

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

APRIL 16, 2007

KENDALL-DEAN SCHOOL

7:00 P.M.

GOOD & WELFARE

No one spoke under Good & Welfare.

REGULAR MEETING

The meeting began at 7:10 P.M. Mrs. Thibault asked for a moment of silence for the 32 students and teachers who had been killed earlier today at Virginia Tech. The prayer and the pledge to the flag followed. Council members present were Mr. Leclerc, Mr. Zwolenski and Mrs. Thibault. Mr. Keeley was away on vacation and Mr. Lovett was ill. Town Administrator Lowe and Town Solicitor Hadden were also present.

APPROVAL OF MINUTES

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to approve the minutes of March 5, 15 and 19 & April 2, 2007.

PAYMENT OF BILLS

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to approve payment of the following: General Fund - \$2,037,922.13; Sewer - \$12,981.22 and Water - \$89,232.24 for a total of \$2,140,135.59

AWARD OF BID – TELEPHONE SYSTEM

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to move this item up on the agenda.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to award the bid for a Business Telephone and Voice Processing System to Rhode Island Telephone Company in the amount of \$20,583.00.

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ARCHAEOLOGICAL FINDS – NIPSACHUCK SWAMP

Conservation Commission Chairman Donald Gagnon introduced Edna Kent, a Gloucester town historian and published author. She currently serves as a regional commissioner with the Rhode Island Advisory Commission

on Historical Cemeteries. The Battle at Nipsachuck Memorial Cemetery has been assigned a number and one day, with the owner's permission, a marker will be erected at the site. Ms. Kent noted this battle was a pivotal battle in history.

Anthropologist Frederick F. Meli recently conducted three separate

pedestrian surveys of the area and found it to be rich in historical artifacts and mound piles. Within the limited scope of this investigation there has been sufficient archaeological, anthropological and historical evidence identified to warrant that all pending development be halted until all possible investigative techniques can be employed to determine the overall archaeological and historical status of the area. Dr. Meli offered to prepare an assessment plan.

Mr. Hadden referred to several Rhode Island statutes that discuss historical cemeteries and regulations of excavation around cemeteries. It is clear to Mr. Hadden that an historic cemetery includes a suspected cemetery and no permit shall be given for construction, excavation or other ground disturbing activity. That primary authority starts with the Planning Board. Some of this land relates to the Rankin Estates development and some does not. Mr. Hadden continued that to the extent there is a land development project in the process of approval, it would be appropriate for the Planning Board to indicate that no further percolation tests shall be conducted that will disturb the mounds and an archaeological investigation shall be undertaken to determine the boundary of this area.

Mr. Hadden asked Chief Sachem Wilfred Greene if he has determined whether the mound piles are a burial ground for native Americans and the Chief stated they are.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to request of Dr. Meli, the Wampanoag nation and the Conservation Commission to begin the process of defining and protecting the area known as the Nipsachuck area and present it to the Planning Board for their review.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to refer this matter to the Planning Board for the purpose of recommending that no permit or further authority for construction, excavation or other ground disturbing activity, including but not limited to existing percolating tests be permitted by the Planning Board or continue until such time as a full examination and archaeological investigation be completed.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote that the Town Council, through the Town Clerk, craft a letter to our local Congressional and Senatorial representatives asking for their support in encouraging recognition of the Wampanoag tribe and for a national heritage designation of the burial ground.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to take a five-minute recess at 8:10 P.M.

The meeting resumed at 8:20 P.M.

GARDNER PROPERTY FLOODING

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to move this item up on the agenda.

At a prior meeting a question had come up with enforcement of land development regulations and specifically the conditions that may be contained in the granting of an application for subdivision of land. Assistant Town Solicitor Robert Rossi's opinion is that there is a process which both the Planning Board and the Town Council can follow. The Town Planner can bring to the attention of the Planning Board a suspected violation to a condition of a land development approval.

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The Planning Board can then hold a hearing to determine whether or not the condition has been violated. The Town Planner can also bring the issue before the Town Council who may direct the Town Solicitor to commence actions in Superior Court. State law also allows imposition of fines that had been imposed by the Planning Board.

Mr. Rossi feels that Mr. Phillips should bring the concerns surrounding the Gardner property to the Planning Board first and then, if necessary, to the Council.

RESOLUTION RE: SUPPORT OF COALITION OF COMMUNITIES

IMPROVING RI

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to support the following resolution: “BE IT RESOLVED BY THE TOWN COUNCIL OF NORTH SMITHFIELD AS FOLLOWS: WHEREAS, From January, 2007 to the present time a large number of cities and towns in the State of Rhode Island have joined together to form the Coalition of Communities Improving Rhode Island (“the Coalition”); and WHEREAS, The mayors, administrators and top executives of each city and town have joined to make a concerted effort to address a myriad of issues common to all members of the Coalition; and WHEREAS, The goal of the Coalition is to seek to have the Rhode Island General Assembly address certain issues that are causing economic hardships in all communities; and WHEREAS, These hardships include, but are not limited to, unfunded state mandates and declining state aid for education to the Coalition communities; and WHEREAS, The North Smithfield Town Council is totally supportive of the efforts of Town Administrator Robert B. Lowe and the top executives of the other Coalition members. NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NORTH SMITHFIELD, RHODE ISLAND AS FOLLOWS:- SECTION 1. That the Town Council authorizes Town Administrator Robert B. Lowe to continue his effort along with the top executives of the other Coalition members to ask the Rhode Island General Assembly to address those issues causing economic hardship to the cities and town by: a. Reducing unfunded state mandates, b. Providing relief from state mandates that exceed

federal mandates, c. Maintain the present funding of city and town schools at an amount equal to the existing percentage of funding until a new school funding formula is adopted, d. Review the state housing aid formula and e. Enact a school governance policy that provides for open accountability of school departments and school districts. SECTION 2. That Town Administrator Robert B. Lowe and the Coalition continue to seek relief from the State Fire Code which has mandated costly fire prevention/warning systems more appropriate for larger residential buildings and night clubs as well as the reduction or elimination of excessive administrative review fees; bring state special education mandates to federal standards; and change mandated revaluation schedules. SECTION 3. That Town Administrator Robert B. Lowe and the Coalition continue in their effort to maintain the present percentage of state aid for education and work to insure a fair and equitable distribution of state aid. SECTION 4. That the Town Council of the Town of North Smithfield urges the Coalition to support Senate bill 2007-S0409 sponsored by Senators Paiva-Weed, Alves, C. Levesque, Goodwin and McCaffrey which would provide for a revaluation every ten (10) years instead of nine (9) and an update of real property every five (5) years instead of three (3) years. SECTION 5. That the Town Council of the Town of North Smithfield further urges the Coalition to support any legislation presently pending or to be proposed in the General Assembly that would require city and town school committees to attach fiscal notes to all labor contracts that are to be reviewed by the municipal finance director prior to the execution of the contract. SECTION 6. That the

Town Council of the Town of North Smithfield directs that a copy of this Resolution be sent to its Senators and Representatives including Senators Paul W. Fogarty, Marc A. Cote and John J. Tassoni, Jr. and Representative Raymond C. Church and that these officials be urged to support all Coalition endeavors. SECTION 7. That the Town Council of North Smithfield directs a copy of this Resolution to Speaker of the House William J. Murphy, Majority Leader Gordon D. Fox, Minority Leader Robert A. Watson along with Senate President Joseph A. Montalbano, Senate Majority Leader Teresa Paiva-Weed and Senate Minority Leader Dennis L. Algieri and request that these leaders support all the Coalition endeavors. SECTION 8. That the Town Council of the Town of North Smithfield urges all communities not presently a member of the Coalition to join with present members to address those

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issues common to all and that present members of the Coalition consider adopting a similar resolution asking their respective senators and representatives to support the Coalition in attaining its goals. SECTION 9. THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE BY THE NORTH SMITHFIELD TOWN COUNCIL.”

AMERICAN RED CROSS AGREEMENT

Emergency Management Director Peter Branconnier explained that in the past he had an agreement with the American Red Cross to

operate a shelter. Since Hurricane Katrina, the Red Cross also wants to involve town government so that everyone is aware of which responsibilities belong to whom. Also the town would be aware of any liability issues.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to accept the Statement of Understanding between the Town of North Smithfield and the American Red Cross Rhode Island Chapter contingent upon the approval of the Interlocal Risk Management Trust.

SAYLES HILL TOWER SITE AGREEMENT

Mr. Lowe explained this is a renewal of an agreement that the Police Department has with National Grid for the installation, operation and maintenance of a VHF receiver and a VHF antenna on a National Grid tower.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to approve the agreement, for consideration of \$1.00, subject to the Administrator notifying the Interlocal Risk Management Trust and receiving from the Trust acceptance of National Grid as an additional named insured on the town policy.

BUDGET COMMITTEE RECOMMENDATIONS FOR FISCAL YEAR 2007/2008

Budget Committee Chair Christine Charest noted that at the committee's first meeting, Mrs. Thibault asked the members to agree to no more than a 4.25% increase per department. The Budget Committee declined to agree believing they needed to listen to each department head's request as to what they believe is needed.

With regard to capital requests, the Budget Committee recommended using a portion of the 1997 bond money for the high school shower room plumbing, the district-wide telephone system, the NSES intercom system and Halliwell School emergency projects.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to receive the Budget Committee recommendations.

CONSERVATION COMMISSION MINUTES

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to receive and place on file the minutes of February 13 and March 13, 2007.

PARKS AND RECREATION COMMISSION MINUTES

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to receive and place on file the minutes of February 26, 2007.

PERSONNEL BOARD MINUTES

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to receive and place on file the minutes of December 11, 2006, January 8 and February 12, 2007.

A suggestion was made that the Personnel Board look into pre-employment physicals.

SEWER COMMISSION MINUTES

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to receive and place on file the minutes of January 10, 2007.

ZONING BOARD MINUTES

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to receive and place on file the minutes of

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September 5, October 24, November 8 & 14, 2006, January 2 & 16 and February 6, 2007.

MCDONALD'S CORP. REQUEST FOR 24-HOUR OPENING

MOTION by Mr. Leclerc and seconded by Mr. Zwolenski to allow McDonald's drive-thru window to remain open 24 hours contingent upon a six-month license and at the end of the six months and following a review by the police department, the town could issue a

permanent license at that point. This is based upon the recommendations of the North Smithfield Police Department.

Mr. Zwolenski thought that a one-year permit may allow time for a better evaluation by the police department.

Mr. Hadden offered the suggestion of having the Planning Board review ordinances pertaining to licensing and hours of operation considering the planned development of Dowling Village in the same area.

Mr. Leclerc withdrew his motion and Mr. Zwolenski withdrew his second.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to table this request until the Planning Board has had the opportunity to review it and provides the Council with information on how to proceed.

DRAINLAYER'S LICENSE – J. W. RIEL LANDSCAPE

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to approve a drainlayer's license to J.W. Riel Landscape.

DRAINLAYER'S LICENSE – R. GENTES CONSTRUCTION

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted

unanimously on an aye vote to approve a drainlayer's license to R. Gentes Construction.

CHERRY BROOK FLOODING

Mr. Phillips is considering adding a new section to the Hazard Mitigation Plan that would protect those citizens and property that are vulnerable to flooding. He hopes to provide a resolution for Council review at a future meeting.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to add to the May 21st agenda an amendment to the resolution for the Hazard Mitigation Plan that will include flooding at Cherry Brook.

NOISE ORDINANCE

Mr. Hadden has forwarded to the Council members ordinances from the towns of Burrillville and Glocester. He feels these are two of the most updated noise ordinances and he thought they provided the most appropriate model. Mr. Hadden is awaiting further information from a technical expert.

RECYCLING PLAN

Recycling Co-ordinator Donna Kaehler informed the Council that all schools are now recycling. Concentration has been on paper and cardboard items. Recycling of items that belong in the blue bins has begun in the teachers' rooms. There were concerns about the

number of bins available but the supply has been replaced and is now adequate. Mr. Lowe commented that through Ms. Kaehler's efforts, the amount of recycled materials in town has increased.

WASTEWATER MANAGEMENT FACILITIES PLAN

At a prior meeting, Mrs. Thibault had asked the Council members to bring forth their recommendations for the Wastewater Management Facilities Plan this evening.

Mr. Zwolenski asked for the pump stations to be identified on the maps and for a more proper identification of failed systems.

Mr. Leclerc was also concerned about identification of failed sites but, in addition, he would like to know if there had been remediation.

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The Council discussed setting a date for a public hearing in order to move forward with a special election in the fall for a sewer bond.

COMMUNICATIONS

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to place the following on file: A.) Animal Control Monthly Report for March 2007; B.) NSF&RS Monthly Incident Report for March 2007; C.) Atlantic Menhaden Resource and Fishery Fact Sheet; D.) Resolutions from the Town of Burrillville Re:

Opposition to Privatization of Food and Housekeeping Services at Eleanor Slater Hospital, Criminal Records Check for Employee of Youth Serving Agency, Property Held by Police Departments and Elimination of MTBE as a Gasoline Additive; E.) Resolutions from the Towns of East Greenwich, Hopkinton and Portsmouth Re: School Housing Project Costs and Group Home Educational Funding; F.) Resolution from the Town of Jamestown Relative to the Non-Renewal of Insurance for Coastal Properties; and G.) Resolution from the Town of Westerly Re: Excavation Near Underground Utility Facilities.

EXECUTIVE SESSION

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to enter into executive session at 9:45 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss the Northern RI Private Industry Council, Material Sand & Stone and Narragansett Improvement.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to come out of executive session at 10:00 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to adjourn at 10:00 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk