

April 21, 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, April 21, 2008 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

ACTING AS A BOARD OF LICENSE COMMISSION

1. Petition of Fred Bodington, Secretary, Middletown Fraternal Order of Police Lodge #21, 464 Mitchell's Lane, and John Kempenaar, President, Middletown FOPA, re: Request for expansion of FOP Class D Alcoholic Beverage License to provide outdoor service on May 4, 2008, Police Parade Day.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said request.

CONSENT CALENDAR

1. Approval of Minutes – Special Meeting, April 7, 2008.

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

2. Approval of Minutes – Regular Meeting, April 7, 2008.

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

3. Notice of Public Hearing received from Zoning Board of Review, Application of Assigns of John Clarke, Owner, Newport County Regional YMCA, Applicant, for a variance from sections 603 – 704-B to allow construction of an accessory use, namely an Outdoor Leadership Center, on real estate located at 792 Valley Road, TAP 115, Lot 1.

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

4. Communication of Susan Parker Bodine, Assistant Administrator, United States Environmental Protection Agency, re: Confirmation the

EPA will pursue negotiations to award a cooperative agreement for a cleanup grant.

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

5. Resolution from the City of Newport, re: City of Newport will no longer use any toxic poisons in the mosquito abatement program.

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

6. Application of Cellco Partnership dba Verizon Wireless, 173 East Main Road, for RENEWAL of Holiday License for the 2008-2009 licensing year.

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

7. Application of Ryan P. McCormick, 969 West Main Road, for RENEWAL of Private Detective License for the 2008-2009 licensing year.

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

8. Applications received from the following named firms and corporations for RENEWAL of Peddlers' Licenses for the 2008-2009 licensing year. (See attached list)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said licenses.

9. Applications received from the following named firms and corporations for RENEWAL of Hawkers' Licenses for the 2008-2009 licensing year. (See attached list)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said licenses.

10. Application of Aquidneck Island Police Parade Committee for RENEWAL of Peddlers License (Novelties and T-Shirts) for Police Parade Day, May 4, 2008 including a request to waive license fee. (6 Vendors; Middletown Only)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said licenses.

11. Application of Kevin Skelly dba K & S Novelty, Providence, for RENEWAL of Peddlers License (Balloons and Novelties) for the May

4, 2008 Police Parade. (5 Vendors)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said licenses.

TOWN COUNCIL

1. Public Hearing (Advertised; Abutters Notified)

An Amendment to the Town's Comprehensive Community Plan (First Reading)

Amendment to Town's Comprehensive Community Plan, Future Land Use Plan (Figure 7), two parcels fronting on Defense Highway (aka Burma Road) and Greene Lane proposing to designate as High-Density Residential, TAP 104, Lot 1 and designate as Conservation, Recreation and Open Space a portion of TAP 102, Lot 1.

Public Hearing was declared open.

Town Planner Ronald Wolanski addressed the Council noting the attempt to implement the master plan. The Planning Board now recommends to redesignate U.S. Navy property along and fronting on Defense Highway (aka Burma Rd. and Greene Lane, Plat 104, Lot 2 & a portion of Plat 102, Lot 1, Proposal for changes in designation on the Future Land Use Plan. The proposed amendments to the Town's Comprehensive Plan will help to ensure that future development is consistent with what the town wishes. This is a redesignation not rezoning.

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

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

2. Communication of Councillor Barrow, re: Request on status of Ordinance Amending Section 602 Zoning Code – wind turbines.

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

Councillor Barrow noted that this request was referred to the Planning Board in December 2007 and is looking for the current status.

Town Planner Ronald Wolanski noted that the Planning Board is working on this request. Currently, the Town Solicitor has reviewed the current ordinance and the board is now setting up a meeting with experts on this subject. It is expected that sometime early summer the Planning Board will submit their recommendation to the Council.

Councillor Silveira recused himself from acting on the next item of business, due to a possible conflict of interest.

3. Application of Roger Cyr dba Dawg House, 250 West Main Road, for a Hawkers License (Hot Dogs) for the May 4, 2008 Police Parade. (NEW)

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

4. Application of Gamestop, Inc. #5581, 288 East Main Road, for a Holiday License for the 2008-2009 licensing year. (NEW)

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

5. Communication of Ray Briganti, 4 Jude Street, re: Recognition of Public Works Director and staff for jobs well done. (Request for

Council President to read letter at meeting)

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

Communication was read to all by Council President Rodrigues.

6. Memorandum of Interim Town Administrator, with enclosures, re: Emergency Bid Award – Second Beach Building Deck Renovation.

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

Correspondence, Bid Documents and Bid Tabulation referenced in the above mention memorandum are on file in the Office of the Town Clerk.

Interim Town Administrator Shawn Brown explained that this is one of a number of projects currently being addressed at the beach. This project was done on an emergency basis to allow the project to be completed by Memorial Day. This is the last project that needs to be done to be successful for the beach season.

Councillor Silveira requests in the future we have a better plan to avoid these emergency projects.

Ron Santa, 277 Turner Road, addressed the Council noting that he appreciates that this is on the regular docket, however, he objects to this project being done on an emergency basis.

Antone Viveiros, 110 Indian Hill Road, wants to thank Council that this was put on the regular docket and not on the consent. Mr. Viveiros requests the price of a project to be placed on the agenda.

7. Memorandum of Interim Town Administrator, with enclosures, re: Requesting support of House Bill 8109 – An Act Relating to Cities and Towns - OPEB Trusts.

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

8. Resolution of the Council, re: Support of House Bill 8109 – An Act Relating to Cities and Towns – OPEB Trusts.

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

Interim Town Administrator Shawn Brown noted that this legislation allows the Town to invest the monies. Any revenues must return to this account.

9. Communication of Councillor DiPalma, re: Request to adopt a Commercial Recycling Ordinance.

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

Councillor DiPalma noted the useful life of the Johnston landfill. Mr.DiPalma recommends the Solicitor or Planning Board to review the best way to move forward with the creation of a Commercial Recycling Ordinance.

On motion of Councillor DiPalma, duly seconded, it was voted unanimously to request the Solicitor to review and create a Commercial Recycling Ordinance.

Antone Viveiros, 110 Indian Hill Road, requested clarification on Commercial Recycling and if the ordinance will be the same as the resident's ordinance.

10. Communication of Councillor Sylvia, re: Pay As You Throw Program.

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

Councillor Sylvia noted that after his submission of the above mentioned memorandum, he is not going to make a motion tonight to increase the price of the bags. Residents should not be penalized by this program. The Council does need to address this problem. The nature of this program is to reduce trash, less trash equals less bags. Presently, this program cannot support itself at the current bag price. Mr. Sylvia requests the Town to return all unused carts that are presently housed at Linden School. The more proficient the residents are in recycling the less bags will be used.

Councillor Santos noted that seniors do not generate much trash and do recycle.

Interim Town Administrator Shawn Brown noted that the primary cost is the contract with Waste Management. The bag rate is set by the Council. The shortfall is what needs to be addressed.

Councillor Silveira is concerned that we have a user base program. Currently, this has been a tremendous success. We need the people to work with us to utilize the program. He is not in favor of raising the bag price.

Councillor DiPalma noted that something needs to be done. The program is successful however, if Commercial recycling is implemented it may be able to off set the cost.

Vice Chair Mello does not support raising the bag price. Vice Chair Mello noted that more data is needed and this situation needs further review to find ways to make it succeed.

Councillor Barrow believes the Commercial impact should be looked at and does not support raising the price of the bags.

Council President Rodrigues noted he is not surprised that there is a short fall the first year. The Council receives status of the program monthly and does not support making this program mandatory. Mr. Rodrigues believes that the real challenge is to get more participation in the program.

Interim Town Administrator Shawn Brown explained the new refuse budget that was adopted was prepared on breaking even for the year.

Steven Burger, 31 Evergreen Avenue, agrees that the Council had to

do something with the dump closing. Mr. Burger also noted that the Town should charge a household if a second container is requested.

Jean McCormick, 52 Allston Avenue, is not happy that recycling cannot be picked up without trashing being picked up.

Antone Viveiros, 110 Indian Hill Road, thanked Councillor Sylvia for withdrawing his motion. Mr. Viveiros noted that the Town should return any spare totes on hand.

It was requested that Town Solicitor Francis Holbrook review the ordinance and amend it to include commercial areas.

It was requested that Interim Town Administrator Shawn Brown review how the Town could consider subsidizing the program. Mr. Brown is requested to review all aspects including advertising on the bags and 64 gallon bags to help with the short fall.

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 the provisions of RIGL, Sections 42-46-2., 42-46-4 and 42-46-5. (a) (2) litigation, (5) land acquisition and (1) personnel.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to recess this meeting at 8:40 P.M. and to reconvene in executive session.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reconvene this meeting in open session at 9:56 P.M.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to move forward with potential land acquisition.

On motion of Vice Chair Mello, duly seconded, it was voted to accept Interim Town Administrator Shawn Brown's recommendation concerning the Middletown Fire Chief; Council President Rodrigues voted NO to said motion.

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 9:58 P.M.

Wendy J.W. Marshall, CMC

Council Clerk