

**New Shoreham Town Council Minutes
Town Hall, Old Town Road, Block Island
Wednesday, May 18, 2011
7:00 p.m.**

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

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

Warden's Report:

The First Warden reported on the Town's 350th anniversary celebration. The first Heritage Presentation will feature Hank Lemoine speaking on BI geology May 20. Flippo the Juggling Clown will perform in town May 28. There will be a chowder and apple pie cooking contest with music by Carol and Audrey on May 29.

The First Warden also reported building permits were issued for the Block Island Housing Board's two affordable homes on the Jacke property. The RI DEM will hold a public hearing on hunting regulations June 1 in Warwick.

Public Input

Edith Blane asked for clarification on legislation for an Island-wide Historic District. The First Warden explained legislation is pending that would allow the Town to create an ordinance to permit homeowners to enroll in the Historic District even if their properties are beyond the current district boundaries. Participation will be voluntary.

1. Public Hearing: Proposal to add a new Article IV "Fire Alarm Ordinance" to New Shoreham General Ordinances Chapter 5 Fire Prevention and Protection.

Town Manager Nancy O. Dodge reviewed the proposed ordinance. A meeting between the Fire Chief and Manager resulted in ideas to reduce the scope of the advertised ordinance. The rewritten document will be posted and circulated.

Ms. Gaffett moved to continue the hearing to June 6, 2011 based on a rewritten document. Motion was seconded by Dr. Baute.

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

2. Act on Block Island Housing Board \$250,000 loan resolution

Finance Director Land explained the Housing Board received authority to bond \$350,000 at Financial Town Meeting in May, 2004. \$100,000 of that has already been bonded. If approved the loan resolution will expend the balance of the Board's bonding authority. Funds will finance construction of two homes on the Jacke property. Sale of the houses will go towards repayment of the loan. A copy of the resolution is attached to these minutes.

Dr. Baute moved to approve the Housing Board's \$250,000 loan resolution pursuant to the discussion at the Council's last meeting. Motion seconded by Mr. Lacoste.

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

3. Act on Water grant/loan resolution

Finance Director Land explained the authority for the grant/loans was approved at Financial Town Meetings in 2004 and 2005. The Council's resolution will allow the issuance of the bonds. The funds will be used for water infrastructure in the New Harbor area. A copy of the resolution is attached to these minutes.

First Warden Gaffett moved to authorize the water grant/loan resolution as previously approved, seconded by Dr. Baute.

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

4. Tabled item: Act on Shellfish Commission recommendations re: shellfish closure dates

First Warden Gaffett explained the item was continued from the previous meeting. A copy of the shellfish closure and map are attached to these minutes.

First Warden Gaffett moved to enact the 2011 shellfish closure per the recommendation of the Shellfish Commission and the map and schedule provided. Motion was seconded by Mr. Martin.

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

Harbormaster Steve Land was present to answer questions. He said buoys will delineate shellfish area 4. Spring shellfish seeding is finished, so Andy's Way will be open for shellfishing tomorrow.

5. Announce CRMC working meeting re: pending TNS application for an aquaculture lease

The First Warden explained the notice is for a working meeting with CRMC and Harbors Department staff, there will be an opportunity for input at the upcoming Public Hearing. No action was needed or taken.

6. Receive an update on the status of the Building Official's Notice of Violation for Seawinds Condominiums

Ms. Gaffett reported the air conditioning unit is still in place but the foundation slab has been removed. The Building Official issued a second Notice of Violation to Block Island Housing LLC (Seawinds) on May 13. He requested permission to have the Town solicitor take legal action to compel compliance with the consent agreement. Geraldine and Howard Comeau said the foundation slab has been removed but the area is worse than before. They asked that it be leveled and seeded. A brief discussion ensued.

Ms. Gaffett moved to authorize the Building Official to work with the Town's attorney to pursue legal remedies against Block Island Housing after June 1 if needed to ensure removal of the AC unit and clearing and reseeded of the foundation area. Motion was seconded by Dr. Baute.

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

7. Receive and act on letter from Joseph Priestley re: proposed easements on town and state roads for the benefit of plat 16 lot 88 (A. & A. Jacob, Center Rd.)

Attorney Joseph Priestley was present for A. and A. Jacob, the owners of Plat 16, Lot 88. He explained his client's porch, ISDS and septic pump were installed by previous owners and are in the Center Road easement. The pump chamber is on state property, the porch and septic tank are on town property. Mr. Priestly said his clients want to sell their house. They are requesting a 798 square foot easement from the town and a 660 square foot easement from the state to maintain and repair but not expand the porch, and license to maintain and repair but not replace the septic tank, pump and chamber.

The Council discussed the issue with a measure of support because the problems were not of the Jacobs' making. They asked that a survey plan be prepared and the easement be reduced to writing for review by the Town Solicitor. Benchmark dates for the porch and septic system and hold harmless language for the town are to be included.

Dr. Baute moved that the Council indicate a willingness to move forward with an easement depending on the plan and final terms of the easement as drafted by Mr. Priestley and pending the Town solicitor's review, seconded by Mr. Martin.

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

8. Set Public Hearing date for proposed Zoning Amendments to Section 504 – Signs re: clarification of sign area calculation

The Planning Board forwarded a proposal for an amendment to clarify the sign ordinance.

Ms. Gaffett moved to set a public hearing date of June 15, 2011 seconded by Mr. Lacoste.

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

9. Boards, Committees and Commissions:

- act on Library Board of Trustees vacancy
- announce Board, Committee, Commission openings

Mr. Martin moved to appoint Charlotte Herring to the Library Board of Trustees to serve out the term of Douglas Gasner, who resigned. The motion was seconded by Mr. Lacoste.

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

First Warden Gaffett announced vacancies on the Planning Board and North Light Committee.

10. Receive and act on TNS Police Department monthly report: April

Mr. Martin moved, seconded by Dr. Baute, to accept the New Shoreham Police Department's report for April, 2011.

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

The report is attached to these minutes.

11. Act on proposed Management Agreement between the Town of New Shoreham, the NS Sewer District and the NS Water District

The Council agreed to take the matter up on Tuesday May 24, 2011 when the Council will receive the Sewer Commission's five-year fiscal plan.

Ms. Gaffett moved to table the item to May 24, 2011 at 7:00 at Town Hall, seconded by Dr. Baute.

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

12. Receive and Act on request of Harbors Department re: utility charges at Old Harbor Dock

The Harbormaster recommended a charge of \$15 per day per cord or plug. The Town is not permitted to mark up utilities for profit; the goal is to pass the cost to the user. Discussion ensued regarding plugs and split or spliced cords.

First Warden Gaffett moved to adopt the recommended charge of \$15 per day per cord or plug for electricity at the Old Harbor Dock with an understanding that a report will be forthcoming at the interim July Town Council meeting.

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

13. Minutes: April 20, April 25, May 4, 2011

Ms. Gaffett noted for the record that she did not check the hunting dates. Changes to the minutes, not including hunting dates, were discussed.

First Warden Gaffett moved to approve the Town Council minutes of April 20, April 25 and May 4, 2011 with changes discussed, seconded by Mr. Lacoste.

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

14. Review upcoming Town Council meeting schedule, and set meeting date with BI Land Trust

Council will meet with the Land Trust at the Council's June 6 meeting; Council will meet with Sewer Commission on May 24; the June 1 work session is cancelled.

15. Correspondence: William Landry re: Public Hearing Notice for Development Plan Review of Payne's 1614 Realty, LLC, Beach Ave.; Chris Warfel re: renewable energy systems and zoning special regulations; Rally Migliaccio re: number of allowed taxi drivers per license; Cumberland School Committee / Bristol Warren Regional School

District / Providence City Council re: mandatory binding arbitration, contract continuation, lay off notices for school teachers.

No action was needed or taken.

16. Receive and act on update re: CRMC May 6, 2011 decision on Champlins Realty Associates (portions of this discussion may be held in closed session pursuant to Rhode Island General Laws §42-46-5(a)(2) for the discussion of litigation)

The Town Council did not enter closed session for the discussion. The CRMC voted on Champlin's application January 11, 2011 and filed the written decision on May 6, 2011. Champlin's filed an appeal before the CRMC's written decision was filed. Judge Vogel held a hearing on May 12 and ruled that Champlin's does not have to file a new appeal to the written decision. She also ordered the CRMC to transmit the record of the proceedings to Superior Court within one week.

The CRMC's written decision calls for a 300 foot-wide navigational channel between the mooring field and any marina, not just Champlin's. There was no testimony or evidence in the record that addressed such a buffer at the Boat Basin, Payne's Dock and the Hog Pen. Such a reconfiguration would have an impact beyond mooring field E, and the Town had no opportunity to address the issue. Discussion ensued.

First Warden Gaffett moved to follow the recommendation of the Town's solicitor and direct him to appeal the CRMC's decision by challenging the provision for a 300 foot marina buffer as it applies to the Boat Basin and Payne's Marina. The motion was seconded by Mr. Lacoste.

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

17. Receive update on 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 8:50 First Warden Gaffett moved to enter closed session pursuant to Rhode Island General Laws §42-46-5(a)(5) for the discussion of acquisition of property in the matter of the Estate of Violette Connolly, and to invite Executor Millie McGinnes, the estate's legal counsel Joe Priestley, the late Mrs. Connolly's friend Cliff McGinnes, Sr., along with Town Clerk Fitzpatrick and Town Manager Dodge.

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

At 9:15 Mr. Lacoste moved to adjourn the closed session meeting and seal the minutes, seconded by Mr. Martin.

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

There were no motions made during the closed session.

Mr. Lacoste move to take no action at this time but to review options discussed in the closed session meeting. Motion seconded by Mr. Martin.

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

At 9:15, a motion to adjourn was made by Mr. Martin and seconded by Dr. Baute.

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

Minutes approved June 6, 2011

Fiona Fitzpatrick
Town Clerk