

**New Shoreham Town Council Minutes
Town Hall, Old Town Road, Block Island
Wednesday, January 16, 2013
7:00 p.m.**

Present: First Warden Kimberley H. Gaffett, Second Warden Kenneth C. Lacoste, Town Councilor Sean McGarry, Town Councilor Norris Pike, Town Councilor Christopher Warfel. Also present were Town Manager Nancy O. Dodge and Town Solicitor Katherine Merolla. 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

The RI Coastal Resources Management Council's remand hearing for the expansion of Champlin's Marina will continue on the mainland tomorrow. The CRMC comment period for Deepwater Wind has been extended from January 22 to February 4. Councilor Warfel apologized for his remarks about Harbormaster Land in a statement attached to these minutes.

Public Input

There was no input from the public.

1. Public Hearing re: Historic District plat/lot list and map

- Consider amending New Shoreham General Ordinances Chapter 7 by revising the list of properties contained in the Historic District ordinance to include property of the Estate of David K. Harrison at Plat 18, Lot 6-1 (Fire #841 West Side Road) pursuant to New Shoreham General Ordinances 7-13 and to add "Plat 18, Lot 06, Sublot 01" to the official listing of included properties contained in the Historic District
- Consider amending the New Shoreham Zoning Map to add Plat 18, Lot 6-1, West Side Road, the Estate of David K. Harrison, currently zoned as Residential A, to the Historic District

Applicant Sam Bird was present. The application to add Plat 18, Lot 6-1 to the Historic District was approved by Historic District Commission and received a favorable advisory from the Planning Board. Mr. Bird explained his family bought the 12 acre 1892 farm from the original family in 1985. Eight of the 12 acres are in Block Island Land Trust conservation. He said he is grateful to have the opportunity to preserve the landmark farm buildings under the stewardship of the Historic District Commission. Martha Ball was present for the HDC. She said the commission strongly recommended passage so the unusually intact property could remain unchanged. No one spoke against the proposal.

Ms. Gaffett moved to close the hearing and adopt the ordinance and zoning map change as presented. Motion was seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel)

Nays: 0

2. Receive and act on TNS Police Department monthly report: December 2012

Chief Carlone presented the report. A discussion of electric vehicles ensued. It was also noted alarms are down.

Mr. Lacoste moved accept the NSPD Police Department for the month of December, seconded by Mr. Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel)

Nays: 0

3. Act on Quarterly Municipal Deficits Report

The report was presented by Finance Director Amy Land.

First Warden Gaffett moved to authorize the submittal of the Quarterly Municipal Deficits Report to the state fiscal agent, seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

4. Receive and act as necessary on State of Rhode Island CRMC Public Notice re: CRMC Federal Consistency determination for Deepwater Wind applications for commercial wind energy leases

The RI Coastal Resources Management Council (CRMC) is reviewing a consistency determination received from the US Department of the Interior Bureau of Ocean Energy Management with regard to federal licensing of Deepwater Wind. The CRMC will determine whether the federal actions are in compliance to the maximum extent possible with state regulations in the area, including the Special Area Management Plan. First Warden Gaffett said the item was informational but comment could be taken if the Town Council wished. A brief discussion ensued.

Councilor Warfel moved to take no action, seconded by Councilor Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

5. Review and act on Deer Tag reimbursement policy and reimbursement requests

The previous Council's deer tag reimbursement policy was reviewed. Hunters were reimbursed the cost of a resident deer tag (\$12.50) for each antlerless deer taken. The Town has accepted a photocopy of the "RI DEM Kill Report Card" filled out by the hunter as proof. To date this year, eleven hunters requested reimbursement for 42 does, 8 antlered deer and 3 button bucks. Other deer may have been taken without request for reimbursement.

Councilor McGarry moved to transfer \$525 from contingency for the reimbursement of 42 deer tags for harvested does, seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

6. Receive and act on Harbors Committee request re: New Harbor Office/Bathroom facility

Arlene Tunney was present for the Harbors Committee. The Committee sent a memorandum requesting the Town Council appoint a committee to study the construction of a new Harbormaster's office and the addition of bathrooms in New Harbor. The process for submitting new projects for the capital plan was discussed. The Town Manager and/or Harbormaster will attend the next Harbors Committee to determine where the Committee is in the budget and planning process and offer some guidance moving forward.

Ms. Gaffett moved to take no action at this time, seconded by Councilor Warfel.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

Mr. Warfel reiterated the need for a standing committee for buildings and grounds.

7. Boards, Committees, and Commissions:

• Planning Board appointment

Councilor McGarry requested the item be put on the agenda to give the Council the opportunity to correct their previous vote. He clarified that he abstained from the vote at the last meeting because he believed Ms. Gaffett's vote to appoint her brother-in-law to the Planning Board was an illegal action, nepotism under the Code of Ethics. Ms. Gaffett said she voted for the most qualified candidate for a volunteer board which will bring no financial gain or loss for the appointee or herself. Ms. Gaffett said she believes the standard is financial gain and she will seek and follow an opinion from the RI Ethics Commission. Mr. Warfel voted to reappoint his brother to the Library Board and Electric Utilities Task Group. He said he would follow the findings in the Ethics Commission opinion when it is received.

Attorney Merolla said the motion stands until overturned.

• Announce Board, Committee and Commission openings

There is an opening on the Senior Advisory Committee.

8. Set Public Hearing date for proposed Zoning Amendments related to Affordable Housing

First Warden Gaffett moved to set a February 20, 2013 public hearing for the amendment, seconded by Mr. Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

9. Receive and act on Town Solicitors update on legal action re: J. Pinney septic system replacement (plat 8 lot 109) (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)

The Town Council held the discussion in open session. Wastewater Inspector Don Thimble was present. Mrs. Ruth Mahoney was present for Mr. Pinney. Attorney Katherine Merolla reviewed that the Town Council had directed her to take legal action in Washington County Superior Court to force Mr. Pinney to comply with the order to work toward replacing his septic system. Mr. Pinney was served on January 1, his answer is due January 21. Mr. Pinney contacted Ms. Merolla asking for an extension of time to answer the summons and complaint. She explained to Mr. Pinney that the problem was that he had not moved forward with the Council's order to provide a signed contract for the work on his septic system. Soon after, Mr. Pinney's contractor David Dow sent Ms. Merolla a copy of a signed contract and a letter saying he has received a down payment of \$4,000 for work on the system which will cost approximately \$11,500. She believes the proceedings have resulted in a positive outcome and recommends the Town Council grant a 30 day extension because Mr. Pinney is moving forward with the action required by the Town Council.

First Warden Gaffett said she thought the Council's goal has been replacement of the system, not necessarily penalizing Mr. Pinney. She said there is progress toward the goal and she would be in favor of the extension. A brief discussion ensued.

Councilor McGarry moved to direct the Solicitor to grant Mr. Pinney a 30 day extension to answer the complaint. The motion was seconded by Councilor Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

10. Receive and act on update on PUC application re: Interstate Navigation (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)

The Town Council held the discussion in open session. Interstate Navigation's security officer Bill McCombe was present. Ms. Merolla said she has contacted Interstate Navigation's Attorney Mike McElroy and their expert Walter Edge regarding the proposal Everett Shorey recommended and the Town Council discussed and endorsed at their last meeting. Mr. McElroy approached the Division to ask whether the Division could support the proposal, and received preliminary interest. If the Division indicates they could support the process, Ms. Merolla will schedule a settlement conference at her office with the Town Manager, Mr. Shorey, Mr. McElroy and Mr. Edge.

In a discussion of the posting of the agenda item, Attorney Merolla said the Town has intervener status in the application and is a legal party to the proceedings so the posting with an option to hold the discussion in closed session for the discussion of litigation under RIGL is appropriate. Mr. McGarry said public input in this process will be useful and public support necessary and he favors continuing to hold discussions in open session. The closed session provision would be needed for the Town to strategize without Interstate. The current rates will be in place until they are changed by the Division.

11. Receive and act on Town Solicitors update on legal action re: The Triangle case (plat 8 lot 109) (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)

Yesterday's court hearing was continued to February 12, 2013.

12. Minutes: December 3, 2012; January 2, 2013; January 7, 2013

First Warden Gaffett moved to approve the minutes of December 3, 2012, seconded by Second Warden Lacoste.

Ayes: 3 (Gaffett, Lacoste, Pike) Nays: 0 Abstain: 2 (McGarry, Warfel)

First Warden Gaffett moved to approve the minutes of January 2, 2013 and January 7, 2013 with changes noted, seconded by Councilor Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

At 8:35 Mr. Lacoste moved to adjourn seconded by Mr. Pike.

Ayes: 5 (Gaffett, Lacoste, McGarry, Pike, Warfel) Nays: 0

Minutes approved February 4, 2013

Fiona Fitzpatrick, Town Clerk