

**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, March 6, 2017 at 5:30 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)

There were no reconsiderations.

Councillor Lombardi recused himself from interviewing Arthur S. Weber, Jr., due to a possible conflict of interest.

5:30 PM – PLANNING BOARD INTERVIEWS

1. Interviews –

5:30 pm – John L. Ciummo

5:40 pm – Arthur S. Weber, Jr.

5:50 pm – Kevin J. Clare

6:00 pm – Terri Bailey Flynn

6:10 pm – Betty Jane Owen

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

Applicant interviews began at 5:30 pm. Applicants John L. Ciummo, Arthur S. Weber, Terri Bailey Flynn and Betty Jane Owen were interviewed. Human Resource Director Cecilia Dursi asked the following questions:

- 1. What experience do you have that would qualify you to be the candidate for the Planning Board?**
- 2. Why do you want to be on the Planning Board?**
- 3. Regular meetings typically take place the 2nd Wednesday of each month, in the evening, and they start at 6 P.M. Special meetings are called on an as needed are you available to attend them?**

All questions were answered by the applicants.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess this meeting at 5:50 pm.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reconvene this meeting at 6:02 pm.

Applicants Kevin J. Clare and James Williams were interviewed. Human Resource Director Cecilia Dursi asked the following questions:

- 1. What experience do you have that would qualify you to be the candidate for the Planning Board?**
- 2. Why do you want to be on the Planning Board?**
- 3. Regular meetings typically take place the 2nd Wednesday of each month, in the evening, and they start at 6 P.M. Special meetings are called on an as needed are you available to attend them?**

All questions were answered by the applicants.

Councillor VonVillas read the following into the record:

To the Middletown Town Council:

I am writing to encourage the Town Council to reappoint Art Weber and John Ciummo to the Planning Board. Both Mr. Weber and Mr. Ciummo are conscientious members of the Board who prepare thoroughly for Board meetings, consistently attend Board meetings, actively participate in Board discussions and bring a wealth of experience to Board discussions and decisions.

Both Mr. Weber and Mr. Ciummo approach Board decisions based on the facts, applicable Town ordinances and state laws. Regardless of their personal opinions or desires, they have consistently sought to render decisions which balance the sometimes competing interests of developers and residents.

It has long been the custom of the Council to return to our Boards those citizens who serve until their term limits have been reached unless there are compelling reasons to do otherwise. We should not alter that custom and precedent.

Middletown Planning Board members should not be subject to removal without cause. To do so would be to inject the appearance of favoritism in appointment decisions, possibly compromise Board independence, and could cause Board members to be more concerned with Council preferences than the facts, our ordinances and laws.

Middletown will not be well served by removing, or failing to reappoint incumbent Planning Board members without strong, clearly stated reasons for doing so.

Mr. Ciummo and Mr. Weber have served Middletown well and faithfully and deserve to be reappointed. I urge the Council to reappoint both to the Planning Board.

Thank you,

Richard Adams

Ms. VonVillas also stated the following:

I would like to add my voice to Mr. Adams' sentiments.

Civic service is a beautiful thing. It is beneficial to the public when it represents the broad constituency of the community. It is fair and even handed and treats the well-being of the community as a sacred duty.

However, when it is tainted by political favoritism, it becomes a means to undermine the equality of the whole community.

The Planning Board may be the most important citizen volunteer committee in the Town of Middletown. Its members are a group of people who are sworn to uphold the fairness and well-being of the more than 16,000 citizens who live in Middletown. It is not a political arm of the Town Council.

It warrants appointment of the most qualified candidates, those who have demonstrated their level of service, those who have a deep knowledge of the approved Comprehensive Plan, and those who are most able to carry out its intentions.

Therefore, for no other reason, I can support only those candidates whose past performance and experience as well as their knowledge base promise to continue the good work of the Planning Board as it moves forward.

Any other action on my part would be a disservice to the community I have sworn to serve.

Councillor Lombardi noted agreement with Councillor VonVillas. Mr. Lombardi explained that the committee appointments should be made based on applicant's qualification.

Councillor Turano commented that all the applicants have shown a

commitment to the Town.

Council President Sylvia noted that the current Planning Board has done a great job with the Town's Comprehensive Community Plan and requests his colleagues reappoint Mr. Ciummo and Mr. Weber.

2. Appointment of three (3) members of the Planning Board; two (2) vacancies terms expiring February 2020 and one (1) vacancy, to complete a term expiring February 2018.

On motion of Council President Sylvia, duly seconded, it was voted to reappoint John L. Ciummo to the Planning Board for a term expiring February 2020; Council President Sylvia, Councillor Lombardi and Councillor VonVillas voted YES to said Motion; Vice President Rodrigues, Councillor Santos, Councillor Turano and Councillor Viveiros voted NO to said motion; MOTION FAILED TO PASS.

Councillor Lombardi recused himself from the following motion, due

to a possible conflict of interest.

On motion of Council President Sylvia, duly seconded, it was voted to reappoint Arthur S. Weber, Jr to the Planning Board for a term expiring February 2020.; Council President Sylvia and Councillor VonVillas voted YES to said Motion; Vice President Rodrigues, Councillor Santos, Councillor Turano and Councillor Viveiros voted NO to said motion; MOTION FAILED TO PASS.

On motion of Councillor Viveiros, duly seconded, it was voted to appoint Terri B. Flynn to the Planning Board, with a term expiring February 2020; Vice President Rodrigues, Councillor Santos, Councillor Turano and Councillor Viveiros voted YES; Council President Sylvia, Councillor Lombardi and Councillor VonVillas voted NO to said motion.

On motion of Vice President Rodrigues, duly seconded, it was voted to appoint James Williams to the Planning Board, with a term expiring February 2020; Council President Sylvia, Vice President Rodrigues, Councillor Santos, Councillor Turano and Councillor Viveiros voted

YES; Councillor Lombardi and Councillor VonVillas voted NO to said motion.

On motion of Councillor VonVillas, it was voted unanimously to appoint Betty Jane Owen to the Planning Board to complete a term expiring February 2018.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess this meeting at 6:20 pm.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reconvene this meeting at 7:00 pm.

PRESENTATION

3. Citation of the Council, re: Middletown High School CyberPatriot

IX Team.

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

Council President Sylvia presented IT Director Matthew Wainwright and CyberPatriot IX Team members with a citation.

House Representative Kenneth Mendonca presented the CyberPatriot IX Team with Rhode Island House and Senate citations.

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.

Margaret A. Kirschner, 8 Pleasant Street, Newport, Rhode Island, representing the Restoration Advisory Board (RAB), addressed the Council noting the RAB Board will be holding a meeting on Wednesday, March 8, 2017 at the Courtyard Marriott at 6:30 p.m. to discuss the Tank Farms #4 and #5.

Vice President Rodrigues requested that items #6, #9 and #10 be heard under the regular portion of the docket.

CONSENT

5. Approval of Minutes, re: Regular Meeting, February 21, 2017.

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

6. At the request of Vice President Rodrigues, Resolution of the Council, re: In support of maintaining level of funding for Discover Newport.

Councillor Viveiros noted the excellent job performed by Discover Newport.

Vice President Rodrigues noted that he requested the resolution, due to the decrease in state funding to the Discover Newport Board.

Councillor Lombardi noted support for the resolution explaining that the Discover Newport staff is knowledgeable and benefits the community.

Council President Sylvia noted his support for the resolution.

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

9. (Continued from February 21, 2017, Regular Meeting to March 20, 2017)

Memorandum of Town Administrator, with enclosure, re: Agreement with Competitive Energy Services (CES). (Attached is a request by the Administration that the item be withdrawn)

Councillor Santos inquired if the Middletown School Department had withdrawn their agreement with Competitive Energy Services.

Town Solicitor Peter B. Regan, responding to Councillor Santos, noted that both the Middletown School Department and the City of Newport have withdrawn.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to withdraw said memorandum at the request of the Town Administrator.

10. (Continued from February 21, 2017, Regular Meeting to March 20, 2017)

Resolution of the Council, re: Approving and Authorizing Town Administrator to execute Master Consulting Agreement with Competitive Energy Services, LLC. (Attached is a request by the Administration that the item be withdrawn)

On motion of Council President Sylvia, duly seconded, it was voted unanimously to withdraw said resolution at the request of the Town Administrator.

11. Memorandum of Town Administrator, with enclosure, re: Amendments to Parking Ordinance, Chapter 74.

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

12. Public Notice – RI Coastal Resources Management Council – For the Third Beach Road Area, Middletown Plat 131, Lots 2, 3, 7 &10, Maidford River, Sakonnet River and Sachuest Bay.

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

13. Communication of Attorney David P. Martland, representing Pensco Trust Company, with enclosures, re: Petition to Rezone, Plat 114, Lots 812 & 813. (Requires Planning Board recommendation.)

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said communication and forward request to the Planning Board for review and recommendation.

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

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

15. Communication of Town of Jamestown, re: In support for the Town of Charlestown in its opposition to the “Old Saybrook to Kenyon Bypass Rail Alignment”.

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

16. Communication of Town of Warren, re: In support for the Town of Charlestown in its opposition to the “Old Saybrook to Kenyon Bypass

Rail Alignment”.

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

17. Application for Special Event Permit from the Quahaug Chapter, for the Camp-O- Rama (Family Camping Event) to be held at Sachuest Beach, beginning September 13, 2017 thru September 17, 2017.

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

LICENSING

18. Application of Seaview Inn, LLC dba The Atlantic Resort, 240 Aquidneck Avenue for an Amusement License for the 2017-2018

licensing year. (NEW) (Indoor- Band, DJ, Stereo; Outdoor – Acoustic Music on the Patio)

Discussion centered around that the Outdoor entertainment would only be Acoustic Music, the applicant would have to come back before the Town Council to request any other type of amusement.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to grant said Amusement License and limit the outdoor – Acoustic Music on the Patio until 9:00 p.m.

PUBLIC HEARING

19. Public Hearing (Advertised; Abutters notified)

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 Usage, Chapter 152 Zoning Code, seeking to change the zoning classifications of Lots 108 and 109 on TAP 114 from Medium Density Residential Traffic Sensitive (R-20A) to Limited Business Traffic Sensitive (LBA). (Planning Board recommendation attached)

Public Hearing was declared open.

Robert M. Silva, representing Samuel's Realty, Inc. owned by the Bazarsky Family, requesting rezoning of two lots, which are to the left of the current Polo Center on Aquidneck Avenue explained the Polo Center is owned by Samuels' Realty, Inc. The applicant requests to rezone the Lots 108 and 109 on TAP 114 from Medium Density Residential Traffic Sensitive (R-20A) to Limited Business Traffic Sensitive (LBA) to be in compliance with the current Comprehensive Community Plan. Mr. Silva referred to the Planning Board decision entered here:

Mr. Silva submitted a report from Nancy Letendre, Mason and Associates, which is on file in the Office of the Town Clerk.

David Bazarsky, owner Samuel's Realty, Inc. was sworn in by Town Clerk Wendy J.W. Marshall.

Mr. Bazarsky testified that he built the Polo Center, he is the owner of lots 108 and 109, explaining the businesses in the Polo Center as service/professional use. Mr. Bazarsky explained the new buildings would be similar to what is there now and there would be one more additional entrance/exit off Aquidneck Avenue.

Discussion centered around no intention to use the paper road from corporate park or Julia Court for access, the possibility of constructing senior housing in the area, employee parking behind the Blood Center, possible design and layout of new construction, plans must be approved by planning and zoning boards prior to construction, council concern of another curb cut on Aquidneck Avenue, Council requests a concept drawing and traffic impact on residents, the Town Council can amend the Comp Plan at any time, and the Council requests the traffic study from 2015.

J. Nathan Godfrey, Real Estate Appraiser & Consultant, was sworn in by Town Clerk Wendy J.W. Marshall.

J. Nathan Godfrey, Real Estate Appraiser & Consultant, reviewed the petition before the Council and the report he presented, exhibit #2, which is on file in the Office of the Town Clerk.

Discussion centered around there will be no impact on home values in the area and there will be a greater expense to the Town if residential housing is put in the area.

Bill Pascoe, 625 Aquidneck Avenue, noted opposition for the elimination of single family lots.

Lorraine Morse, 671 and 673 Aquidneck Avenue, noted that she is strongly opposed to the zoning change. Ms. Morse does not want to

live next to a large retail plaza.

Casey Ackerman, 633 Aquidneck Avenue, addressed the Council in opposition to the zoning change. Mr. Ackerman resubmitted a resident petition in opposition to the zoning change.

Jim Flynn, 639 Aquidneck Avenue, noted opposition to the zoning change, explaining the plan is not consistent with the goal of the Town.

Terri Flynn, 34 Warren Avenue, explained that businesses need to put the lives of residents first. Ms. Flynn noted without a plan in place, nothing is definite.

Darcy Roland, 639 Aquidneck Avenue, noted the need for businesses to be creative and work with the residents for the development.

David Rushlow, 32 Ellery Avenue, explained he was present to give residents in the area support. Mr. Rushlow noted the residents properties are a big investment.

Discussion centered around the economic impact of houses being constructed in the area vs. commercial businesses, the cost to educate a student in the Middletown School system, Middletown being an aging community, and the lack of receiving Federal and State funding for the schools.

Council President Sylvia noted that the Town Council considers J. Nathan Godfrey, Real Estate Appraiser & Consultant an expert.

There being no other persons desiring to be hearing public hearing remains open.

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

unanimously to receive said ordinance on its first reading.

TOWN COUNCIL

20. Memorandum of Council President Sylvia, re: No Parking Signs on Peckham and Indian Avenue.

Carol Cummings, 738 Indian Avenue, addressed the Council thanking them for addressing the parking issue on Peckham and Indian Avenue.

Dennis Zambrotta, President Newport County Salt Water Fishing Club, addressed the Council noting that rights of way are huge for fisherman, parking restrictions impedes fishing. Mr. Zambrotta explained that there are areas in Newport and Middletown which the club has parking agreements for fishing.

Kraig Ruth, 22 Spinnaker Court, addressed the Council noting concern with a parking ban, which would restrict him from water access.

David Bazarsky, 59 Kay Boulevard, Newport, addressed the Council explaining that most cars parking in the area are from out of state. Mr. Bazarsky noted that the people leave trash and clean their fish on the side of the road.

Carol Cummings, 738 Indian Avenue, addressed the Council noting she has total respect for fisherman. Ms. Cummings explained that once the road to the water is repaired, it would allow for parking spaces.

Peter Jenkins, owner The Saltwater Edge, 1037 Aquidneck Avenue, addressed the Council expressing concern about the elimination of the parking for access to the water.

Councillor Lombardi noted concern that the people parking in the area have been leaving their trash. Mr. Lombardi explained that he would be in favor of out of state people paying a fee to park and residents park for free.

Councillor Viveiros noted concern with the trash left behind by people parking in the area.

Town Solicitor Peter B. Regan explained that the CRMC parking will not be taken away. The property owners, which have people parking on their land may have vehicles towed.

Councillor Rodrigues noted agreement with Councillor Lombardi, Councillor Santos and Ms. Cummings. Mr. Rodrigues explained that the Council is not trying to restrict the local fisherman.

Councillor Santos noted support for the parking restrictions.

Councillor Turano noted agreement that access should be allowed to the ocean.

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

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to direct the Town Administrator and Town Solicitor to execute no parking on Indian Avenue, Peckham Avenue, Vaucluse Avenue from Peckham Avenue to Green End Avenue and lift the parking restriction on the right of way.

21. Memorandum of Vice President Rodrigues, re: Request for Middletown Ball Fields- update.

Public Works Director Tom O'Loughlin reviewed the following, entered here:

Discussion centered around that the Council has not seen bid requests for work at the ball fields, most of the ball field improvements will be complete by opening day, there were no bids for the concession stand improvements, the School department may be assisting with the concession stand improvements, irrigation for the fields and the cost estimates for improvements received by the Council at a prior meeting were accurate.

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

22. Memorandum of Councillor Lombardi, re: Gravel and Stone Processing Yards.

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

unanimously to receive said memorandum.

Councillor Lombardi reviewed the memorandum above. Mr. Lombardi explained that the intention is not to place a burden on businesses; the issue is quality of life.

Council President Sylvia noted the importance of the request.

Councillor Santos questioned if the existing dirt piles are watered down?

Town Solicitor Peter B. Regan, responding to Councillor Santos, explained that there are no height limits to the dirt piles and the piles are not watered down on a continual basis.

Councillor Turano inquired about noise in gravel yards.

Town Solicitor Peter B. Regan, responding to Councillor Turano, explained that the gravel yards must comply with the Town noise ordinance.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to direct the Town Solicitor to explore an ordinance regulating the operation, setbacks, dust control and height limits for stone and gravel material yards.

TOWN ADMINISTRATOR

23. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-017-012 MIDDLETOWN PUBLIC LIBRARY JANITORIAL SERVICES.

Library Chair Stephen Arendt and Librarian Theresa Coish reviewed the memorandum below.

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

**24. Resolution of the Council, re: Award of contract - MIDD-017-012
MIDDLETOWN PUBLIC LIBRARY JANITORIAL SERVICES.**

Discussion centered around the contract having no impact on the budget and an example of out of scope service being shoveling the sidewalk or moving shelves.

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

25. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-017-007 MIDDLETOWN SECOND BEACH PARKING LOT IMPROVEMENTS.

Town Engineer Warren Hall reviewed the memorandum entered here:

Discussion centered around parking and the budget for maintaining the improvements made to the Second Beach parking lot.

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

26. Resolution of the Council, re: Award of contract - MIDD-017-007 MIDDLETOWN SECOND BEACH PARKING LOT IMPROVEMENTS.

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

unanimously to pass said resolution.

Discussion centered around the timeframe for the project, work will be completed prior to Memorial Day, what visible access will be available regarding the project budget and a request that the public be able to view the project budget.

BOARDS AND COMMITTEES

27. Appointment of one (1) member to the Pension Trust Fund Investment Committee, for term expiring February 2020.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to appoint Richard P. Adams to the Pension Trust Fund Investment Committee, for a term expiring February 2020.

28. Appointment of two (2) members to the Roads and Utilities Advisory Committee, one (1) vacancy, resident member term expiring January 2020 and one (1) member, professional member term expiring January 2020.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reappoint Joseph A. Cirillo, resident member and reappoint Julian F. Peckham, IV, professional member to the Roads and Utilities Advisory Committee for terms expiring January 2020.

29. Email communication of Gary Lapidas, re: Resignation from the Beach Commission.

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

EXECUTIVE SESSION

30. 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) and (2) Collective Bargaining (IBPO).

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 10:12 p.m.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 11:16 p.m.

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 11:17 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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