

May 19, 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, May 19, 2008 at 7:10 P.M.

Council President Paul M. Rodrigues, Presiding

Vice Chair Shirley R. Mello

Councillor Barbara A. Barrow, arrives at 8:15 P.M.

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

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

1. Application of K. Wang, Inc., d/b/a Sakura Steakhouse, 288 East Main Road, Middletown, for a Retailer's Class BV Alcoholic Beverage License for the 2007-2008 licensing year. (NEW; Requires advertising for public hearing and notice to abutters)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to advertise said license application for a public hearing to be held at the June 16, 2008 regular meeting of the board.

CONSENT CALENDAR

Councillor DiPalma requested that items #5 and #6 be heard under the rules of the Town Council portion of the docket.

1. Approval of Minutes – Special Meeting, May 1, 2008.

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

2. Approval of Minutes – Special Meeting, May 5, 2008.

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

3. Approval of Minutes – Regular Meeting, May 5, 2008.

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

4. Communication of Interim Town Administrator, with enclosures, re: Tax Collector's Report for period ending April 30, 2008.

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

5. Memorandum of Interim Town Administrator, with enclosures, re: S 2650 – Fair Share Education Funding Formula.

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

Councillor DiPalma reviewed the legislation noting he does not support this legislation.

Councillor Mello noted her concern with this legislation.

6. Resolution of the Council, re: Supporting S 2650 – Fair Share Education Funding Formula.

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

7. Resolution from the City of Providence, re: Providence City Council endorses and urge passage by the General Assembly for State Bill 2008-S 2706 and house Bill 2008-H7195, An Act Relating to Motor and Other Vehicles – Automated Traffic Violation Monitoring Systems.

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

8. E-mail communication from Town Clerk, Town of North Kingstown, with enclosures, re: Requesting support for USS Saratoga resolution.

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

9. Resolution of the Council, re: Supporting Senate Bill 2008 - S-2959 – an Act Relating to Taxation – Municipal Debt Collection.

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

10. Petition of Narragansett Electric/National Grid Electric Company for Ductline Installation on Williams Drive. (Roads & Utilities

recommendation included)

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

11. Application of Blue Plate Diner, Inc. d/b/a Blue Plate Diner, 665 West Main Road, for Victualling House License – Additional Hours of Operation – for the 2007-2008 licensing year. (NEW) (Requires Advertising for Public Hearing)

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

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said application, advertise same for a public hearing to be held at the June 16, 2008 regular meeting of the Council.

12. Application of Jose F. Andrade d/b/a Andrade's Catering, Warren, for RENEWAL of Industrial Caterers License (Mobile Food Service Unit) for the 2008-2009 licensing year.

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

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

TOWN COUNCIL

1. Applications three (3) Special Events Permits received from the Norman Bird Sanctuary, 583 Third Beach Road for 1) Annual 5K – June 14, 2008, beginning at 8:00 A.M. 2) 34th Annual Harvest Fair – October 4th and 5th beginning at 10:00 A.M. 3) Annual Bird Ball Gala – August 16th beginning at 6:00 P.M.

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

Councillor Silveira disqualified himself from acting on the following items #2, #3 and #4 of business, due to a possible conflict of interest.

2. Communication of Recreation Director, with enclosures, re: Longade Proposal Changes (Second Beach Mobile Concession Contract).

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

3. Resolution of the Council, re: Amendments to Second Beach Mobile Concession Contract - Longade Changes.

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

4. Application of Ed Suggs and Charles McGeown d/b/a King of Cotton Candy, Middletown, for a Hawkers 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 Town Planner, with enclosures, re: Proposed Comprehensive Plan amendments – Implementation of elements of the West Side Master Plan. (Requires advertising for Public Hearing)

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

unanimously to receive said memorandum, to advertise said proposed amendment for a public hearing to be held at the June 16, 2008 regular meeting of the Council.

6. Public Hearing (Advertised)

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152, Zoning Code, Article 1 - Purpose, Article 4 - Definitions, Article 6 – Application of District Regulations, Article 7 – Supplementary Regulations, Article 15 – Multi-family Dwellings, Article 19 – Conservation Development, to implement Conservation Development.

Public Hearing was declared open.

Town Planner Ron Wolanski addressed the Council noting this is an alternative to cluster development, which benefits both the Town and the developer.

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

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

7. Approval of proposed amendments to the Rules and Regulations regarding Subdivision and Development of Land.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to approve said Rules and Regulations regarding the Subdivision and Development of Land.

8. (Continued from regular meeting May 5, 2008; Public Hearing remains open)

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 6 – Application of District Regulations, Section 602, Schedule of District Regulations – Uses and Districts.

Public Hearing remains open.

Town Planner Ronald Wolanski noted this proposal was requested by the property owner who would like to board animals in conjunction with his Veterinarian Hospital. The amendment does not permit development of stand-alone boarding facilities beyond areas where this use is currently allowed.

David Martland, Esquire, 1100 Aquidneck Avenue, representing the petitioner, Dr. Civic, noted the primary use of this facility is a

Veterinarian Office. The office is in an OB district allowing for a veterinarian office however, not for boarding of animals. His client has no objection, if the Council places a condition of indoor only.

The Council expressed concern of barking dogs, and if the Veterinarian Office ceases to exist that the boarding of animals would cease to exist

Dr. Civic noted a kennel license is obtained through the state.

Rick Meffert, 115 Purgatory Road, addressed the Council noting his support of this change to the zoning code.

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

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

Item #11 was heard next.

Items # 9 and #10 were heard together.

9. Communication (May 13, 2008) of Town Planner, with enclosures, re: Proposed Public Road extension of Buck Road to Forest Avenue.

Town Planner Ron Wolanski reviewed the communication entered here:

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

Mr. Wolanski noted there was no formal notification to the public of a roadway through Forest avenue.

Information referenced in the above communication are on file in the Office of the Town Clerk.

10. Communication (May 7, 2008) of Planning Board Chair, with enclosures, re: Proposed Public Road extension of Buck Road to Forest Avenue.

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

Town Planner Ron Wolanski reviewed the above communication and Planning Board recommendation. Mr. Wolanski noted that there was a public participation night on this matter.

Robert Norbury, 18 Buck Road, expressed concern when exiting Buck Road onto West Main Road. He supports the roadway.

Roberta Duffy, 284 Forest Avenue, requests the Council not to make a decision tonight and to hold a special meeting to consider this issue.

Mary Norbury, 18 Buck Road, addressed the Council noting she has on lived Buck road for almost (7) seven years. This is a safety issue and supports the roadway.

Bruce Long, 9 Wood Road, agrees with all of the above noting both neighborhoods have safety concerns. Mr. Long requests the Council to give this issue its own night to allow all to talk. He supports the access road.

Councillor Mello noted this is a safety issue.

On motion of Vice Chair Mello, duly seconded, it was voted, unanimously that the proposed emergency access road connecting Buck Rd. to Forest Ave. be acquired and improved for use as a full-access public roadway, with the following recommendations 1) Paving of the new road should occur on or before June 2010 2) Consideration should be given to making the new section of roadway one-way out from Buck Road to Forest Avenue for public use, but available to two-way traffic in an emergency 3) Effort should be taken to study and improve traffic safety on Forest Ave., including review of the feasibility of stop sign at the airport entrance road, flashing lights at the school, speed bumps, and other traffic control and safety measures, and consider further investigation into the potential for future connection to Valley Road and Enterprise Drive.

The following item #11 was heard after item #8.

11. (Continued from regular meeting May 5, 2008) Communication of Alice May Curran, 429 Forest Avenue, re: Forest Avenue to Buck

Road proposed road.

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

Alice May Curran, 429 Forest Avenue, addressed the Council reviewing her communication entered here:

Mrs. Curran does not support the proposed roadway.

12. (Continued from regular meeting May 5, 2008)

Communication of Pat Heaney, Representative for RI Lobstermen's Association, with enclosures, re: Requesting to discuss the current mosquito abatement program.

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

13. Resolution of the Council, re: Mosquito abatement program.

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

14. (Continued from meeting of May 5, 2008) Communication of Antone C. Viveiros, 110 Indian Hill Road, with enclosures, re: Town Charter proposals and revisions.

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

Antone Vivieiros, 110 Indian Hill Road, requests the Council to allow

consideration of his proposed Charter amendments at the Special Meeting, Public Hearing scheduled for May 29th, 2008.

15. Communication of Antone Viveiros, 110 Indian Hill Road, re: Request to discuss new curbside trash collection system (PAYT).

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

Antone Viveiros, 110 Indian Hill Road, noted that the PAYT program has been running approximately seven months and believes the program must be in effect for one year to obtain good data. Mr. Viveiros thinks the Council should explore ways to advertise the program and give the public information.

ITEMS CONTINUED FROM MEETING OF MAY 5, 2008 NUMBERS 16 to 24

16. Memorandum of Interim Town Administrator, with enclosures, re: Police Retention Study Group.

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

17. Communication of Councillor DiPalma and Interim Town Administrator Shawn Brown, re: Strategic Plan Update – Steering Committee Formation Request.

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

Councillor DiPalma noted that this is an attempt to get the strategic plan to move forward again.

On motion of Councillor DiPalma, duly seconded, it was voted unanimously to establish a Strategic Plan Update Committees consisting of 3 Councillors and 4 department heads.

18. Communication of Interim Town Administrator, with enclosures, re: Request for contribution to the Aquidneck Island School/Municipal Study Group.

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

Aquidneck Island Study-Revenue & Expenditure Forecast and email from Dr. Charles Shoemaker referenced in the above mentioned communication is on file in the Office of the Town Clerk.

19. Resolution of the Council, re: Award of contribution to the

Aquidneck Island School/Municipal Study Group.

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

Interim Town Administrator Shawn Brown noted that the School department is also going to contribute \$2000.

20. Communication of Interim Town Administrator, with enclosures, re: Award of contract for Sachuest Beaches (2nd & 3rd) Shade Structures.

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

The proposal and recommendation from Tim Shaw, Recreation

Director referenced in the above mentioned communication is on file in the Office of the Town Clerk.

21. Resolution of the Council, re: Award of contract for Sachuest Beaches (2nd & 3rd) Shade Structures.

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

22. Memorandum of Interim Town Administrator, with enclosures, re: Open Space Bond.

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

Antone Viveiros, 110 Indian Hill Road, is pleased that the bond is only

open space, not open space and recreation. Mr. Viveiros believes that in the past the bonds were not specific enough.

23. Communication of Interim Town Administrator, with enclosures, re: Stormwater – Eastons Bay.

Interim Town Administrator Shawn Brown reviewed his communication and the meeting he attended with the City of Newport. The purpose of this letter is to provide a timeline.

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

The presentation by the City of Newport's consultant referenced in the above communication is on file in the Office of the Town Clerk.

24. Communication of Joyce Williams, Victoria Johnson, Alphonso Cook, Tournament Coordinators, Newport County NAACP, re: Request for support – NAACP Annual Golf Tournament.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said communication and to authorize a \$100. donation for sponsorship of a TEE, said donation to be appropriated from the Council President's Discretionary Fund.

25. Communication of Susan Craft, Post Prom Committee, re: Request for support of Middletown High School Senior Class post prom activities.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to receive said communication and to approve a \$200. appropriation to be charged to the Council President's Discretionary Fund.

26. Communication of Interim Town Administrator, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.

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

27. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

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

28. Communication of Councillor Sylvia, re: Full disclosure.

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

Town Solicitor Francis Holbrook noted that he researched this issue in terms of the proper procedural steps, the last motion on May 1ST, 2008, failed to pass. Tonight this is a motion on the same issue. Based on Council rules, Roberts rules and the Charter, there would have to be a motion of reconsideration be made.

Councillor Sylvia believes that this is a rescind, not reconsideration.

On motion of Council President Rodrigues, duly seconded, to allow reconsideration of the motion from May 1, 2008, if Mr. Kempen rescinds money to the Town, releases all his personnel records including his reviews and the response is to be in writing. Council President Rodrigues, Vice Chair Mello, Councillors Barrow and Santos voted YES to said motion; Councillors DiPalma, Silveira and Sylvia voted NO.

29. Appointment of one (1) member to the Personnel Review Board

for a term expiring in May 2011. (Bi-partisan Board)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to appoint Sally Bloomfield to said board for a term expiring May 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 the provisions of RIGL, Sections 42-46-2., 42-46-4 and 42-46-5. (a) (1) personnel and (2) potential litigation.

ADDENDUM TO TOWN COUNCIL AGENDA

POSTED – MAY 15, 2008

REGULAR MEETING – MAY 19, 2008

Executive Session Pursuant to provisions of RIGL, Sections 42-46-2.,42-46-4. and 42-46-5. (a) (5) RIGL, land acquisition.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to recess this meeting at 9:25 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 10:31 P.M.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to adopt the Town Administrator's contract as numerically revised.

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 10:32 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

Wendy J. W. Marshall, CMC

Council Clerk