

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

Council President Robert J. Sylvia, Presiding

Councillor Henry F. Lombardi, Jr.

Councillor M. Theresa Santos

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

Vice President Paul M. Rodrigues, Absent

Councillor Dennis B. Turano

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

There were no reconsiderations.

6:00 P.M. EXECUTIVE SESSION

1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (5) Lease (JFK School), (5) Lease (JFK School), (2) Litigation (SAMS FOOD MART, LLC, ABDUL KAHN, SAUDABBAD CONVENIENCE, INC., MOHAMMAD SIDDIQUI v. TOWN OF MIDDLETOWN; NC-2017-0443), (5) Land Acquisition, (2) Collective Bargaining (Police) and (1) Personnel (Fire Chief).

On motion of Councillor Santos, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 6:03 p.m.

On motion of Councillor Santos, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:17 p.m.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to ratify the salary for the Fire Chief, as recommended by the Town Administrator.

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

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:22 p.m.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reconvene this meeting at 7:00 p.m.

Council President Sylvia requested a moment of silence for the victim of the truck attack in New York City and the Texas church shootings

victims.

PUBLIC FORUM

2. Pursuant to Rule 25 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. The entire Public Forum period shall be no longer than fifteen minutes. All items discussed during this session will not be voted upon.

No one spoke during this session.

TOWN BUSINESS UPDATES

3. Communication of Councillor Turano, re: Review the OpenGov

Computer Project.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication.

Town Administrator Shawn Brown reviewed the following summary, entered here:

Budget Builder Update

The Town of Middletown and OpenGov have already begun the process of setting up the Town's Budget Builder for deployment in early December. Please see below for the completed and upcoming steps:

Budget Builder Deployment Phases

Date

✅

Chart of Accounts Review

October 20

✅

Budget Builder Kick-off

October 31

Budget Builder Set-Up (OpenGov)

November 6-17

Workiva Budget Book Kick-Off

November 13-17

Budget Builder Build & Admin Training

November 20&21

Budget Builder Practice Round

December 4-8

Budget Builder Roll-Out Prep

December 18-22

Budget Builder Department Training

January 2-12

Budget Book by Workiva Update

The Town of Middletown, Workiva and OpenGov will meet to kick-off the Budget Book by Workiva Project the week of November 13th. The result of this kick-off meeting will be a project plan for implementing the Budget Book.

ERP Integrations Update

The Town of Middletown and OpenGov will meet to kick-off ERP integrations during our on-site November 20th & 21st. At this time, OpenGov's integration team will lay out the process for connecting the Town's ERP with OpenGov for daily updates of data to the OpenGov platform for enhanced reporting and performance Measures.

Performance Measures Update

The Town of Middletown and OpenGov are actively working on the Performance Measures project. This work includes refreshing data, creating new reports and creating views for Performance Measures

and Stories. Version 1 of Performance Measures will be available by November 15th. In the meantime, OpenGov has created a 2 short Performance Measures dashboards for use in demonstrating capabilities internally.

Stories Update

The Town of Middletown and OpenGov will kick-off the Stories project in mid-December 2017. The scope of work of this project will include identifying which stories Middletown would like to share, sourcing and creating content around these stories and supporting these stories with data from the OpenGov platform.

Professional Services Update

Craig White, an OpenGov government finance expert consultant, has been assigned as Middletown's consultant and will assist in all aspect of this project and on an ongoing basis as-needed.

4. Memorandum of Councillor Lombardi, re: Stone-Gravel

Processing.

Councillor Lombardi reviewed the memorandum, entered here:

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

Town Solicitor Peter B. Regan reviewed the following, entered here:

DRAFT GRAVEL PROCESSING AND BULK STORAGE ORDINANCE

1. Zoning Ordinance §602, Schedule of district regulations - uses and districts:

Add new Principal Use under Manufacturing:

Gravel Processing, with or without Outdoor Storage of Bulk Materials. Permitted by Special Use Permit in Industrial Districts (LI1 & LI2); prohibited in all other Districts.

Add new Principal Use under Wholesale Commercial:

Wholesale distribution establishments (no retail sales), with Outdoor Storage of Bulk Materials. Permitted by Special Use Permit only in GB, LB, LI1 & LI2 Districts; prohibited in all other Districts.

Add new Principal Use under Retail Commercial:

General merchandise retailing activities with Outdoor Storage of Bulk Materials. Permitted by Special Use Permit only in GB, LB, LI1 & LI2

Districts; prohibited in all other Districts.

Under Extractive and Industrial Non-Manufacturing, amend “Construction general contractors, including storage of materials” to read as follows:

Construction general contractors, including storage of materials and equipment, but excluding outdoor storage of bulk materials.

Add new Principal Use under Extractive and Industrial Non-Manufacturing:

Construction general contractors, including storage of materials and equipment, including outdoor storage of bulk materials. Permitted by Special Use Permit only in GB, LB, LI1 & LI2 Districts; prohibited in all other Districts.

Under Extractive and Industrial Non-Manufacturing, amend “Miscellaneous special trade contractors, including outdoor storage” to read as follows:

Miscellaneous special trade contractors, with outdoor storage, but excluding outdoor storage of bulk materials.

Add new Principal Use under Extractive and Industrial Non-Manufacturing:

Miscellaneous special trade contractors, with outdoor storage, including outdoor storage of bulk materials. Permitted by Special Use Permit only in GB, LB, LI1 & LI2 Districts; prohibited in all other Districts.

2. Zoning Ordinance Section §400, Definitions:

Add the following definitions:

Bulk Materials means unpackaged inorganic or organic solid matter capable of releasing visible fugitive dust, including sand, gravel, stone, soil, aggregate, seashells, wood chips, mulch, reclaimed concrete, asphalt or road materials, or other like material.

Outdoor Storage of Bulk Materials. Open storage of bulk materials with a height of three feet or more and a total surface area of three hundred (300) or more square feet for more than 24 hours; excluding the temporary storage of construction materials reasonably required for construction work on the premises pursuant to a valid building permit.

Gravel Processing shall mean any the processing of more than ten (10) cubic yards per day of soil, loam, sand, gravel, stone, clay, shale or other earth material and which utilizes primary mechanical equipment used for processing, screening, or washing of gravel or

earth materials. Gravel Processing shall include, without limitation, the reprocessing of concrete, asphalt, road materials and other reclaimed or previously processed materials in order to use or re-use such materials. Gravel Processing does not include the manufacturing or chemical processing of materials into finished goods.

3. Zoning Ordinance, Article 27, Commercial and Industrial Performance Standards:

Add the following section:

§ 2730 Gravel Processing and Outdoor Storage of Bulk Materials.

The purpose of this section is to establish standards for gravel processing and the outdoor storage of bulk materials within the Town of Middletown, to protect and preserve the Town's valuable natural resources, groundwater and environment, and to protect abutting property owners from unreasonable noise, dust and other adverse impacts of such operations, and to protect and promote the public

health, safety and general welfare.

(a) Gravel Processing: Gravel Processing as defined in § 400 of this Chapter, with or without outdoor storage of bulk materials, shall be permitted by Special Use Permit in Industrial and Traffic Sensitive Industrial Districts, but shall be prohibited in all other Zoning Districts. All Gravel Processing operations shall comply with the provisions of this Section.

(b) Outdoor Storage of Bulk Materials: Outdoor Storage of Bulk Materials as defined in § 400 of this Chapter, shall be permitted only as an accessory use to the primary uses specified in § 602 of this Chapter, and only upon issuance of a Special Use Permit by the Zoning Board of Review.

(c) Hours of Operation: Gravel Processing and Outdoor Bulk Storage operations shall not take place outside the hours of 7:00 a.m. to 6:00 p.m. on Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday. No Gravel Processing or Outdoor Bulk Storage operations shall be allowed on Sundays or legal holidays.

(d) Noise: Gravel Processing and Outdoor Bulk Storage operations shall comply at all times with the provisions of the Town's Noise Ordinance set forth in Chapter 130 of the Town Code, and provided further, that Gravel Processing and Outdoor Bulk Storage operations shall not be considered to constitute "permitted construction and

demolition activities under § 130.78 (H) of the Town Code.

(e) Setback Requirements: Gravel Processing operations and Outdoor Storage of Bulk Materials shall comply with and shall not extend into the following setbacks:

(1) Front Setback: forty (40') feet.

(2) Side Setback: twenty (20') feet.

(3) Rear Setback: thirty (30') feet

(f) Height Requirements: Outdoor storage piles of Bulk Materials shall not exceed twenty (20') feet in height, measured as the vertical distance from grade immediately adjacent to an outdoor storage pile of Bulk Materials to the highest point of that pile.

(g) Screening Requirements: Where permitted, gravel processing operations and outdoor bulk storage areas shall be screened from adjacent public ways, residential districts or residential use by a landscaped buffer strip of not less than twenty (20') feet in width containing a double row of compact evergreen vegetative screening not less than six (6") feet in height, which shall be erected and maintained between such area and the adjoining residential district or use.

(h) Dust Control: The owner and operator of any property containing gravel processing operations and/or outdoor storage of bulk materials shall take adequate precautions to prevent dust or other airborne particulate matter from traveling beyond the property line, including without limitation, the use of water sprays or such alternative methods approved by the Rhode Island Department of Environmental Management.

(i) Drainage and Sediment Control: The owner and operator of any property containing gravel processing operations and/or outdoor storage of bulk materials shall take adequate steps to prevent the permanent collection and stagnation of surface or underground waters, and to prevent the flooding and erosion of surrounding property and the pollution of ponds and streams, and shall comply with all applicable provisions of Chapters 151 and 153 of the Town Code.

5. Communication of Councillor Viveiros, re: Combining Departments Update.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication.

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

M E M O

To:

Town Council

From:

Town Administrator

Subject:

Update – Combining Departments

Date:

November 6, 2017

1. The last update provided to the Town Council regarding this project was October 2, 2017. Since that time, I have begun to address the following matters:

a. The School Department receives most of its funding from the Town and the State. Moving departments under the control of the municipality may have impacts that we need to investigate and discuss with the School Department and Rhode Island Department of Education. Two of the major issues that we need to tease out are:

i. How is funding calculated through the State's funding formula impacted by the potential reorganization?

ii. How is the Town's maintenance of effort requirement impacted by the potential reorganization?

I have had preliminary discussion with legal counsel and will be pursuing further clarification in the upcoming weeks.

b. The employees assigned to the potentially impacted departments are in the classified or non-classified service. Most of the employees are represented by one of several recognized collective bargaining groups. Others have individual employment contracts or work under the terms of Town ordinances in conjunction with a parity resolution. I have met with legal counsel to discuss how the various employees would be impacted by the proposed change and how the Town could best manage implementing the proposed changes.

c. Lastly, I have been reviewing operation assessment studies that have been completed in other communities. Some of the key questions that the study should address include:

i. What are the services currently being provided?

ii. What are the current efficiencies and inefficiencies? Where is there overlap?

iii. Are the services currently being delivered valued?

iv. What services do internal and external customers want that are

not currently being offered?

v. Is current organizational structure and staffing optimal to support current services? If additional services were desired what additional resources would be needed to deliver them?

vi. Which services should be provided internally versus externally? For example, are there services that are currently provided internally that should be assigned to other agencies or private contractors (outsourcing)?

vii. How can collaboration/coordination be improved?

I anticipate that the Town will be able to issue and RFP within the next two weeks.

2. My concern at this time is that the Town Council desires this to be a fast track process so it impacts the formulation of the FY2019 budget. If this is the recommendation of the Town Council, it needs to be communicated more directly so I may adjust the direction I am taking.

3. Contact me with your questions.

PRESENTATIONS

6. Communication of Councillor Santos, re: Award from Rhody Awards for Historic Preservation for the Year 2017.

October 24, 2017

To the Residents of Middletown

President of the Town Council

Robert Sylvia and its Members

Town Hall

350 East Main Road

Middletown, Rhode Island 02842

To ALL

Sunday night, October 22, 2017, the Town of Middletown and its residents received an award from the Rhody Awards for Historic Preservation for the year 2017. This award was presented by Preserve Rhode Island and Rhode Island Historical Preservation and Heritage Commission.

When the 2012 Hurricane Sandy hit, the dunes along Sachuest Point were hit, the road was badly damaged and the utilities were knocked out. The whole area had to be restored, but in such a manner, making the project resilient to future storms that may or may not come.

This set the wheels in motion by the Preservation Society of Newport County, Aquidneck Land Trust and Preserve Rhode Island to form a partnership together with the Wildlife Service, along with National Grid, the Town of Middletown, various Charitable Foundations and Easton's Point Neighborhood Association. This group developed a plan to bury all 60 utility poles along the nearly two miles of road. Volunteers assisted in various landscaping projects.

This area is a site to behold and as one comes down from Sachuest Point, it is beauty beyond any words.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication and accept the Award from Rhody Awards for Historic Preservation for the Year 2017.

Councillor Santos presented the citation from United States Senator Jack Reed to Council President Sylvia, who read the citation entered here into the record.

Councillor Santos read the communication above into the record.

7. Memorandum of Town Administrator, re: Appointment of Fire Chief – Peter Faerber.

Town Administrator Shawn Brown reviewed the memorandum above. Mr. Brown explained the process followed leading up to the appointment of Mr. Peter Faerber as Fire Chief.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum and confirm appointment.

Mr. Peter Faerber thanked the Town Council and Town Administrator for the appointment. Mr. Faerber was sworn in as Fire Chief by Town Clerk Wendy J.W. Marshall.

CONSENT

8. Approval of Minutes, re: Regular Meeting, October 16, 2017.

On motion of Councillor Santos, duly seconded, it was voted unanimously to approve said minutes.

9. At the request of Council President Sylvia, Resolution of the Council, re: Proclaiming November 25, 2017 – Small Business Saturday in the Town.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

10. At the request of Council President Sylvia, re: Holiday Council

Schedule - December 4, 2017 and January 16, 2018 (No Documentation)

On motion of Councillor Santos, duly seconded, it was voted unanimously to approve the Holiday Council Schedule.

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

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication.

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

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

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

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication.

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

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

15. Memorandum of Finance Director, with enclosures, re: FY2017

Budget Adjustments as of June 30, 2017.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

16. Resolution of the Council, re: FY2017 Parks and Recreation Fund.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

17. Communication of Accounting Manager, with enclosure, re: Quarterly Tax Collector's Report as of 09/30/2017 – Town of Middletown.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication and report.

18. Memorandum of Paul A. Croce, Chairman, Planning Board, with enclosures, re: Proposed amendments to various sections of the Middletown Zoning Ordinance. (Requires advertising for public hearing)

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum and advertise for public hearing.

19. Memorandum of Paul A. Croce, Chairman, Planning Board, with enclosure, re: Middletown Zoning Ordinance regarding “bulk zoning”: maximum building height and floor area allowed for residential buildings on lots with area less than 10,000 square feet. (Requires advertising for public hearing and notice to abutters)

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum, advertise for public

hearing and notify abutters.

20. Memorandum of Paul A. Croce, Chairman, Planning Board, with enclosures, re: Results of Public Hearing on Limited Business (LB) Zoning Requirements.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum, advertise for public hearing and notify abutters.

21. Memorandum of Town Administrator, re: Appointment of Acting Town Planner – Confirmation of Appointment.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum and confirm appointment.

22. Communication of Rachel Holbert, Director of Education, Norman Bird Sanctuary, re: Appreciation for support.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication.

23. Communication of Jimmy Winters, President, Newport County Branch, NAACP, re: Appreciation for support.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication.

24. Report by Clean Ocean Access, re: Public Access Quarterly Report.

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

unanimously to receive said report.

25. Application of Deltra Cortes dba The Nutrition Spot, 796 Aquidneck Avenue, for RENEWAL of a Victualling House License for the 2017-2018 licensing year.

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said renewal application.

26. Application of Deltra Cortes dba Totally Prepared, 796 Aquidneck Avenue, for RENEWAL of a Victualling House License for the 2017-2018 licensing year.

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said renewal application.

27. Application of Zahooria, LLC dba Crown Chicken, 390 West Main Road, for RENEWAL of a Victualling House License for the 2017-2018 licensing year.

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said renewal application.

On motion of Councillor Santos, duly seconded, it was voted unanimously to act as a Board of License Commission.

BOARD OF LICENSE COMMISSION

28. (Public Hearing Advertised)

Application of Blue Plate Diner, Inc., 665 West Main Road, for RENEWAL of a Class BV Alcoholic Beverage License for the 2017-2018 licensing year.

Public Hearing was declared open.

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

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said license renewal.

29. Application of Brewski's LLC dba Brewski's, 10 Maple Avenue, holder of a Class BV Alcoholic Beverage License to TRANSFER said 2017-2018 License to The Pub at Two Mile Corner, Inc. for use as the same premises. (Requires Advertising for Public Hearing)

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said application and advertise for public hearing to be held on December 4, 2017.

30. Application of Lacy Inc. dba Easton's Point Pub, 116 Aquidneck Avenue, holder of a Class BV Alcoholic Beverage License to TRANSFER said 2017-2018 License to Diego's Middletown, LLC for use as the same premises. (Requires Advertising for Public Hearing)

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said application and advertise for public hearing to be held on December 4, 2017.

31. Memorandum of Town Administrator and Town Solicitor, re: Expansion of Liquor License – Newport Beach House.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

Town Solicitor Peter B. Regan addressed the Council explaining that

he, the Town Engineer and Attorney Brian Bardorf met and reviewed a survey plan on the Newport Beach House area. Mr. Regan requested revisions to the plan, which are being worked on at this time. The Newport Beach House is preparing a report for the Zoning Board of Review of the activities at the Newport Beach House since opening. Town Solicitor Peter B. Regan noted that the Newport Beach House will also be meeting with the Easton's Point Association to discuss the impact of the Newport Beach House on the area.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reconvene as a Town Council.

LICENSE

32. Application of Angel Camacho for a Tattoo License to be used at Troubled Soul and Company, 999 West Main Road, for the 2017-2018 licensing year. (NEW)

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

unanimously to grant said license.

PUBLIC HEARING

33. Public Hearing (Advertised)

2018 RIDEM Recreation Development Grant. (See attached)

Public hearing was declared open.

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

Town Engineer Warren Hall reviewed the project plan, entered here:

Discussion centered around the project timeline, DEM permit, the access to the fields from Gaudet School, including Handicap Parking Access and buffer vegetation.

Karen Weber, 45 Wyatt Road, inquired about the lighting for the fields.

Council President Sylvia explained that the plan at this time does not include lighting.

Town Administrator Shawn Brown noted that there will be three LED lights by the restrooms.

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

34. Resolution of the Council, re: Authorizing the Planning Department to prepare and submit 2018 RIDEM Recreation Development grant application.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

ORDINANCES

35. 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 Regulations, Section 72.12 Through Traffic. – Forest Avenue. (Permitting School Buses or other Buses serving the area)

On motion of Councillor Santos, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

36. Memorandum of Town Solicitor, re: Proposed amendments to Plastic Bag Regulations.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

Town Solicitor Peter B. Regan reviewed the memorandum above.

37. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX General Regulations, Section 92B Plastic Bag Regulations. (See attached)

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

38. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule. (See attached)

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

TOWN COUNCIL

39. Memorandum of Council President Sylvia, re: Sponsor a Local Surfing Event.

Council President Sylvia reviewed his memorandum above.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Councillor Santos, duly seconded, it was voted unanimously to allow accessibility to the Second Beach area for the Surfing Event to be held between Saturday, May 12, 2018 to Friday, May 25, 2018.

40. Communication of Councillor Viveiros, re: To discuss clarification of Open Meetings RIGL 42-46-6(d).

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication.

Councillor Viveiros read the following into the record:

Enter section (d)

Town Solicitor Peter B. Regan explained that the statute is clear, whatever topic the public brings up the Council can listen, respond and refer, but cannot vote on an item that is not on the agenda. Mr. Regan noted the exception for a vote would be an emergency situation.

41. Resolution of the Council, re: Refunding School Facility Impact Fees.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

42. Resolution of the Council, re: Approving the Design Construction, Equipping, Repair and Renovation of the Middletown

Wastewater system and All Attendant Expenses, Including But Not Limited to, Improvements for the Upper Easton's Point Neighborhood and Approving the Financing Thereof by the Issuance of Wastewater System Revenue Bonds and Notes Therefore in an Amount not to Exceed \$4,550,000.

Discussion centered around that the resolution is for a revenue bond, not a general obligation bond which would have to be approved by voters, the bond is to make improvements, the bond will not increase the user fee or resident taxes and the bond is for the upper Easton's Point neighborhood.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

43. Memorandum of Town Planner thru Town Administrator, with enclosures, re: RIDEM Pump-out Boat Grant.

Town Administrator Shawn Brown reviewed the memorandum above.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

44. Resolution of the Council, re: Authorizing the Town Administrator to accept the grant, execute the grant agreement and allocate town matching funds from the Rescue Wagon Special Revenue Fund – RIDEM Pump-out Boat Grant.

Discussion centered around that the Rescue Wagon Fund and how it has evolved based on the Town's needs, the Rescue Wagon Fund is items that address public health/safety and the purchase was approved in the CIP budget.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

45. Memorandum of Human Resources Manager, with enclosure, re: Controlled Substance Alcohol Testing Policy-Highlights.

Human Resources Manager M. Cecelia Dursi reviewed the memorandum, entered here:

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

46. Approval of the Town of Middletown controlled Substance Alcohol Testing Policy-Highlights.

On motion of Councillor Santos, duly seconded, it was voted unanimously to approve the Town of Middletown controlled Substance Alcohol Testing Policy.

47. Memorandum of Town Engineer, with enclosures, re: Plan of Proposed Improvements Kingfisher Avenue. (Parking, Drainage, Erosion)

Town Administrator Shawn Brown reviewed the memorandum above.

Darlene Scallon, 779 Indian Avenue, addressed the Council reviewing the following:

To: Members of Middletown Town Council

From: Darlene and Stephen Sallan

Re: Item #47 on November 6, 2017 Town Council Meeting Agenda

Improvements to Kingfisher Avenue, Row Y-7

Date November 6, 2017

We are the residents of 779 Indian Avenue, Middletown, Rhode Island, which we have owned since 1983.

We have the following concerns regarding the proposed improvements to Kingfisher Avenue, ROW.

1. Transparency of Process:

· After many years of discussions relating to Kingfisher Avenue, we recently were made aware of yet more proposed changes. We learned of this through random neighbor discussions, with no specifics available. In September, while we were away and our nephew was at our home, someone came to our door stating that they were from the Town of Middletown and were going to survey our property. My nephew explained they had to wait until the owners were present. We were never contacted by anyone, either about a survey, or about newly proposed changes to Kingfisher Avenue, one house away from us.

I contacted the town engineer, Warren Hall, who was not aware of anyone from Middletown being sent to survey our property. At this time the proposed changes were unclear, pending CMR's review.

WE are unclear how a proposal could get to this point, (possible surveys, CMR review) without the abutting neighbors knowledge.

2. Wisdom of proposal:

- We understand that the proposal includes an ADA compliant parking space. Although we are advocates for accessibility, we are perplexed that an ADA compliant parking would be built leading to an area that is difficult to navigate, uneven and often littered with broken glass, fish hooks and at times, human waste.**

- We have watched money spent on barriers, removed shortly after being placed. Police monitoring, surveys and now, an almost \$26,000 project is being proposed.**

- Increased traffic will require increased monitoring and added, ongoing expense**

Darlene and Stephen Sallan

Sheila McEntee, 819 Indian Avenue, addressed the Council reviewing the following:

To: Members of the Town Council

From: Darryl Hazel and Sheila McEntee

Re: Item #47 on Agenda of Council Meeting November 6, 2017

Improvements to Kingfisher Avenue, ROW Y-7

Date: November 4, 2017

We are the Middletown taxpayers and owners of the property immediately north of the Kingfisher ROW at 819 Indian Avenue.

We wish to raise the following issues with the town's proposed improvements to the ROW:

1. Erosion control:

- Allowing parking on the ROW further compacts the soil and increases the volume and speed of the stormwater flowing to the Sakonnet. The ROW parking increases the erosion.**
- There is dramatic soil erosion on the face of the bank but no efforts to stabilize the face of the bank through planting vegetation is proposed. Just as the town is making progress on stabilizing the sand dunes at Sachuest Beach, we hope the town will stabilize the face of the bank with vegetation.**

View from Pebble Beach West

Figure 1

View from Pebble Beach North

Figure 2

Another view from Pebble Beach North

Figure 3

2. Parking: If the town has decided that 5 parking spaces are the correct number of spaces for the ROW, the parking should remain on Indian Avenue and Peckham Avenue, and not be placed on the ROW itself.

- Pulling in and out of parking spaces on the narrow ROW creates a safety problem for the cars and for the people of all ages who use the ROW to access the water. The space is too tight and the view lines are difficult.**

- **The limited number of spaces for parking on the ROW requires police enforcement. This summer there were days when 13 cars parked on the ROW and it was common to have 6-7 cars parked there.**
- **Parking on the ROW is unrestricted. It can be used 24 hours a day, 7 days a week, 365 days a year. It is more disruptive to the adjacent neighbors to have cars parked on the ROW than to have them parked on the street.**

3. Handicap Accessible Parking: If the town has decided to create 1 ADA compliant HC van accessible parking space on The Kingfisher ROW, will the town also establish ADA compliant spaces on all the other town ROW's that are accessed by vehicles, such as the Y-6 Taggart's Ferry Road, and ROW on Tuckerman across from house # 326 Tuckerman?

- **The value of placing an ADA compliant space on the Kingfisher ROW is questionable. It is physically very difficult to access the tidal waters there because of the eroded condition and steepness of the bank.**

- **It appears from the Plan of Proposed Improvements that the Handicap Accessible space is close to a large Copper Beech located**

on the south side of the ROW. The additional compacting of the soil and the use of the space for turning around cars could negatively impact the tree. We request that Karen Day, Chairperson of the Tree Commission, or another knowledgeable person, review the placement of the ADA parking space to determine if the placement will be harmful to the tree.

View from ROW to

Figure 4

Approximate site of ACA HC space

Figure 5

4. Garbage: Allowing parking by the ROW increases the amount of

garbage littering the area. We joined with Clean Ocean Access in May 2017 to do Neighborhood Cleanup of the ROW and Pebble Beach on the second Saturday of each month. We average an excess of 60 lbs. of garbage per cleanup. The more parking spaces available, the more garbage is created. The town must accept some responsibility for the garbage.

Town Solicitor Peter B. Regan noted that the town has been working with CRMC and the ADA Office regarding the parking on the Kingfisher ROW.

Discussion centered around that a wheel chair is unable to access the shoreline, there must be ADA compliant parking on the right of way and securing the bluff to eliminate erosion must be done with boulders because plantings will not hold.

Town Engineer Warren Hall reviewed the plans for the area, which are on file in the Office of the Town Clerk.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Councillor Santos, duly seconded, it was voted unanimously to authorize the Town Administrator and Town Engineer to submit project application to Coastal Resources Management Council (CRMC).

48. Memorandum of Town Administrator, re: Utilities – Electricity.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed the memorandum above.

On motion of Councillor Santos, duly seconded, it was voted unanimously to authorize the Town Administrator and Finance Director to execute:

- a. Notify BP to resolicit bids for the purchase of electricity.**
- b. Authorize BP to negotiate a flexible managed index agreement with a conservative indexing component.**
- c. Review and execute the agreement recommended by BP[1].**

[1] Pricing changes on a daily basis and remains valid for a limited period of time. The Town Administrator and/or Finance Director must have the authority to enter into an agreement to lock in the competitive pricing that the Town seeks.

49. Communication of Town Clerk and Accounts Payable Clerk, re: Request Town Council to match employee donations for adopting a family.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication and authorize up to \$500.00 from the President's Discretionary Fund.

BOARDS AND COMMITTEES

50. Memorandum of Karen Day, Chair, Middletown Tree Commission, thru Town Administrator, re: Trees in Valley Park, Phase Two.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Councillor Santos, duly seconded, it was voted unanimously to appropriate \$50,000 from the general fund Kempenaar valley remediation reserve to complete tree plantings in spring 2018.

51. Email communication of Susan Schenck, re: Resignation from the Middletown Prevention Coalition.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said email communication with regret.

52. Appointment of two (2) members to the Aquidneck Island Planning Commission for one (1) vacancy, Middletown Representative, term expiring July 2020 and one (1) vacancy, Middletown Representative, term expiring December 2020.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reappoint Richard P. Adams for a term expiring December 2020 and appoint Hector Ronald Rodrigues for a term expiring July 2020 to the Aquidneck Island Planning Commission.

53. Appointment of three (3) members to the Beach Commission for terms expiring November 2019.

On motion of Councillor Santos, duly seconded, it was voted unanimously to continue this matter to the November 20, 2017, Regular Meeting.

54. Appointment of one (1) member to the Conservation Commission for a term expiring July 2020.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reappoint Gary D. Paquette to the Conservation Commission for a term expiring July 2020.

55. Appointment of one (1) member to the Library Board of Trustees for a term expiring September 2020.

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

unanimously to reappoint Ernest B. Gibbons, Jr. to the Library Board of Trustees for a term expiring September 2020.

56. Appointment of three (3) members to the Open Space and Fields Committee, available terms are two (2) terms expiring November 2019 or (3) terms expiring November 2020.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reappoint David W. Kirchner for a term expiring November 2020, appoint Janet Bolender for a term expiring November 2019 and appoint John Erik Nelson for a term expiring November 2019 to the Open Space and Fields Committee.

57. Appointment of one (1) member to the Pension Trust Fund Committee to complete a term expiring February 2020.

On motion of Councillor Santos, duly seconded, it was voted unanimously to continue this matter to the November 20, 2017,

Regular Meeting.

58. Appointment of one (1) member to the Tax Assessment Review Board, Bi-partisan Board, for a term expiring October 2020.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reappoint Paul Mankofsy to the Tax Assessment Review Board for a term expiring October 2020.

On motion of Councillor Santos, duly seconded, it was voted unanimously to adjourn said meeting at 9:21 P.M.

Wendy J.W. Marshall, CMC

Council Clerk