

New Shoreham Town Council Minutes
Town Hall, Old Town Road, Block Island
Wednesday, June 20, 2012
7:00 p.m.

Present: First Warden Kimberley H. Gaffett, Second Warden Raymond J. Torrey, Town Councilors Peter B. Baute, Kenneth C. Lacoste, and Richard P. Martin. Also present were Town Manager Nancy O. Dodge, Town Solicitor Katherine Merolla, and Finance Director Amy Land. Town Clerk Fiona Fitzpatrick was present to take 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 the Harbor Church Recreation Center is open. A change to state liquor laws will allow the retail sale of liquor until 9:00 instead of 6:00 on Sunday nights before Monday holidays. A passenger ferry from Fall River will run June 23, 2012. Chief Carlone was present and introduced summer officers Neil Laird, Bill Morretti, Scott Gauthier, and Robert Gaudet. Unable to attend were summer officers Michael Heon and Alan Davis. The Chief reported Chris Rich will be attending the Academy in the fall. The First Warden reported the summer solstice rolled in at 7:09.

Public Input

Pat Doyle spoke regarding the wind turbine in Portsmouth. She said it has not been reliable. Dr. Baute disagreed.

1. Board of License Commissioners Public Hearing:

Application for new BV Liquor License for ULBE, Inc., Stockholders: Lorraine Y. Cyr, Trustee of Ulric E. Cyr Family Trust and Trustee of Beatrice Eva Cyr Living Trust d/b/a The Surf Hotel, Dodge Street, Plat 6, Lots 138, 141, 142 & 143

Ms. Gaffett called the meeting of the BOLC to order at 7:16. Attorney John Pfarr was present as a manager of ULBE, Inc. Lorraine Cyr and Kim Afanso were also present.

Mr. Pfarr reviewed the liquor service area shown on the application: dining rooms with beverage service for dining guests, lounge with standing bar on the ocean side, porches around the building served by a bar on the northeast corner or by service bar by north porch. He also described outdoor service areas, including lawns above the beach. The plan does not include a bar on the Dodge Street porch but it has been requested as a liquor service area.

Mr. Lacoste asked about special event area #3 (tent) which coincides with an existing parking area. Mr. Pfarr said adequate parking remains. He believes there is no formal parking requirement for the hotel; the applicants have not asked for any expanded uses or variances under Zoning; they plan to continue their preexisting, nonconforming uses. Mr. Martin expressed reservations about the tent area because music from special events could add to the disturbance of the many nearby residents and guests. The outdoor liquor service/consumption areas behind the building were discussed. The "patio/lawn seating" (area 2) will have tables and chairs for patrons; drink orders will be taken. The service area does not include the beach. Mr. Pfarr said he did not think people will take their drinks onto the beach. The tent and portable bar (area 4) will only be erected for special events. Liquor service in area #4 will only be associated with special events, but at other times there will be lawn chairs and people may bring their cocktails over. Dr. Baute said he had no problem with liquor service areas 2, 3 and 4.

First Warden Gaffett moved to grant a BV liquor license to ULBE, Inc., Stockholders: Lorraine Y. Cyr, Trustee of Ulric E. Cyr Family Trust and Trustee of Beatrice Eva Cyr Living Trust d/b/a The Surf Hotel with the following conditions, and first noting that this is an approval of the plan as presented, and that this approval is conceptual and the activation of any liquor service areas would be dependent on

- Zoning approvals

- issuance of Certificate of Use and Occupancy for the open and operating areas of the hotel
- compliance with all state and local codes
- it is a condition of the approval that the entirety of all four lots remain under the ownership of ULBE, LLC and at no point will the lots be in separate ownership
- no structures may be built on the lawn seating area noted on the plan (sections 3 & 4) and the areas must be closed to service at dark
- no bars on East Deck or Dodge Street Deck
- liquor service in areas 3 and 4 only during functions or events hosted by the Surf Hotel
- approval also subject to the updated plan, license fees, Certificate of Good Standing from the Division of Taxation, appropriate approvals from the Department of Health, indications of appropriate water and sewer allocations
- permission is granted for dancing
- permission is granted to remain closed from October 16, 2012 to November 30, 2012
- the number of BV licenses available is increased from 23 to 24.

Ayes: 4 (Gaffett, Torrey, Baute, Lacoste)

Opposed: 1 (Martin)

2. Town Manager report on Plat 6 Lot 146 re: erosion and public safety at the “Surf corner” and in front of the National Hotel

Town Manager Dodge reported the sidewalk is being checked weekly and is not undermined in any way. The CRMC will require extensive engineering and a Category A assent for work in the area. The Old Harbor Task Force is studying how the property is being used this summer and will come forward with a recommendation this fall. Town Manager Dodge recommends waiting for the OHTF’s report before engaging the engineer.

3. Receive and act on TNS Police Department monthly report: May 2012

First Warden Gaffett moved to receive the TNS Police Department report for the month of May, 2012. Motion was seconded by Mr. Lacoste.

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

4. Receive and act on Cameron Greenlee letter regarding request for Town sponsorship of the 2012 ConserFest

Tracy Finn was present for ConserFest which will be Thursday, July 12, 2012 from 10:00 a.m. to 6:00 p.m. Musicians will perform from 12:00 to 5:00. Information on land conservation projects and awareness will be distributed, merchandise will be sold and the profits will go to the Block Island Conservancy. The Recreation Director granted permission to use the beach facility. The event has been held annually at the Town Beach since 2008.

Dr. Baute move to grant Town sponsorship to the 2012 ConserFest, seconded by Mr. Torrey.

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

5. Receive and act on letter from Block Island Early Learning Center re: special temporary permit allowing tethered balloon rides as a fund raising event.

Sue Brown Black and Attorney Joseph Priestley were present for the application and answered questions about their event. The Block Island Early Learning Center wants to offer tethered balloon rides as a fundraiser. A special event license application was turned down by the Building Official and Minimum Housing Official because amusement rides are prohibited under zoning without a special temporary permit. Ms. Black explained the balloon is very weather sensitive. The BIELC asked for a five day window and two locations: the field by the Narragansett on West Side Road, or the Sullivan House off Corn Neck Road.

Dr. Baute moved to grant a Special Temporary Permit under Section 112(A) of the Town's Zoning Ordinance to allow the Block Island Early Learning Center to conduct fundraising balloon rides at the Sullivan House (Plat 5, Lot 59) and/or the Narragansett Inn (Plat 5, Lot 69-1) during the period of July 8 through July 12, 2012. Permission was granted subject to the conditions described in the Block Island Early Learning Center's request to the Town Council (attached), including providing evidence of insurance. The motion was seconded by Mr. Torrey.

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

6. Deepwater Wind:

• Receive update on Block Island Wind Farm project and associated work

Deepwater Wind CEO Jeff Grybowski, Engineer Paul Murphy and Block Island Wind Farm Manager Bryan Wilson were present. Mr. Grybowski explained Deepwater is in process of state and federal permitting for the application. They will make the permit applications and supporting documents available online.

Last night Deepwater deployed a tension leg buoy with steel buoyancy balloon about mile off the Island. The buoy is about 130 feet tall; only 40 feet is visible above the water line. The buoy will monitor atmospheric and sea conditions and is powered by three small wind turbines and a solar panel array. It was constructed in Quonset will be here for up to eight weeks while its instruments are calibrated against the met tower. It is destined for New Jersey.

• Act on proposed Option Agreement incorporating Temporary and Permanent Easements with Deepwater Wind for cables etc., underground duct banks and manholes installation and temporary work area at the Town beach and north parking lot as more particularly described in the Exhibit B attached to the Option, and approval of Agreement regarding the placement of fiber optic cable for the benefit of the Town within the submarine cable to the mainland.

Attorney William Landry was present for Deepwater Wind. The Council discussed the timing of construction and the location of the easements. The proposed option provides a payment to the Town of \$1,000. The option period is 24 months and Deepwater will execute when permits are in hand and funding has been secured. If the agreement is executed Deepwater will pay the Town \$350,000. The mainland terminus has not been determined. Deepwater may opt out with 60 day's notice. Discussion ensued.

Mr. Landry explained Deepwater has structured two identical option agreements, one between the "wind farm entity" and the Town and the other between the "transmission entity" and the Town. The identical options are for a permanent easement and a temporary easement. The permanent easement is for ingress and egress to the vault and manhole in the beach parking lot, an area slightly larger than one parking space. The temporary easement is for a larger area for construction staging, equipment, material and offices. The temporary easement will be for mid-October to May 1.

A long discussion also ensued about an agreement with Deepwater Wind to include a fiber optic cable for the Town's use at no charge within the submarine cable. It will run from a point to be determined on Block Island (the cable terminus or another location) to mainland terminus, the Town will own the fiber optic component and will be responsible for arrangements with a vendor/distributor.

First Warden Gaffett moved to enter into a three year option agreement, rather than a two year option agreement, with the conditions which have been discussed: payment of \$350,000 for the easement; acceptance of the fiber optic cable, terminus points to be determined; all subject to the Town's legal review and also to authorize the Town Manager to sign after legal review. The motion was seconded by Dr. Baute.

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

7. Act on recommendations of Finance Director

- close Town Hall construction account

Finance Director Amy Land reported the building is complete and construction is finished.

First Warden Gaffett moved to close the Town Hall construction account on the recommendation of the Finance Director. Motion was seconded by Mr. Martin.

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

- open Washington Trust Co. account for Old Harbor Task Force for restricted funds;

The Finance Director requested permission to open a restricted account for money collected by the Old Harbor Task Force for bench maintenance. The Tourism Council had been holding the funds. The Finance Director said the fund is structured like an endowment for ongoing maintenance of memorial benches throughout town.

Mr. Martin moved to accept the recommendation of the Finance Director and authorize the opening of a Washington Trust restricted fund account for bench maintenance. Motion was seconded by Dr. Baute.

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

- resolution authorizing electronic wire initiation through Washington Trust;

The Finance Director explained that up to this point she had only used wire transfers for bonds and property purchases, and only if authorized in person. She is confident of the safeguards that are in place and recommends authorizing electronic wire initiation.

Dr. Baute moved, seconded by Mr. Torrey, to accept the recommendation of the Finance Director and authorize electronic wire initiation through Washington Trust.

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

- Quarterly Municipal Deficit Report (March 31, 2012);

Finance Director Land said the projections have not changed.

Dr. Baute moved to submit the quarterly municipal deficits report dated March 31, 2012, seconded by Mr. Lacoste.

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

- request to authorize over expenditures of certain appropriations, not exceeding adopted FY2012 budget;

Finance Director Land reported no requests at this time. While certain line items will be over expended, there are identified savings in the same department to offset the expense.

- request to designate 2012 funds for use in 2013

Finance Director Land asked that capital line 10-8000-5521 for building improvements at the Medical Center (\$5,000) be held for use in 2013. BIHS believes there is additional life in the shingles and would like the time for additional consideration of solar and wind alternatives for the Medical Center. Such an installation may be concurrent with roof repairs.

Finance Director Land asked that a portion of capital line 10-8000-5632 (\$6,300) to be designated for completion of a Police Department software application upgrade. The \$12,600 project was begun in May. The application vendor is making some changes to accommodate the location/fire # data necessary for dispatch operations. Completion is targeted for October.

Mr. Lacoste moved to grant the request of the Finance Director to designate 2012 funds for use in fiscal year 2013: \$5,000 building improvements at the Medical Center and \$6,300 for software application upgrade for the Police Department. Motion seconded by Mr. Torrey.

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

8. Receive and act on recommendation of the Tax Collector re: Uncollectible 2002 taxes

Tax Collector Linda Powers was present. She said taxes in the amount of \$422.10 have been delinquent for ten years and cannot be collected.

Mr. Martin moved to accept the recommendation of the Tax Collector and write off as uncollectable taxes from 2002 totaling \$422.10. Motion was seconded by Mr. Torrey.

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

9. Solicit and receive comments regarding Island-wide Verizon DSL services, and develop a plan of appropriate action

A very animated discussion about Verizon's internet service ensued. Those present agreed service is often slow when it is not out, Verizon's lowest level of service is offered on the Island and the company does not always meet that standard. The Town Manager asked that people continue to complain to Verizon, and also report their complaints to her going forward. She will compile a record of complaints.

Suggestions included: Everett Shorey thought the Town should start to build up a record of complaints and he wondered how to judge the real level of service. The PUC must have a metric for levels of service. Ms. Gaffett suggested bringing in the consumer advocate at the PUC. It was suggested that Verizon must have an organization that deals with state and local issues; a letter from a Town official to an officer in the New England Division should begin the process. Verizon or another vendor will need to invest in infrastructure to get DSL to every house on the Island after the fiber optic cable is laid.

10. Consider and act on requesting that the Electric Utility Task Force prepare a RFP for a municipal solar program (passive and photovoltaic)

Dr. Baute and Everett Shorey were present for the Electric Utility Task Force. They agreed the solar component offered in the Johnson Controls ESCO plan was not adequate: JC had an option for a 150 kilowatt system but ignored the potential for tax benefits associated with solar installation. Mr. Shorey said the EUTG could find models and put together a draft Request for Proposals.

Dr. Baute moved to direct the Electric Utility Task Group to draft specifics for a Request for Proposal for municipal solar project, seconded by Mr. Torrey.

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

11. Receive and act on BI Land Trust letter re: BILT Rules and Regulations

The Block Island Land Trust recently approved amendments to its Rules and Regulations. The Land Trust's enabling legislation stipulates that all BILT rules and regulations are subject to the approval of the Town Council.

Dr. Baute moved to approve the Block Island Land Trust's Rules and Regulations and updated and adopted by the BILT on May 14, 2012. Motion seconded by Mr. Martin.

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

12. Boards, Committees and Commissions: Announce current openings

First Warden Gaffett announced there is currently an opening on the Harbors Commission due to the resignation of Bob Gilpin.

13. Correspondence: Frederick Nelson re: Heinz Field fertilizer

No action was needed or taken regarding the correspondence.

14. Minutes: May 16, 2012, June 4, 2012

Mr. Lacoste moved to approve the minutes of May 16, 2012 and June 4, 2012 with changes noted, seconded by Second Warden Torrey.

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

At 9:55 First Warden Gaffett moved to enter Closed Session to receive status reports from the Town Solicitor on Town of New Shoreham vs. Filippi et al (WCSC 2004-0115) “Old Harbor Triangle” and Waste Haulers BI LLC vs. Block Island Recycling Management, Inc, et al “Transfer Station Litigation”, noting the items were posted with the provision that they may be held in closed pursuant to Rhode Island General Laws §42-46-5(a)(2) for sessions pertaining to litigation or pending litigation. Motion was seconded by Second Warden Torrey.

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

Report on litigation:

- **Status of TNS vs. Filippi et al (WCSC 2004-0115) “Old Harbor Triangle”;** (this discussion may be held in closed session pursuant to Rhode Island General Laws §42-46-5(a)(2) for sessions pertaining to litigation or pending litigation)
Update ensued.

Status of Waste Haulers BI LLC vs. Block Island Recycling Management, Inc, et al “Transfer Station Litigation” (this discussion may be held in closed session pursuant to Rhode Island General Laws §42-46-5(a)(2) for sessions pertaining to litigation or pending litigation)
Update ensued.

At 10:15 Ms. Gaffett moved to adjourn the closed session and seal the minutes, seconded by Mr. Torrey.

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

Ms. Gaffett noted no motions were made during the closed session.

- **Status report on outstanding Zoning violation: Frederick Sullivan Plat 8, Lot 204**

The discussion was held in open session. Attorney Merolla reported the Town took action in Washington County Superior Court to enforce Mr. Sullivan’s outstanding Zoning violations. She and the Building Official inspected the property today and all unoperational vehicles except one have been removed. The grass has not been cut. Ms. Merolla expects the remaining unoperational vehicle to be removed and the grass cut within 30 days.

At 10:20 Mr. Martin moved to adjourn, seconded by Mr. Lacoste.

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

Minutes approved July 18, 2012

Fiona Fitzpatrick
Town Clerk