

REGULAR MEETING of the Burrillville Town Council held Wednesday, February 10, 2010 at 7:01 P.M. in the Town Council Chambers, 105 Harrisville Main St., Harrisville for and within the Town of Burrillville.

PRESENT: Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn, Jr.

MEMBERS ABSENT: Councilor Norman C. Mainville was excused

1. Council President Nancy F. Binns led those present in pledging allegiance to the flag.

2. VOTED to accept the minutes of the regular meetings held January 13 and January 27, 2010 and dispense with the reading of said minutes.

Motion by Councilor Wallace F. Lees. Seconded by Councilor John M. Karmozyn, Jr. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

3. Public Comment: None

4. General Good and Welfare of the Town of Burrillville

Councilor Margaret L. Dudley announced the Friends of the Library Dinner Dance scheduled for March 6, 2010 at Crystal Lake. Tickets are available at the library and at the town building.

Councilor John M. Karmozyn, Jr. noted that the School Committee had announced the appointment of Burrillville resident Dennis Kafalas as Burrillville Middle School principal.

At the request of Councilor Mainville, Council President Nancy F. Binns noted the 100th anniversary of Boy Scouts of America and recommended recognition at a future meeting.

MOTION to pass a resolution for that recognition.

Motion by Councilor Kevin D. Heitke. Seconded by Councilor Wallace F. Lees.

MOTION to table the question of the Boy Scouts and a resolution honoring their 100 years of service to the next meeting.

Motion by Councilor Kevin D. Heitke. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley,

Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

5. Petitions: None

6. Special Business: None

7. Public Hearings: None

8. Unfinished Business: None

9. New Business:

10-031 VOTED to deny a request from Sheila Gabrielsen for an abatement of interest.

Motion by Councilor Wallace F. Lees. Seconded by Councilor Margaret L. Dudley. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

It was noted that Ms. Gabrielsen was not present.

10-032 VOTED to refer to the Screening Subcommittee the application of Charlotte Gabrielson for reappointment to the Juvenile Hearing

Board.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

Consider and act on pending legislation:

10-033 Correspondence from Louise R. Phaneuf, Town Clerk, regarding legislation:

H7251 and S2120 - Electricity

Relating to Taxation – Proposed amendments to §44-3-30. Burrillville – Property taxation of electricity generating facilities located in the town.

VOTED to open discussion.

Motion by Councilor Wallace F. Lees. Seconded by Councilor John M. Karmozyn, Jr. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C.

Mainville was excused.

H7094 – Animals - Dogs

Relating to Animals and Animal Husbandry - Dogs – Proposed amendments to §4-13 entitled dogs.

VOTED to open discussion.

Motion by Councilor John M. Karmozyn, Jr. Seconded by Councilor Margaret L. Dudley. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

Other pending legislation

Resolution – MV Excise Tax withholding

VOTED to open discussion.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman

C. Mainville was excused.

Discussion: Michael C. Wood, Town Manager, reported on litigation against the Governor's office by a number of communities because of the Governor's withholding of third quarter motor vehicle excise tax reimbursements to the cities and towns. Mr. Wood said Burrillville's reimbursement amounted to more than \$700,000. Mr. Wood explained the impact of the Governor's action, particularly in the middle of a budget year.

There was discussion of adopting a resolution asking the Governor to adhere to the 2010 budget. The possibility of joining the lawsuit was reviewed.

There was a recess at 7:16 P.M.

Timothy F. Kane, Town Solicitor, suggested that, under the Open Meeting Act, it would be appropriate to amend the agenda to address these unexpected occurrences that require immediate action. Mr. Kane suggested that if action was delayed and the Town of Burrillville was not a party to the action then any relief granted by the Superior Court might not extend to the Town of Burrillville.

10-033A VOTED that the agenda be amended to add Superior Court litigation that was filed yesterday; relative to the withholding of State Aid to Cities and Towns.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

10-033B VOTED that we amend the agenda to include the resolution relative to the withholding of the motor vehicle excise tax.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor John M. Karmozyn, Jr. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

VOTED that the town take what actions are necessary to have Burrillville included as one of the petitioners in the Superior Court case against the state relative to loss of the excise tax disbursement by the State.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor John M. Karmozyn, Jr. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy

F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

VOTED relative to agenda item 10-33B, that the council adopt the resolution relative to the withholding of motor vehicle excise tax reimbursements, as follows:

Burrillville Town Council Resolution

Relative to the Withholding of Motor Vehicle Excise Tax Reimbursements

WHEREAS, Governor Donald L. Carcieri has announced the withholding of about \$34 million in excise-tax reimbursements slated to be paid to Rhode Island cities and towns in the last two quarters of the current budget year; and

WHEREAS, The third quarter payments were scheduled to be transmitted to the municipalities on February 1, 2010 but were not sent; and

WHEREAS, The third quarter payment due to the Town of Burrillville was \$701,656.53; and

WHEREAS, The Town of Burrillville is disproportionately affected by the reduction in motor vehicle excise state reimbursements due to the original implementation of the phase-out program, requiring a higher percentage of the Town's budget to be dependent upon state reimbursements; and

WHEREAS, Failure to receive the funding will impact the Town's

**ability to maintain certain critical public safety [police (i.e., police
manning) and public works (i.e., roads – plow/sand/salt)] and
pre-established educational functions; and**

**WHEREAS, The Charter of the Town of Burrillville unequivocally
prohibits any department, commission, office or agency of the Town,
including the School Department, from spending in excess of the
adopted budget; and**

**WHEREAS, In 1990, the Rhode Island Supreme Court recognized that
“municipalities adopted annual operating budgets in reliance upon
the appropriations made by the General Assembly” and “entered into
contracts and agreements that were to be funded by the
appropriations” 576 A.2d 1371(1372); and**

**WHEREAS, In 1990, the Rhode Island Supreme Court opined that the
Governor may not reduce or withhold funds lawfully appropriated by
the General Assembly to the individual cities and towns of the State
of Rhode Island. 576 A.2d 1371**

**NOW THEREFORE BE IT RESOLVED that we, the Town Council of the
Town of Burrillville, do hereby implore Governor Donald L. Carcieri to
reconsider the drastic and unlawful impound of motor vehicle
excise-tax reimbursements and release funds due to the cities and
towns.**

**BE IT FURTHER RESOLVED that we, the Town Council of the Town of
Burrillville, do respectfully ask the legislative delegation which
represents the Town to compel the release of payments due to the**

Town.

BE IT FURTHER RESOLVED that we, the Town of Council of the Town of Burrillville, do hereby entreat the various Rhode Island city and town councils to contact the Governor and their legislative delegations, seeking support for the release of appropriations upon which the communities rely and which are properly and legally due.

Adopted as a resolution this 10th day of February 2010.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

H7276 Tax Sales

VOTED to open discussion of House Bill 2010 – H7276, An act relating to taxation – tax sales.

Motion by Councilor Kevin D. Heitke. Seconded by Councilor John M. Karmozyn, Jr. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley,

Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

Discussion: John P. Mainville, Finance Director, recommended that the Town Council oppose passage of House Bill 2010 – H 7276. Mr. Mainville suggested that the intent of the legislation was to help taxpayers but that the bill, as written, would not accomplish that purpose. Mr. Mainville detailed his concerns. Councilor Kevin D. Heitke's noted that his interpretation differed from Mr. Mainville's and suggested that any action be delayed to allow for further dialogue.

VOTED to have a resolution ready for the next meeting in opposition to this bill.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

10. Town Clerk/Communication:

10-034 VOTED to receive and file the correspondence from Louise R. Phaneuf, Town Clerk, regarding upcoming meetings and events.

Motion by Councilor Wallace F. Lees. Seconded by Councilor Margaret L. Dudley. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

10-035 VOTED to open the correspondence from David W. Fish, P.E., Rhode Island Department of Transportation relative to posting increasing–Harrisville Bridge #306.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor John M. Karmozyn, Jr. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

VOTED to receive and file.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

10-036 Correspondence from James D. Marques, CMC, Town Clerk of the Town of North Kingstown, relative to the North Kingstown Town Council's support of the Rhode Island National Guard Memorial.

MOTION to receive and file.

Motion by Councilor John M. Karmozyn, Jr. Seconded by Councilor Wallace F. Lees.

The purpose of the resolution was discussed.

AMENDMENT TO MOTION to support the resolution and to table until we have more information and discussion of whether or not monies would be allocated to purchase a memorial.

Amendment by Councilor John M. Karmozyn, Jr. Seconded by Councilor Margaret L. Dudley.

The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

11. Additional New Business:

10-037 VOTED to grant the request for executive session from Michael C. Wood, Town Manager pursuant to Rhode Island Open Meeting Law [§42-46-5(a)(2)] to consider and discuss collective bargaining between the Town of Burrillville and the Fraternal Order of Police Burrillville.

Motion by Councilor Wallace F. Lees. Seconded by Councilor John M. Karmozyn, Jr. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

Point of Order: Michael C. Wood, Town Manager, noted that he might request a vote in executive session that would subsequently be disclosed when the Town Council returned to open session.

There was a recess before executive session.

The Town Council returned to open session at 8:21 P.M.

VOTED to seal the minutes of executive session, noting that one vote, to approve the tentative agreement with the police union, had been taken.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

VOTED to adjourn at 8:22 P.M.

Motion by Councilor Margaret L. Dudley. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the six members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Robert A. Bishop, Margaret L. Dudley, Kevin D. Heitke and John M. Karmozyn Jr. Councilor Norman C. Mainville was excused.

The meeting was recorded.

Louise R. Phaneuf, Town Clerk