

November 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, November 3, 2008 at 6:00 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

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (2) litigation (Dicon Corp. vs. Town of Middletown), (Environment Rhode Island vs. Town of Middletown) (RIDEM – Wave Avenue Force Main NOV) (Kempen vs. Town of Middletown), (1) personnel (Town Administrator), (2) Collective Bargaining (Public Works) and (5) land acquisition.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to recess this meeting at 6:01P.M. and reconvene in executive session.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reconvene this meeting in open session at 7:00 P.M.

ACTING AS A BOARD OF LICENSE COMMISSION

Councillor Silveira recused himself from the following four items of

business (#1 thru #3), due to a possible conflict of interest.

1. Public Hearing (Advertised)

Application of Saigon Café, Inc. dba Saigon Café holder of a Class BV Alcoholic Beverage License for premises located at 823 West Main Road, Middletown, to TRANSFER 100% of stock in said corporation.

Public Hearing was declared open.

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

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

2. Public Hearing (Advertised)

Application of Aquidneck Health, LLC dba Newport Athletic Club holder of a Class BV Alcoholic Beverage License, to reclassify its current Retailer's Alcoholic Beverage License for premises located at 66 Valley Road, Middletown, Rhode Island, from Class BV (Full Service) to Class BL (Beer and Wine).

Public Hearing was declared open.

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

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

3. Public Hearing (Advertised)

Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the

2008-2009 licensing year. (See attached list)

Public Hearing was declared open.

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

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

**4. Applications received from the following named persons, firms or corporations for RENEWAL of Alcoholic Beverage Licenses for the 2008-2009 licensing year. (Requires Advertising for Public Hearing)
(See attached list)**

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

unanimously to advertise said license renewal applications for a public hearing to be held at the December 1, 2008 regular meeting of the board.

CONSENT CALENDAR

Council President Rodrigues requested that item #3 be heard under the Town Council portion of the docket.

- 1. Approval of Minutes - Regular Meeting, October 20, 2008.**

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

- 2. Memorandum of Town Administrator, with enclosures, re: Offshore Berth Project, Weaver's Cove Energy.**

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

3. Memorandum of Town Administrator, with enclosure, re: Informational Workshop on Asian Longhorned Beetle.

Council President Rodrigues noted that the Middletown Tree Warden, Alan Kirby, will represent the Town at the Informal Workshop on the Asian Longhorned Beetle.

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

4. Petition and Notice of Claim to the Town Council by Mark L. Smith, Esquire, 176 Eddie Dowling Highway, North Smithfield, RI on behalf of Grace Katherine McBride.

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

TOWN COUNCIL

1. Presentation by War Memorial/Hall of Fame Committee of Plaque honoring Town employees who are affiliated with the armed services.

Council President Rodrigues addressed the public and presented Robert Matose with the plaque for past and present military service. It was noted that the preparation of this plaque has been a six-month process.

Councillor Santos noted the process followed to establish the names on the plaque, which will be placed on a wall in Town Hall.

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

2. Application for Special Events Permit received from Newport Running Club, NewportFed Pie Run – 5 mile Road Race beginning at the Newport County YMCA - Course is Valley Road, Aquidneck Avenue, Purgatory Road, Tuckerman Avenue and Sachuest Beach and Finishing at the Newport County YMCA on Thursday, November 27, 2008 from 7:00 AM until 11:00 AM.

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

3. Application for Special Events Permit received from Advanced Financial Services, AFS Annual Christmas Party to be held at 110 Enterprise Center on Saturday, December 6, 2008 from 11 AM until 3 PM.

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

Councillor Silveira recused himself from the following four items of business (#4 thru #7), due to a possible conflict of interest.

4. Application of Saigon Café, Inc. dba Saigon Café, 823 West Main Road, for a Victualling House License for the 2007-2008 licensing year. (NEW)

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to grant said license, contingent on Building Official, Fire Marshall, Board of Health and Public Works approvals.

5. Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House 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 license renewals.

6. Public Hearing (Advertised)

Applications received from the following named persons, firms or corporations for RENEWAL of Victualling House Licenses, Additional Hours of Operation, for the 2008-2009 licensing year. (See attached list)

Public Hearing was declared open.

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

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

7. Application of Earnest R. Budlong dba Back Room Pub/Restaurant, 999 West Main Road, for a Mechanical Amusement Device License for the 2008-2009 licensing year. (NEW)

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

8. Communication of Councillor Santos, Representing the War Memorial/Hall of Fame Committee, with enclosure, Re: Rotary Sign at Linden Playground.

Councillor Santos, representing the War Memorial/Hall of Fame Committee, noted that the committee approved the sign to be placed at the Linden Playground area with a slight change agreed upon by

Mr. Semonelli. The sign will read “Linden Playground at Rotary Park”.

Councillor Silveira questioned future plans/use of the Linden School property. Mr. Silveira noted he is not opposed to the name on the sign. Mr. Silveira is interested in the process that the War Memorial/Hall of Fame Committee uses.

Town Administrator Shawn Brown responded that a park would remain on this property.

Christopher Semonelli, representing the Middletown Rotary, explained the sign was an attempt to recognize the great things the Rotary does throughout communities.

Mason Hawes, 431 Reservoir Avenue, Chair, Open Space and Fields Committee noted that the Council would need to give the committee direction to study the open space areas within the Town and the

committee would give their recommendations.

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

On motion of Councillor Barrow, duly seconded, it was voted unanimously to charge the Open Space Committee to review all Open Spaces within the Town.

9. Memorandum of Town Administrator, with enclosures, re: Sole Source Purchase – New Police Facility Furniture, Fixtures & Equipment (FF&E).

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

The Cooperative Purchasing Program-State and Local Government Contracts Program and FF& E line item cost detail referenced in the above memorandum are on file in the Office of the Town Clerk.

10. Resolution of the Council, re: Approving Sole Source Procurement – New Police Facility Furniture, Fixtures & Equipment (FF&E).

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

11. Memorandum of Town Administrator, with enclosures, re: Award of contract Library Building Exterior Painting.

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

The Proposal and Memo – recommendation from Holly Levine, Chairman Middletown Public Library Board of Trustees referenced in the above memorandum are on file in the Office of the Town Clerk.

12. Resolution of the Council, re: Award of contract Library Building Exterior Painting.

Council President Rodrigues requested a time frame for the Library Building Exterior Painting project.

Library Director James Knowlton, responded that the project will begin as soon as possible and will take forty-nine days to complete.

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

13. Memorandum of Town Administrator, with enclosures, re: Demolition - West Main Road Complex.

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

14. Resolution of the Council, re: Approving the Demolition - West Main Road Complex.

Town Administrator Shawn Brown addressed the Council explaining his recommendation to demolish the West Main Road Complex building. The building requires substantial maintenance at this time. The cost to replace the building will be \$40,000. which will be funded by the Beach fund.

Mason Hawes, 431 Reservoir Avenue, Chair, Open Space and Fields Committee, noted the support of the committee to demolish this

building.

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

**15. Resolution of the Council, re: Arsenic Remediation Standards.
(NO DOCUMENTATION)**

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to continue this matter to the December 1, 2008 regular meeting of the Council.

16. Appointment of one (1) member to the Middletown Technology Advisory Committee for a term expiring September 2009.

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

unanimously to reappoint Jairo Rugel to said board, for a term expiring September 2009.

17. Appointment of one (1) member to the Open Space and Fields Committee for a term expiring November 2011.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reappoint Steve Ponte to said board, for a term expiring November 2011.

18. Request of Councillor Barrow, re: Discussion of Protection for Second Beach (NO DOCUMENTATION)

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

Councillor Barrow noted that currently there are no protections on Sachuest Beach and requests the Council to entertain the idea of protecting the area for the future to prohibit development of the property. Ms. Barrow reviewed options to be considered, which were supplied by Assistant Town Solicitor entered here:

Council President Rodrigues requests to forward this matter to the Town Solicitor for review.

EXECUTIVE SESSION

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

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.

Carol Cummings, Indian Avenue, addressed the Council expressing concern of fiduciary agreements between Council Members representing citizens of the Town.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to recess this meeting at 7:50 P.M. and reconvene in executive session.

When the Council returned to open session, Councillor Silviera was not in attendance.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to reconvene this meeting in open session at 9:00 P.M.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to file a counter claim.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to rescind motion to file a counter claim.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to file a counter claim on or before the due date.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to accept the Town Administrator's recommendation pertaining to the Department of Public Works contract.

On motion Vice Chair Mello, duly seconded, it was voted unanimously to follow the Town Administrator's recommendation pertaining to the

Environmental Rhode Island litigation.

On motion of Vice Chair Mello, duly seconded, it was voted unanimously to move forward with the Consent Agreement proposed by the Town Administrator.

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 9:10 P.M.

Wendy J.W. Marshall, CMC

Council Clerk