

**New Shoreham Town Council Meeting**  
**Town Hall, Old Town Road**  
**Monday, March 4, 2013**  
**7:00 p.m.**

**Present:** First Warden Kimberley H. Gaffett, Second Warden Kenneth C. Lacoste, Council members Sean J. McGarry, Christopher G. Warfel and F. Norris Pike. Also present were Town Manager Nancy Dodge, Town Solicitor Katherine Merolla and for the recording of minutes, Deputy Town Clerk Millicent McGinnes.

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

**Warden's Report**

Second Warden Lacoste reported the following:

- Surveyors were surveying the Scotch Beach right-of-way today and posts in the right-of-way will be removed.
- The sand has been removed from the East Dock and it looks good.

**Public Input**

From the audience the following people spoke expressing the noted:

- Chris Blane stated that abandoned cats and cat colonies on the island should be addressed.
- Sean McGarry stated that Mary Donnelly has retired as the State Nurse. Due to attrition, the position will no longer be funded.

**1. Board of License Commissioners:**

Public Hearing re: Transfer of Class BV Liquor License (G.R. Sharky's)

First Warden Gaffett recused herself, as her father holds a liquor license in close proximity to G. R. Sharky's.

Richard Tretheway of Over Easy, Inc. and Gregory Kyte of Share the Ride, LLC were present.

Mr. McGarry moved to grant the transfer of a Class BV liquor license from Over Easy, Inc. Stockholders: Garry Censorio and Richard Tretheway, d/b/a G.R. Sharky's, Corn Neck Road, Plat 5, Lot 9 to Share the Ride, LLC Member: Gregory C. Kyte, d/b/a G.R. Sharky's, Corn Neck Road, Plat 5, Lot 9, subject to:

- Payment of the liquor license fee
- Certificate Good Standing from the Rhode Island Division of Taxation
- RI Retail Sales Permit
- Department of Health approval

And to grant permission for dancing and to remain closed from March 4, 2013 to May 30, 2013 and September 30, 2013 to November 30, 2013. Mr. Pike seconded and the motion carried.

4 Ayes (Lacoste, Pike, Warfel, McGarry)    0 Nays    1 Recusal (Gaffett)

Mr. Lacoste thanked Richard Tretheway for his years of running a fun, quality, family restaurant.

**2. Meet with Sewer Commission**

- Sewer Commission request to discuss taxpayer participation for sewer system improvements

Peter McNerney, Chair of the Sewer Commission presented the Commission's request, in a letter dated 3/4/13, asking for a tax to cover \$1.4 million in outstanding principal and \$3 million in needed capital improvements. He noted that it would cost \$315,000 in debt service per year and would increase the mill rate \$0.18 per \$1000. He explained that all community members benefit from the sewer system.

Mr. Pike stated that a joint meeting of the Town Council, Sewer Commission and engineer needs to be called to discuss the issue further. The following questions were raised to be answered by the Sewer Commission prior to such a meeting:

- What authority does the Sewer Commission have to bond through the Town and levy the taxpayers?
- How many years out is planning?

- What are the goals?
- What is the long term plan to bring up the system in the next 10 years, or however long the plan is?
- What is the assessment of needs including costs?
- Who did the assessment of needs?
- If there is a grant being contemplated, what percentage of grant monies will grant writers receive from awarded grants?
- Is grant writing competitively bid?
- Who received forgiveness from the Commission for fines (grease trap fines, wastewater management fines) and what were the fines forgiven?
- What is the sewer allocation fee breakdown regarding the contribution in aid of construction?
- How is that contribution in aid broken out, maintained and used?
- Would you provide a Balance Sheet for each of the past five years?

• Update on Ocean Ave.

Interim Sewer Superintendent Chris Blane stated that the pump station on Ocean Avenue has been equipped with a bypass line, and the station is in full working order. He noted that the gravity feed line from the station along Ocean Avenue needs to be replaced. Mr. McNerney stated that the force main under Ocean Avenue also needs to be replaced. Town Manager Dodge stated that the paving of Ocean Avenue may be postponed until the fall.

• Sewer Commission request to seek amendment to enabling legislation re: public advertising for construction and material/equipment contracting and purchase

Sewer Commission Attorney Blake Filippi explained that the enabling legislation of the Sewer Commission requires public advertising for construction work over \$1,000. He stated that the Commission would like to have their legislation amended to mirror the Water District's, which requires public advertising for construction work over \$10,000 and public advertising for the purchase of materials over \$5,000.

Ms. Gaffett moved to submit a request to the Legislators to amend the Sewer District legislation to reflect the request, noting the Sewer Commission was in support of the request. Mr. Pike seconded the motion and it carried.

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

**3. Receive and act on Town Manager report re: Old Harbor bait dock repairs**

This item was not addressed.

**4. Receive and act on Robert Gilpin appeal of mooring revocation under Town of New Shoreham General Ordinances 9-87**

Robert Gilpin was present and addressed the issue.

Mr. Lacoste recused himself, as Rob Gilpin is one of his customers.

Following discussion, Mr. Warfel moved to grant the appeal and reinstate Robert Gilpin's mooring, subject to filing and payment of the mooring permit by April 1, 2013. Mr. Pike seconded the motion and it carried.

4 Ayes (Gaffett, Pike, Warfel, McGarry) 0 Nays 1 Recusal (Lacoste)

**5. Receive and act on Adrian Pearce letter re: camper storage**

It was noted that Adrian Pearce was requesting permission to store his camper for six months at his grandmother's house, where it will remain off the road and uninhabited until it is sold. Ms. Gaffett stated that as it is a registered vehicle, she did not feel the Council had jurisdiction. Mr. McGarry stated that trailers are prohibited by ordinance, and the ordinance needs to be applied across the board.

Mr. Pike moved to grant Adrian Pearce permission to keep his motor home on Block Island for an additional six months and that there be no human habitation in the trailer, seconded by Mr. Warfel.

3 Ayes (Gaffett, Lacoste, Pike) 1 Nay (McGarry) 1 Recusal (Warfel)

Mr. Warfel noted that Adrian Pearce has been his employee, so he recused himself.

**6. Receive and act Town Councilman Chris Warfel letter re: BIPCo PUC filing under Docket 4387 extension of Net Metering policy**

Mr. Warfel noted that Block Island Power Company (BIPCo) has been asked to re-file their net metering policy with the Public Utilities Commission. Discussion ensued regarding the limits of BIPCo's net metering policy.

Mr. Warfel moved to refer the matter to the Electric Utility Task Group, asking them to look at BIPCo's net metering policy and propose a policy that is less restrictive and equally beneficial to the parties involved. The motion was seconded by Ms. Gaffett and carried.

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

**7. Receive and Act on CRMC notice re: proposed revisions to RI CRMP/Ocean SAMP Section 800: Chapter 8 – Renewable Energy and other offshore development**

Ms. Gaffett explained that the CRMC is collecting comment and holding a public hearing regarding changes to the Ocean SAMP. No action was taken on this item.

**8. Receive and consider adopting resolutions re: assault weapons, illegal guns, and etc.**

It was noted that two resolutions requesting support have been received: 1) from Socha Cohen regarding the ban of assault rifles; 2) from the City of Newport regarding gun safety, illegal guns and mental illness. First Warden Gaffett read the resolutions aloud. Mr. McGarry and Mr. Pike spoke in favor of a resolution regarding gun control and safety. Mr. Lacoste spoke in opposition.

From the audience, the following spoke in opposition: Everett Littlefield, Chris Blane, John Willis, Joe DeMatteo, Rich Tretheway, Blake Filippi, Jason Howarth, Paul Deane, John Littlefield, Bill McKernan, and Cathy Payne.

Mr. Lacoste moved to take no action on the item. There was no second.

Mr. Pike moved to support the City of Newport's resolution regarding gun safety, illegal guns and mental illness. Mr. McGarry seconded. After discussion, Mr. Pike withdrew his motion and Mr. McGarry withdrew his second.

Mr. Warfel moved to table the item for further study. Mr. Pike seconded the motion and it carried.

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

**9. Receive and act on letter from Wastewater Management Inspector re: H 5425**

Ms. Gaffett noted that a letter was received from Wastewater Management Inspector Don Thimble requesting that the Council oppose house bill H 5425 as it eliminates local review of wastewater systems, potentially undoing Zoning Ordinance 506 which protects the Town's ground water.

Mr. McGarry moved to ask the Town's legislator to oppose house bill H5425. Mr. Pike seconded the motion and it carried.

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

**10. Receive and act on letter from Town of Charlestown re: Low to Moderate Income Housing Act**

It was noted that a letter and resolution was received from Charlestown requesting Town Planners to draft a document to suggesting reforms to RI affordable housing act.

Mr. McGarry moved to take no action on this item. Mr. Pike seconded the motion and it carried.

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

**11. Act on Resolution re: Binding arbitration**

Mr. Lacoste moved to adopt the attached resolution regarding opposing any and all binding arbitration legislation. Ms. Gaffett seconded and the motion carried.

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

**12. Boards, Committees, and Commissions:**

• Act on Ardys Filippone letter re: resignation from the Shellfish Commission

First Warden Gaffett moved to accept the resignation of Ardys Filippone from the Shellfish Commission with thanks. Second Warden Lacoste seconded and the motion carried.

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

• Act on Board of Canvassers appointments

Ms. Gaffett moved to appoint to the Board of Canvassers: Lisa Nolan and Margret Montgomery as alternate members each with a one year term; and Marguerite Donnelly as a full member with a six year term. Mr. Lacoste seconded the motion and it carried.

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

• Announce Board, Committee and Commission openings

First Warden Gaffett announced that there are openings on the Senior Advisory Committee and the Shellfish Commission.

**13. Receive and act on Town Solicitor reports and recommendations re: the following litigation [these items may be discussed in closed session pursuant to Rhode Island General Law 42-46-5(a)(2) for the discussion of litigation]**

• Interstate Navigation Company Application to Change Rates (Division PUC Docket 4373)

Town Manager Dodge distributed a draft settlement agreement between Interstate Navigation and the Division of Public Utilities and Carriers. Energy experts Richard Lacapra and Everett Shorey were present.

Mr. LaCapra reported the following regarding the settlement agreement:

- The majority of Town's concerns have been addressed.
- The requested profit gain of \$1.3 million was reduced to \$579,000, down 45% of the request; about 12% of earnings.
- The profits from the high-speed ferry will be counted in the profit formula.
- The commuter passenger and commuter car rates were maintained.
- Flexible pricing is allowed on non-commuter passenger and non-commuter car rates up to 10%.
- The freight rates will go up 34% instead of 65%.

Discussion ensued regarding items that Council members found were unsatisfactory.

First Warden Gaffett moved to authorize Richard LaCapra, Everett Shorey and the town solicitor to notify the Division and Interstate that the Town would like to include in the Settlement Agreement:

- That the current winter ferry schedule be maintained, as a minimum level of service;
- That within a year, a freight study should be undertaken with a collaborative approach to be structured by the PUC, to examine the freight rate structure and to overhaul rates; and
- That the Town would support higher rate flexibility with respect to non-commuter rates going from the proposed 10% rate flexibility to 20%, or possibly 30%;

and moved to authorize the town solicitor to seek a brief extension of time to file the Town's Direct Testimony; and moved to authorize Richard LaCapra to file Direct Testimony with the PUC regarding the Town's position on the Settlement Agreement.

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

Ms. Gaffett thanked Mr. LaCapra for his work and thorough explanations.

• TNS vs. Filippi et al (WCSC 2004-0115) "Old Harbor Triangle"

Mr. Pike moved to table the discussion of the Old Harbor Triangle case. Mr. Lacoste seconded the motion and it carried.

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

With no further business to discuss, Mr. McGarry made a motion to adjourn at 10:52 p.m. The motion was seconded by Mr. Pike and carried.

Millicent McGinnes, CMC  
Deputy Town Clerk

Approved: March 20, 2013