

September 2, 2008 - Regular Town Council Meeting

Original meeting posted to be held at the Middletown Town Hall; however, due to a water break Town Hall was closed and meeting was relocated to the School Administration Building.

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the School Administration Building, Oliphant Lane, Middletown on Tuesday, September 2, 2008 at 7:00 P.M.

Council President Paul M. Rodrigues, Presiding

Councillor Barbara A. Barrow, Arrives at 7:10 PM

Councillor Louis P. DiPalma

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia, Members Present

Vice Chair Shirley R. Mello, Absent

ACTING AS A BOARD OF LICENSE COMMISSION

1. Application of Aquidneck Package Store, Inc., d/b/a Aquidneck Liquors holder of a Class A Alcoholic Beverage License for premises located at 15 East Main Road, Middletown, to TRANSFER (100% of stock) said license to David Champagne/Aquidneck Package Store, Inc. d/b/a Aquidneck Liquors, for use at the same premises. (Requires advertising for public hearing)

On motion of Councillor Santos, duly seconded, it was voted unanimously to advertise said license application for a public hearing to be held at the October 6, 2008 regular meeting of the board.

CONSENT CALENDAR

1. Approval of Minutes – Special Meeting, August 4, 2008 at 4:00 PM.

On motion of Councillor Santos, duly seconded, it was voted unanimously to approve said minutes.

2. Approval of Minutes – Special Meeting, August 4, 2008 at 5:30 PM.

On motion of Councillor Santos, duly seconded, it was voted unanimously to approve said minutes.

3. Approval of Minutes – Regular Meeting, August 4, 2008.

On motion of Councillor Santos, duly seconded, it was voted unanimously to approve said minutes.

4. Memorandum of Town Administrator, with enclosure, re: Linden School – Surplus Property.

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

5. Communication of Town Administrator, with enclosures, re: Tax Collector's report for period ending July 31, 2008.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication and report.

6. Communication of Town Administrator, with enclosures, re: Financial Statements for period ending July 31, 2008.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication and financial statements.

7. Memorandum of Town Administrator, with enclosures, re: DEM notice to The Clambake Club of Newport.

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

8. Communication of Town Clerk, Town of Charlestown, with enclosures, re: Requesting support for Silver Star Banner Day.

On motion of Councilor Santos, duly seconded, it was voted unanimously to receive said communication.

9. Notice of Claim from Anthony and Evelyn Spiratos by their Attorney, J. William W. Harsch, Esquire, re: Claim against the Town of Middletown.

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

10. Communication of Charles A. Horbert, Permitting Supervisor, Office of Water Resources, Freshwater Wetlands Program, re: Insignificant Alteration – Permit for property and proposed project located approximately 100 feet east of Paradise Avenue, Utility Pole No. 44, and approximately 480 feet south of the intersection of Paradise Avenue and Paradise Court, Assessor's Plat 127, Lot 3-C.

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

11. Proclamation of the Council, re: September 17th – 24th as Constitution Week in the Town.

On motion of Councillor Santos, duly seconded, it was voted unanimously to approve said proclamation.

12. Application of Laurin Enterprises dba Gold's Auto Wrecking Co., 113 Fenner Avenue, for RENEWAL of Junk Dealer's License (Auto Wrecking) for the 2008-2009 licensing year.

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said license renewal.

13. Application of HPK, Inc. dba Tickets, 15 Aquidneck Avenue, for RENEWAL of Mechanical Amusement Devices License for the 2008-2009 licensing year.

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said license renewal.

14. Application of Michael S. Fisher dba Bumpers, 999 West Main Road, for RENEWAL of Mechanical Amusement Devices License for the 2008-2009 licensing year.

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said license renewal.

TOWN COUNCIL

1. Applications (2) for Special Events Permits received from the following named persons, firms or corporations: 1) Laser Fleet 413, Newport, Laser New England Masters Championship, Third Beach, September 13th & 14th, 2008, both days from 8:00 AM until 7:00 PM. 2) Sweet Berry Farm, Inc., Sweet Berry Farm, 19 Third Beach Road, September 16, 2008 from 6:00 PM until 8:00 PM.

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said Special Event Permit.

Council President Rodrigues expressed concern that the beach remain open to the residents while the Laser New England Masters Championship event is taking place.

On motion of Councillor Santos, duly seconded, it was voted unanimously to change the date for the Sweet Berry Farm function to September 23, 2008, subject to all required Town Department approvals.

2. Application of Sweet Berry Farm, Inc., 19 Third Beach Road, for an Amusement License (Small Bands – Acoustic Music, Monday – Friday 5:30 PM until 8:00 PM and Saturday – Sunday 1:00 PM until 3:00 PM) for the 2008-2009 licensing year. (NEW)

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said license.

3. Application of Apache Oil Company, Inc., dba Middletown Mobil, 356 West Main Road, for a Holiday License for the 2008-2009 licensing year. (NEW)

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said license.

4. Application of William P. Napier dba E.J. Excavating, LLC, Portsmouth, Rhode Island for a Drain Layers License for the 2008-2009 licensing year. (NEW)

On motion of Councillor Santos, duly seconded, it was voted unanimously to grant said license.

5. Memorandum of Town Planner, with enclosures, re: 2008 – RIDEM Non-point Source & Narragansett Bay Restoration Grants.

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

6. Resolution of the Council, re: Approving submission and funding for 2008-RIDEM Non-point Source & Narragansett Bay Restoration Grants.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

7. Communication of Carol Cummings and area Residents, re: Requesting to amend the Zoning Ordinance to prohibit Day Care

Centers within R40 and R60 zoning districts.

Carol Cummings, 738 Indian Avenue, addressed the Council expressing concern that she and area residents have with a Day Care Facility requesting to establish a business in their area. The business will be located at St. Columba's – The Berkeley Memorial Chapel. Ms. Cummings and area residents request a review of the zoning ordinance relating to Day Care Facilities in R40 and R60 zoning districts, to prohibit this type of activity.

Jane Owen, 515 Indian Avenue, Member of Stony Brook Association, noted that the area is quiet with few vehicles on the roads. A Day Care Facility in the area will represent a nuisance in the community. Ms. Owen expressed concern that no one from the Berkeley Memorial Chapel contacted area residents before allowing for a Day Care Facility in the building.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said communication and forward said request to the Planning Board for recommendation.

8. Communication of Manuel J. Mello, Jr., Beacon Terrace North, re: Requesting to discuss the Middletown School Department – Town Charter and Zoning laws.

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

Manny Mello, 31 Beacon Terrace North, questioned if the School Department follows the Town Charter and Zoning Ordinances. Mr. Mello expressed concern that the School Department is renovating Forest Avenue School without filing project plans and having permits issued for the project. He also questioned where the funds for the project were allocated.

Town Solicitor Francis Holbrook, responding to Mr. Mello's inquiry noting that he believes the School Department does follow the Town Charter and the Zoning Ordinances.

Town Administrator Shawn Brown noted that the School Department has supplied the Zoning Office with plans for the Forest Avenue school project. The Fire Marshall has inspected and approved the work that has been done, to date.

9. Communication of Councillor DiPalma, with enclosure, re: Request for Support – Pursue Alternate to RI Global Consumer Choice Compact Waiver.

Councillor DiPalma explained the RI Global Consumer Choice Compact Wavier as outlined in his communication entered here:

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

10. Resolution of the Council, re: Approving support of Pursuing Alternate to RI Global Consumer Choice Compact Waiver.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution and forward to all Cities, Towns and Delegates.

11. Communication of Tax Assessor, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.

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

12. Resolution of the Council, re: Authorizing cancellation of taxes for certain Middletown taxpayers.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

13. Communication of Town Administrator, with enclosures, re: Award of contract for Valley Road Culverts.

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

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

14. Resolution of the Council, re: Award of contract for Valley Road Culverts.

Town Administrator Shawn Brown explained that a few years ago the

Town raised the manholes on Valley Road. The Department of Transportation has contacted the Middletown Public Works Department expressing concern that the Valley Road manholes are hazardous and request the Town to rectify the situation due to safety issues.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

15. Communication of Town Administrator, with enclosures, re: Award of contract for Wyatt Road Soccer Field steps.

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

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

16. Resolution of the Council, re: Award of contract for Wyatt Road Soccer Field steps.

Town Administrator Shawn Brown reviewed the Wyatt Road Soccer Field project noting currently, there is no good path to bring people from one field level to the next. Placing the steps between the fields will help all that use the area.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

17. Communication of Town Administrator, with enclosures, re: Sole Source Purchase – New Police Facility Communication/Security systems.

On motion of Councillor Santos, duly seconded, it was voted

unanimously to receive said communication.

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

18. Resolution of the Council, re: Approving Sole Source Purchase – New Police Facility Communication/Security systems.

Councillor Silveira noted that the funds for the New Police Facility Communication/Security systems came from grant monies given to the Town that were secured from Patrick Kennedy. There will be a no cost to taxpayers.

Town Administrator Shawn Brown noted that he is very confident with New England Communication Systems and the fee assessed for the communication/security systems. Police Chief Pesare and Major Hazel were instrumental in the negotiations with New England Communication System and were able to negotiate a three-year

warranty on the system.

On motion of Councillor Santos, duly seconded, it was voted unanimously to pass said resolution.

19. Appointment of one (1) member to the Middletown Conservation Commission for term expiring July 2011.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reappoint Gary D. Paquette to the Middletown Conservation Commission for a term expiring July 2011.

20. Appointment of one (1) member to the Middletown Information Technology Committee for term expiring September 2009.

On motion of Councillor Santos, duly seconded, it was voted

unanimously to appoint Paul Bertel to the Information Technology Committee for a term expiring September 2009.

21. Appointment of two (2) members to the Middletown Library Board of Trustees for terms expiring September 2011.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reappoint Joyce H. Morgenthaler to the Middletown Library Board of Trustees for a term expiring September 2011.

On motion of Councillor Santos, duly seconded, it was voted unanimously to appoint Paul Lamond to the Middletown Library Board of Trustees for a term expiring September 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.

Antone Vivieros, 110 Indian Hill Circle, inquired about his suggestion of putting solar panels on the new police station.

Town Administrator Shawn Brown responded that the issue of solar panels has been discussed at two meetings of the Police project committee. The roof of the Police facility is not configured to support solar panels. Mr. Brown noted that currently, he is investigating the ability to set up a ground level solar farm for the Police facility.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4 and 42-46-5 (a) (2) litigation (Wave Avenue-NOV), (5) land acquisition and (1)

personnel (Reserve Call – Active duty).

On motion of Councillor Santos, duly seconded, it was voted unanimously to recess this meeting at 8:05 P.M. and reconvene in executive session.

On motion of Councillor Santos, duly seconded, it was voted unanimously to reconvene this meeting in open session at 8:41 P.M.

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

On motion of Councillor Santos, duly seconded, it was voted unanimously to adjourn this meeting at 8:42 P.M.

Wendy J.W. Marshall, CMC

Council Clerk