

**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, May 15, 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.**

**5:30 P.M. – ZONING BOARD INTERVIEWS**

**1. Interviews –**

**Thomas A. Heaney, Jr., reappointment**

**Eric Kirton, reappointment**

**Henry A. Pine, reappointment**

**Emily Daughan, withdrawn**

**David N. Dittmann**

**Paul E. Nelson**

**Mark Huntington Nuytkens**

**Noelle Shiland**

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

**Applicant's interviews began at 5:30 p.m. Applicants Thomas A. Heaney, Jr., Eric Kirton, Henry A. Pine, David N. Dittmann, Paul E. Nelson, Mark Huntington Nuytkens and Noelle Shiland were interviewed. Human Resource Director Cecilia Dursi asked the following questions:**

- 1. Why do you want to be on the Zoning Board?**
- 2. Are you available for meetings?**
- 3. Quality of Life - How would you approach? What does it mean to you?**
- 4. Have you ever appeared before the Zoning Board?**

**5. What would you like to see Middletown look like in the future?**

**Councillor Viveiros asked the following question to each applicant.**

**1. What is your feeling regarding protecting the water shed areas in the Town?**

**Councillor Santos asked the following question to each applicant.**

**1. How long have you been a resident of the Town?**

**All questions were answered by the applicants.**

**Council President Sylvia noted that the Zoning Board appointments**

**will take place on June 19, 2017.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess this meeting at 6:05 p.m.**

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

**Council President Sylvia requested a moment of silence for Vice President Rodrigues Family, due to the recent passing of his mother Georgianna Rodrigues.**

**Council President Sylvia recognized the National Military Appreciation month. Mr. Sylvia thanked all who served and those currently serving. Council President Sylvia also recognized the students of Military families.**

## **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 Rodrigues requested that item number 4 be heard under the regular portion of the agenda.**

## **CONSENT**

**3. Approval of Minutes, re: Special Meeting, April 29, 2017.**

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

**4. Approval of Minutes, re: Regular Meeting, May 1, 2017.**

**Councillor Viveiros inquired the procedure/process of how minutes can be amended.**

**Town Solicitor Peter B. Regan, responding to Councillor Viveiros, explained that any Council member can vote to amend minutes.**

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



**unanimously to approve said minutes.**

**5. At the request of Council President Sylvia, Resolution of the Council, re: In Support of Localities that Host National Wildlife Refuges.**

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

**6. Memorandum of MPC Coordinator, thru Town Administrator, with enclosure, re: Tobacco Retailers Licensing Ordinance.**

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

**7. Communication of Paula M. Rearick, Anchor Academy School**

**Counselor, re: Appreciation for support.**

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

**8. Communication of Jason Gramitt, Staff Attorney/Education Coordinator, RI Ethic Commission, re: Request for Advisory Opinion.**

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

**9. Notice of Public Hearing for Amendment to the Zoning Code, Section 602, “Schedule of District Regulations – Uses And Districts” for hearing on May 15, 2017 at 7:00 pm at the Middletown Town Hall.**

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

**unanimously to receive said Notice of Public Hearing.**

**10. Notice of Public Hearing for Amendment to the Zoning Code, Article 7 – Supplementary Regulations, Section 702, “Number of Dwelling Units or Principal Building Per Lot” for hearing on May 15, 2017 at 7:00 pm at the Middletown Town Hall.**

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

**11. Resolution of the Town of Smithfield, re: On Gun Free Schools.**

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

**12. Resolution of the Town of Westerly, re: In Opposition to H5475**

**and S0481, An Act Relating to Cities and Towns – Subdivision of Land.**

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

**13. Resolution of the Town of Gloucester, re: In Opposition to H5475 and S0481, An Act Relating to Cities and Towns – Subdivision of Land.**

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

**14. Application of Island Management, Inc. dba Flo's Clam Shack, 4 Aquidneck Avenue, for RENEWAL of an Amusement License for the 2017-2018 licensing year.**

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

**15. Applications two (2) from John Messenger dba Jay Vending Company, Maryland for RENEWAL of Hawker's Licenses for the 2017-2018 licensing year (Second Beach).**

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

**16. Application for Special Event Permit from Newport Hospital for Fall into Fitness 5K Race/Walk & Kids Fun Run to be held at the YMCA on Sunday, October 15, 2017 beginning at 8:30 AM.**

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

## **LICENSES**

**17. Application of TNT Fireworks, CT, for a Holiday License for the 2017-2018 licensing year (location – 173 East Main Road). (NEW)**

**Council inquired the age at which someone can purchase fireworks and training for TNT Fireworks employees.**

**Chris LaTorraca, CT, addressed the Council explaining that you must be 16 years of age to purchase fireworks. All employees are trained and each location is provided a signage kit.**

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

**18. Application of A&M Acquisitions, LLC dba A&M Tactical, 10 Coddington Highway for a Firearms Dealers License for the 2017-2018 licensing year. (NEW).**

**Vice President Rodrigues inquired what additional requirements are needed to hold a Firearms Dealers License.**

**Town Clerk Wendy J.W. Marshall explained that issuance is contingent upon a letter of recommendation from the Police Chief and a copy of any state and federal licenses.**

**Matthew Carvahlo, 447 Broadway, addressed the Council noting that he has been in the industry for ten years, has met with Chief Pesare, safety and security is a priority. Mr. Carvalho explained that he is licensed in many different states and teaches firearms safety courses.**

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

**Town Solicitor Peter B. Regan recused himself for acting on the following two items of business, #19 and #20, due to a possible conflict of interest.**

**Attorney Marissa Desautel was present representing the Town on items #19 and #20.**

## **ORDINANCES**

### **19. Public Hearing (Advertised; Abutters and Tenants 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, Section**



**602 Schedule Of District Regulations – Uses and Districts. (Planning Board recommendation attached)**

**Public Hearing was declared open.**

**Attorney Michael Miller, addressed the Council, explaining that his client, Mark Horan Construction, has been in business since 1983 constructing homes. In 2015/2016, Mr. Horan purchased property in the Aquidneck Corporate Park. The request is to amend the zoning ordinance to allow him to use his property for an office, manufacturing cabinets, woodwork and copper fabrication. There will not be materials stored outside of the building. The amendment would be good for economic development and employment opportunities.**

**Attorney Miller presented the following:**

**Petitioner requests that the proposed amendment to Section 602 of**

**the ordinance be further amended to delete the references to the uses referred to as “general contractor” and “special trade contractor” and substitute manufacturing and painting of finish woodworking, cabinet making, vanities and molding and copper fabrication as uses permitted as a matter of right in an OP zone.**

**Attorney Michael Miller noted that the petitioner has an additional request to construct an additional building on the site which was not recommended by the Planning Board.**

**Mark Horan, petitioner answered questions from Attorney Miller, described his business and requested use of the property.**

**Discussion centered around the Mr. Horan would place a C & C machine in the building which assists in the production of more complex moldings, there would be no storage of materials outdoors, a concern that the park would become light industry, there are other businesses in the park manufacturing items, restrictions may be imposed on the petition and delivery of products to the business.**

**Steve Kirby, Real Estate Broker, explained that there are many uses within the park which are not appropriate. Mr. Kirby noted that Mr. Horan's business would not be detrimental to the park.**

**Discussion centered around the request be sent back to the Planning Board for recommendation.**

**Town Planner Ronald Wolanski noted that it may be appropriate for the Planning Board to review the amendments.**

**Attorney David Martland, 1100 Aquidneck Avenue, representing Brooklyn Financial Partners, TECH 1, 2, 3, & 4, addressed the Council noting that his clients are opposed to the zoning amendment. Mr. Martland explained that he would hold off on testimony if the petition will be reviewed by the Planning Board.**

**Attorney Michael Miller noted that he does not agree with returning the petition to the Planning Board, but if that is the case requests the public hearing be held open and a specific date be set for hearing.**

**Attorney Marissa Desautel noted a formal request be sent to the Planning Board by Attorney Miller, the public have the opportunity to review the request and follow the same process as used prior.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to refer the request that the proposed amendment to Section 602 of the ordinance be further amended to delete the references to the uses referred to as “general contractor” and “special trade contractor” and substitute manufacturing and painting of finish woodworking, cabinet making, vanities and molding and copper fabrication as uses permitted as a matter of right in an OP zone back to the Planning Board, for hearing on June 19, 2017 Public Hearing Remains Open.**

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

**20. Public Hearing (Advertised; Abutters and Tenants 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, Article 7 Supplementary Regulations, Section 702 Number of Dwelling Units or Principal Building Per Lot. (Planning Board recommendation attached)**

**Public Hearing was declared open.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to continue this matter to June 19, 2017, Public Hearing Remains Open.**

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

**unanimously to receive said ordinance on its first reading.**

## **21. 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 154 Middletown Stormwater Works.**

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

**Council President Sylvia explained that the ordinance requires more information/data needed to develop the stormwater utility. Mr. Sylvia thanked all that worked on the ordinance. Council President Sylvia noted that the residents require more education on the matter before going forward.**

**On motion of Council President Sylvia, duly seconded, it was voted**

**unanimously to table this item for further study, funds allocated in current budget proposal be removed, extra employee be removed, vehicle be removed (total 1.2 million for the utility).**

**22. Resolution of the Council, re: Requesting the General Assembly to amend RIGL 45-63-1 the Rhode Island Stormwater Management and Utility District Act of 2002.**

**On motion of Vice President Rodrigues, duly seconded, it was voted to pass said resolution; Councillor Lombardi and Councillor VonVillas voted Yes; Council President Sylvia, Vice President Rodrigues, Councillor Santos, Councillor Turano and Councillor Viveiros voted NO; MOTION FAILED TO PASS.**

**23. 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 155 Wastewater Management District.**

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

**Vice President Rodrigues noted that the issue is the same as with the Stormwater Ordinance. Mr. Rodrigues explained that more education is needed.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to table the item.**

## **TOWN COUNCIL**

**24. At the request of Council President Sylvia, Resolution of the Council, re: In support of Removing RIDOT Rhode Works Signs in the Town and That No New Signs be Installed In the Municipality In the Future.**



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

**25. Memorandum of Council President Sylvia, re: Council Appointees to Charter Review Committee.**

**Council President Sylvia reviewed the memorandum above.**

**Councillor VonVillas explained that the liaisons are to report back to the Council, not vote on the items until the amendments are brought back to the Council.**

**Councillor Viveiros noted his agreement with Councillor VonVillas.**

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

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously that the Council representatives on the Charter Review Committee be non-voting members.**

**26. Resolution of the Council, re: In support of House Bill H-5808 and Senate Bill S-0442 establishing The Climate Change Coastal Adaption Trust Fund.**

**Councillor Viveiros noted he does not support this resolution.**

**Councillor Lombardi noted his support for the resolution, explaining that this would assist in the coastal (Second Beach and Third Beach) loss of area.**

**Town Administrator Shawn Brown noted that Second Beach losses 8 to 12 inches of coastline a year and Third Beach losses a foot of coastline each year.**

**Vice President Rodrigues noted that he should air on the side of caution.**

**Councillor Turano inquired where the funding would come from.**

**Councillor Lombardi noted that the funding is a half of one cent from the gas tax.**

**On motion of Vice President Rodrigues, duly seconded, it was voted to pass said resolution; Councillor Santos, Councillor Turano and Councillor Viveiros voted NO to said motion.**

**27. Communication of Councillor Viveiros, re: Discuss enforcement of Town Zoning Codes and intent of the Town Comprehensive Plan.**

**Councillor Viveiros noted the need to get the Comprehensive Community Plan and Zoning Ordinance in sync.**

**Town Solicitor Peter B. Regan explained that the Planning Board has been reviewing amendments to amend the Comprehensive Community Plan; in addition the board is reviewing the uses in LB/LBA zones.**

**Town Administrator Shawn Brown explained that the Town Council has authorized six major changes to the zoning ordinance of which five have been completed.**

**Discussion centered around the senior development on Thelma Lane**

**and the LB and LBA districts being reviewed by the Planning Board.**

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

**28. Communication of Councillor Viveiros, re: Discuss installation of Work Order program for the Public Works Department.**

**Town Administrator Shawn Brown noted that Town does not have the resources to implement. Mr. Brown explained the program suggested is more for businesses, not for government.**

**On motion of Councillor Viveiros, duly seconded, it was voted unanimously to table this item until the next regular meeting.**

**TOWN ADMINISTRATOR**

**29. Memorandum of Town Administrator, with enclosure, re: Tree Commission Request for Valley Park Planting.**

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

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

**Vice President Rodrigues noted concern with the expense of the trees.**

**Councillor Viveiros noted agreement with Vice President Rodrigues.**

**On motion of Vice President Rodrigues, duly seconded, it was voted to authorize \$4,221.00 for the Valley Park Planting to be allocated from the Parks and Recreation Fund; Council President Sylvia, Councillor Lombardi and Councillor VonVillas voted YES; Vice President Rodrigues, Councillor Santos, Councillor Turano and Councillor Viveiros voted NO to said motion; MOTION FAILED TO PASS.**

**30. Memorandum of Town Administrator, re: Clean Energy Project with the City of Newport.**

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

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

**31. Memorandum of Town Administrator, with enclosures, re: Energy Purchasing Cooperative with City of Newport.**

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

**32. Resolution of the Council, re: Approving consult services for Joint Solar Power Array Project and authorizing the Town Administration to execute the agreement.**

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

**33. Master Consulting Agreement, re: Clean Economy Development, LLC.**



**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to approve said contract and authorize the Town Administrator to execute.**

**34. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-017-022 Development Plan Review Services & On-Call Engineering Services.**

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

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

**35. Resolution of the Council, re: Award of Contract for MIDD-017-022 Development Plan Review Services & On-Call Engineering Services.**

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

**36. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: Professional Services – Lower Aquidneck Avenue Streetscapes.**

**Robert M. Silva, Esquire, Chair of the Middletown Economic Development Advisory Committee, noted a memorandum in support submitted by him to the Council, entered here:**

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

**37. Resolution of the Council, re: Award of Contract for Professional Services – Lower Aquidneck Avenue Streetscapes.**

**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 adjourn said meeting at 9:45 P.M.**

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

**Council Clerk**

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