

**REGULAR MEETING of the Burrillville Town Council held Wednesday, July 25, 2012 at 7:00 P.M. in the Town Council Chambers, 105 Harrisville Main Street, Harrisville for and within the Town of Burrillville.**

**PRESENT: Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson.**

**MEMBERS ABSENT: Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were 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 meeting held June 27, 2012 and the public hearings held May 24 and May 31, 2012 and the special meeting held June 11, 2012 and dispense with the reading of said minutes.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

### **3. Public Comment: None**

### **4. General Good and Welfare of the Town of Burrillville**

**Councilor Kevin D. Heitke wished Councilor Margaret L. Dudley speedy recovery from her recent surgery.**

**Councilor Kevin D. Heitke announced the Recycling Essay Contest, noting that the carts for automated pick-up would be delivered shortly.**

**Councilor Kevin D. Heitke extended thanks to the Town Council for condolences offered at the death of his father, Edward Heitke.**

**Council President Nancy F. Binns congratulated Dick Peck on the dedication of the Richard “Dick” Peck Fields at Sherman Park, commenting on Mr. Peck’s commitment to Burrillville Little League.**

**Councilor Wallace F. Lees extended condolences on the death of Zambarano resident Frank Beazley, mentioning Mr. Beazley’s work on behalf of the disabled.**

### **5. Petitions:**

**12-183 VOTED to open the petition from Verizon New England Inc. and Pascoag Utility District to construct a line of poles, wires and**

**fixtures, including the necessary sustaining and protecting fixtures along and across North Hill Road.**

**Motion by Councilor Kevin D. Heitke. Seconded by Councilor Stephen N. Rawson. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**Discussion: Resident Kevin Chabot of 95 North Hill Road, voiced concern at the placement of the pole along the side walk in front of his home.**

**VOTED to table this issue until the next meeting and to invite a representative from Verizon to attend.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**6. Special Business:**

**12-184 VOTED to grant an annual hawkers and peddlers license to David Souza d/b/a Kona Ice Cumberland RI, Inc. to apply throughout the Town of Burrillville, provided all stipulations are in order.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Stephen N. Rawson. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**7. Public Hearing: None**

**8. Unfinished Business: None**

**9. New Business:**

**12-185 VOTED to open the correspondence from Major Lareto P. Guglietta, Burrillville Police Department, regarding the purchasing and funding of All Terrain Vehicles/Motorcycles.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and**

**David J. Place were excused.**

**Discussion: Michael C. Wood, Town Manager, reviewed on-going issues related to illegal use of ATV's and reviewed a proposal to use ATVs or Sport Motorcycles to mitigate the problems. There was discussion of the problem, as well as the expense, training and manpower associated with purchasing all terrain vehicles or sport motorcycles.**

**VOTED to refer it back to the Town Manager and the police department for further study and to come up with a more definite plan.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-186 VOTED to open the correspondence from Dr. Frank Pallotta, Superintendent of Schools, regarding a request to re-appropriate \$100,000 (One Hundred Thousand Dollars) from the School Department's undesignated fund balance to the FY2013 Budget to support the continuation of curriculum development.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**Discussion: Michael C. Wood, Town Manager, reported that this is the third year of the curriculum development program. The matter was explained by Robin Kimatian, School Business Manager.**

**VOTED to re-appropriate \$100,000 from the School Department's undesignated fund balance to the FY2013 Budget to support the continuation of curriculum development.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**VOTED to re-appropriate \$50,000 from the School Department's undesignated fund balance to the FY2013 Budget to support the unemployment costs incurred in the FY2012/2013 Fiscal Year.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-187 Correspondence from John P. Mainville, Finance Director, regarding the Tax Assessor's Report and his recommendations.**

**VOTED to approve the abatements (\$73.06) for the period covering May 1, 2012 to June 30, 2012.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Stephen N. Rawson. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**VOTED to receive and file the additions (\$1,396.33) for the period covering May 1, 2012 to June 30 2012.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns,**

**Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-188 VOTED to table to August the correspondence from Councilor Edward J. Blanchard regarding the intersection of Central Street, East Avenue and Levy School.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-189 VOTED to open the correspondence from Councilor Edward J. Blanchard regarding the Bank of America closure.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**Discussion: The Town Council accepted public input related to the**

**closing of the Bank of America branch located in Pascoag. Residents Ron Parenteau of Glendale, Dennis Deschamps of Nasonville and Robert Hulton of Pascoag related their concerns regarding the proposed bank closing and encouraged the Town Council and State Legislators to communicate with Bank of America officials to try to prevent closure. Councilors commented on efforts to maintain a bank in the community, the affect of having a bank in the village, the redevelopment of Pascoag, the function of a free market system and the history of having a local bank in the village of Pascoag. There was concurrence that the Town Manager would prepare a resolution and the Town Council President would convene a special meeting to consider adoption of the resolution.**

**12-190 VOTED to table to the next meeting the correspondence from Councilor Edward J. Blanchard recognizing the administrators, staff and residents of Bayberry Commons on their national quality award from the American Health Care Association and Assisted Living Homes.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-191 Correspondence from Councilor Wallace F. Lees, Chairman, Screening Subcommittee, regarding the Subcommittee's recommendations.**

**VOTED to reappoint Alan Chuman to the Jesse M. Smith Memorial Library Board of Trustees for a five-year term to expire June 30, 2017.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**VOTED to reappoint Kathleen Walsh to the Jesse M. Smith Memorial Library Board of Trustees for a five-year term to expire June 30, 2017.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**VOTED to reappoint Barbara Schouboe to the Jesse M. Smith Memorial Library Board of Trustees for a five-year term to expire June**

**30, 2017.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**VOTED to reappoint Ken Milligan as an alternate member to the Recreation Commission for a one year term to expire on May 31, 2013.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-192 VOTED to refer to the Screening Subcommittee the application from Kathan M. Lambert for re-appointment to the Juvenile Hearing Board.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members**

**present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-193 VOTED to refer to the Screening Subcommittee the application from Darrell St. Clemmons for appointment to the Juvenile Hearing Board.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Stephen N. Rawson. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-194 Resignation of Ronald Blanchard from the Burrillville Housing Authority**

**VOTED to accept the resignation of Ronald Blanchard from the Burrillville Housing Authority, to send a letter of thanks and to refer the matter to the Screening Subcommittee.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy**

**F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-195 VOTED to receive and file the correspondence from Lynn M. Hawkins, Exeter Town Clerk, regarding the Exeter Town Council's request for support of a resolution in Support of South County and Westerly Hospitals**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**10. Town Clerk/Communication:**

**11-216 VOTED to open the legal opinion of Timothy F. Kane, Town Solicitor, regarding Pinewood Lane.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Stephen N. Rawson. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and**

**David J. Place were excused.**

**VOTED to receive and file the legal opinion of Timothy F. Kane, Town Solicitor, regarding Pinewood Lane, as follows:**

**MEMO**

**TO: MICHAEL WOOD, TOWN MANAGER**

**FROM: TIMOTHY F. KANE, TOWN SOLICITOR**

**DATE: July 6, 2012**

**RE: PINEWOOD LANE**

**The question is whether the Mill Pond Condominium Association or anyone else would have the authority to block off or restrict access to Pinewood Lane at the intersection of Mill Pond Road. My legal opinion is that Pinewood Lane is a dedicated right of way or private road and access cannot be terminated or restricted based on the following:**

**Fiddler's Green, a Rhode Island General Partnership was the developer who received approval and recorded approved plans for the 9 house lots off Pinewood Lane and the 9 lots off Mill Pond Road. The plan for the Pinewood Lane lots was referenced as Phase I and**

**was recorded in September 1989 in Plat Book 20 at Page 6 (Pinewood Plan). The Plan for the Mill Pond Road lots was referred to as Phase II (Mill Pond Plan) and was recorded after the Pinewood Plan in Plat Book 20 at page 7. You will note that the Mill Pond Plan shows a 35 foot wide right of way to Phase I, which is now the entrance to Pinewood Lane off Mill Pond Road. Most importantly, the Mill Pond Plan states in the lower left hand corner under ‘Permitted Uses’ with specific reference to the right of way: “1. By foot and with vehicle for the benefit of Lot Owners (Lots 1-9) on Phase I only, not excluding emergency vehicles.” This language on a recorded plan with specific reference to a right of way for the benefit of lot owners in Phase I created an irrevocable dedication of the right of way for the lot owners off Pinewood Lane. As such, access cannot be denied especially given the fact that the residents of Pinewood Lane have been using the right of way for over 10 (ten) years.**

**With respect to maintenance of Pinewood Lane, the Pinewood Lane Homeowners Association (formerly known as “Fiddler’s Green Homeowner’s Association”) and the property owners themselves are jointly and severally responsible for maintenance because those who have the benefit of a right of way are responsible for its maintenance.**

**Should you have any questions, please feel free to contact me at your convenience.**

**Motion by Councilor Stephen N. Rawson. Seconded by Councilor**

**Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-196 VOTED to open the correspondence from Richard A. Sinapi, Esq., representing Harrisville Fire District, regarding proposed land acquisition subdivision for development of Well No. 7.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Stephen N. Rawson. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**VOTED to receive and file.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-197 VOTED to receive and file the correspondence from Kathryn M. Franklin, Ph.D., Director of Development & Public Affairs for WellOne Primary Medical and Dental Care, thanking the Town Council for its donation of \$1,000.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-198 House Bill 2012 – H 7672 relating to Towns and Cities – Dam Management Districts**

**Note: Councilor Wallace F. Lees recused from discussion and action on item 12-198. No action was taken on the item, which was to be rescheduled for a future agenda.**

**11. VOTED to receive reports #1 – 26, as follows:**

- 1. Town Treasurer: Report of June 2012**
- 2. Burrillville Sewer Commission: Meetings of June 12, 2012**
- 3. Tax Collector: Report of June 2012**
- 4. Department of Public Works: No report**
- 5. Chief of Police: No Report**

- 6. Office of Building Official: Report of June 2012**
- 7. Animal Control Officer: Report of June 2012**
- 8. Parks and Recreation Department: No report**
- 9. Burrillville Extended Care: No report**
- 10. Emergency Management Agency: No report**
- 11. Information Systems Department: Report of June 2012**
- 12. Burrillville Housing Authority: Meeting of June 13, 2012**
- 13. Planning Board/Town Planner: No report**
- 14. Recreation Commission: No report**
- 15. Burrillville Conservation Commission: Meeting of June 11, 2012**
- 16. Ordinance Subcommittee: No report**
- 17. Redevelopment Agency: Meeting of June 5, 2012**
- 18. B-PAC: No report**
- 19. Personnel Board: Meeting of June 12, 2012**
- 20. Screening Subcommittee: Meeting of May 9, 2012**
- 21. Budget Board: No report**
- 22. Burrillville School Committee: Meetings of May 8 and June 12 & 19, 2012**
- 23. Rubbish & Recycling Committee: No reports**
- 24. Cemetery Maintenance Committee: No report**
- 25. Board of Canvassers: No report**
- 26. Juvenile Hearing Board: No report**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Stephen N. Rawson. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy**

**F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12. Additional New Business:**

**12-199 VOTED to grant a request for executive session from Michael C. Wood, Town Manager pursuant to Rhode Island Open Meeting Law:**

**a) [§42-46-5(a)(2)] for discussion and consideration relative to collective bargaining between the Town of Burrillville and FOP Lodge 27;**

**b) [§42-46-5(a)(2)] for discussion and action relative to litigation; Coastal Recycling, Inc. d/b/a Coastal Recycling Group v. Town of Burrillville, et al;**

**c) [§42-46-5(a)(2)] for discussion and action relative to litigation: Piette vs. Town of Burrillville**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**Note: There was a recess before executive session.**

**The Town Council returned to open session at 8:26 P.M.**

**VOTED to seal the minutes of executive session, noting that no votes had been taken.**

**Motion by Councilor Kevin D. Heitke. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**12-200 VOTED to ratify the collective bargaining agreement between the Town of Burrillville and the FOP Lodge 27, with the caveat that the one change to §3.2.1, Overtime and Detail Lists, would be modified.**

**Motion by Councilor Kevin D. Heitke. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**VOTED to authorize the Town Council President to sign.**

**Motion by Councilor Kevin D. Heitke. Seconded by Councilor Wallace F. Lees. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**13. VOTED to adjourn.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Kevin D. Heitke. The vote was unanimous by the four members present. Voting in favor of the motion were Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin D. Heitke and Stephen N. Rawson. Councilors Edward J. Blanchard, Margaret L. Dudley and David J. Place were excused.**

**The meeting was recorded.**

**Louise R. Phaneuf, Town Clerk**