

New Shoreham Town Council Minutes
Town Hall, Old Town Road, Block Island
Tuesday, July 5, 2011
7:00 p.m.

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

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

Warden's Report

First Warden Gaffett reported on upcoming events celebrating the 350th Anniversary. She reported the Town is proceeding with legal action against Seawinds for noncompliance with the consent agreement.

Report of the Town Manager

The Town Manager reported on the long Fourth of July weekend. The fireworks were beautiful although the ceiling was low, the parade was a success. Although the town had six state troopers in addition to the full summer complement, a very big crowd of young people gathered on the beach behind the Surf Hotel resulting in 24 rescue calls. The Town Manager said the town will not tolerate drinking in public and will strive towards zero tolerance for open containers. The Police Chief was present and spoke about the difficulty of managing an intoxicated crowd without touching off a riot. He said the problem is multijurisdictional and must be addressed as such. He said there were ten or twelve arrests over the weekend.

Public Input

Pam Hinthorn, President of the Block Island Medical Center Board said the gathering was a serious problem that taxed the Medical Center and Rescue Squad to its limits. Mark Emmanuelle thanked all the citizens who came out in the evening and the next morning to clean the beach and pick up trash on the streets. Nurse Linda Closter said it fortunate that there were no other emergencies during the hours the Medical Center put all its resources into the rescue calls of drunken teenagers, who she said were typically aged 18 to 20 from Wakefield and Narragansett. She said the primary issue is open (alcohol) containers, and she suggested closing the beach on the Fourth of July. She said the morning boats carried drunken teenagers. Ms. Closter said the experience was appalling for the tourists.

1. Public Hearing: Proposed amendments to TNS Zoning Ordinance Section 202 Definitions and Section 402 Major Residential Development

Town Planner Jane Weidman and Planning Board Chair Margie Comings were present. The Planning Board amended the Subdivision Regulations in June. The Zoning Ordinance amendments under consideration would coordinate the Town's Zoning Ordinance with the amended Subdivision Regulations.

Ms. Weidman explained that the Town currently has cluster development; the ordinance amendments further define the process and redefines it as "Flexible Design." She said flexible design is intended to be density neutral and tax neutral; its benefit is to allow creative placement of small building envelopes in close proximity while combining appurtenant open space into contiguous areas tailored to a parcel's specific characteristics. The Planning Board's new subdivision regulations contain a process to evaluate properties for the best building envelope placement.

Ms. Weidman discussed her memo dated June 28 suggesting changes to the advertised language. She recommends the word "encouraged" be replaced by "allowed" in 402(E), relating to shared utilities. In discussion Council agreed to change "shall be encouraged" to "may be allowed." Also, the new Section 402 F (1) references Section 304; the reference should be to Section 202. The reference in Section 402 F (3) should read "See Article 10 of the Subdivision Regulations). Section 402 H can be deleted/reserved because it is superseded by the Subdivision Regulations.

Questions were raised because the proposed ordinance would seem to allow homeowners to transfer ownership of any land outside the building envelope to a non-profit. Council members

contrasted the new language with the existing ordinance 402 (E) which reads: ‘Open space necessary to meet the minimum requirements of this section shall be owned by a homeowners association Open space other than that necessary to meet the minimum requirements of this section may be owned by either the homeowners association, the Town or the Block Island Land Trust. A conservation easement on all or any part of the open space within a cluster development may be held by the Town or the Block Island Land Trust.’ Council members referred to the open space necessary to support the density as *common space*. Council members discussed whether common space should be defined in the ordinance and demarked on subdivision maps and stay on the tax rolls, albeit as open space. The Planning Board should develop maintenance agreements giving owners responsibility to care for the common space in accordance with provisions the Planning Board required at the time of subdivision. Council discussed the use of conservation easements over the common space. Conservation uses can be mandated through easements over common areas. They discussed the concept of allowing property transfer of common space to conservation organizations in unusual cases when “an overriding compelling reason” exists.

Attorney Joe Priestley noted the language as drafted for 402(F)(4) does not allow the Block Island Land Trust to take possession of open space or common space because the Land Trust is a quasi-municipal organization, not a non-profit. Similar language exists in section 305(d) of the new Subdivision Regulations.

Council discussed using the ordinance to be sure alternative/renewable energy systems are allowed or not prohibited in all flexible design projects.

Ms. Gaffett moved to continue the hearing until August 17, 2011 after further consideration by the Planning Board. Motion seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin)

Nays: 0

2. Receive and act on letter from DeepWater Wind re: Special Temporary Permits for meteorological equipment at North Light and Coast Guard Station

Deepwater Wind’s island liaison Bryan Wilson presented the request. He said Deepwater continues to collect essential meteorological data for the Block Island wind farm, and granting the requested Special Temporary Permit (and an extension) would allow the collection of a longer term three year data set. Long term data is more valuable and can be compared other data sets collected from the airport and other east coast sites. Deepwater asks for new permits for equipment at Town land at the North Light and Coast Guard Station. Discussion ensued. Mr. Wilson said this STP and its extension will be the last requested for the met towers however Deepwater will continue to collect bird and bat data from lidar equipment after the towers are removed.

The First Warden noted the two requests are for Town land, there have been no complaints received after the installation, the towers are well operated and have been dropped during severe wind events, and a detailed three year meteorological data set is for the public good. She sees no reason not to grant new Special Temporary Permits to Deepwater.

Ms. Gaffett moved to grant new Special Temporary Permits for the meteorological towers and equipment at the North Light for six months beginning October 30, 2011 and the Coast Guard Station for six months beginning August 21, 2011 with the understanding that this will be the last request for new permits but not precluding renewals of these permits, and incorporating by reference the reasoning in the minutes of March 2, 2009 when the initial permits were granted. Motion was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute Lacoste, Martin)

Nays: 0

3. Receive and act on letter from Richard Harris re: appeal of Harbor Master action revoking mooring permit

Harbormaster Steve Land was present. Joe Curran was present on behalf of Richard Harris. Mr. Lacoste recused.

First Warden Gaffett noted Mr. Harris was appealing a decision of the Harbormaster to revoke his mooring because he did not return his annual application. Such appeals are heard by the Town Council. Mr. Curran explained that Mr. Harris' failure to return his application in a timely manner, and failure to respond to multiple communications from the Harbors Division was inadvertent and due to difficult circumstances surrounding his wife's illness. Discussion ensued. Mr. Harris' application has not yet been received.

Ms. Gaffett moved to grant the appeal, provided the application is received by close of business on Friday and further provided that no future extensions will be granted. The motion was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

4. Receive and act on letter from Electric Utilities Task Group re: funding facilitator for future Town sponsored energy forum

A communication was received from the Electric Utility Task Group asking for help funding a New Shoreham Electric Utility Task Group Energy Forum which they envision as a community forum to explore and build consensus for solutions to escalating energy costs. Some funding for professional outreach, planning, a facilitator and debriefing would come from BIRA or other community groups. A discussion ensued. Ms. Gaffett felt strongly that the Town should fund the forum as an explicit expression of the leadership role the Town is taking with regard to the Island's energy future. Mr. Lacoste and Mr. Torrey thought accepting funding from BIRA would simply help the Town. Discussion ensued regarding the forum.

Ms. Gaffett moved that the Town support and fund a community energy forum facilitator, with a cap of \$4,400 to come out of the budget as recommended by Finance Director and Town Manager, for instance from contingency. The motion was seconded by Mr. Lacoste.

Ayes: 3 (Gaffett, Baute, Torrey) Nays: 2 (Lacoste, Martin)

5. Consider and act on Investment Grade Audit Agreement with Johnson Controls for energy savings projects at Town buildings

Present for the Washington County Regional Planning Commission were Jeffrey Broadhead and Maura Sayre. Kathy Stanley was present for Johnson Controls, Inc.

Johnson Controls, Inc. (JCI) provided a draft investment audit agreement between WCRPC as project coordinator, the Town and School, and JCI. JCI will energy audit the Town Hall, the School, Wastewater Treatment Plant, Water Treatment Plant, Medical Center, Rescue Building, Library and Police Station. JCI will identify energy saving projects which JCI will implement for a price and the town will repay through the energy savings. There is no cost for the audit if the Town agrees to implement one or more measures recommended by JCI. If the Town does not choose to participate, the cost of the audit will be paid by the WCRPC's ARRA grant.

Discussion ensued. The baseline energy costs must be accurate, the savings stream must be long range. The Island's energy costs will be impacted if DeepWater Wind's windfarm is constructed. Dr. Baute contacted some municipalities JCI has worked with, all had positive experiences.

Ms. Gaffett moved to authorize the signing of the Investment Grade Audit Agreement pending review by Town Solicitor, correction of square foot calculations, and the elimination of the beach pavilion from the agreement because the beach pavilion is being considered for demolition and rebuild.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

6. Act on Alarm Ordinance fee schedule

Dr. Baute moved to adopt the fee schedule for the Alarm Ordinance as provided by the Town Manager, seconded by Ms. Gaffett.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

7. Receive and act on letter from American Legion Post 36 re: F1 license (beer and wine) for fundraising picnic event on July 24, 2011

Mr. Martin moved to grant an F1 liquor license to the American Legion Post 36 for their family picnic fundraiser on July 24, 2011 as described in their letter of application, to waive the fee, and to authorize the Town Manager to work with the Legion to close Legion Way for the duration of event if the Legion so desires. Motion was seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

8. Boards, Committees and Commissions:

- **Receive letter of resignation from Rally Migliaccio as alternate member of the Sewer Commission and the Water Board**
- **Announce Board, Committee, Commission openings: alternate positions on the Sewer Commission; alternate position on the Water Board; alternate position on the North Light Commission**

Ms Gaffett moved to accept Rally Migliaccio's resignation from the Sewer Commission and Water Board with a hearty letter of thanks for his years of service, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett announced openings on boards, committees and commissions: alternate member of Sewer Commission, alternate member of Water Board, alternate member of North Light Commission.

9. Consider and act on changing the annual Liquor License hearing date from November 16, 2011 to November 7, 2011

Brief discussion ensued. The Deputy Clerk will be attending training during the scheduled hearing this year. The meeting date has been adjusted in the past.

Ms. Gaffett moved to change the liquor license hearing date from November 16, 2011 to November 7, 2011. Motion seconded by Mr. Martin.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

10. Review and approve minutes: June 6, 2011, June 15, 2011

Ms. Gaffett moved to approve the minutes of June 6, 2011 and June 15, 2011 with changes discussed, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

11. Receive Correspondence: Kingdom of the Netherlands; Nicholas Ratti; Chris Warfel

No action was needed or taken.

12. Receive update and act on recommendation regarding disposition of the Estate of Violette M. Connolly (portions of this discussion may be held in closed session pursuant to Rhode Island General Laws §42-46-5(a)(5) for the discussion of acquisition of property)

At 10:00 Ms. Gaffett moved to enter executive session pursuant to Rhode Island General Laws §42-46-5(a)(5) for the discussion of acquisition of property, and to invite Violette Connolly's Executor Millie McGinnes, family friend Cliff McGinnes, and the estate's attorney Joseph Priestley into the session. The motion was seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Discussion ensued.

At 10:20 Ms. Gaffett moved to adjourn the closed session and keep the minutes confidential. Motion seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett reported one motion was made during the closed session. It will be kept confidential at this time pursuant to Rhode Island General Laws 42-46-4 because disclosure will jeopardize strategies or negotiations being undertaken for the Town.

At 10:20, a motion to adjourn the meeting was made by Mr. Lacoste and seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin)

Nays: 0

Minutes approved August 1, 2011

Fiona Fitzpatrick,
Town Clerk

UNSEALED BY ORDER OF THE TOWN COUNCIL AUGUST 1, 2011

**New Shoreham Town Council Minutes
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Tuesday, July 5, 2011
7:00 p.m.**

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

Receive update and act on recommendation regarding disposition of the Estate of Violette M. Connolly (portions of this discussion may be held in closed session pursuant to Rhode Island General Laws §42-46-5(a)(5) for the discussion of acquisition of property)

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Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin)

Nays: 0

Violette Connolly's will left her house and property to the Town, with a stipulation that the barn be renovated to provide rental housing for police officers. Ms. Connolly's house was sold to provide for her care, and approximately \$500,000 remained in her estate when she died. Executor Millie McGinnes has been working to use residuary to carry out Ms. Connolly's wishes to provide town-owned rental housing for police officers. Because the exact terms of the bequest can no longer be met, approval from Superior Court is needed.

Mr. Priestley reviewed seven properties on the market and also discussed developing the Town-owned Faulkner lot.

Ms. Gaffett recused for discussion of Lewis Gaffett properties at Turkey Hollow and Ebbetts Hollow. The other properties discussed were the Ernst Dive Shop on Ocean Avenue, the Ann Evans property off Center Road, the John Thomas property on High Street, the O'Loughlin land off West Side Road and Lemoine property on Old Town Road.

After discussing each property Council members focused on the John Thomas property as the best value. The property is valued at about \$725,000. There is an existing two-unit house that will satisfy the requirements of the Will to provide rental property for police officers. Under affordable housing double density zoning, the property has the potential to support two additional houses, each with an affordable unit for a total of six units. The Town will have to hold a Special Financial Town Meeting to purchase the property.

Mr. Lacoste moved to authorize the Town Manager to work with the Town's Attorney Katherine Merolla and Mr. Priestley to negotiate and sign documents relating to the purchase of the John Thomas property for \$725,000 contingent upon: a favorable building inspection, approval by the voters at Financial Town Meeting, approval of probate petition in Superior Court, and any other conditions the Town Solicitor finds appropriate. The motion was seconded by Ms. Gaffett.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett moved to adjourn the closed session and keep the minutes confidential. Motion seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett reported one motion was made during the closed session. It will be kept confidential at this time pursuant to Rhode Island General Laws 42-46-4 because disclosure will jeopardize strategies or negotiations being undertaken for the Town.

At 10:20, a motion to adjourn the meeting was made by Mr. Lacoste and seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Minutes approved and ordered unsealed August 1, 2011

Fiona Fitzpatrick,
Town Clerk