting this ordinance and amend at a later date if necessary.

Motion from above was voted on at this time.

On motion of Vice President Rodrigues, duly seconded, it was voted to adopt said ordinance on its second reading; Council President Sylvia, Councillor Lombardi and Councillor VonVillas voted YES; Vice President Rodrigues, Councillor Santos and Councillor Viveiros voted NO to said motion; MOTION FAILED TO PASS.

OTHER COMMUNICATION

30. Communication of St. Patrick's Day Parade Committee, re: Request for support by placing an ad in the Parade Bulletin or donating to the parade committee.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said communication and approve a half-page ad (cost \$130.00) in the St. Patrick's Day Parade Booklet to be appropriated from the Council President's Discretionary Fund.

TOWN COUNCIL

31. Memorandum of Councillor Viveiros, re: To discuss forming a Charter Review Committee.

Councillor Viveiros reviewed the memorandum, entered here:

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

On motion of Councillor Viveiros, duly seconded to advertise for Charter Committee for nine members, if more than nine members apply, appoint by lottery to form the committee.

Council President Sylvia noted agreement that the committee should be formed and made up of nine members of the Town, but does not agree that if more than nine apply there should be a lottery to choose members for the commission. Mr. Sylvia explained that there should be nine people from across the Town, if there are more than nine the Council may interview applicants and appoint members.

Councillor Viveiros withdrew his motion above.

On motion of Council President Sylvia, duly seconded, to establish a

Charter Review Committee, advertise for nine members to serve on said committee and appoint Councillor VonVillas as liaison to the committee.

Discussion centered around that other Town Council members can attend the Commission meeting but cannot participate, the Council shall not interfere or influence the process, the charter will be reviewed in its entirety, proposed amendments will be sent to the Council for review, a public hearing on the proposed amendments will be held by the Town Council and the Council will vote on each amendment for placement on the ballot.

Vote was taken here:

On motion of Council President Sylvia, duly seconded, it was voted unanimously to establish a Charter Review Committee, advertise for nine members to serve on said committee and appoint Councillor VonVillas as liaison to the committee.

TOWN ADMINISTRATOR

32. Memorandum of Finance Director, with enclosure, re: Contract Award: MIDD-017-006 Full Revaluation.

Town Administrator Shawn Brown reviewed the memorandum below.

Discussion centered around the Tax Exploration Sub-Committee will be presenting at an upcoming Council meeting, RIGL requires a Full Revaluation every nine years as opposed to a statistical revaluation, which is every three years, the number of residential and commercial properties in the Town and entrance into residential homes to complete a revaluation.

Richard Nagle, President of Northeast Revaluation Group, addressed the Council noting that his firm services many communities around the state. Mr. Nagle explained that it is not state law that the home

must be entered, but the firm makes several attempts to enter the premises.

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

33. Resolution of the Council, re: Award of contract – MIDD-017-006 Full Revaluation.

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

33a. Memorandum of DPW Director, thru Town Administrator, re: Middletown Little League Fields.

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

unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed the memorandum above.

Discussion centered around if funding is approved there will be no impact on the tax rate and the appropriation is based on estimates not actual costs.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to appropriate \$80,214. from the Parks and Recreation fund for repairs to the Middletown Little League Fields and Babe Ruth Field.

EXECUTIVE SESSION

34. Executive Session - Pursuant to provisions of RIGL, Sections

42-46-2, 42-46-4 and 42-46-5 (a) (5) Land Acquisition (East Main Road), (5) Land Acquisition (West Main Road) and (2) Collective Bargaining (Teamsters and IAFF).

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 9:37 p.m.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 10:16 p.m.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to ratify the Teamsters contract.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to ratify the IAFF contract.

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

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

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to adjourn said meeting at 10:20 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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