

## **March 3, 2008 - 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, March 3, 2008 at 7:05 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 Robert J. Sylvia, Members Present**

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

## **CONSENT CALENDAR**

- 1. Approval of Minutes – Regular Meeting, February 19, 2008.**

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

- 2. Memorandum of Interim Town Administrator, with enclosures, re: Middletown's Pay As You Throw Program.**

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

- 3. Communication of Corey A. Huck, Detective, Newport Police**

**Department, re: Aquidneck Island National Police Parade, Sunday, May 4, 2008.**

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

**4. Memoranda, communications and/or resolutions from the following communities seeking support or opposition for the following:**

**A. Town of Burrillville**

**1. Senate Bill 2008 – S2037 – An Act Relating to Public Utilities – Excavation Near Underground Utility Facilities – Costs**

**2. Senate Bills 2008-S2080 and S2086 and House Bills 2008-H7058 and H7067- Relating to Motor Vehicle – Mobile Telephone Use**

- 3. Legislation that would amend RIGL 16-7-44. School housing project costs**
- 4. Implementation of 46-19 – Inspection of Dams and Reservoirs**
- 5. Amendments to 9-31-3. - Limitation of damages – Cities, towns and fire districts**
- 6. House Bill H-7042 – School Bus Districts**
- 7. House Bill H-7043 – Extraordinary Services Reimbursement**
- 8. House Bill H-7160 – Residence of Children**
- 9. House Bill H-7261 – School Bus Districts**
- 10. Senate Bill S-2102 – Eligibility for Attendance**
- 11. Senate Bill S-2103 – Athletic Directors – Full-time**
- 12. Senate Bill S-2107 – Extraordinary Services Reimbursement**

## **B. Town of Warren**

## **1. Global Warming**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memoranda, communications and/or resolutions.**

## **TOWN COUNCIL**

**1. Memorandum of Interim Town Administrator, with enclosures, re: Award of contract for Engineering Services – Development Plan Review.**

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

**2. Resolution of the Council, re: Award of contract for Engineering Services – Development Plan Review.**

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

**3. Communication of Gregory F. Fater, Esquire, re: Ocean View Drive Neighborhood & Aquidneck Office Park.**

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

**Attorney Gregory Fater representing the owners/taxpayers of the Ocean View Neighborhood addressed the Council reviewing the history of the Aquidneck Office Park area as governed by the Zoning Board of Review. Mr. Fater requests the Council to refer this matter to the Planning Board for review.**

**4. Memorandum of Interim Town Administrator, with enclosures, re: Ocean View Drive Neighborhood & Aquidneck Office Park.**

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

**5. Memorandum of Councillor Barrow, re: Aquidneck Office Park/Ocean View Drive Residents.**

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

**David Martland, represents Jean Goldstein, 28 Jacome Way, Plat 115 Lot 32, requests the Council to refer this matter to the Planning Board.**

**Councillor Barrow hopes there is a way to strike a balance between the residents and the Aquidneck Office Park and requests this matter be referred to the Planning Board for review and recommendation.**

**Dave Dittman, President of Neighborhood Association, addressed the Council noting due process does work in Middletown. Mr. Dittman noted the residents' support of Councillor Barrow's letter.**

**Mark P. Puleo, 19 Oceanview Drive, appreciates the due process the Town is allowing in this case Mr. Puleo noted the Ocean View Residents would like a two (2) story – 30 feet zoning height.**

**Vice Chair Mello requests the Planning Board to consider the height of the land when setting the zoning heights.**

**Council President Rodrigues believes this matter should be referred**

**to the Planning Board.**

**On motion of Councillor Sylvia, duly seconded, it was voted unanimously to forward this matter to the Planning Board for review and recommendation.**

**6. Memorandum of Interim Town Administrator, with enclosures, re: Award of contract for New Police Facility.**

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

**7. Resolution of the Council, re: Award of contract for New Police Facility.**

**On motion of Vice Chair Mello, duly seconded, it was voted**

**unanimously to pass said resolution.**

**Chief Anthony Pesare noted they are very excited about building a new facility and supports the award of contract to E.W. Burman, Inc.**

**Antone Viveiros, 110 Indian Hill Road, questioned the monies being used for the facility.**

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

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 91A, Fire Alarm Users, as amended.**

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

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

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 114, Fortuneteller; Tattoos, as amended.**

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

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

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 36, Fee Schedule, Sections 36, 37 and 38, as amended.**

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

**11. Continued from February 19, 2008**

**Memorandum of Vice Chair Mello, re: Pump Stations.**

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

**Vice Chair Mello noted that the pump stations are not very attractive and wishes to make them greener and more appealing.**

**Acting Interim Town Administrator Lynne Dible stated the Pump Stations beautification is being addressed in the FY 09 budget.**

**Council President Rodrigues believes the Town should work with the Tree Commission on this project.**

**12. Continued from February 19, 2008**

**Memorandum of Vice Chair Mello, re: Paradise Avenue/Green End Avenue Situation.**

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

**Vice Chair Mello stated that Scott McLeish brought this issue to the Council in 2000. The intersection needs to be brought closer together, it's a major intersection and the area needs to be addressed for safety issues.**

**Acting Interim Town Administrator Lynne Dible noted this issue could be put in the CIP budget.**

**Antone Viveiros, 110 Indian Hill Road, addressed the Council noting he believes there are not many accidents yearly in that area and recommends the Council have stop signs and cross walks installed.**

**Council President Rodrigues requests up to date data for this area from the Police department.**

**13. Continued from February 19, 2008**

**Memorandum of Councillor DiPalma, with enclosures, re: Requesting support of Hotel Tax Reallocation.**

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

**14. Continued from February 19, 2008**

**Resolution of the Council, re: Supporting Hotel Tax Reallocation.**

**Councillor DiPalma reviewed his communication and noted the great job the Convention and Visitors Bureau does for the community. Mr. DiPalma recommends moving forward with his proposed resolution noting this is the right thing to do for taxpayers in Middletown.**

**Evan Smith, President & CEO of the Newport County Convention & Visitors Bureau, commends the three appointees from Middletown and introduced other members of the Committee. Mr. Smith read the prepared remarks entered here:**

**Leonard Pannagio, 232 Tuckerman Avenue, Resident, Taxpayer & Chairman of the Convention & Visitors Bureau, noted that he does not like taxes, however, this is a special tax for marketing and is an investment in our community. Mr. Pannagio requests the Council not to support this resolution.**

**Rocky Kempenaar, 153 Allston Avenue, addressed the Council noting the growth of the Hotel business within Middletown. Mr. Kempenaar requests the Council to oppose this resolution.**

**Antone Vivieros, 110 Indian Hill Road, questioning charts within Councillor DiPalma's communication.**

**Art Benner, 3 Namquid Drive, noted his support for this resolution.**

**David Martland, Esquire, Aquidneck Avenue, understands the idea behind this resolution, however, believes supporting the resolution may put a strain on the industry.**

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

**15. Report by Town Solicitor of documents utilized by Charter Review Committee. (NO DOCUMENTATION)**

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

**Town Solicitor Francis Holbrook reviewed the process followed by the Charter Review Committee. Mr. Holbrook recommends the Charter Review committee reconcile their findings with the correct document.**

**Liz Boyzan, 535 Indian Avenue, Charter Review Committee member, believes that Section 910 in the current Charter is not accurate.**

**Antone Viveiros, 110 Indian Hill Road, noted he has an old Charter from 1980, which he has reviewed. Mr. Viveiros also noted he does not believe section 910 was addressed in 2002.**

**On motion of Councillor DiPalma, duly seconded, it was voted unanimously to have the Town Solicitor contact the Charter Review Committee Chair and meet with the committee to review the charter amendments.**

**16. Communication of Antone C. Viveiros, 110 Indian Hill Road, Middletown, re: Charter Review Committee public meetings.**

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

**Antone Viveiros, 110 Indian Hill Road, expressed concern pertaining to the Charter Review Committee not holding a public meeting and not being able to speak at any regular meeting he attended.**

**17. Communication of Antone C. Viveiros, 110 Indian Hill Road, Middletown, re: Council procedure to present Charter Amendments to the electors of the Town.**

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

**Antone Viveiros, 110 Indian Hill Road, addressed the Council reviewing the procedure followed by the last Charter Review Committee. Mr. Viveiros also noted he does not believe the Council has the right to chose which revisions should go to the voters.**

**18. Communication of Frank Lawrence, 1581 West Main Road, Middletown, with enclosures, re: Illegal Immigration.**

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

**Frank Lawrence, 1581 West Main Road, addressed the Council**

**reviewing the following: -**

**19. Communication of Frank Lawrence, 1581 West Main Road, Middletown, re: Request the Council to place a question on the November ballot.**

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

**Town Solicitor Frank Holbrook noted that the issue is really a federal issue.**

**Antone Viveiros, 110 Indian Hill Road, noted his support for this question to be on the ballot.**

**20. Memorandum of Interim Town Administrator, with enclosures, re:**

**Police Pre-Employment/Employee Term of Service Agreement  
Committee.**

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

**21. Appointment of two (2) members to the Police Pre-Employment  
Term/Employee Term Service Agreement Committee.**

**On motion of Councillor Sylvia, duly seconded, it was voted  
unanimously to appoint Michael E. Allan and Lawrence B. Kestler to  
said board.**

**22. Memorandum of Town Planner, re: Appointment of two (2)  
Planning Board representatives to the Aquidneck Island Planning  
Commission.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum Jan Eckhart and appoint Arthur Webber to said board for a term expiring January 2009.**

**23. Memorandum of Town Planner, re: Appointment of one (1) Planning Board representative to the Middletown Tree Commission.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said memorandum and appoint Betty Jane Owen to said board for a term expiring January 2009.**

**24. Appointment of one (1) member to the Senior Citizens Center Board of Directors, to complete a term expiring January 2011.**

**Council President Rodrigues nominated Charles Ryan.**

**On motion of Councillor Santos, duly seconded, it was voted unanimously to appoint Alphonsa A. Cook to said board, to complete a term expiring January 2011.**

## **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.**

## **EXECUTIVE SESSION**

**Pursuant to provision of RIGL, Sections 42-46-2., 42-46-4 and 42-46-5 (a) (5) land acquisition and (2) potential litigation.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to recess this meeting at 10:00 P.M. to meet in executive session pursuant to docket item entered above.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reconvene this meeting in open session at 10:49 P.M.**

**On motion of Vice Chair Mello, duly seconded, it was voted to settle the tax case as per Assistant Solicitor Turner Scott's recommendation; Council President Rodrigues, Vice Chair Mello, Councillors Barrow, Santos and Sylvia voted YES; Councillor DiPalma voted NO.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to have Assistant Town Solicitor Turner Scott speak**

**with RIDEM on behalf of the Town concerning land.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to move forward with a Land Conservation easement.**

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to engage Attorney John Bulman to represent the Town as recommended by the Town Solicitor and in ninety (90) days receive a status report.**

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

**On motion of Vice Chair Mello, duly seconded, it was voted unanimously to adjourn this meeting at 11:00 P.M.**

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

**Council Clerk**