

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

TOWN COUNCIL PRESENT: Marshall, Cordeiro, Barboza and Herreshoff

TOWN COUNCIL ABSENT: Parella

PLANNING BOARD PRESENT: Kenneth J. Marshall, Armand Bilotti,
Charles Millard, Anthony Murgo, and Michael Rossi

PLANNING BOARD ABSENT: Nathan Calouro and Jerome Squatrito

ALSO PRESENT: Diane C. Mederos, Town Administrator
Diane M. Williamson, Director of Community
Development
Andrew M. Teitz, Assistant Town Solicitor
(arrived at 7:40 o'clock PM)
Samuel J. Shamoon, Planning Consultant

The Council and Planning Board met in Joint Session for the purposes of conducting a public hearing concerning amendments to the Town's Comprehensive Plan, this matter being continued from November 11, 2009. Said Public Hearing was convened on Wednesday evening, December 3, 2009, in the Town Hall, Council Chambers, beginning at 7:15 o'clock PM, Council Chairman Marshall presiding for the Council and Kenneth J. Marshall, Vice-chairman of the Planning Board presiding for the Planning Board.

Documents Received:

1. Samuel J. Shamoon and Diane M. Williamson - (memorandum) Summary of the proposed amendments in the Comprehensive Plan version approved by the Town Council on September 3, 2008 and changes required by the Rhode Island Statewide Planning Program on June 13, 2009
2. Comprehensive Plan 2008 (full copy-updated with amendments)

Council Chairman Marshall and Kenneth J. Marshall, Vice-chairman of the Planning board opened the public hearing.

Raymond DeLeo of 2 High Street noted a procedural question asserting that RIGL 45-22-8 precludes this joint public hearing, further explaining that he was of the opinion that the statute requires that two public hearings must be held on separate occasions, one for each body, thus providing the public more time for comment. He read the statute aloud.

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

Mr. DeLeo also asserted that the process was disenfranchising the public by taking away rights and not following due process.

Kenneth J. Marshall informed those present that the Planning Board has already conducted public hearings on the Comprehensive Plan.

Director of Community Development Williamson noted that the statute specifically allows for joint public hearings as specified in subsection (c) and read that portion of the statute aloud. Director of Community Development Williamson also noted that the idea of a joint public hearing was established practice with Councilman Barboza asking if the Town Solicitor approves of the joint public hearing. Director of Community Development Williamson responded affirmatively.

Councilman Herreshoff noted that the changes as proposed and noted in the memorandum as prepared by Mr. Shamon and Director of Community Development Williamson appeared to be "housekeeping" in nature and that the Comprehensive Plan has been in place for approximately twenty (20) years and is generally considered to be a work in process with the goal of continuous improvement. He also noted that the new maps, as provided, appeared to be superior to the earlier versions included in previous plan editions.

Councilman Herreshoff stated that he was in agreement with Mr. DeLeo that the public should be afforded opportunity to be heard at public hearings but the fact of the matter is that despite the availability of public hearings on many topics throughout the year, including the adoption of the Town budget, few, if any, members of the public chose to attend and be heard.

Council Chairman Marshall and Kenneth J. Marshall stated that the objections of Mr. DeLeo, per his request, were noted for the record.

Director of Community Development Williamson thanked those in attendance for their presence and noted that there were a good many participants in the overall preparation of the Comprehensive Plan. She also explained that the Town Council and Planning Board approved the document in September 2008, and the amendments, as requested by the State, were prepared by Mr. Shamon and the maps were updated by the Town's engineering consultant Beta Group.

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

Director of Community Development Williamson further explained that the State is now considering the Bristol Comprehensive Plan to be a "model" plan and is recommending that other communities prepare plans similarly. She noted that the Town of Jamestown is now preparing its Comprehensive Plan utilizing the Bristol Plan as a model and that East Providence may do so also.

Director of Community Development Williamson explained that since the Plan is amended, the Solicitor advises that the amended plan must be adopted by both the Council and Planning Board anew. She further explained that this public hearing was duly advertised with large display advertisements in the *Bristol Phoenix* and also on the Town's website, the Post Office and Town Hall according to the statute.

Director of Community Development Williamson explained that the amendments/revisions are "technical" rather than "policy" and that the suggestions/requirements of the Statewide Planning office are the result of that office's review for consistency of terms, etc.

Director of Community Development Williamson informed those present that some of the action items as proposed by the plan prior to the amendments were already in process these being the expansion of the Historic District northward, the Harbor modeling, and the golf course study, and reminded the Council and Planning Board that the Comprehensive Plan is a "living document" and will be continually updated in the future.

Mr. Shamon thanked those present for their participation explaining that he was impressed by the process followed by the Town to prepare the plan with the participation of many individuals. He agreed with Director of Community Development Williamson that the City of East Providence and Town of Jamestown were following the Bristol model for the preparation of their plans.

Mr. Shamon explained that Kevin Nelson from Statewide Planning carefully reviewed the Plan and that the summary outline provided information on those items that were requested for amendment; these being mostly "technical" and typographical.

Councilman Barboza asked Mr. Shamon if the amendments changed the "policy" of the Comprehensive Plan with Mr. Shamon responding that the changes do not change policy.

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

Mr. Shamoan reviewed the information provided in the summary memorandum.

Councilman Herreshoff asked to have explained information appearing on page 37 concerning "cluster zoning" versus "conservation development" with Mr. Shamoan explaining that the term "cluster zoning" was obsolete and the new term "conservation development" better describes the Town's intention.

Assistant Solicitor Teitz arrived at this point in the hearing (7:40 o'clock PM).

Mr. DeLeo again stated his objection to the concept of a joint public hearing with Assistant Solicitor Teitz responding that joint public hearings have been utilized for "at least a decade" and that he was of the opinion that the process was appropriate. He further noted that the process of joint public hearings is utilized in other communities within the State. He further noted that the process for amendment is supervised and approved by Statewide Planning.

Assistant Solicitor Teitz further stated that the joint public hearing, as in process, was "legal and appropriate."

Mr. DeLeo asked to know if the Council and Planning Board were familiar with the comments as provided by the State with Councilman Barboza responding that the members received the comments in advance of this Public Hearing.

Mr. DeLeo asserted that there was a "gulf" in the initial adoption of the Comprehensive Plan since the review of the Council and Planning Board did not initially include the various maps. Mr. DeLeo also asserted that "the public does not know what is going on" and that the notice of the content of the plan should be made known to citizens individually.

Councilman Barboza explained that the information as ultimately included in the Comprehensive Plan was before the Planning Board for months and that the public cannot be forced to attend meetings if it does not wish to do so.

Mr. DeLeo challenged the process of the development of the Comprehensive Plan noting that former Planning Board Chairman James Farley assigned volunteers to specific sub-committees and appointed the various sub-committee chairmen. He asserted that

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

the housing sub-committee (on which he served) never completed its study.

Mr. DeLeo also questioned the validity of the affordable housing goals, as stated in the plan, since the Kane's Way affordable housing development has only sold five (5) of its overall nineteen (19) housing units.

Mr. DeLeo asserted that the "Plan does more damage than good and does not cut the mustard."

Councilman Barboza reminded those present that the testimony and questions as presented by Mr. DeLeo are not part of the published agenda as the agenda only considers those items proposed for amendment. He also noted that the consideration of those items not on the published agenda is illegal according to the open meetings law.

Councilman Cordeiro stated that he does not understand why Mr. DeLeo objects to the Comprehensive Plan when the State approves of same.

Councilman Barboza stated that he did not see the need to review every item in great detail but would rather hear an overview of the salient points.

Mr. Shamon continued to provide an overview of the amendments as outlined in the memorandum. He noted that the amendment corrects some statistics provided in error in the original plan regarding high school graduates.

Kenneth J. Marshall questioned the wisdom of providing high school graduation statistics since these appeared to be low and that their presence might deter industrial development.

Mr. Shamon stated that the Town may wish to remove these statistics based upon the concern as stated by Kenneth J. Marshall. Mr. Millard noted that these statistics were generally available through the national census and that anyone who wished to find them would do so without much effort.

Councilman Herreshoff suggested that the word "overarching" might be changed since its dictionary definition was not in keeping with the word's usage in the plan.

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

Councilman Herreshoff asked to know if the Council and Planning Board were now considering the land use maps as part of the proposed amendments with Mr. Shamoon responding positively.

Mr. DeLeo asked to know the status of the maps and noted that maps were not available when the Comprehensive Plan committees considered the plan initially.

Director of Community Development Williamson reported that the maps were available during the work sessions held at Mount Hope Farm. She also explained that the new maps replace those that were hand-drawn in the 1990s and although the information is more detailed it is basically the same.

She also explained that the Plan specified that when a conflict between the plan verbiage and maps is noted, the verbiage is intended to prevail.

Director of Community Development Williamson noted that Statewide Planning asked for housekeeping revisions to some of the maps and that these revisions are outlined on page 4 of the memorandum.

Councilman Herreshoff stated that he was pleased to know that the Plan specifies that the verbiage will override potential map errors.

Mr. DeLeo stated that his "biggest concern" stems from the fact that the maps from the 1990s were in error and that these errors were never corrected yet the 1990s maps became the basis for the new maps.

A discussion ensued regarding affordable housing with Mr. DeLeo asking the rational for the 500+ units described as still needed. He again noted the unsold units at Kane's Way and further described that landlords are "crying for (residential apartment) rents."

Assistant Solicitor Teitz noted that the affordable housing statistics and goals were as prescribed by State law and that the current economy should likely not be considered as a basis for changing same lest the Town will need to adjust the numbers too frequently.

Council Chairman Marshall explained that the Town was essentially dissatisfied with the current methodology for counting affordable units these being those units having some

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

type of contract subsidy. He further stated that amendments to the State Law to allow for an alternate method of counting affordable units should be an action item within the Plan and also for the Town in general.

A discussion ensued regarding subdivisions utilizing well water rather than Town water with Kenneth J. Marshall noting that this matter should be added to subdivision regulations.

Mr. DeLeo stated that the Comprehensive Plan seems to ignore previous assertions that the Town infrastructure reached "build-out" with a population of 23,000.

Kenneth J. Marshall noted that the Planning Board requires recommendations approving new subdivisions from the Fire Chief, Water Authority, Water Pollution Control Department, etc. before its body approves same.

Director of Community Development Williamson provided an overview of the map amendments as provided on page 4 of the memorandum.

A discussion ensued regarding the future use of the now-closed landfill with Council Chairman Marshall expressing concern that the property is listed as "open space" and there may be some opportunities precluded by this designation.

Assistant Solicitor Teitz and Mr. Shamon stated that the property might be designated as "town space" in the future so as to accommodate certain development; perhaps as a golf course.

Mr. Murgo asked to know if the maps become "law" when adopted as part of the Comprehensive Plan with Assistant Solicitor Teitz explaining that the map information becomes "big-picture law" when certain special exceptions, zone changes, and variances are considered.

Mr. Millard questioned the term "low density commercial zone" designated for the area of the waterfront near Silver Creek. He explained that the best use of the property is likely as a park or open space.

Mr. Shamon and Director of Community Development Williamson explained that the "low density commercial zone" was conceptual and meant to describe a zone allowing lower profile architecture and more ample setbacks and side-yards than those generally allowed within the Waterfront Zone.

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

Mr. Millard suggested that since the best identified use for the subject property is open-space than it would be better to describe it as such in the plan.

Assistant Solicitor Teitz noted that an amendment to the proposed Plan amendments in this case would be in order.

(for the Planning Board)

Millard/Rossi - Voted unanimously to amend Map 5B and Map 7 and notations within the Comprehensive Plan, as amended, to substitute "Open Space" for "low density commercial zone."

(for the Council)

Barboza/Cordeiro - Voted unanimously to amend Map 5B and Map 7 and notations within the Comprehensive Plan, as amended, to substitute "Open Space" for "low density commercial zone."

There was no further remonstrance presented in favor or in opposition to the proposed amendments to the Comprehensive Plan as noted in the memorandum.

(for the Planning Board)

Murgo/Bilotti - Voted unanimously to close the Public Hearing.

(for the Council)

Barboza/Cordeiro - Voted unanimously to close the Public Hearing.

(for the Planning Board)

Murgo/Bilotti - Voted unanimously to approve the Comprehensive Plan as per the amendments outlined in the memorandum incorporating those further amendments outlined in the motion above.

**JOINT SPECIAL MEETING AND PUBLIC HEARING
TOWN COUNCIL AND PLANNING BOARD
WEDNESDAY EVENING - DECEMBER 2, 2009**

(for the Town Council)

Barboza/Herreshoff - Voted unanimously to approve the Comprehensive Plan as per the amendments outlined in the memorandum incorporating those further amendments outlined in the motion above.

Councilman Herreshoff suggested that the cover of the completed Comprehensive Plan might contain a "better picture" in the future with Director of Community Development Williamson agreeing to make this change.

There being no further business before the Planning Board, upon a motion by Mr. Murgo, seconded by Mr. Bilotti and voted unanimously, Planning Board Vice-chairman Marshall declared this meeting to be adjourned at 9:30 o'clock PM.

There being no further business before the Council, upon a motion by Councilman Barboza, seconded by Councilman Cordeiro and voted unanimously, the Council Chairman Marshall declared this meeting to be adjourned at 9:31 o'clock PM.

Louis P. Cirillo, CMC
Council Clerk and Clerk Pro-tempore of the Planning Board