

## **November 19, 2007 - Regular Town Council Meeting**

**At a Regular Meeting of the Town Council of the Town of Middletown, RI held at the Middletown Town Hall on Monday, November 19, 2007 at 7:00 P.M.**

**Council President Paul M. Rodrigues, Presiding**

**Vice Chair Shirley R. Mello**

**Councillor Barbara A. Barrow**

**Councillor Louis P. DiPalma**

**Councillor M. Theresa Santos**

**Councillor Edward J. Silveira, Jr.,**

**Councillor Robert J. Sylvia, Members Present**

**CONSENT CALENDAR**

**1. Approval of Minutes – Special Meeting, September 24, 2007.**

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

**2. Approval of Minutes – Regular Meeting, October 1, 2007.**

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

**3. Approval of Minutes – Regular Meeting, October 15, 2007.**

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

**4. Notice of Public Hearing received from Zoning Board of Review, Application of Atlantic Beach Suites, LLC, for a special use permit to allow a 40' x 48' one-story addition above the existing pool area on real estate located at 28 Aquidneck Avenue, TAP 116NW, Lot 59.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said notices.**

**5. Memorandum of Town Administrator, with enclosures, re: Eligibility Requirements – Fire Fighters.**

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

**6. Resolution of the Council, re: Approving change to Entry Level**

## **Eligibility Requirements – Fire Fighters.**

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

**7. Memorandum of Finance Director, with enclosures, re: Tax Collector's Report for period ending October 31, 2007.**

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

**8. Memorandum of Finance Director, with enclosures, re: GHGRI – June 30, 2007 Audit.**

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

**Councillor DiPalma noted the success of the GHGRI bringing monies back to all municipalities which participate.**

**Finance Director Shawn Brown reviewed his memo noting the savings received by all communities which participate in GHGRI.**

**9. Communication of Finance Director, with enclosures, re: Remaining balances on loans issued by RI Clean Water Finance Agency.**

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

**10. Communication of Hugo Key, II, Vice President, HK Equipment Corp., with enclosures, re: Claim for additional contract**

**compensation – Evelin Circle, Moy Court and Rogers Lane - Sidewalk Construction 2002.**

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

## **TOWN COUNCIL**

**1. Resolution of the Council, re: Commendation for Shepherd and Shepherd.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to pass said resolution read by Council President Rodrigues to Mike Shepherd and Ian Shepherd.**

**2. Memorandum of Fire Chief, re: Swearing in ceremony.**

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

**Fire Chief Stephen Martin introduced each firefighter; they were sworn in by the Town Clerk and pinned by family members.**

**Fire Chief Stephen Martin introduced John Pinto promoted to Lieutenant who was sworn in by the Town Clerk and pinned by a family member.**

**Fire Chief Stephen Martin introduced Paul Manning promoted to Captain who was sworn in by the Town Clerk and pinned by a family member.**

**Five minute recess**

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

#### **An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152, Zoning Code, Article 3, Administration, Enforcement, and Procedures, Sections 310, Development Impact Review and 310A, Application, and Article 6, Application of District Regulations, Sections 602, Schedule of District Regulations – Uses and Districts, and 603, District Dimensional Regulations.**

**Public Hearing was declared open.**

**Town Planner Ronald Wolanski addressed the Council reviewing the proposed amendments to the Zoning Code noting that Section 602 inserts an area for Wind Turbines, which currently is not in the ordinance, the amendments in Section 603 is to correct typographical errors within the table.**

**Council President Rodrigues and Vice Chair Mello noted concern with the placement of wind turbines in residential areas.**

**On motion Vice Chair Mello, duly seconded, it was voted unanimously to receive said ordinance on its first reading and to continue the public hearing to December 3, 2007 regular meeting of the Council.**

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

##### **An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code, Chapter 152 Zoning Code, Article 6, Application of District Regulations, Section 602, Schedule of District Regulations – Uses and Districts, and Article 17A, Community Residences and Family Day Care Homes, Section 17A00 – Purpose, Section 17A01 – Requirements, and Section 17A02 – Exemptions. (Needs Planning Board Recommendation)**

**Public Hearing was declared open.**

**Town Planner Ronald Wolanski noted there have been some procedure issues concerning this ordinance and the Planning Board will be meeting on December 3, 2007 to revisit this issue. Mr. Wolanski will supply the Council with a new recommendation prior to the second reading of this amendment.**

**Town Solicitor Francis Holbrook noted he has reviewed the ordinance and the process. There is no special use permit required. The ordinance does not violate state law the ordinance does not exclude Community Residences and Family Day Care Homes it only regulates them.**

**Brian Bardoff, Esquire, 36 Washington Square, Newport, represents Child and Family Services. Mr. Bardoff noted that the ordinance in an attempt to regulate is ill advised. The ordinance states permitted uses and he believes it should say as a matter of right. He requests the Council to seek clarification from the General Assembly to provide guidance in this matter.**

**Ray Alexander, 6 Coggeshall Circle, addressed the Council noting he believes the Council, Planning Board and Solicitor have done their homework. The main issue here is notice to the abutters. Mr. Alexander supports this ordinance.**

**William Francis Murphy, 4 Coggeshall Circle, expressed concern with the abutter notification process and requests the Council to pass said ordinance.**

**Susan Murphy, 4 Coggeshall Circle, noted her home is directly across the street from where they were going to put a group home. Ms. Murphy is concerned with the length of time before the agency met with the neighbors to advise them of the group home. She believes if there was a process in place the situation could have been better.**

**Jessica Daly, 25 Coggeshall Way, agrees with Mrs. Murphy noting if there was an ordinance where they could get questions answered it would be better.**

**Mitch Turner, 2 Coggeshall Circle, addressed the Council noting he believes this is fair and supports said ordinance.**

**Jay Miranda, 3 Coggeshall Circle, expressed concern of a Group Home being a business in a quiet residential neighborhood. He finds this ordinance highly suitable for Middletown.**

**Council President Rodrigues noted our residents are looking for a process and this ordinance allows the residents to give their say. The Town is not intending to discriminate; it is to give our residents the opportunity to speak.**

**Councillor DiPalma noted all ordinances may be amended. He believes this a good ordinance.**

**Elizabeth Ivy, 1 Coggeshall Circle, noted concern with a fair process to be followed and supports the ordinance.**

**Councillor Barrow noted the ordinance is not exclusionary but does allow concerns to be brought forward.**

**Councillor Sylvia noted the importance of resident's voices to be heard.**

**On motion Vice Chair Mello, duly seconded, it was voted unanimously to receive said ordinance on its first reading and to continue the public hearing to December 3, 2007 regular meeting of the Council.**

**5. Memorandum of Town Planner, with enclosures, re: 2007 RIDEM Recreation Acquisition & Development Grants (Historic & Passive)**

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

**6. Resolution of the Council, re: Approving 2007 RIDEM Recreation Acquisition & Development Grants (Historic & Passive).**

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

**7. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 50, Garbage and Refuse, as amended.**

**Council concern was pertaining to insurance by haulers and penalties for trash tossed on the road side.**

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

**8. Memorandum of Town Administrator, with enclosures, re: GMH Property Adjacent to the Kennedy School - Phase I Environmental Assessment – Lot A of “The Landings Site”.**

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

**Town Administrator Gerald Kempen noted the request for Phase I by the Council is complete. The area is for recreation or school use. The report indicates that there are lead and arsenic issues on this property.**

**Patrick Dowling, Project Manager, Fuss & O’Neil, reviewed the Phase I**

**Assessment noting it is mainly research and inspections no sub search investigations. There is no evidence that sampling has been done on this area in the past. There is a wide spread of lead and arsenic in this area. Historically the area was used for agriculture use. The entire anchorage property is identified as a national environmental site.**

**Town Administrator Gerald Kempen recommends proceeding with Phase II Environmental Assessment for this property.**

**Council requests a resolution pertaining to this property.**

**On motion of Councillor Sylvia, duly seconded, it was voted unanimously to proceed with Phase II.**

**9. Memorandum of Police Chief, with enclosures, re: Requesting the Town to accept DOT's proposal – Signals for JFK School.**

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

**Lieutenant Robert Nutt addressed the Council urging them to accept the proposal of the DOT pertaining to the installation of two “driver feedback” signals.**

**Officer Mark Minnella presented a Memorandum to the Council entered here:**

**On motion of Councillor Sylvia, duly seconded, it was voted unanimously to accept the recommendation.**

**10. Communication of Candace L. Seaman, BSN, re: Request to discuss the process pertaining to a vicious dog hearing.**

**Candace Seaman, 125 Esplanade, addressed the Council explained the dog attack and then the vicious dog hearing. Ms. Seaman noted Dog Officer Joseph Nunes gave her all the information in a timely fashion and a hearing took place here in the Town Council chambers. She expressed concern with the vicious dog hearing process and the safety of the community.**

**Town Solicitor Francis Holbrook noted he has reviewed the process which is set up by state law. He suggests the Council to mention to State Legislators at the December 10, 2007 special meeting of the Council.**

**Dog Officer Joseph Nunes noted that the dog has left Middletown and is now in Massachusetts. The owners of the dog will notify the Middletown police if the dog is brought back to the town.**

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

**11. Memorandum of Finance Director, with enclosures, re: Purchase of Vehicle for Building Inspectors Department.**

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

**12. Continued from November 5, 2007**

**Memorandum of Town Administrator, with enclosures, re: Request for replacement of second vehicle for the Building Department.**

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

**13. Continued from November 5, 2007**

**Resolution of the Council, re: Approving replacement of Building Official vehicles.**

**Vice Chair Mello does not support the purchase of a new vehicle.**

**Councillors DiPalma and Sylvia support a new vehicle.**

**Town Administrator Gerald Kempen noted at this time there are no available cars at the police department. Council approved in the budget process a new vehicle for the Building Officials and a new vehicle for the Recycling Coordinator; however, the Recycling Coordinator did not have to purchase a vehicle because one was received from another source.**

**On motion of Vice Chair Mello, duly seconded, it was voted to pass said resolution, Councillors DiPalma, Silveira and Sylvia voted YES to said motion; Council President Rodrigues, Vice Chair Mello, Councillors Barrow and Santos vote NO; motion failed to pass.**

**On motion of Vice Chair Mello, duly seconded, it was voted to repair the current vehicle, Council President Rodrigues, Vice Chair Mello, Councillors Barrow and Santos voted YES to said motion; Councillors DiPalma, Silveira and Sylvia voted NO.**

**14. Memorandum of Town Administrator, with enclosures, re: Gateway Hotel property.**

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

**Brian Bardoff, Esquire, 36 Washington Square, representing both the**

**buyer and seller of the property noted until recently there has never been a detailed survey of this property. The current buyer was required to have a survey of the property and that is when this issue was discovered.**

**15. Resolution of the Council, with enclosures, re: Gateway Hotel property.**

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

**16. Memorandum of Councillor DiPalma, with enclosures, re: Project Status – Communication.**

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

**On motion of Councillor DiPalma, duly seconded, it was voted unanimously to move forward with a monthly report of all Town projects that the Town is expending monies for.**

**17. Appointment of two (2) members to the Open Space and Fields Committee for a term expiring November 2009.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint John Pinto and Mason Hawes to said board for a term expiring in November 2009.**

**18. Election Ballot from United States Department of Agriculture, re: Appointment of one (1) member to the Farm Service Agency Committee.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to vote for Victor Hoogendorn to be appointed to said**

**board and to authorize the Town Clerk to submit the election ballot.**

## **PUBLIC FORUM SESSION**

**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.**

**No one addressed the Council during this session.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to adjourn this meeting at 9:46 P.M.**

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

**Council Clerk**