

**At a Regular Meeting of the Town Council of the Town of Middletown, RI held at the Middletown Town Hall, 350 East Main Road, Middletown, RI on Monday, March 19, 2018 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. Charter Amendments Discussion**

##### **1. Review of Proposed Amendments to the Town Charter.**

On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to begin said Review of Proposed Amendments to the Town Charter.

Charter Commission Vice Chair Arthur Weber, 145 Island Drive, addressed the Council noting the Commission members were a good group. The committee took input from the Town Department Heads.

Council President Sylvia thanked the Committee members and noted the timeline for the Charter Amendments.

**Bill O'Connell, School Committee Member, 18 Continental Drive, addressed the Council noting concerns with adding additional members to the School Committee, term limits for the School Committee and that a Clerk is not needed for the School Committee.**

**Council President Sylvia, concerning term limits, noted that there is not an overabundance of people running for office in the Town. Mr. Sylvia explained the importance of knowledge and history of the Town for those in elected positions.**

**Vice President Rodrigues noted agreement with the Council President explaining change is good, but history is important.**

**Councillor Viveiros explained that term limits are already in place; it is called an election.**

**Theresa Spengler, 1111 Wapping Road, addressed the Council noting that the Council should be on a four year staggered term. Ms. Spengler explained that if positions were not filled, individuals would be appointed to the positions and that would not be the voter's choice.**

**Discussion centered around the Town Council appointing School Committee Member vacancies, which is state law, the learning curve of new members on the Town Council and School Committee,**

**non-partisan elections and the mailer sent out by the Town Administration regarding ballot questions.**

**Councillor Viveiros presented and the following list of items, which he requests to be considered for the Town Charter.**

**Councillor VonVillas commented that the list of suggested Charter changes submitted by Councillor Viveiros are items regarding ordinances and policies.**

**Councillor Santos noted that resolutions should show everything a project calls for.**

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

**Richard Adams, 240 Island Drive, addressed the Council noting the Charter Commission reviewed each Charter section, a lot of time was spent discussing charter verses ordinance items.**

**Councillor Lombardi noted that running for election and being on a committee is time consuming.**

**Councillor VonVillas noted the expense of running for office and that people do not come to meetings unless they are directly affected by an issue.**

**Discussion centered around it takes a special person to run for office, the Town population is decreasing and the charter can be amended at any point and time by the voters.**

**Council President Sylvia noted that he is looking into the Town Administrator being elected and Town Department Heads being interviewed and appointed by the Town Council.**

**Discussion centered around separating the Tax Collector and Human Resource Director from the Finance Director and the recommendation for appointing the Police Chief reducing the years of service from 10 to 5 years' experience.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess this meeting at 6:30 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 P.M. REGULAR MEETING**

**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.**

## **TOWN BUSINESS UPDATES**

**3. Communication of Vice President Rodrigues and Councillor Turano, re: Update on the Work Order System.**

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

**Town Administrator Shawn Brown review the following:**

**Discussion centered around that system being integrated with the general ledger, which will happen in the future and scheduling preventative maintenance.**

**4. Communication of Vice President Rodrigues and Councillor Turano, re: Update on the Storm Water Filter Systems.**

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

**Councillor Turano inquired if there is a maintenance schedule for the Storm Water Filter Systems.**

**Public Works Director Tom O'Loughlin addressed the Council noting that currently there is a maintenance agreement with the vendor and once the agreement ends the information will be loaded into the Mobile 311 application for maintenance. Mr. O'Loughlin reviewed the following:**

**Discussion centered around the storm water filter systems throughout the Town, plantings around the storm water systems, the flow through the storm water filter systems, inspection of the systems before and after each storm and the bee hive filter caps.**

## **CONSENT**

**5. Approval of Minutes, re: Regular Meeting, March 5, 2018.**

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

**6. Resolution of the City of Warwick, re: Supporting Removal of the Sunset Provision In The Residential Mortgage Foreclosure Mediation Program.**

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

**7. Resolution of the Town of Gloucester, re: In Support of House Bill #7511 & Senate Bill #2419 Relating to the Implementation of In Person Early Voting.**

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

**8. Resolution of the Smithfield School Committee, re: Supporting School construction General Obligation Referendum.**

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

## **OTHER COMMUNICATIONS**

**9. Communication of MHS Senior and Junior Post Prom Committee, re: Requesting support for Senior and Junior Post Prom activities.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said communication; approve \$200.00 for the Senior Post Prom activities and \$200.00 for the Junior Post Prom activities to be appropriated from the Council President's Discretionary Fund.**



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

**10. Communication of Pat LeBeau, Forest Avenue School Clerk and Cam Ventura, Forest Avenue School Nurse, re: Requesting donation for T-Shirts for Forest Avenue School Students celebrating “Proud To Be An American Day”.**

**On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication and approve \$1,000.00 for T-Shirts for Forest Avenue School Students celebrating “Proud To Be An American Day” to be appropriated from the Council President’s Discretionary Fund.**

**Pat Lebeau and Cam Ventura, representing Forest Avenue School, addressed the Council explaining the celebration involves all the students and thanked the Council for the donation.**

**11. Communication of Cheryl G. Robinson, President of Turning Around Ministries, Inc., re: Request for support by placing an ad in the Souvenir Book or making a contribution to TAM.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to receive said communication and place a ½ page ad in the TAM Souvenir Booklet (\$65.00) to be appropriated from the Council President’s Discretionary Fund.**

## **ORDINANCES**

### **12. 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 X, General Regulations, Chapter 36 Fee Schedule, Section D Parks and Recreation, 2 Campground Fees.**

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

**Lorraine Starr, Worcester, MA, addressed the Council requesting them to form an exploratory committee to review the Campground, including the fees. Ms. Starr is asking for a more democratic process.**

**Councillor VonVillas noted she was unable to support the increase at the Campground without financial data showing the need for the increase.**

**Councillor Turano noted 2018 is the year of the Senior Citizens. Mr. Turano explained if seniors and young families cannot afford to go down to the beach, please contact him to see what can be done.**

### **13. 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, Chapter 94 Streets, Sidewalks and Public Places, Section 94.32 Other Prohibitions and Restrictions.**

**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 (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title XV Land Use, Chapter 150 Development Impact Fees. (Planning Board recommendation received)**

**Councillor Santos inquired how new construction in the Town is taxed?**

**Tax Assessor George Durgin, responding to Councillor Santos, explained that new construction is pro-rated; the land is assessed as of December 31st and the home is assessed once complete.**

**Town Solicitor Peter B. Regan noted that the home assessment occurs once the certificate of occupancy is issued.**

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

## **15. Public Hearing (Advertised)**

**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 – Section 707 Setback From Wetlands or Rivers. (Planning Board recommendation received) – See attached ordinance.**

**Public Hearing Remains Open.**

**Roby Faria, 9 Cardoza Terrace, addressed the Council noting concern with the elimination of the ordinance. Ms. Faria presented the Council with a handout, entered here:**

**Vice President Rodrigues noted that he does not like DEM and the State regulating the Town. Mr. Rodrigues noted all areas in the State are not the same.**

**Town Solicitor Peter B. Regan explained that the regulation by the State must be followed, the Town is prohibited from applying a different standard. Mr. Regan noted the State is moving towards uniformity across the State.**

**Discussion centered around if the ordinance is not adopted and an applicant is wrongfully denied it would create an issue for a lawsuit and that state law should not be violated.**

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

**On motion of Vice President Rodrigues, duly seconded, it was voted to adopt said ordinance on its second reading; Councillor Lombardi and Councillor VonVillas voted YES; Council President Sylvia, Vice President Rodrigues, Councillor Santos, Councillor Turano and Councillor Viveiros vote NO to said MOTION; MOTION FAILED TO PASS.**

#### **16. Public Hearing (Advertised)**

**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 – Article 4, Section 400 Definitions – Building Height - Freeboard. (Planning Board recommendation received) – See attached ordinance.**

**Public Hearing Remains Open.**

**Town Planner Ronald Wolanski addressed the Council noting that the ordinance is to comply with State law and can only be considered if the structure is in a flood zone, FEMA determines flood zones.**

**There being no other persons present desiring to be heard, public**

**hearing was declared closed.**

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

**17. Public Hearing (Advertised)**

**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 – Section 604 Conservation Development Dimensional Regulations. (Planning Board recommendation received) – See attached ordinance.**

**Public Hearing Remains Open.**

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

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

**TOWN COUNCIL**

**18. Communication of Councillor Lombardi, re: Senior Exemptions.**

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

**unanimously to receive said communication.**

**Councillor Lombardi read the above communication into the record.**

**Discussion centered around if a resident received senior exemptions and left the area becoming a resident in another state, then the exemption in Middletown would be removed; if the resident comes back to the Town, there is a five year wait before a senior exemption is reinstated on the tax bill; the Town Solicitor will review the senior exemption ordinance, the Council suggests a shorter waiting period to reinstatement of a senior exemption and the Town Council may have an item on the next docket to discuss a time for a public workshop.**

**19. Communication of Councillor Viveiros, with enclosure, re: Discuss the need for a Septic System Inspection ordinance.**

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

**Councillor Viveiros requested the Town Council revisiting the proposed Septic System Inspection ordinance.**

**Discussion centered around that the last time the Septic System Inspection ordinance was proposed an extra employee would be required to do the inspections, there was no support to hire an employee for the inspections, the residents were not in favor of the**

**ordinance, implementation of the ordinance would give residents the ability to apply for low interest funding if their septic systems need to be replaced and a state law is currently in place regarding septic system inspections.**

**20. At the request of Council President Sylvia, Resolution of the Council, re: Hotel Tax – RIGL 44-18-36.1.**

**Council President Sylvia noted that the proposal would bring in additional revenue for the Town.**

**Discussion centered around the Hotel Tax proposal, the City of Newport is aware of the proposal, the town delegation is aware and supports the proposal and that the costs will be passed on to the consumer.**

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

**21. At the request of Council President Sylvia, Resolution of the Council, re: Petitioning the General Assembly to amend RIGL 44-18-18.1 to authorize the Town by ordinance to access an additional one percent meal and beverage tax dedicated to support schools, school safety and capital improvements.**

**Discussion centered around that the cost of the proposal would be**



**passed on to the resident and tourists and that this proposal and the Hotel Tax proposal may require voter approval.**

**The Town Solicitor will research if voter approval is necessary to establish the Hotel Tax and Meal and Beverage Tax increases.**

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

**22. Memorandum of Town Administrator, with enclosure, re: Request for authority – Streetlights.**

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

**Town Administrator Shawn Brown reviewed the memorandum above.**

**Discussion centered around other communities around the state which are using the privatization of street lights and the potential savings to the Town.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to authorize the administration to further pursue the privatization of its streetlights with the assistance of National Grid and its consultant.**

**23. Memorandum of Town Administrator, with enclosure, re: Award of Contract – Parking Management Software.**

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

**Town Administrator Shawn Brown reviewed the memorandum above.**

**Discussion centered around that the software will be used for online sales of Second Beach stickers, Third Beach stickers, Merchandise, Recycling Stickers and some moorings stickers, the design of the beach stickers and a timeline for the implementation to be given to the Town Council at a later date.**

**24. Resolution of the Council, re: Award of Contract – Parking Management Software.**

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

**25. Memorandum of Town Administrator, with enclosures, re: Contract – Services – Facility Condition Assessment.**

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

**Town Administrator Shawn Brown reviewed the memorandum above.**

**Discussion centered around the Facility Condition Assessment would to create a report to assist the Town Council in their decisions, Berkeley Peckham School is not included in the report, Paradise School and Witherbee School will be included in the report and the contract includes qualified inspectors to assess the facilities.**

**26. Resolution of the Council, re: Contract – Services – Facility Condition Assessment.**

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

**27. Memorandum of Finance Director thru Town Administrator, with enclosures, re: §33A.034 Sole Source Procurement – Police Stamped Concrete and Bollards.**

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

**Town Administrator Shawn Brown reviewed the memorandum above.**

**Discussion centered around the proposal being constructed with granite for longevity purposes, the cost of the proposal and monies**

**spent this evening from the JFK fund.**

**28. Resolution of the Council, re: Award of Contract – Police Stamped Concrete and Bollards.**

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

## **BOARDS AND COMMITTEES**

**29. (Continued from March 5, 2018, Regular Meeting)**

**Appointment of two (2) members to the Planning Board, for terms expiring February 2021.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reappoint Paul A. Croce to the Planning Board for a term expiring February 2021.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to reappoint Betty Jane Northup-Owen to the Planning Board for a term expiring February 2021.**

## **EXECUTIVE SESSION**

**30. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (Police), (2)**

**Potential Litigation, (2) Potential Litigation and (5) Lease/MOU (West Main Road).**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 9:59 p.m.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 11:00 p.m.**

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to extend the lease with the Friends of the Library to June 30, 2019.**

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

**On motion of Vice President Rodrigues, duly seconded, it was voted unanimously to adjourn said meeting at 11:02 P.M.**

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

**Council Clerk**

**Supporting documentation is available at**

**<http://clerkshq.com/default.ashx?clientsite=Middletown-ri>**