

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 20, 2017 at 5:00 P.M.

Council President Robert J. Sylvia, Presiding

Vice President Paul M. Rodrigues

Councillor Henry F. Lombardi, Jr.

Councillor M. Theresa Santos

Councillor Dennis B. Turano

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

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

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

There were no reconsiderations.

5:00 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), (2) Litigation (Town of Middletown v. Horan Building Company, Inc., Tuckerman Avenue, LLC, Coastal Living Magazine, Time Inc.; NC-2017-0254), (5) Land Acquisition (West Main Road), (2) Collective Bargaining (Police), (5) Land Acquisition/Lease, (6) New/Prospective Business, (3) Security and (1) Personnel (Town Administrator).

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:03 p.m.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess executive session and reconvene in open

session at 6:47 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 Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:48 p.m.

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

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.

Vice President Rodrigues requested that item # 5 be heard under the regular portion of the docket.

CONSENT

3. Approval of Minutes, re: Regular Meeting, November 6, 2017.

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

4. Communication of Rebecca Northup, Superintendent, Seamen's Church Institute, re: Appreciation for support.

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

5. Memorial Proposal Application submitted by Kathryn A. Spicer, with enclosures, re: Honoree – Michael W. Spicer. (Requires Citizens Memorial Committee review and recommendation)

Councillor Turano requested the process followed for Memorial Proposals.

Council Clerk Wendy J.W. Marshall explained that there is a written policy. The policy is entered here:

Councillor Santos expressed concern that the committee needs more volunteers.

The Council requested the Town Clerk to advertise for more members for the Citizens Memorial Committee.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said application and forward to the Citizens Memorial Committee for review and recommendation.

6. Draft Gravel Processing and Bulk Storage Ordinance. (Requires Planning Board review and recommendation) – See attached.

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

Planning Board for review and recommendation.

7. Memorandum of Paul A. Croce, Chairman, Planning Board, with enclosures, re: Recommendation to adopt amendments to the Middletown Zoning Ordinance to allow for mixed-use development in the limited business (LB) and general business (GB) zoning districts. (Requires advertising for public hearing and notification to abutters)

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

8. (Continued from June 19, 2017, July 19, 2017 and September 18, 2017 Regular Meetings.)

(Continued from May 15, 2017, Regular Meeting for Planning Board to review new request and provide recommendation – No Planning Board action was taken at the request of the Applicant’s Attorney; therefore no additional advertising for conditions was prepared.)

Public Hearing (Advertised; Abutters and Tenants notified)

Public Hearing Remains Open.

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XV Land Usage, Chapter 152 Zoning Code, Section 602 Schedule Of District Regulations – Uses and Districts. (Planning Board recommendation received) – At the request of Attorney Michael W. Miller, this matter is continued to the February 20, 2018 Regular Meeting of the Council.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to continue said matter to the February 20, 2018, Regular Meeting of the Council.

9. (Continued from Mary 15, 2017, June 19, 2017, July 19, 2017 and September 18, 2017 Regular Meetings.)

Public Hearing (Advertised; Abutters and Tenants notified)

Public Hearing Remains Open.

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XV Land Usage, Chapter 152 Zoning Code, Article 7 Supplementary Regulations, Section 702 Number of Dwelling Units or Principal Building Per Lot. (Planning Board recommendation received) – At the request of Attorney Michael W. Miller, this matter is continued to the February 20, 2018 Regular Meeting of the Council.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to continue said matter to the February 20, 2018, Regular Meeting of the Council.

10. License of Burial, re: Xiu Ping Lin, Section 55, Grave No(s) 17 and 18.

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

LICENSE

11. Application for Special Event Permit from AmpSurf Middletown, a free adaptive surfing clinic for people with disabilities to be held at Second Beach on September 15, 2018 from 6:00 am to 1:00 pm. (Applicant requests Permit Fee and Facility Use Fees be waived)

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to grant said license and waive said permit fee and facility use fees.

ORDINANCES

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

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

Regulations. (See attached)

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

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

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

Discussion centered around that Demery Park is not in the ordinance for rental, due to restrictions; seasonal signage is for a single season such as summer or holidays; temporary signage is for limited time only, not a permanent sign and there is only one mobile food vendor in the Town and that the ordinance can be amended at any time.

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

unanimously to adopt said ordinance on its second reading.

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

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XI Business Regulations, Chapter 119 Tobacco Regulations. (See attached)

Jennifer Wall, 260 West Exchange Street, Providence, RI, representing the American Lung Association, addressed the Council requesting their support for the ordinance. Ms. Wall reviewed statistics regarding the Tobacco industry sales.

Mohammad Siddiqui, representing Newport Mart, 52 East Main Road, addressed the Council noting that since there is flavored alcohol, flavored tobacco should not be restricted. Mr. Siddiqui explained that the restrictions in the ordinance will affect his business.

Dennis Lane, 678 Adams Street, Quincy, MA, representing Coalition for Responsible Retailing, addressed the Council explaining that the retail stores take tobacco compliance seriously. Mr. Lane noted that retailer's profitability is being challenged.

Abdul Khan, 356 West Main Road, noted he is representing a business in Middletown. Mr. Khan explained that flavored tobacco is part of his business sales and hopes the Town Council understands the impact on his business.

Derry Mason, 74 Faculty Drive, Dean of Students at St. George's School, addressed the Council presenting bags of tobacco products confiscated from a dorm at the school. Mr. Mason requests the Council to pass the ordinance.

Alicia Anthony and Joshua Anthony, 53 James Francis Terrace, representing Splash Vape Store, addressed the Council noting concern with the portion of the ordinance regarding discounts. Mrs. Anthony noted that sales may be affected if they are unable to offer discounts and sales on vaping products.

Ken Cordeiro, 2 Fagan Court, addressed the Council noting that he is against any type of ban. Mr. Cordeiro explained that people should be free to make their own decisions.

Geri Guardino, 2 Capitol Hill, Providence, RI, representing the RI Department of Health, addressed the Council noting that flavored tobacco is a small percent of the tobacco revenue. Ms. Guardino noted youth smoking rate statistics and the policy before the Council is strong.

Thomas Lyons, 286 Chases Lane, owner of Beach Liquors and Chair of the Middletown Prevention Coalition, noted that he has never been cited for any violation at his business and requests the Town Council adopt this ordinance.

Jake Cathers, 218 Meadow Lane, addressed the Council noting the loss of his parents to cancer. Mr. Cathers explained that flavored

tobacco products are marketed to the youth and request Town Council to support this ordinance.

Stacy Andrade, 6 Sakonnet Terrace, requests the Town Council to support this ordinance, explaining that flavored products attract children and this ordinance is a step in the right direction.

Lori Verderosa, representing the Middletown Prevention Coalition, presented the Town Council with a handout, requesting the handout to be part of the record, entered here:

Ms. Verderosa reviewed the powerpoint presentation above.

Jennifer Baldwin, 180 Trout Drive, addressed the Council, presenting tobacco products, which look smell and taste like candy.

Hannah Gibbison, Member of Islanders Committed, Senior at Middletown High School, thanked the Town Council for considering this ordinance. Ms. Gibbison noted that the students who use the flavored tobacco products know where to purchase it.

Nathaniel Baldwin, Member of Islanders Committed, Senior at Middletown High School, addressed the Council noting that the Juul vape pen is small and easy to hide. Mr. Baldwin requests the Town Council to adopt this ordinance.

Andrew Yang, Member of Islanders Committed, Senior at Middletown High School, addressed the Council addressed the Council noting that the kids think that vaping is not harmful. The kids like to vape and it is discrete and easily hidden. Mr. Yang explained that he hopes the Council supports the ordinance, the flavors are highly addictive.

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

TOWN COUNCIL

15. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MaintenanceEdge and Mobile 311.

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

Town Administrator Shawn Brown reviewed the memorandum above.

16. Resolution of the Council, re: Award of contract for MaintenanceEdge and Mobile 311.

Discussion centered around that there will be no one at this time going to the MaintenanceEdge conference, training will take place in house with the assistance of the school department, the system will

generate work orders and reoccurring tasks and the system will handle inventory.

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

BOARDS AND COMMITTEES

17. (Continued from the November 6, 2017 Regular Meeting)

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

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reappoint John Ceglarski, reappoint Kathleen Silveira and appoint George Staples to the Beach Commission for terms expiring November 2019.

18. (Continued from the November 6, 2017 Regular Meeting)

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

On motion of Vice President Rodrigues, duly seconded, it was voted to appoint Dennis Sheehan to the Pension Trust Fund Committee, to complete a term expiring February 2020; Councillor Turano voted NO to said motion.

19. Appointment of one (1) member to the Open Space and Fields Committee, for a term expiring November 2020.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reappoint Nicholas P. Coogan to the Open Space and Fields Committee for a term expiring November 2020.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 8:32 p.m.

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 10:15 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 10:16 P.M.

Wendy J.W. Marshall, CMC

Council Clerk