

**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, December 4, 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 Barbara A. VonVillas**

**Councillor Dennis B. Turano, Members Present**

**Councillor Antone C. Viveiros, Absent**

**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. 5:30 P.M. EXECUTIVE SESSION**

**1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (Police), (5) Lease (JFK School) and (5) Lease (Berkeley-Peckham School) – Addendum – (2) Collective Bargaining (NEA Middletown - Certified Teachers), (2) Collective Bargaining (Middletown Association of Auxiliary Personnel/NEARI/NEA – Teacher Assistants) and (2) Collective Bargaining ( RI Council 94 AFSCME, and AFL-CIO, Local #1823).**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:33 p.m.**

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

**session at 6:25 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 recess this meeting at 6:26 p.m.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reconvene this meeting at 6:30 p.m.**

**Councillor Lombardi recused himself from acting on the following item of business #2, due to a possible conflict of interest.**

**6:30 PM – PLANNING BOARD INTERVIEWS**

## **2. Interviews –**

**Howard Robert Hall**

**Arthur S. Weber, Jr.**

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

**Mr. Howard Robert Hall withdrew his application for the Planning Board.**

**Applicant Arthur S. Weber was interviewed. Human Resource Director M. 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?**

**Vice President Rodrigues asked Mr. Weber about management plans for stormwater and his views.**

**Councillor Santos asked Mr. Weber where he sees the Town to be in five years.**

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

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess this meeting at 6:35 p.m.**

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

### **7:00 PM - PRESENTATIONS**

**3. At the request of Councillor Lombardi, Citation of the Council, re: MHS Girls Tennis Team.**

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

**4. At the request of Councillor Lombardi, Citation of the Council, re: Unified Volleyball Team.**

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

**5. At the request of Councillor Lombardi, Citation of the Council, re: Michael Condry/RI Babe Ruth Hall of Fame.**

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

**At this time, the MHS Girls Tennis Team and Coach came forward to receive a citation and an autographed tennis ball from Town Council, presented by Council President Sylvia and Councillor Lombardi.**

**Next, the Unified Volleyball Team and Coaches came forward to receive a citation and an autographed Volleyball from Town Council, presented by Council President Sylvia and Councillor Lombardi.**



**Lastly, Michael Condry came forward to receive a citation and Town ornament from the Town Council, presented by Council President Sylvia and Councillor Lombardi. Mr. Condry presented the Town Council and Administration with Middletown Baseball hats.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to act on items #28 and #29, at this time.**

**6. Memorandum of Town Engineer, thru Town Administrator, re: Intersection Safety Improvements at Aquidneck Avenue & Green End Avenue proposed work schedule.**

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

**Town Engineer Warren Hall reviewed the Aquidneck Avenue and Green End Avenue project, reviewing the memorandum, entered here:**

**Wellington Hall, Project Manager, Rhode Island Department of Transportation, addressed the Council reviewing a powerpoint, which is on file in the Office of the Town Clerk and answered Council questions regarding the project.**

**Hugh Neenan, Director of Operations, RI, representing Prime AE Group, Inc., was present to answer Council questions regarding the project.**

**Discussion centered around public hearings will be held for residents and businesses in the area, some land (in all four corners) of the intersection has been acquired by the State to widen the roads, in 2019 the sidewalks are scheduled for Aquidneck Avenue, utility companies will be contacted prior to the improvements to the area, RIDOT does not allow any construction in the area for five years once the project is completed, unless it is an emergency and there will be a resident engineer on site daily during the project.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to approve night work for the RIDOT work schedule for Intersection Safety Improvements at Aquidneck Avenue & Green End Avenue.**

## **TOWN BUSINESS UPDATES**

**7. Communication of Councillor Turano, re: Review Town procedures to follow up on road work and repairs.**

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

**Discussion centered around that the Public Works Director is responsible for the follow up on road work and repairs (see memorandum below, presented by the Town Administrator), contractors need to be held accountable for damage to roads during construction and litter left behind from construction work.**

**8. Communication of Councillor Turano, re: Discussion on the Town website calendar/meetings/updates.**

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

**Councillor Turano was inquiring if all posted meetings are transmitted to the Town's website calendar and who is responsible for updating the website.**

**Town Administrator Shawn Brown, responding to Councillor Turano, explained that Town staff can input directly to the calendar or when meetings are posted to the Secretary of State website, they automatically upload to the Town calendar.**

## **PUBLIC FORUM**

**9. 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 items # 13, 14 and 19 be heard under the regular portion of the docket.**

## **CONSENT**

**10. Approval of Minutes, re: Regular Meeting, November 20, 2017.**

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

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

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

**13. Memorandum of Finance Director, thru Town Administrator, with enclosure, re: FY2018 Budget Report – Quarter ending September 30, 2017.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said memorandum and FY2018 Budget Report – Quarter ending September 30, 2017.**

**Finance Director Marc Tanguay reviewed the report noting that the General Fund -- School Department, Parks & Recreation Fund is positive, Sewer Fund is negative, Refuse and Recycling Fund is positive and the Stormwater Fund has no activity.**

**Discussion centered around the format of the report, a summary page to be provided in the future and the item not to be on the consent calendar.**

**14. Town of Middletown Pension Plan – Actuarial Valuation Report, re: Plan Year July 1, 2017 – June 30, 2018.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said Town of Middletown Pension Plan – Actuarial Valuation Report, re: Plan Year July 1, 2017 – June 30, 2018.**

**Finance Director Marc Tanguay reviewed the report noting the pension is 98.6% funded, leaving approximately \$800,000 unfunded.**

**Discussion centered around that a summary should be prepared for this document and not be placed on the consent calendar in the future.**

**15. Petition for Abandonment filed by Joseph R. Palumbo, Esquire on behalf of John Wynne and Basa Wynne and the Estate of Betty Foss,**



**re: Abandonment of Portion of Roy Avenue. (Planning Board recommendation received; requires advertising for Public Hearing and notification to abutters).**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said petition, advertise for public hearing and notify abutters for hearing January 16, 2018.**

**16. Communication of Alyson C. Adkins, VP of Finance and Human Resources, Discover Newport, with enclosures, re: March 31, 2017 Annual Audit Report.**

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

**17. Communication of Richard J. Tracy and Jane S. Tracy, Middletown, re: Proposal to limit size and height of new/remodeled**

**lots less than 10,000 square feet.**

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

**18. Application of Marc Milici dba Troubled Soul & Company, LLC, 999 West Main Road, for RENEWAL of a Tattoo License for the 2017-2018 licensing year.**

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

**19. Application for Special Event Permit from Gray Matter Marketing for the Newport Marathon, to be held on Sunday, October 7, 2018, beginning at 7:30 a.m.**

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

**Discussion centered around the applicant or its participants leaving trash along the race course and requiring the applicant to pay for clean-up.**

**It was the consensus of the Council that the company be required to put a deposit down for two Department of Public Works employees for one day's work to clean up the trash after an event. If the company cleans the route themselves, it will be at their expense otherwise, the town will clean the route.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to act as a Board of License Commission.**

**BOARD OF LICENSE COMMISSION**

## **20. Public Hearing Advertised.**

**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.**

**Public Hearing was declared open.**

**Vice President Rodrigues inquired if the service in the establishment will remain the same as it currently is?**

**Applicants Edward F. Arilla, Jr. and Diane M. Dulac noted that there will be no change in service.**

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

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

**21. Public Hearing Advertised.**

**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.**

**Public Hearing was declared open.**

**Vice President Rodrigues inquired if the applicant will be changing the service from what the service is at the current Diego's?**

**Applicant Scott Kirmil noted that the current catering business will be moving to the new establishment and the plan is to have full services in the evenings at the new establishment.**

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

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

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

## **LICENSES**

**22. Application of The Pub at Two Mile Corner, Inc., 10 Maple Avenue, for a Victualling House License for the 2017-2018 licensing year.**

**(NEW)**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to grant said license contingent upon Building Official, Fire Marshal and Board of Health approvals.**

**23. Application of Diego's Middletown, LLC, 116 Aquidneck Avenue, for a Victualling House License for the 2017-2018 licensing year.**

**(NEW)**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to grant said license contingent upon Building Official, Fire Marshal and Board of Health approvals.**

**24. Application of Sugar Bake Shoppe, LLC, 124 Aquidneck Avenue, for a Victualling House License for the 2017-2018 licensing year.**

**(NEW)**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to grant said license contingent upon Building Official, Fire Marshal and Board of Health approvals.**

## **ORDINANCES**

### **25. An Ordinance of the Town of Middletown (Second Reading)**

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

**Carolyn Craft, Senior MHS, addressed the Council noting that other seniors at MHS are vaping at school, explaining she is scared of how often it happens and that kids can get acquire it.**

**Abdul Khan, 356 West Main Road, addressed the Council noting that**



**the ordinance will hurt his business and he is not selling to minors.**

**Mohammad Siddiqui, representing Newport Mart, 52 East Main Road, addressed the Council noting that the kids are purchasing vaping products for the internet. Mr. Siddiqui noted that the ordinance will not keep kids from purchasing vaping products from the internet, but will affect his business.**

**Carol Formica, 21 Mast Court, addressed the Council noting that smoking is the number one killer and can be prevented and 9 out of 10 try smoking prior to 18 years of age. Ms. Formica presented and reviewed a handout from the American Thoracic Society, entered here:**

**Councillor Lombardi inquired data for tobacco sales to youth compliance checks per year.**

**Middletown Prevention Coalition Coordinator Lori Verderosa,**

**responding to Councillor Lombardi, reviewed data regarding compliance checks from 2014 to 2017.**

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

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

**Vice President Rodrigues recused himself from acting on the following item of business #26, due to a possible conflict of interest.**

## **TOWN COUNCIL**

**26. Communication of Matt Ouellette for Joseph A. Bucci, P.E., State Highway Maintenance Operations Engineer, RI DOT, re: Physical Alternation Permit Application No. 170303; Location: Aquidneck**

**Avenue, Plat 164 at Prospect Avenue, Middletown.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to receive said communication and approve the submittal of the documentation required for the issuance of the Physical alteration Permit - Application No. 170303 – Location: Aquidneck Avenue, Plat 164 at Prospect Avenue.**

**27. Memorandum of Town Administrator, with enclosure, re: MEDAC's consideration TIF for Atlantic Beach District.**

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

**Items #28 and #29 were heard after item #5.**

**28. Memorandum of Councillor Lombardi, re: Middletown High Unified Volleyball Team – helping to purchase Championship Sweatshirts.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said memorandum and donate \$250.00 to the Middletown High School Unified Volleyball Team to defray the cost of purchasing Championship Sweatshirts to be appropriated from the President's Discretionary fund.**

**29. Memorandum of Councillor Lombardi, re: Middletown High School Girls Tennis Team – helping to purchase Championship Jackets.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said memorandum and donate \$250.00 to the Middletown High School Girls Tennis Team to defray the cost of purchasing Championship Jackets to be appropriated from the President's Discretionary fund.**

**Item #6 was heard at this time.**

**30. Communication of Councillor Santos, with enclosures, re: Dr. William R. Jones bequest to the Middletown Library.**

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

**Councillor Santos reviewed the communication above, noting that the extent of the bequest is beyond the expertise of the Citizens Memorial Committee.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to forward this item to the Town Solicitor for review and recommendation.**

**31. Communication of Councillor Turano, re: Discuss the robbery/break in at Sachuest Beach this summer 2017.**

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

**Councillor Turano noted that he has had several inquiries regarding the break in at Sachuest Beach.**

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

**Mr. Brown noted that the investigation is still open.**

**Councillor Santos noted we live in a small community and maybe someone would come forward with information if there was a reward.**

**On motion of Councillor Santos, duly seconded, it was voted unanimously to offer a \$1,000 reward for the apprehension and conviction of the person or persons, who took the money and safe from Second Beach.**

**32. Communication of Councillor Turano, re: Discuss CIP Program and projects approved prior to 2018.**

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

**Councillor Turano noted that the last couple of the months many CIP projects have come forward.**

**The Council was presented a memorandum reporting on CIP program projects, which is on file in the Office of the Town Clerk.**

**Discussion centered around 2016 projects that have not begun, but the projects are still going to happen, interest is gained on the monies not utilized at this time, the funds are in a few banks-short term portfolio, short term CD's, under a year, the Council would have to decommission the money to remove from the CIP, CIP items are necessary to the Town and all require approval by the Town Council.**

## **BOARDS AND COMMITTEES**

**33. Memorandum of Paul A. Croce, Chairman Planning Board, with enclosures, re: Proposed revisions to section 703.6 Rules and Regulations Regarding the Subdivision and Development of Land regarding subdivision maintenance bonds.**

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



**Town Solicitor Peter B. Regan noted that the recommendation from the Planning Board gives the Town Council flexibility.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to approve the amendment to section 703.6 Rules and Regulations Regarding the Subdivision and Development of Land regarding subdivision maintenance bonds.**

**Councillor Lombardi recused himself from acting on the following item of business #34, due to a possible conflict of interest.**

**34. Appointment of one (1) member to the Planning Board, to complete a term expiring February 2019.**

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

**unanimously to appoint Arthur S. Weber, Jr to the Planning board to complete a term expiring February 2019.**

**35. At the request of Council President Sylvia, re: Appointment of three (3) Town Council members to the Budget Subcommittee. (No documentation)**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to appoint Council President Sylvia, Vice President Rodrigues and Councillor Turano to the Budget Subcommittee.**

**36. Memorandum of Council President Sylvia, re: Appointment of Assistant Town Solicitor.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to continue this item to the January 16, 2018, Regular Meeting of the Council.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to adjourn said meeting at 8:54 P.M.**

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

**Council Clerk**