

**New Shoreham Town Council Meeting
Town Hall, Old Town Road, Block Island
Monday, March 07, 2011
7:00 p.m.**

Present: First Warden Kimberley H. Gaffett, Second Warden Raymond J. Torrey, Town Councilor Peter B. Baute and Town Councilor Kenneth C. Lacoste. Town Councilor Richard P. Martin was absent. Also present was Town Manager Nancy O. Dodge. Town Clerk Fiona Fitzpatrick took the minutes of the meeting.

First Warden Gaffett called the meeting to order at 7:00 p.m.

Warden's Report: The First Warden reported the Town Beach parking lot is being used for modular home storage again. The Town receives \$50 per module per day for storing modular house boxes at the beach. Rhode Island Heritage Preservation Commission sent notification that the Town has been granted \$8000 to produce Island-wide National Register documentation for a context statement for single-family houses. The US Fish and Wildlife Service is working on a deer management plan for the RI National Wildlife Refuge complex that includes Block Island and Ninigrit. There will be public input into the process and a meeting to collect comment on Block Island is likely. First Warden Gaffett and Dr. Baute attended the Congress of Councils last Thursday where they heard from Governor Chafee, EDC Director Keith Stokes, the new RI Department of Environmental Resources Director Janet Coit, RI Office of Energy Resources Administrator Ken Payne and Grow Smart's Scott Wolf.

Public Input: Bruce Montgomery asked for an update on the bike and moped safety flyers. (Letters went out, no replies yet.) He also asked when the privet would be removed from Cooneymus Road. (Council has not yet reviewed the survey received late last week.)

1. Public Hearing: Proposed amendment to New Shoreham General Ordinances Chapter 9 Article IV Fishing ("The Shellfish Ordinance") Sections 122-148

First Warden Gaffett Harbormaster Steve Land was present and explained the major changes: a mechanism to limit the number of shellfish licenses issued annually, the elimination of family licenses. Discussion ensued. Mr. Land also proposed changes to the posted ordinance as a result of comment received. He suggests adding "or spear" to the methods of taking finfish in Section 9-144. The intent is that people should be allowed to take fish with a spear gun or pole spear. He explained there is no change to the provision that shellfish may be taken using snorkeling gear but not scuba. A change to 142-2(b) is intended to allow aquaculture workers to handle their stock during the time it is illegal for the general public to possess oysters.

At 7:30 Ms. Gaffett moved to close public hearing, and to approve advertised ordinance with changes discussed to sections 142-2(b) and 144, and to correct a typographical error to 145(b). The motion was seconded by Mr. Lacoste.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

2. Hearing: Proposed amendments to New Shoreham Zoning Ordinances Sections 202 Definitions, Section 311 Old Harbor Commercial Zone, Section 319 Planned Development Zone, and to add a new section 424 (under criteria for special use permits) Electronic Game Machines

First Warden Gaffett opened the public hearing at 7:30. Planning Board Chair Margie Comings and the Town's land use attorney Donald Packer were present. The proposed ordinance came to the Town as a request for an amendment from Aldo Leone, who holds a license for one video game located in Aldo's Bakery. Mr. Leone's attorney Elliot Taubman requested the meeting be postponed due to family illness. Ms. Gaffett said she would open the duly advertised Public Hearing, take comment from those who had come out for the hearing, and continue it to the next meeting.

Ms. Comings said the Planning Board considered the benefit of early teen socializing and the present availability of 73 licensed games when crafting the ordinance. She said the ordinance is intended to allow an appropriate activity for young people in an alcohol free, supervised environment. Rather than allow video game parlors anywhere without restriction, the ordinance

would up to five video games by Special Use Permit accessory to restaurants and retail in the Old Harbor Zone.

Questions raised included:

- whether the Planning Board intended to separate the games from alcohol service in restaurants
- what specifically the Planning Board intended by their “adult supervision” standard. Ms. Comings said the Planning Board thought the games could be supervised by an adult over 18 “in the vicinity,” who could also be doing other things. How would this be enforced?
- whether “electronic game machines” are objects, or can be a ‘use’ in the sense of special use permit. “Video Parlors” are a prohibited use, but not defined in the ordinance.
- whether the type of games (“X” or “R” rated or equivalent) is an easily identified industry standard which can be readily enforced
- what specific games would be regulated under the proposed definition. The Town Council licenses pool, billiards, skeeball, shuffleboard tables, basketball arcade games, claw games, pinball, air hockey, foos ball and ‘video games.’
- whether the definition as written would include a personal computers with a game program
- what constitutes a single game. Tandem games are linked full size games which can be played independently or in competition by two or sometimes more people
- whether the Council agrees with the Planning Board’s assessment that video game parlors are an appropriate answer to the need for recreational facilities identified in the Town’s Comprehensive Plan OR 6: “Pursue meeting needs for such recreational facilities as expansion of athletic fields and provision of a skate board park.”
- or are we simply dealing with limiting the aggregate number of and type of “games”/ and still prohibit stand alone video parlors.

Attorney Packer addressed some issues raised by the Town Council:

- enforcement can be either by the Zoning Official or by the Police, if the games are licensed by the Town Council with the Zoning stipulations
- preexisting games would be grandfathered, even in quantity and locations (or as stand alone uses) that do not comply with the proposed zoning
- Preexisting games could also be subject to standards if they are licensed with stipulations

As for the amendments to 319 (Planned Development Zone), Mr. Packer explained PD’s are established to provide a benefit for the public (housing, preschool). Allowed uses are defined when the PD is established. Adding a use is now considered a major change, subject to Planning Board and Town Council approval. The amendment would make certain use changes ‘minor’ subject to Planning Board approval but not Town Council approval. Minor use changes would be anything accessory to a principal use allowed within the underlying zone. Questions raised were:

- whether it is a good idea to remove the Town Council’s authority to regulate PD uses
- there is no underlying zone to a PD. Mr. Packer suggested using the term “surrounding zone” which left open the question of which standards to use if the PD is surrounded by more than one zone.

It was pointed out that the amendments to 319 could proceed regardless of what happened with the video game ordinance.

At 8:15, Ms. Gaffett moved to continue the public hearing to March 16, 2011.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

- 3. Set Public hearing date for proposed amendments to New Shoreham Zoning Ordinance and Map to create a “Medical Center Zone” by amending Section 202 to add a new definitions for “Elder Care Facility” and “Medical Facility” and to add Section 322 “Medical Center Zone” and to amend the Town’s Zoning Map by changing the designation of Plat 10, Lots 1 and 2 from Residential B to “Medical Center Zone”**

First Warden Gaffett moved to hold a public hearing at 7:00 p.m April 20, 2011 at Town Hall for the “Medical Center Zone” changes to New Shoreham’s Zoning Map and Ordinances. Motion seconded by Dr. Baute.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

4. Act on request on N.S. Water Commission to expand the Water District to include properties adjoining Ocean Ave. and Westside Rd. from Bridge #139 to E. Searles Ball houses

Water Company Superintendent David Simmons was present to explain the proposed expansion of the Water District. An eight inch main would extend 3,000 linear feet to the E. Searles Ball Housing. An amendment to the General Ordinances is required to expand the Water District.

First Warden Gaffett moved to hold a public hearing at 7:00 p.m. March 28, 2011 at the Town Hall for amendments to New Shoreham General Ordinances to expand the Water District. Motion seconded by Second Warden Torrey. (Meeting later moved to March 29, 2011)

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

5. Receive proposed FY12 TNS budget

Finance Director Amy Land presented the proposed Fiscal Year 2012 budget. The first hearing is Wednesday.

6. Receive and act on letter from the Deer Task Force requesting changes to the deer tag process, and legal advice regarding hunting liability

Deer Task Force Chair Mary Sue Record was present. The DTF said some landowners do not allow hunting because of liability issues; they asked that the Solicitor be contacted for advice on landowners’ legal exposure. The Council supported the request. DTF also requested the Council work with the state to find a way to allow hunters to purchase more than five deer tags at a time, to reduce the paperwork needed at the deer check station, and to reduce the fees for each deer tags. The sale of deer tags is regulated by the state. Discussion ensued. The DTF was asked to come up with specific proposals, for instance allowing the purchase of unlimited deer tags or suggesting particular changes to the check station procedure.

Dr. Baute moved that the Town Solicitor be authorized to look into landowner liability, and that the First Warden be authorized to send a letter to the RIDEM addressing the concerns of the DTF, seconded by Mr. Lacoste.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

7. Receive and act on 2011 Wastewater Report

Wastewater Management Inspector Don Thimble presented his report, which is attached to these minutes. A letter from the Sewer Commission commending Mr. Thimble was also received by the Town Council. The Council received the report with appreciation.

Mr. Lacoste moved to receive the report, seconded by Mr. Torrey.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

8. Receive and act on request of The Committee for the Great Salt Pond to erect information kiosks on Town property

Glenda Thuener was present for the Committee for the Great Salt Pond. The Council reviewed proposals to erect kiosks on town owned property at Andy’s Way, Coast Guard beach, and the Ball O’Brian property. The kiosks will require CRMC review and approval.

Dr. Baute moved to approve the plans in concept, and to allow the CGSP to continue with the permitting process and to keep the Town Manager informed. Motion seconded by Mr. Lacoste.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

9. Boards, Committees and Commissions:

- act on Board, Committee and Commission appointments: Board of Canvassers, Historic District Commission, Juvenile Hearing Board, North Light Commission, Planning Board, Senior Advisory Board

Dr. Baute moved to reappoint Lisa Nolan and Margaret Montgomery as alternate members of the New Shoreham Board of Canvassers, with one year terms expiring in March, 2012.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

First Warden Gaffett moved to appoint Mark Vaillancourt to the Historic District Commission and to stagger his term so that it expires in December, 2012. Motion seconded by Mr. Torrey.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

First Warden Gaffett moved to appoint Scott Comings in place of Blake Phelan on the Juvenile Hearing Board to a term expiring in December 2013, seconded by Mr. Lacoste.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

First Warden Gaffett moved to appoint Cara Roszkowski to an alternate position on the North Light Commission, to a term expiring in December, 2012.

First Warden Gaffett moved to appoint Sven Rissom to replace Kevin Hoyt on the Planning Board to a term ending in 2015. Motion seconded by Peter Baute.

Ayes: 3 (Gaffett, Baute, Lacoste) Nays: 1 (Torrey) Absent: 1 (Martin)

Mr. Torrey said he believed in rewarding persistence; Socha Cohen applied for the position for the second time.

First Warden Gaffett moved to appoint Betsy DeMaggio to the Senior Advisory Committee in place of Bill Wilson, seconded by Mr. Lacoste.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

- receive and act on Peter Voskamp's letter of resignation from the Shellfish Commission

Ms. Gaffett moved to accept Peter Voskamp's resignation from the Shellfish Commission, and to send a letter of thanks. Motion was seconded by Dr. Baute.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

- announce all pending Board, Committee and Commission vacancies

Ms. Gaffett announced vacancies on the Library Board of Trustees, the Recreation Board (alternate), the Shellfish Commission, and the Town Council's representative on the Health Services Board. Annual appointments to Sewer District Commission and Water District Commission will be made for May.

10. Act on request of Town Clerk to oppose pending legislation S 0341 re: poll opening times

S 0341 would mandate that polls open at 7:00 a.m. and close at 8:00 p.m. statewide. Town Clerk presented a letter from the Board of Canvassers asked the Council to support a local exemption from the 7:00 a.m. opening time. Polls would continue to open at 9:00 a.m. Brief discussion.

Dr. Baute moved to support the request, seconded by Mr. Torrey.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

11. Receive and act on NSPD monthly reports: January and February, 2011

Ms. Gaffett moved to accept the monthly reports, seconded by Mr. Lacoste.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

12. Receive and Act on letter from Deepwater Wind re: Special Temporary Permit for meteorological equipment at the North Light and Coast Guard Station

First Warden Gaffett moved to renew Deepwater Wind's special temporary permits for meteorological equipment at town property at the North Light and Coast Guard Station for six months from their respective expiration dates, seconded by Dr. Baute.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

13. Receive correspondence: Interstate Navigation re: Hi speed ferry 2011 schedule, exogenous (unexpected) expenses from Pt. Judith dock repair and vessel stability tests; Henry Hill re: resignation from BI Health Services; BIRA re: BIPCo distribution system upgrade; N. Ratti re: windaction.org; TNS Historic District re: CLG grant

No action was needed or taken.

14. Announce received correspondence on Plat 6, Lots 146 & 147 and schedule a review meeting

To date the Old Harbor Task Force, Mary (Farnham) Cooper, Bruce Montgomery, Herman Hassinger, Doug Gilpin and the Conservation Commission have sent suggestions for Town's recently purchased land on the shores of Old Harbor. Council will hold a meeting March 28 to discuss.

15. Minutes: February 7, 2011, February 9, 2011, February 21, 2011 (open and closed),

Due to the late hour the minutes were carried over to the next meeting.

Ms. Gaffett moved to enter closed session pursuant to RIGL 42-46-5(a)(2) for discussions of litigation and collective bargaining. Seconded by Mr. Lacoste.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

16. Receive and act on update from Town Solicitor re: Champlins litigation (This item may be discussed in closed session pursuant to RIGL 42-46-5(a) (2) for discussions of litigation.)

17. Receive and act on update on Employees Union Contract Negotiation (This item may be discussed in closed session pursuant to RIGL 42-46-5(a) (2) for discussions of collective bargaining.)

At 10:15, First Warden Gaffett moved to come out of closed session and seal the minutes, seconded by Dr. Baute.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

No motions were made in the closed session meeting.

At 10:15, a motion to adjourn was made by Dr. Baute and seconded by Mr. Torrey.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste) Nays: 0 Absent: 1 (Martin)

Minutes approved April 4, 2011

Fiona Fitzpatrick
Town Clerk