

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

JANUARY 16, 2007

KENDALL-DEAN SCHOOL

6:45 P.M.

GOOD & WELFARE

Slatersville River Properties Water Assessment

Mr. Ernest Alter stated that, under the Charter, it is the obligation of the Town Administrator to enforce the laws and ordinances of the town. He believes the ordinance is very clear in this case and he thought the Town Solicitor should have been involved to assure compliance and to provide guidance to the Administrator.

Mr. James Cournoyer asked to correct the record of the last meeting. The Town Administrator said Mr. Cournoyer was wrong when he mentioned the town had made significant investments in expansion of the water system, including the lines near the Shell gas station. Mr. Cournoyer read from the Council minutes of June 1, 2000 where Water Superintendent James DeCelles explained the cost of the project to run the lines past Shell was \$438,000 of which \$353,000 was borne by Shell. The town did incur costs above and beyond the reimbursement made by Shell.

PUBLIC HEARING NORTH SMITHFIELD TOWN COUNCIL

JANUARY 16, 2007

KENDALL-DEAN SCHOOL

7:00 P.M.

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Mr. Keeley, Mr. Leclerc, Mr. Lovett, Mr. Zwolenski and Mrs. Thibault. Town Administrator Lowe and Town Solicitor Hadden were also present.

This was a continuation of a public hearing to consider amendments to the North Smithfield zoning ordinance regarding wetland and water body setbacks as well as fencing.

Wetland and Water Body Setbacks

Town Planner Michael Phillips stated the Planning Board had met but did not come to a conclusion. He was instructed to contact the University of Rhode Island. They will assist Mr. Phillips in looking at ordinances from other towns. Mr. Phillips explained that he needs more time to work with URI and then return with recommendations.

MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on an aye vote to continue this public hearing to March 5, 2007 at 7:00 P.M.

Fencing

Mr. Phillips noted the Planning Board did review this ordinance and had a recommendation. There were several things they felt were not necessary.

Mr. Hadden has spoken with Assistant Town Solicitor Robert Rossi

who represents the Planning Board. The Board recommended several changes. They want to eliminate walls and hedges as well as some notice provisions from the ordinance.

Discussion followed regarding whose property the good side of the fence should face.

Mr. Hadden suggested that he redraft the ordinance and bring it back for further review.

MOTION by Mr. Zwolenski and seconded by Mr. Leclerc and Mr. Keeley to continue this public hearing to March 5, 2007 at 7:00 P.M.

Mr. Paul Soares commented he was happy things were changed but he still feels this is an overreaction. There should be no height limitation, a person should not have to prove a need for privacy and persons erecting and paying for the fence should determine which way it faces.

Mr. James Giordano referred to Section 6.17.1 of the zoning ordinance that states “a sign shall be placed within the lot of the use no closer than ten (10) feet to a lot line”.

Mr. Raymond Leclaire still thinks the proposed ordinance is unconstitutional.

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The MOTION was approved unanimously on an aye vote.

Respectfully submitted,

Debra A. Todd, Town Clerk

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

JANUARY 16, 2007

KENDALL-DEAN SCHOOL

IMMEDIATELY FOLLOWING

PUBLIC HEARING

The meeting began at 7:20 P.M. The prayer and the pledge to the flag were waived. Council members present were Mr. Keeley, Mr. Leclerc, Mr. Lovett, Mr. Zwolenski and Mrs. Thibault.

LIQUOR LICENSE VIOLATION HEARING: TOWN & COUNTRY LIQUORS

Owner Joseph Dalti was present this evening but he received a communication from his attorney, Steven DiLibero, that Mr. DiLibero would not be able to attend. Mr. Hadden had spoken with Mr. DiLibero at the civil hearing and told him what his recommendation for penalty would be. Mr. Dalti was given the option of having the hearing tonight or waiting for another meeting when his attorney could be present. Mr. Dalti opted to wait.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to continue this hearing to February 5, 2007.

APPROVAL OF MINUTES

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to approve the minutes of November 20, December 4 & 18, 2006 and January 2, 2007.

Corrections to Minutes of November 20, 2006

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to accept the corrections to the minutes of November 20, 2006 as presented by the Clerk:

Section 6.20.1(J) – To create neighborhoods with direct visual and/or physical access to open land, with amenities in the form of neighborhood town open space, and with a strong neighborhood identity;

Section 6.20.2(H) – In RU-20 zoning districts, all conservation developments must be provided with public water and sewer service. Privately owned community wells and/or sewage treatment systems and/or Individual Sewage Disposal Systems (ISDS) for individual lots in a conservation development shall not be allowed in RU-20, RA-65, RS-40 and REA-120 zoning districts.

Section 17.3.1 (Paragraph 1) – Development Plan Review applications involving construction or alteration of buildings less than 5,000 square feet shall be reviewed by the Planning Board pursuant to the same procedures and time periods set forth in Section Article 3-4 of the Land Development and Subdivision Regulations (Regulations) for Minor Subdivisions, as amended. Applications involving construction of buildings or alterations greater than 9,000 5,000 square feet shall be reviewed by the Planning Board pursuant to the same procedures and time periods set forth in Article 3-6 of the Regulations for Major Subdivisions, as amended. Any application that is also subject to review as a subdivision or land development project shall be reviewed concurrently under the provisions of both this Section and the Regulations.

Section 17.5(6) Off-site noises, and vibrations. and light impacts.

Section 17.5(7) Off-site light impacts.

Section 17.5(8) (New numbering) Evaluation of adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.

Section 17.6 – A fiscal impact analysis may shall be required by the Board with respect to the fiscal and economic impact of the proposed development Major Land Development Projects on the town. The Board, at its discretion may require an impact analysis for Minor Land

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Development Projects. When required, a fiscal impact analysis shall address the following:

Section 17.7 – (Second Paragraph) The A traffic impact analysis of the proposed development may shall be required to evaluate the points of pedestrian and vehicular traffic conflict for all Major Land Development Projects. The Board, at its discretion may require a traffic impact analysis for Minor Land Development Projects. When required, a traffic impact analysis shall address the following:

**Section 17.13 – The provisions of this Ordinance shall be enforced by the Building Inspector, the Director of Public Works or an Engineer.
(Mr. Hadden's suggestion inaudible)**

(Mrs. Thibault stated later she believed this enforcement falls under the purview of the Building Inspector per the Charter and asked that it be investigated. Again Mr. Hadden's response was inaudible)

Section 17.11 – Conditions of Development Plan Review Approval. The following conditions of approval may shall be imposed by the Planning Board if it is deemed necessary to promote the purpose of this section and to minimize the impacts of the project:

Section 17.11(8) – Curbs and sidewalks as required by the provision of Design Standards – Subdivision Regulations.

Section 17.11(9) – (New numbering) Landscaped areas and planting strips (vegetative buffers) etc.

PAYMENT OF BILLS

Monthly Bills

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to approve payment of the following: General Fund - \$1,090,636.61; Sewer - \$34,455.10; and Water - \$67,289.74 for a total of \$1,192,381.45.

Gilbane Building Company and Attorney Joseph J. Reale

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to approve payment to Gilbane Building Company in the amount of \$178,569.54 and to Joseph J. Reale in the amount of \$818.32 for a total of \$179,387.86 based upon the recommendation of the Finance Director.

SCHOOL BUILDING COMMITTEE UPDATE

Mr. Edward Yazbak brought the Council members up to date on the middle school project noting that this project is a Town Council project. He encouraged the members to participate and to attend the School Building Committee's meetings. Mr. Yazbak spoke about the financing explaining that as of this evening 2.8% of the bond has

been spent. The Finance Director has issued \$3,000,000 in bond anticipation notes and the interest on those notes will be payable early next fiscal year and will have to be made part of the 2007-2008 fiscal year budget as it is not in the \$30,000,000 bond. They expect to spend another \$3,000,000 before June 30, 2007, \$7,000,000 in the third quarter of 2007 and \$12,000,000 in the fourth quarter of 2007. These numbers have been delivered to the Finance Director. Construction documents are 75% complete and the temporary parking lot is done. Once bids are opened, there will be a need for a number of special meetings with the Council from mid-March to mid-April in order to stay on schedule. The Committee expects substantial completion of the project by June of 2008.

PRESENTATION OF JUNE 30, 2006 FINANCIAL STATEMENT

Ms. Debi Mithcell of Prescott Chatellier Fontaine Wilkinson LLP reviewed the financial statements for the year ended June 30, 2006. She noted that a management letter will be forthcoming.

MOTION by Mr. Lovett, seconded by Mr. Keeley, and voted unanimously on an aye vote to accept this document as a public record.

APPOINTMENT OF TREE WARDEN

Mr. Lowe announced his reappointment of Stanly Zuba as the town's tree warden. This is a two-year term that will expire on January 31, 2009.

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OUTSIDE WOOD BURNING FURNACE

Mr. Lowe noted there is a new trend in heating homes and the Council may want to consider adopting a new ordinance to regulate outside wood burning furnaces.

Chief Joel Jillson commented that the number of these furnaces will only increase with higher home heating costs. There are no federal or state guidelines that govern the purchase, installation or operation of these units. There is no way to know what is being burned inside. Chief Jillson suggested that a small subcommittee be instituted to investigate the matter further.

Mr. Hadden felt someone with expertise has to provide research and to make a determination as to what is safe before drafting an ordinance.

Chief Jillson offered to work with the building inspector and others. He will assess the state fire code and DEM language and return on February 20th with a report.

APPOINTMENT OF WATER/WASTEWATER ASSISTANT

Mr. Lowe informed the Council that he has selected Russell Carpenter for this position. Mr. Carpenter was formerly a truck driver for the highway division.

AWARD OF BID – POLICE DEPARTMENT SPEED TRAILER

MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to award the bid for the speed trailer to MHQ Municipal Vehicles in the amount of \$7,995.00 as recommended.

SEWER COMMISSION MINUTES

MOTION by Mr. Lovett, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to place on file the minutes of November 8 and December 13, 2006.

CONSERVATION COMMISSION MINUTES

MOTION by Mr. Lovett, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to place on file the minutes of November 14 & 28 and December 12, 2006.

LIQUOR LICENSE TRANSFER RE: LITTLEFIELD'S INC TO ME, INC. D/B/A LITTLEFIELD'S RESTAURANT (BAR & GRILLE)

Since Margaret Ethier, the new owner, will be taking the Food Safety Manager's course later in January, present owner Timothy Littlefield stipulated that he will be working the kitchen until Ms. Ethier completes the course.

MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve the transfer of the Class BV liquor license as well as victualing, coin-operated amusement

devices, jukebox, coin-operated pool table and entertainment licenses contingent upon Margaret Ethier completing and receiving certification in the Food Safety Manager's course and also upon receipt of a Certificate of Good Standing from the Rhode Island Division of Taxation.

LIZ DEVELOPMENT

Mr. Lowe informed the Council that work is continuing on Graves Avenue and that guardrails were installed in the past month.

ESTABLISHMENT OF ORDINANCE REVIEW COMMITTEE

Mr. Hadden recommended that the Council members provide him with information as to what they would like to see in this ordinance such as how many members, what will they review, how long do they have to review, to whom will they report, etc.

Mr. Lovett thought discussion had taken place about hiring a consultant to take a look at this.

Mr. Hadden agreed that was a recommendation and this citizens committee would meet with a consultant.

Mr. Zwolenski commented there had also been discussion about including the Town Planner, a member of the Planning Board, the Building

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Inspector, a member of the Zoning Board as well as a member from some of the other boards on this committee.

2ND READING ORDINANCE AMENDMENT RE: SUMMIT AVENUE PARKING

The Police Department had provided their recommendation for parking in the form of an ordinance.

There still appeared to be confusion as to what side was easterly, westerly or southerly. Taking Mrs. Thibault's suggestion, Mr. Hadden felt it might be preferable to include use of odd-numbered or even-numbered addresses.

MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on an aye vote to continue the second reading to February 5th to allow time for the Solicitor to redraft the ordinance, identifying property using street addresses.

WATER ASSESSMENT FOR SLATERSVILLE RIVER PROPERTIES

Mrs. Thibault provided a memo from the November 30, 2006 meeting of the Water Advisory Sub-Committee. The recommendations for the water assessment were: two (2) water meters @ \$9,500 per meter (this covers two apartments) = \$19,000; Connection fee of \$750 per unit for 222 units = \$166,500; Yearly meter fee \$75 per unit = \$16,800 annually; Estimated yearly consumption 150 gallons per apartment (2 persons

per apartment) = \$40,000 annually; and any additional apartments would be charged \$750 per unit. The rationale was that Woonsocket is the sole supplier of water for North Smithfield water customers and Slatersville River Properties is an existing water customer. The memo continues that “the Solicitor has recently advised that assessments must be reasonable related to the benefit obtained by a specific ratepayer, in proportion to the expense to the town and the benefit to others, and the system in general. A fee of \$2,500 to an existing user that seeks to expand (apartments, not individually owned condos or townhouses), based on an assessment calculated 15 years ago under different circumstances, may be subject to challenge in court.”

MOTION by Mr. Lovett and seconded by Mr. Keeley that, based upon the recommendation of the Water Advisory Sub-Committee and the advisory opinion of the Town Solicitor, the North Smithfield Town Council approve the water assessment tie-in fee for Slatersville River Properties mill project which will require a total water connection payment of \$185,500, and which consists of two (2) water meters at \$9,500 each and 222 units at \$750 per unit. Any additional units will be subject to the \$750.00 per unit water connection.

Mr. Zwolenski questioned whether Finance Director Jill Gemma had been involved in negotiations or payment schedules.

Mrs. Gemma responded that she had not been part of the

negotiations but had worked with the collections office regarding billing.

Mr. Zwolenski asked Mrs. Gemma if she was aware of any additional change or write-offs pending that would make the financial position worse with the water situation.

Mrs. Gemma said she was not aware of anything pending other than the debt owed from the water department to the general fund which is about \$430,000.

Mr. Zwolenski asked Mrs. Gemma if she had been asked to prepare any analysis that would justify or not justify the \$2,500 per unit fee.

Mrs Gemma replied she had not.

Mr. Zwolenski asked Mr. Lowe if the Public Utilities Commission had reviewed North Smithfield's water rates and whether they have jurisdiction over the system.

Mr. Lowe answered that they have reviewed the rates and they do not have jurisdiction over our system. The Commission advises us but does not have jurisdiction because the system is so small. He continued that the rate is set by the city of Woonsocket and that is controlled by the PUC.

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Mr. Zwolenski asked if it would be safe to say that the water department is insolvent.

Mrs. Gemma answered that was a fair statement.

Mr. Zwolenski referred to the auditor's report presented this evening and the approximately \$2.4 million due for the water bond. He cannot support this agreement because the ordinance is clear. It was done to bring water to the town. Had the town expanded the system for only the current users, it could have been done at much less expense. Mr. Zwolenski feels it is a travesty that a developer comes to town knowing full well that the ordinance was in place, knowing that the development could not move forward without water, and yet he was given this type of a discount. This mistake can be corrected.

Mr. Leclerc read the following statement: "The reason why I have prepared this statement is to further clarify my position regarding the "water" tie-in fee at Slater Mills. I have read ordinance (Sec. 8-3, page 591, Water-municipal fee-multifamily) numerous times, heard from the public, my fellow councilmen, legal counsel and Town Administrator Bob Lowe. The ordinance clearly states, 'The finance director, with approval of the town council of the Town of North Smithfield, is hereby authorized to collect a one-time municipal fee from all newly constructed and newly created multifamily developments of twelve (12) or more units or such units created in existing structures at the

rate of \$2,500 per unit. The purpose of said municipal fee is to fund a portion of the costs of supplying sufficient water to meet the increasing demands for water caused by the cumulative effect of such multifamily development being supplied water within the town limits. Said municipal fee shall be separate and apart and in addition to any other water accounts. Said fee shall be paid after approval of application for water but before initiation of water service and before the issuance of a building permit.' Furthermore, ordinance Sec. 8-3, passed in 1991 in full anticipation of the pending \$2.5m in water bonds before the voters. The bond was approved and began issuing in 1992. In 1998 a water moratorium was lifted and the Town Council issued a Resolution that authorized the Town Administrator to allow customers to pay the \$2,500 per unit fee over 5 installments. For a second time, the water tie-in fee of \$2,500 per unit is clearly identified.

Another important point which needs to be addressed is that even with the \$2,500 per unit tie in fee, existing customers will still share in the repayment of the majority of the water department's debt, despite the fact that most of the debt was incurred to accommodate new development and new customers. This is totally unacceptable. Furthermore, former Councilman Edward Yazbak recently calculated a \$90.00 per user increase for water related issues. In terms of cost comparison, recently the Town of Blackstone reached an agreement with the developers of the Tupper Mills condos for a \$3,000 per unit water tie-in fee. Unlike our town, they did not have to spend \$500,000 on a water interconnect with Woonsocket. Finally, the developer themselves acknowledged that the town had to make significant

investments in order to accommodate them. In a July 2005 Woonsocket Call article, the developer's managing partner (David Stein) was quoted as saying, 'We can't do much of anything until we have water. We're figuratively treading water until the issue is solved. The uncertainty of water is what is keeping us off balance. Until the town establishes it has a certainty of water, we can't advance.' In closing, the approval of this 'water' fee tie-in is not only financially irresponsible but also totally unjustifiable on the part of the council. Our town currently has incredible debt associated with water improvements. In fact, we owe approximately \$2.8 million with no relief in site. In addition, we are potentially exposing ourselves to litigation from the residents of Laurelwoods and alike, for massive water connection credits. It is clearly obvious that a mistake was made. Luckily we have identified it through our open meeting process and now need to rectify it immediately. The developer needs to be contacted immediately and informed that an error was made regarding the water tie-in unit fee. The fee of \$2500.00 per unit is clearly specified in ordinance Sec. 8-3, page 591 and must be executed immediately."

Mr. Lovett commented that when Section 8-3 was created, the town was in the water business. The town was spending money for expansion of

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the system. The town connected with the city of Woonsocket for

several reasons. Slatersville River Properties needs to be charged a reasonable fee. The costs, after receipt of a federal grant, were \$500,000. The Town has to be responsible and charge an impact fee that is reasonable and sustainable. Mr. Lovett thinks the ordinance needs to be revisited and does not feel the \$2,500 fee for connecting to water that already exists will hold up in court. The last thing he wants to do is involve the town in a lawsuit that he believes will end with a less than favorable decision.

Mrs. Thibault stated that the Water Advisory Sub-Committee was formed by the last Council when the Water Authority was disbanded. She urges this Council to abandon the WASC and hire consultants on an as needed basis.

Mr. Edward Yazbak addressed the Council. In his experience as a Councilman, the PUC never had anything to do with the North Smithfield Water Department. He felt Mr. Lowe may have been correct in stating they had jurisdiction over Woonsocket but that would be because they are sending water beyond their boundaries. The town's debt for water is approximately \$2.8 million. If the Slatersville River Properties development paid the full \$570,000, it would be twenty percent of the debt. Other topics that need to be discussed are the replacement of the one million gallon standpipe at the Industrial Park that will cost one million dollars. Mr. Yazbak feels this agreement is the wrong move. If the town is not going to approve the rate per the current ordinance, the ordinance should be

changed first. He urged the Council to do it the right way; to hold a discussion on it and then amend the ordinance.

Mr. Gary Ezovski was also concerned about the reduction of the fee. He believes the town will always be in the water business. There is no way for a community like North Smithfield not to be in the water business. The Council runs what is local. There's a feeling that there is plenty of water today but 400,000 gallons a day is nothing in terms of meeting demands when there is opportunity to meet economic opportunity. North Smithfield has water resources that need to be funded and developed.

Roll call vote: Mr. Keeley – yes; Mr. Leclerc – no; Mr. Lovett – yes; Mr. Zwolenski – no; Mrs. Thibault – yes. The motion carried 3 to 2.

2ND READING ORDINANCE AMENDMENT RE: USE OF RECREATIONAL VEHICLES

There was discussion about where the fines collected would go in the budget.

Mrs. Gemma stated that she has to budget for the expenses of the ATVs in the police department budget. When revenue is received, she cannot apply it to an expenditure line item.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to amend the ordinance as follows: In

paragraph (c) “All such fines shall be paid to the town clerk, to be directed for the purpose of the enforcement, first to be directed to vehicle operating and maintenance costs, and such storage and towing fees paid to the entity designated by the police to tow and store such vehicles.”

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on a roll call to accept the following ordinance as amended as a second reading.

“It is ordained by the Town Council of the Town of North Smithfield as follows: That the Code of Ordinances, Chapter 15, entitled, “TRAFFIC” BE AMENDED TO ADD SEC. 15-13, as follows: Sec. 15-13 Use of Recreational and Other Vehicles on Public and Private Property (a) No person shall operate, cause to be operated, park, walk or drive a motor vehicle or motorized vehicle of any nature and kind (except for handicap or medical purposes) in town-owned public parks, public walkways, grassy areas, trails, recreational facilities, open space areas or in any area within the Town where motor vehicles are not allowed, except in designated parking and traveling areas, except for the specific purpose of authorized maintenance or operation of such

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area, or for public health, safety or handicapped purposes, or without first obtaining and having in his possession written permission from

the town for such operation. (b) No person shall operate, cause to be operated, park, walk or drive, or have in his possession while trespassing, a motor vehicle of any nature and kind which has been determined by the Department of Motor Vehicles for the State of Rhode Island as unsuitable for operation on the public way and is not eligible for registration for that use, including but not limited to any recreational vehicle, so-called "all-terrain vehicle", motorcycle, dirt bike, minibike, moped, go-kart, motorized scooter or cycle, motorized tricycle, snowmobile or quad cycle, on a public street or highway, public park, public walkway, grassy area, trail, recreational facility, open space area, or in any area within the Town where motor vehicles are not allowed, or on the private property of another without first obtaining and having in his possession written permission from the property owner for such operation. Any person granting such permission shall be responsible to insure that the noise and other condition generated by such use shall not be a nuisance or annoyance to the surrounding neighborhood or neighboring properties. No such permission may be granted for any commercial or other use in violation of applicable zoning regulations. (c) Penalty – Any violation of Sections (a) and (b) shall be subject to a fine of \$250 for a first offense, \$350 for a second offense and \$500 for each offense thereafter and shall be held responsible for the cost of all environmental remediation. Any vehicle used in violation of this Ordinance shall be impounded and shall be towed and stored at the owner's expense and shall not be released until all fines and fees have been paid or court action has been completed. All such fines

shall be paid to the town clerk, to be directed for the purpose of the enforcement of the ordinance (first to be directed to vehicle operating and maintenance costs), and such storage and towing fees paid to the entity designated by the police to tow and store such vehicles.

(d) Eluding an Officer – No person illegally operating any vehicle in violation of sections (a) or (b) or otherwise shall elude a police officer upon being signaled to stop or upon being told to stop, including any action by a police officer in telling or signaling any vehicle operator to stop by any oral statement, siren, flashing light, hand signal or other signal, whether the police officer ordering or signaling the stop is in or on a vehicle or on foot. Such prohibited eluding shall include but is not limited to acts consisting of failing to stop, increasing speed, changing direction, turning off lights or taking similar steps to avoid or escape from a police officer. Any person apprehended in violation of this section shall be subject to a penalty of \$200.00 in addition to the penalty set forth in Sections (a) and (b) above. This ordinance shall take effect on the date of passage and in accordance with the Town Charter.”

BUDGET TARGET FOR FISCAL YEAR 2007/2008

Mr. Leclerc asked what the tax levy will be and Mrs. Gemma answered that she is still trying to get more information on that.

Mr. Lowe commented that when the state enacted Bill S3050 it was done during the last two weeks of the session to offset property taxes and they didn't have all the details. There is conflicting information

everywhere. He believes the General Assembly will have to come up with additional money. Mr. Lowe suggested doing the same as last year by capping expenditures at one percent less than the state's cap.

MOTION by Mr. Keeley, seconded by Mr. Lovett, and voted unanimously on an aye vote to set a goal for the 2007/2008 budget at no more than 4.25 percent for municipal departments and 5.25 percent for the School Department, based on the town's portion of their obligation.

GARDNER PROPERTY FLOODING

Joel and Doreen Gardner of 15 Rocky Hill Road explained that serious flooding has occurred on Grange Road and Rocky Hill Road. This flooding is the direct result of construction at 331 Grange Road and did not occur prior to this construction. The Gardners believe the driveway was raised thus creating the flooding. They are very concerned it will result in treacherous driving conditions on this narrow country road. There is an elementary school bus stop at the corner.

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Town Planner Michael Phillips disagreed that the driveway was raised. He stated a large area was stripped of topsoil. Predevelopment pictures showed ponding at the end of the driveway

and road pitch also caused ponding. There is no active drainage system in that area. The situation will be monitored through the winter. Once the loam is replaced and grass is grown, this should help to resolve the matter.

Mr. Zwolenski noted that the subdivision regulations require four to six inches of topsoil in a development and he wondered if anyone had been out to check on that. He asked Mr. Phillips to review that regulation and also to have the Building Inspector check the gutter system of the roof.

Mr. Phillips affirmed that the Public Works department would look at the area in the spring and possibly install a catch basin on one side and/or pitch the road on the other side.

Mr. Hadden commented that if this construction is causing a problem, the Planning Board should call the developer in. The developer does not have the right to drain the property into the street and he should be made to stop the nuisance. There could be a question as to the location of the driveway.

MOTION by Mr. Leclerc and seconded by Mr. Keeley to have the whole situation investigated by the Building Inspector and the Town Planner to make sure the driveway is not in violation by where its located and to investigate where the water is draining and to see if that can be altered in some way. Once the results come back, the

Planning Board should review the matter and then it should be brought back to the Town Council.

In response to a question from Mr. Zwolenski, Mr. Phillips explained that an as-built was requested for this project because there were questions asked about the driveway.

Mr. Zwolenski asked to look at the topographical maps to see if anything has been changed.

The motion passed 5 to 0 on an aye vote.

NOISE ORDINANCE

Mr. Leclerc provided Mr. Hadden with noise ordinances from six other communities. He would like Mr. Hadden to see if it is constitutional and enforceable.

Mr. Hadden stated he would need approximately 60 days to investigate this.

The matter was continued to the March 19th meeting.

1ST READING ORDINANCE AMENDMENT RE: SEWER USE CHARGES

Mr. Lowe stated he had received a request from the Finance Department to increase the interest from 8 percent to 12 percent in

order to bring it in line with the other ordinances.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to accept the proposed ordinance as the first reading. The second reading will be held on February 5, 2007.

COMMUNICATIONS

MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on an aye vote to place on file the following: A.) Animal Control Monthly Report for December, 2006; B.) Report from the Veterans Advisor; C.) RIDEM Wetlands Alteration Permit on Victory Highway; and D.) NSF&RS Inc. Monthly Report for December, 2006.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to adjourn at 10:17 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk