

TOWN COUNCIL SPECIAL MEETING - THURSDAY EVENING - JUNE 24, 2010

PRESENT: Marshall, Cordeiro, Parella (arrived at 7:20 o'clock PM), Barboza, and Herreshoff

ALSO PRESENT: Diane C. Mederos, Town Administrator

The Council met in special session on Thursday evening, June 24, 2010 in the Town Hall, Council Chambers, beginning at 7:15 o'clock PM, Council Chairman Marshall presiding:

Documents Received:

- (Anthony DeSisto, Esq.) Promissory Note Agreement
- (Anthony DeSisto, Esq.) Report on Title Examination
- (Anthony DeSisto, Esq.) Mortgage Deed
- (Mount Hope Trust Governance Committee) re Proposed Mount Hope Trust Bylaws Revisions-June 2010 - Version 6-24-2010 (Articles III and IV).

The Council agreed by consensus to suspend the published order of business and consider the matter relating to Mount Hope Farm first, the matter relating to motor vehicle taxes second, and lastly those matters relating to the proposed Town Charter amendments.

In the matter of the Mount Hope Trust:

(Councilman Barboza renewed his recusal concerning this matter and left the Council table)

Herreshoff/Parella - Voted unanimously to approve the documents as prepared by Attorney DeSisto and to authorize the loan to the Mount Hope Trust, as per the documents, based upon the execution of same, according to the provisions contained therein.

(Councilman Barboza recused)

Prior to the vote taken, discussion ensued regarding the proposal for Trust Bylaws amendments with Mr. Gerhardt, Town Administrator Mederos and the Clerk noting that the Board of Trustees are recommending certain changes to the Bylaws Articles III and IV, these being those articles specifically under the control of the Trust and the Town Council.

It was noted that the central issue in these amendments is a change to the basic makeup of the Trust and that the amendments

would allow that no elected Town official would serve as a member of the Trust. It was also noted that the remaining amendments set forth regulations for the establishment of standing committees, include a policy statement concerning pursuit of historic and conservation easements, increase Board membership from eleven (11) to fifteen (15) members and also provide for an orderly transition from the current Board structure.

It was also noted that the Trust plans to fast-track these amendments for possible adoption by the Council at its meeting to be held on August 18, 2010 and full implementation shortly thereafter.

Mr. Gerhardt noted that these proposed Bylaws were provided to the Council for its information and also that Council members might communicate any concerns that they may have with either Town Administrator Mederos or the Clerk since these persons serve on the Governance Committee along with Michael Byrnes and Elizabeth Warren.

Councilman Herreshoff asked to know if the Board will still include a Town Council member with Town Administrator Mederos responding that the current Town Council member position would be eliminated in favor of a Council appointed Board member with full privileges. It was again noted that the Council appointee must not be an elected official.

Councilwoman Parella expressed concern that the Council should perhaps not have an appointee with the Clerk noting that this position was included based upon what was perceived as fulfillment of the Council's wishes and that it may be eliminated in favor of another at-large position. The Clerk also noted that the Governance Committee intentionally did not offer a comprehensive change to the current Bylaws since most Board members will be leaving the Board. He noted that it was the consensus that the new Board should be responsible to establish their own rules for governance.

Responding to questions posed by Councilman Herreshoff, Mr. Gerhardt noted that the current Board will elect the new Board since there is no current membership organization. He noted, however, that there appears to be consensus that the organization will move toward its establishment as a member-governed organization.

Councilwoman Parella also stated that she was of the opinion that the Town Council should not be in control of the Bylaws of the Mount Hope Trust since this can be problematic.

Councilman Cordeiro stated that he prefers if the Council retains its control over those sections of the Bylaws. He asked to know who will remain as Trustees with Mr. Gerhardt explaining that those members who are not elected officials and without an equivalent term of six (6) years of service will remain for a minimum of a one (1) year term. He further explained that these persons are Town Treasurer Day, Victoria White, and Robert Pirri.

Council Chairman Marshall stated that he was of the opinion that the Board has made "great headway and hopefully will move forward."

Mr. Gerhardt noted that Town Administrator Mederos, Councilman Barboza, and the Clerk have made significant contributions to the Trust especially relating to this most recent transition period.

Council Chairman Marshall agreed and further stated that the position as both Trustee and public official is very difficult since the public official's time is often in short supply.

Councilman Cordeiro asked to know the next meeting of the Trust when the Bylaws revisions will be considered with Mr. Gerhardt responding that this will take place at a meeting to be held on July 24, 2010 in order to comply with the Bylaws provisions regarding Bylaws amendments.

Council Chairman Marshall noted that Council members will contact Trustees if there are any concerns regarding the proposed amendments.

Council Chairman Marshall noted those documents provided by Mr. DeSisto as mentioned above.

Mr. Gerhardt noted that the Trust plans to have an auditor's review of its finances rather than a full audit due to cost; noting that a full audit will cost \$12,000 per year and a review, by a qualified auditing firm, should cost approximately \$6,000.

He added that most foundations providing grants require reviews and not full audits with Councilman Herreshoff and Council

Chairman Marshall in agreement stating that they would prefer to have a full audit.

After the vote taken, John D. Sylvester, a member of the audience, expressed concern that the Farm roads are not open sufficiently to accommodate the elderly, and those persons with disabilities who cannot walk Farm roads, in automobiles.

Mr. Gerhardt explained that there are some safety concerns regarding the use of automobiles on the Farm's narrow roads since many people walk upon these roads. He agreed, however, that access to all was a primary goal of the Farm and Trust and that he would investigate the matter and come up with an equitable plan.

In the matter of the Automobile Tax:

Parella/Barboza - Voted unanimously to allow an exemption of \$3000 for the automobile tax. Voting in favor of this motion were Council members Marshall, Parella, Barboza, and Herreshoff. Voting opposed was Councilman Cordeiro.

Prior to the vote taken, Town Treasurer Designee Goucher referred to her memorandum and noted that the figures provided were correct.

A discussion ensued regarding the Council's options with Council Chairman Marshall asking if there was an "all or nothing" implication for the Town's option regarding the exemption with Town Treasurer Designee Goucher responding that the Council has the option of selecting any exemption in-between \$500 and \$6000.

Councilman Herreshoff asked to know if a \$3000 exemption would "make whole" the State's withdrawal of funds with Town Treasurer Designee Goucher responding affirmatively.

Councilman Herreshoff noted that the Town has "already used too much surplus" and that he did not support taking more to compensate for the shortfall.

Councilwoman Parella agreed that the Council should not take additional surplus to balance the budget. She noted that the additional cost to the average automobile-owning taxpayer would

be approximately \$52 per year and that she did not find this to be unreasonable.

Councilman Cordeiro stated that he did not support any tax increase and did not wish to approve the \$52.

Councilman Barboza noted that the difference in the tax base appears to require a \$.03 tax increase with Town Administrator Mederos noting that the Council has made an adjustment to these differences from surplus in the past.

Councilwoman Parella noted that since the Council has planned for a 0% increase on the property tax, an additional \$50-60 on the automobile tax does not appear to be unreasonable with Councilman Herreshoff agreeing that it would be dangerous to take the automobile tax shortfall from surplus also.

Council Chairman Marshall asked to know if the income derived from the sale of the Verndale Circle property might be used to offset this automobile tax shortfall with Town Treasurer Designee Goucher reporting that the Verndale funds are already booked as an account receivable.

Council Chairman Marshall observed philosophically that despite its origin as a tax derived from State taxation or local property or automobile taxation these must be ultimately paid by the same group of taxpayers.

Councilwoman Parella noted that the Providence auto tax was \$70 per \$1000 of valuation and that the Bristol tax was far less onerous.

Council Chairman Marshall expressed concern that the Council must typically act to adopt its budget and deal with the "bad promises" of the State and consequently add supplemental taxes.

Councilwoman Parella again noted that the Town was wise to include only one-half of the State promised automobile tax in its budget.

A discussion ensued regarding the Town's tax collection rate with Town Treasurer Designee Goucher explaining that it was too early to know this rate and that the rate may not be as favorable as it had been in the past. She agreed to reexamine the calculations.

Councilwoman Parella stated that she was fearsome that the Town typically uses some surplus each year to offset the tax rate. She speculated that if the Council should use too much surplus it may have too little remaining for next year and will need a sizeable tax increase to balance the budget.

Councilman Cordeiro expressed concern that he would be criticized if the Town has a surplus and still taxes automobile owners the additional \$50.

Council Chairman Marshall asked if the Town might re-open its budget process in certain departments and also establish a hiring freeze with Town Administrator Mederos noting that many utility and fuel budgets are already depleted.

Council Chairman Marshall noted that the Town was already deferring important maintenance items and that these deferrals would likely impact the quality of the Town's infrastructure.

Councilwoman Parella reminded the Council that the State education formula provided a "big (financial) hit" to the schools and that the Town will likely be asked to make some of that deficit up in the next fiscal year.

Councilman Herreshoff stated that he routinely objects to tax increases but that he is fearsome that next year will be much worse and that a modest increase to the automobile tax might lessen future problems.

Councilman Barboza expressed frustration that the State cut \$600,000 from the Town "in the 11th hour" and that the Town of Bristol should endeavor to keep its surplus healthy in order to maintain its fiscal strength.

Councilwoman Parella agreed that the State "dumped" its problem on the cities and towns at the last minute.

Councilman Cordeiro expressed concern that people do not have an additional \$52.

Councilwoman Parella stated that she does not agree that \$52 is a problem for those persons who have valuable cars since they "don't think twice" to spend \$3 per day (over \$1000 per year) for coffee at Dunkin Donuts.

Town Treasurer Designee Goucher reminded the Council that the State received \$ from the Federal Government and used it to

balance its budget. She noted that there was little guarantee that the State would receive any more Federal funding for this purpose.

After the vote taken, Council Chairman Marshall noted that this matter is a serious issue with Councilman Cordeiro responding that the entire episode is attributable to the State.

Councilwoman Parella observed that the State seems to think that municipalities are inefficient yet the State has the financial debacle and the municipalities are called in to bail it out.

In the matter of the proposed Charter amendments:

Prior to the discussion and votes regarding this matter, Council Chairman Marshall observed that the planned School Committee meeting for next Monday will be rescheduled.

The votes regarding these amendments appear as noted below in their respective Charter sections.

Concerning the issue of "gender neutral" Charter language, Fausto Anguilla suggested that this might be resolved by a single question.

Councilman Herreshoff suggested that the change is "obvious" and did it require a vote of the electorate with Mr. Anguilla responding that Town Solicitor Ursillo may wish to provide the Council advice concerning that issue.

It was noted that editor's notes do not require the permission of the electorate to be eliminated from the Charter since these were not specifically adopted in the first-place.

§301, et al - Concerning the issue of changing the title of Town Administrator to "Mayor."

Barboza/Parella - Voted unanimously to place the question regarding the change of title of Town Administrator to "Mayor," provided that this be a separate question on the ballot.

§203 - Concerning the note regarding reimbursement for expenses.

Herreshoff/Barboza - Voted unanimously to decline any proposed amendment to this section.

Prior to the vote taken, it was agreed by consensus that Council members, by practice over many years, do not receive expense reimbursement. It was observed, however, that this provision allows for reasonable reimbursement should this be necessary.

Councilwoman Parella noted that a member may perhaps purchase some item on behalf of the Council and would at that time be entitled to be reimbursed.

§205 - Concerning the change of title from Council Chairman to President.

Cordeiro/Herreshoff - Voted unanimously to decline any proposed amendment to this section.

Prior to the vote taken, Councilman Herreshoff stated that the Council was actually the Town's "board of directors" and that a board of directors is typically headed-up by a Chairman. He added that the Town Administrator or Mayor is the Town's CEO and that it is the Town Administrator who is the "President" of the Town.

Councilwoman Parella stated that she thought the title "President" was "over inflated." She also noted that this matter should not be a priority.

Mr. Anguilla noted that most other Towns have a Council President with the Clerk noting that it is typically Bristol's position to lead and not follow.

§207 new subsections (i), (j), (k), and (l) - Concerning the proposed amendment to require Council confirmation of certain actions by the Town Administrator.

Regarding new subsection (i) concerning subpoena powers - The Council, by consensus, agreed that this matter was not a priority and it should not be changed from the existing Charter.

It was agreed that the Council has not subpoenaed any witnesses in over a quarter century and therefore the idea of raising the penalty for non-attendance was unnecessary.

Regarding new subsection (j) concerning ratifications of expenditures of \$25,000.

Herreshoff/Barboza - Voted unanimously to decline this proposed new subsection.

Regarding new subsection (k) concerning ratifying the Town Administrator's negotiated collective bargaining agreements.

Herreshoff/Barboza - Voted to decline this proposed new subsection. Voting in favor of this motion were Council members Parella, Barboza and Herreshoff. Councilman Cordeiro and Council Chairman Marshall abstained from the vote.

Regarding new subsection (l) concerning the Council ratification of all employment contracts entered into by the Town Administrator.

Herreshoff/Barboza - Voted to decline this proposed new subsection. Voting in favor of this motion were Council members Parella, Barboza and Herreshoff. Councilman Cordeiro and Council Chairman Marshall abstained from the vote.

Prior to the votes taken, Councilman Herreshoff noted that if these provisions were in place during his tenure as Town Administrator, they would have rendered the Town Administrator to be nothing more than a "messenger." He speculated that concerning subsection (k) the bargaining units would bypass the Administrator and go directly to the Council with the idea to "find the weakest link" and "divide and conquer." He further noted that the idea as proposed in the Charter amendment did not appear to be practical.

Councilman Barboza stated that the divisions between Council and Administrator appear to be "blurred" by the proposed new subsections and that it would open the Council to "micromanage" the Town's day to day operation.

Councilman Cordeiro stated that he saw the provisions as providing the Council members with a "say so" but that it was

not his intention to micromanage Town Administrator Mederos in particular. He added that he may not trust a future Town Administrator and that this provision would be helpful in that case.

Town Administrator Mederos noted that the three proposed subsections appear to undermine the authority of the position of Town Administrator.

Councilman Barboza agreed and noted that the voters may remove a Town Administrator if they so choose.

Town Administrator Mederos suggested that the provisions may create an adversarial relationship between the Town Administrator and Council.

Councilman Herreshoff noted that the Council has its authority in the "power of the purse" and that it may withhold funding when in disagreement with the choices of the Town Administrator. He added that the Town Administrator must work within the financial parameters as provided by the Council.

Town Administrator Mederos agreed and noted that the "give and take" that resulted in last year's salary freeze would have been impossible if the Town Administrator had no power to negotiate on the spot. Councilman Herreshoff agreed that the Town Administrator's power to negotiate would be upset by these new subsections.

Mr. Anguilla stated that the purpose of the new subsections was to provide certain checks and balances and that the Council can decide if it wished to have these versus certain efficiency as allowed in the current Charter.

Councilwoman Parella stated that she was of the opinion that the overall financial control currently held by the Council was a sufficient "check." She further noted that she sat through 100s of advise and consent hearings while in the State Senate and maintained her opinion that the managers should be hired by the chief executive and not by committee.

Mr. Anguilla stated that he was in agreement that the Council has the "blunt sword of the budget" but added that some chief executives have "given away the store" in other communities.

Councilwoman Parella stated that the examples Mr. Anguilla seems to cite are found in the larger more bureaucratic cities "where

the Mayor has twenty-four hour security." She agreed with Councilman Herreshoff that the new subsections would allow bargaining units and others to "divide and conquer."

Town Administrator Mederos noted that the Council already provides advice and consent for the Town Treasurer and Deputy Town Clerk since these positions at times work directly for the Council. She further noted that the present system appears to work well.

Council Chairman Marshall stated that he agreed with both sides of the discussion and noted further that some chief executives put their cities "in harm's way" and this fact frightens him.

Councilwoman Parella reiterated that the situation described has not happened in Bristol.

Council Chairman Marshall suggested that the subsection (1) might be limited to department heads only. A discussion followed this suggestion revealing that the hiring process for department heads may turn political if the subsection were to be enacted.

Councilwoman Parella stated that the proposal was "very messy" and Councilman Barboza stated that he believed that the lines of authority would be irreparably "blurred."

§208 - Regarding subsection (b) the use of electronic media.

Herreshoff/Barboza - To approve this amendment as proposed.

§208 - Regarding subsection (c) to change the number of signatures to oblige a Public Hearing from twenty (20) to five (5).

Barboza/Herreshoff - Voted unanimously to decline this proposed amendment.

Prior to the vote taken, Councilman Herreshoff noted that the provision appears to be adequate as is and it is not onerous to obtain the consent of twenty voters for a public hearing. He speculated that obstructionists may utilize the proposed amendment to simply slow down the Council's deliberative process on new ordinances.

Mr. Anguilla stated that the suggestion was to make having a public hearing easier.

§304 - Concerning amendments to this section to change the number of days before the Council can declare a vacancy in the office of Town Administrator from 120 to 60.

Barboza/Herreshoff - Voted to forward a question to the voters to ask consideration of a change from 120 to 90 days in this section. Voting in favor of this change were Council members Marshall, Parella, Barboza, and Herreshoff. Voting opposed was Councilman Cordeiro.

Prior to the vote taken, a discussion ensued regarding the need to change this section with a majority of the Council agreeing to a change from 120 days to 90.

§306 - Concerning a proposal to require Council confirmation of department heads.

It was agreed by consensus to decline this change based upon the action regarding Subsection 207(1) above.

§401 - Concerning a change to the method to determine the fiscal year.

Barboza/Parella - Voted to forward a question to the voters to ask consideration of a change of the fiscal year as proposed by the Charter Review Commission. Voting in favor of this motion were Council members Marshall, Cordeiro, Parella and Barboza. Voting opposed was Councilman Herreshoff.

Prior to the vote taken, Councilman Herreshoff stated that he was in favor of the current fiscal year since it coincides with the State's fiscal year.

Councilwoman Parella noted that this was a "can do" and not a "must do" proposed amendment.

§402 - Concerning a change of responsibility for the budget from Town Treasurer to Town Administrator.

Herreshoff/Cordeiro - Voted unanimously to forward a question to the voters to ask consideration of this amendment.

Prior to the vote taken, it was noted that the proposed amendment reflects current practice.

The Clerk agreed to examine the changes to Sections relating to advertising the budget to determine if these will help conform to the provisions of the State statute for public hearing, etc.

It was agreed by consensus that an additional meeting to consider the remaining proposed amendments prior to a public hearing will be held on Wednesday, July 14, 2010 beginning at 6:00 PM in the Town Hall, Council Chambers.

There being no further business, upon a motion by Councilman Herreshoff, seconded by Councilman Cordeiro and voted unanimously, the Chairman declared this meeting to be adjourned at 10:05 o'clock PM.

Louis P. Cirillo, CMC
Council Clerk