

**REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL**

**FEBRUARY 17, 2009**

**KENDALL-DEAN SCHOOL**

**7:00 P.M.**

**GOOD & WELFARE**

**Mr. Lovett read the following disclaimer: It is the Board's understanding that this meeting is being videotaped for future broadcast on cable television. Please be advised that this videotaping is being done by private citizens. It is not being done on behalf of the Town of North Smithfield, nor is the Town of North Smithfield in any way sponsoring or affiliated with it. It is not a public record. The Town of North Smithfield especially disclaims any liability for the contents or the accuracy thereof. Any video tape of this meeting or any other use of said video tape or other recording and the contents thereof are solely the responsibility of the parties doing this videotaping.**

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**V.F.W. Parade**

**Mr. Lovett reminded the Council members that they had been invited to participate in the Memorial Day Parade and that the Clerk would be happy to respond for the members to Frank Lightowler, Post Adjutant.**

**REGULAR MEETING**

**The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Dr. Benoit, Mr. Biron, Mr. Leclerc, Mr. Zwolenski and Mr. Lovett. Town Administrator Hamilton and Town Solicitor Nadeau were also in attendance.**

## **APPROVAL OF MINUTES**

**MOTION by Mr. Zwolenski and seconded by Mr. Biron to approve the minutes of January 5 & 20 and February 2, 2009 with amendments.**

**On Page 352, Mr. Zwolenski claimed his comment was that “the Town Council does not sit as the Planning Board of Review.”**

**On Page 356, during the discussion of the appointment of a Council member to the North Smithfield Teachers’ Association contract negotiations, Mr. Zwolenski wanted it noted that he had asked if another Council member would be interested in the position and that there was no interest.**

**Also on Page 356, Mr. Biron wanted to add that the Code of Conduct pertained to boards and commissions and town employees.**

**The MOTION with amendments was approved unanimously on an aye vote.**

## **PAYMENT OF BILLS**

**MOTION by Mr. Leclerc and seconded by Dr. Benoit to approve**

**payment of the following: General Fund - \$234,786.85; Sewer - \$8,737.63; Water - \$4,931.93; School Department Wire Transfer - \$1,322,588.00 and Fire Department Wire Transfer - \$191,991.00 for a total of \$1,763,035.41.**

**Following a discussion regarding payment of \$700.00 to Coastal Recycling for Growth Fee, Mr. Leclerc withdrew his motion and Dr. Benoit withdrew his second.**

**MOTION by Mr. Leclerc and seconded by Dr. Benoit to approve payment of the following: General Fund - \$234,086.85; Sewer - \$8,787.63; Water - \$4,931.93; School Department Wire Transfer - \$1,322,588.00 and Fire Department Wire Transfer - \$191,991.00 for a total of \$1,762,335.41.**

**Roll call: Dr. Benoit – yes; Mr. Biron – abstain; Mr. Leclerc – yes; Mr. Zwolenski – yes; Mr. Lovett – yes. The motion carried 4 to 0.**

**MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted unanimously on an aye vote that the Coastal Recycling invoice be reviewed for accuracy and added to the March 2, 2009 agenda.**

#### **MIDDLE SCHOOL PROJECT**

**MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to approve Requisition #30 Job #4178 to Gilbane Building Company in the amount of \$199,643.04 based**

**upon the recommendations of the School Building Committee and the interim Finance Director.**

**MOTION by Mr. Leclerc, seconded by Mr. Biron, and voted unanimously on a roll call vote to approve Requisition #18-F Job #4178010 to Gilbane Building Company in the amount of \$14,463.47 based upon the recommendations of the School Building Committee and the interim Finance Director.**

#### **JACKVONY/REDIHAN INVOICE RE: GOLD PROPERTY**

**Subsequent to questions by some Council members, Mr. Jackvony acknowledged he had been contacted by former Town Planner Michael Phillips to do the title work on the Gold property. He had also spoken with former Town Administrator Robert Lowe. Mr. Jackvony stated his standard rate is \$250.00 per hour which he did mention to Mr. Phillips.**

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**When asked, Mr. Nadeau responded that he feels the hiring was procedurally incorrect but the town did, in fact, engage Mr. Jackvony and Mr. Redihan, they appeared, they did the work and having provided answers, the Council should vote to pay the invoice.**

**Mr. Biron asked how Mr. Redihan became involved if Mr. Phillips**

**contacted Mr. Jackvony.**

**Mr. Jackvony explained that at the time there was an urgency on the part of Mr. Phillips and Mr. Lowe to get this done for the Council that was sitting then. Mr. Jackvony had just started a large case and was unavailable during the day to contact Mr. Resnick, the Gold attorney. So Mr. Jackvony contacted Mr. Redihan to see if he could assist with the purchase and sales agreement.**

**Dr. Benoit recalled that once the vote had been rescinded, the Council authorized Mr. Nadeau to tie up loose ends and clear up the outstanding costs. He believes the legal fees would have been included in that.**

**MOTION by Dr. Benoit and seconded by Mr. Biron to pay Mr. Jackvony and Mr. Redihan according to the bill submitted in the amount of \$15,225.00 forthwith.**

**Roll call: Dr. Benoit – yes; Mr. Biron – yes; Mr. Leclerc – yes; Mr. Zwolenski – no; Mr. Lovett – yes. The motion carried 4 to 1.**

#### **1ST READING ORDINANCE AMENDMENT RE: SALARIES & WAGES**

**Mrs. Hamilton explained that she has spoken to several applicants for the Finance Director's position and each would be willing to take on more responsibility than the current job description. Therefore she would like to increase the director's annual salary to \$85,000 and**

**change the Assistant Finance Director's position to part-time and reduce the annual salary from \$46,200 to \$26,000.**

**Both Mr. Leclerc and Mr. Zwolenski were concerned with the workload and efficiency of the finance office should the Assistant Finance Director position be reduced to part-time.**

**Mr. Biron asked twice if the increase for the Finance Director's salary was only until June 30, 2009 and if it was then possible the salary would revert back to what it was.**

**Mrs. Hamilton responded that she would have to make that clear to the applicants.**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to approve the salary and wage ordinance for a first reading with the amendments to the Finance Director's yearly salary to \$85,000 and the Assistant Finance Director's yearly salary to \$26,000 for the remainder of the fiscal year.**

**Following the recommendation of Mr. Nadeau, MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote that the Finance Director's proposed salary of \$85,000 and the Assistant Finance Director's salary of \$26,000 be prorated for the period March 3, 2009 to June 30, 2009.**

**The second reading was scheduled for March 2, 2009.**

## **CONDITION OF ROADS FOLLOWING SEWER PROJECT**

**Mrs. Hamilton noted she has been receiving complaints daily about road conditions, especially on Mendon Road. When the sewer project began, it disturbed an underground spring in that area. Highway Department personnel have been salting and sanding that road throughout the winter, taking them away from other duties. Traffic has been closed to all except those who live there and school buses have been rerouted. Mrs. Hamilton has spoken to residents who have lived there for years and who do not recall a problem of this magnitude.**

**Mr. Leclerc felt the town should start documenting any time spent and materials used in all of the areas. The contractor should be notified and pictures should be taken.**

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**Mrs. Hamilton spoke with James Geremia, the project engineer, who was fairly emphatic that this was a pre-existing condition on Mendon Road and therefore they are not responsible for it.**

**Public Works Director Raymond Pendergast had a meeting with representatives from Rocchio Construction. The pre-existing condition that is being spoken of is a natural stream of water and until they dug the sewer project, it was not in the roadway.**

**Mr. Lovett suggested that a meeting be held prior to the March 2nd Council meeting and include a representative from Rocchio Corporation, James Geremia, Mrs. Hamilton and Mr. Pendergast.**

**Dr. Benoit suggested that lower speed limit signs be posted.**

**MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to continue this discussion to the March 2, 2009 meeting.**

#### **ANIMAL CONTROL ORDINANCE DUPLICATION**

**Mr. Pendergast noted there are two ordinances in the book relating to animals in parks. He recommended repealing Section 12½-4 since Section 3-7 is the more recent ordinance.**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to continue this to March 16, 2009 for first readings.**

#### **LIZ DEVELOPMENT**

**Mr. Pendergast is planning to have a meeting with Interim Town Planner John Flaherty and Mr. Mesolella, the developer, to make sure there are no problems entering into the spring. There is a correction on Elizabeth Avenue that needs to be done prior to final paving.**

## **CHERRY BROOK**

**There was no discussion.**

## **INDUSTRIAL DEVELOPMENT COMMISSION MINUTES**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit and Mr. Zwolenski, and voted unanimously on an aye vote to receive and place on file the minutes of January 12, 2009.**

## **SEWER COMMISSION MINUTES**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit and Mr. Zwolenski, and voted unanimously on an aye vote to receive and place on file the minutes of October 15, November 19 and December 17, 2008.**

## **TRANSFER OF BV LIQUOR LICENSE AND VICTUALING LICENSE – KISMET INC. d/b/a LOWER LEVEL BAR AND GRILL**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to approve the transfer of a BV liquor license to Kismet, Inc., George Blacksmith, President, d/b/a Lower Level Bar and Grill contingent upon receipt of the manager's certificate, the Department of Health certificate and a discharge from Horizon Beverage in the amount of \$189.27.**

## **JUKEBOX, COIN-OP MECHANICAL DEVICES, POOL TABLES AND ENTERTAINMENT LICENSES – KISMET INC. d/b/a LOWER LEVEL BAR AND GRILL**

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

**unanimously on an aye vote to approve jukebox, coin-op mechanical devices, pool tables and entertainment licenses to Kismet, Inc., George Blacksmith, President, d/b/a Lower Level Bar and Grill.**

**VICTUALING LICENSE – G. M. FOODS d/b/a SUBWAY**

**MOTION by Mr. Leclerc, seconded by Mr. Biron and Mr. Zwolenski, and voted unanimously on an aye vote to approve a victualing license to G. M. Foods d/b/a Subway contingent upon receipt of a Department of Health certificate and a manager's certificate.**

**PEDDLER'S LICENSE – 215 GROUP d/b/a DEL'S LEMONADE OF WOONSOCKET**

**MOTION by Mr. Biron, seconded by Mr. Zwolenski and Dr. Benoit, and voted unanimously on an aye vote to grant a peddler's license to 215 Group d/b/a Del's Lemonade of Woonsocket.**

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**ACCESS TO ANNETTE AVE – J. PIETTE**

**At the request of Attorney Eric Brainsky, MOTION by Mr. Leclerc, seconded by Mr. Zwolenski and Dr. Benoit, and voted unanimously on an aye vote to move this matter to March 2, 2009.**

**REIMBURSEMENT OF LEGAL FEES**

**Mr. Nadeau stated he was not quite ready with the draft yet.**

**MOTION by Dr. Benoit, seconded by Mr. Biron, and voted unanimously on an aye vote to defer further discussion on this matter to April 20, 2009.**

#### **ROBERT'S RULES OF ORDER TO BOARD/COMMISSION MEMBERS**

**Dr. Benoit asked if Mr. Nadeau had been able to send out the pertinent sections of Robert's Rules of Order to the various town boards.**

**Mr. Nadeau responded he will be sending a letter out to the chairmen in the next day or so.**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to take a five-minute recess at 8:44 P.M.**

**The meeting resumed at 8:47 P.M.**

#### **WATER TAX APPEAL FOR DSF SLATERSVILLE MILL**

**At the request of Attorney Michael Kelly, MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to table this item to March 2, 2009.**

#### **WATER DEPARTMENT BILLING**

**Mr. Biron is not quite ready to move forward with this and will place it on an agenda at a future date.**

## **APPOINTMENT TO JUVENILE HEARING BOARD**

**There was no appointment.**

## **APPOINTMENT TO SEWER COMMISSION**

**There was no appointment.**

## **APPOINTMENT OF SEALER OF WEIGHTS AND MEASURES**

**MOTION by Dr. Benoit, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to appoint Steven Niedzwiadek as the Sealer of Weights and Measures. This term will expire on December 1, 2010.**

## **TRANSFER OF CAPITAL FUNDS FOR STAGE FLOOR – SCHOOL DEPARTMENT**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to approve the request by School Facilities Director Robert Desrosiers to transfer \$3,903.00 from Capital Expenditures Line Item #50912 to Line Item #50911 to pay for a new stage floor at the High School.**

## **PROTECTION OF AQUIFER AND ENVIRONMENT NEAR DOWLING VILLAGE DEVELOPMENT**

**It was Dr. Benoit's desire to send a letter to the Rhode Island Department of Environmental Management as public comment in response to the declaratory ruling hearing being held by the department. Dr. Benoit noted that Bucci Development is a reputable**

**developer and the project has been subjected to intense scrutiny.**

**Mr. Zwolenski received a copy of this draft just this evening and took exception to sections of it. He stated he would not endorse the letter.**

**Mr. Nadeau advised that a letter like this taints the process at the Planning Board level.**

**Based on Mr. Nadeau's professional comments, Dr. Benoit declined to move forward with mailing the letter.**

#### **JOINT MEETING WITH SCHOOL COMMITTEE**

**Mr. Lovett reminded the Council members of the scheduled meeting with the School Committee on February 23, 2009 to be held at the Middle School cafeteria beginning at 6:30 P.M.**

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#### **COMMUNICATIONS**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to receive and place on file the following: A.) Animal Control Monthly Report for January 2009; B.) Resolution to provide unlimited insurance for local governments' deposits from the City of Warwick; and C.) Resolutions from the Town of Burrillville requesting support for certain Articles of FY 2009 Supplemental Budget and requesting support for legislation requiring utilities to**

**pay for relocation of infrastructure.**

**EXECUTIVE SESSION**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to enter into executive session at 9:27 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss D & N Transportation/N & D Transportation.**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to come out of executive session at 9:39 P.M. and to seal the minutes. No motions were made and no votes were taken.**

**MOTION by Mr. Leclerc, seconded by Dr. Benoit, and voted unanimously on an aye vote to adjourn at 9:40 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**