

SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL

NOVEMBER 2, 2009

KENDALL-DEAN SCHOOL AUDITORIUM

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. Biron, Mr. Leclerc, Mr. Zwolenski and Mr. Lovett. Dr. Benoit was unable to attend. Also in attendance were Town Administrator Paulette Hamilton and Town Solicitor Richard Nadeau.

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**AGREEMENT WITH TOWN OF BLACKSTONE RE: ELIZABETH AVE.
DRAINAGE**

This is an agreement whereby the Town of Blackstone will allow the Town of North Smithfield to install and extend a drainage pipe from Elizabeth Avenue to a catch basin located in St. Paul Street in Blackstone due to persistent icing and drainage problems. Blackstone will pay \$1,400.00 and North Smithfield, through the LEAP program, will pay \$17,000.00.

MOTION by Mr. Zwolenski, seconded by Mr. Biron and Mr. Leclerc, and voted unanimously on an aye vote to authorize the Town Administrator to sign the agreement on behalf of the town and to include within the agreement a reference to the Rhode Island laws which are similar to Massachusetts Tort Claims Act, M.G.L. c.258 referenced in Section 8, inclusion that the agreement is between the

Town of Blackstone and the Town Council of North Smithfield, correction of a typing error in the first line of the second page and the inclusion of the plan indicated as Attachment A.

APPOINTMENT TO PERSONNEL BOARD – S. KANE

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to approve the Town Administrator’s appointment of Shawn A. R. Kane to the Personnel Board. Mr. Kane will be completing a two-year term that expires on December 1, 2009.

AWARD OF BID RE: ROAD MATERIALS

MOTION by Mr. Biron, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to award the following bids as recommended by Public Works Director Raymond Pendergast and Town Administrator Paulette Hamilton:

Washed Sand	\$12.50/ton	Lorusso Corp.
Processed Gravel	11.00/ton	Lorusso Corp.
Loam – Regular	13.00/cy	Pyne Sand & Stone Co. Inc.
Loam – Screened	14.50/cy	Lorusso Corp.
Crushed Stone – 3/8”	13.50/ton	Pyne Sand & Stone Co. Inc.
Crushed Stone – 3/4”	13.00/ton	Pyne Sand & Stone Co. Inc.
Crushed Stone – 1 1/2”	12.50/ton	Pyne Sand & Stone Co. Inc.
Gravel Bank Run	8.00/ton	Pyne Sand & Stone Co. Inc.
Stone Dust	11.00/ton	Lorusso Corp.

SALE OF SURPLUS ITEMS

MOTION by Mr. Biron and seconded by Mr. Leclerc to accept the bids for Items No. 1 through 33 as submitted by the Town Administrator and the Public Works Director and the remaining vehicles and property will be salvaged and/or recycled.

Following a suggestion by Mr. Nadeau, Mr. Biron amended his MOTION, Mr. Leclerc amended his second, and it was voted unanimously on an aye vote to accept the bids for Items No. 1, 3, 4, 6, 8, 11, 12, 13, 29 and 33 as submitted by the Town Administrator and the Public Works Director and the remaining vehicles and property will be salvaged and/or recycled.

ENERGY AUDIT

A presentation was made by Johnson Controls regarding the energy audit performed on all the municipal and school buildings in town. It was explained that the company looks at such things as light retrofits, steam trap ventilation, pipe and valve insulation, window replacement, water conservation, energy efficient transformers and boiler replacement then builds a project that is funded primarily by savings. Over a period of fifteen years the amount of savings will be measured to be sure it meets the goal.

One of the Johnson Controls representatives noted that generally money is taken out of the operating budget to pay for any loans. The cost of their service and the financing charges will come from the

savings.

Kathy Stanley of Johnson Controls explained there is a corporate guarantee with this project. Once the scope of services is completed and once discussions are finished with the town's consultant and they cash flow the project, then that annual savings is guaranteed by Johnson Controls.

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**ESTABLISHMENT OF CHARTER REVIEW
COMMISSION/APPOINTMENTS**

MOTION by Mr. Leclerc, seconded by Mr. Biron, and voted unanimously on a roll call vote that, pursuant to Article IV, Section 8(22) of the Charter of the Town of North Smithfield (the "Charter") and Section 2-204(a) of the North Smithfield Code of Ordinances, the Town Council of the Town of North Smithfield establish a Charter Review Commission (the "Commission") subject to the following:

1. There shall be seven members. One (1) member shall be appointed by each Town Council member (for an aggregate of five (5) members so appointed). One (1) member shall be appointed by the Town Administrator. One (1) member shall be appointed by the majority vote of the North Smithfield School Committee.

2. The Commission shall be charged with the following

responsibilities:

- a. Reviewing the reports prepared by the two prior charter review commissions established by the Town within the past ten (10) years.**
 - b. Reviewing the current Charter to determine what revisions, if any, should be brought before the Town Council for its review and action.**
 - c. Prepare two (2) copies of its recommendations of and report on changes to the Charter for presentation to the Town Council; one (1) such copy shall be a so-called revision copy in which all changes from the current Charter are highlighted and one (1) such copy shall be a so-called clean copy.**
- 3. The Commission shall have the sole power to advise the Town Council. Nothing set forth herein shall empower the Commission beyond such advisory task.**
- 4. The Commission shall establish its own rules relating to meeting schedules and governance.**
- 5. The recommendations and report of the Commission shall be presented to the Town Council at its regular meeting in March, 2010, in order to provide the Town Council with sufficient time to review such recommendations and report prior to the deadline to submit legislation to the General Assembly allowing a vote by the residents**

of North Smithfield on any changes to the Charter approved by the Town Council.

Appointments

In a memo submitted by Dr. Benoit, he appointed Mr. Al Puccetti, Mr. Biron appointed Mr. Kenneth Murphy and Mr. Lovett appointed Mrs. Linda Thibault.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to continue the appointment of members to the Charter Review Commission to the November 16th meeting.

RECONSIDERATION OF VOTE RE: 2009 SEWER DISTRICT ASSESSMENT

Mr. Nadeau stated that the Council has a written procedure regarding reconsideration of a vote and read Rule #10 from the Rules of Order for the North Smithfield Town Council: “When a vote has been passed, it shall be in order for any member voting with the majority to move a reconsideration thereof at the same meeting, or to give notice in writing of his intention to move a reconsideration at the next regular meeting, provided, however, that the Chair shall not entertain any motion until the motion to reconsider has been acted upon; and when such notice of an intention to reconsider has been given, the Clerk shall retain possession of the papers until the next meeting, and no subsequent motion to reconsider the vote passed shall be in order at the same meeting, unless upon a withdrawal of the notice,

and when a motion to reconsider has been decided, that vote shall not be reconsidered; and the same resolution or ordinance shall come once before this body for reconsideration.”

Mr. Leclerc placed this on the agenda this evening because, during his research, he learned that information provided to the Council regarding past practice was inaccurate.

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Since Mr. Leclerc had not put his request in writing, Mr. Nadeau stated the Council could vote to suspend the Council rules.

MOTION by Mr. Leclerc and seconded by Mr. Zwolenski to remove reconsideration of the vote regarding the 2009 sewer district assessment from tonight’s agenda and move it to the November 16th meeting.

In response to a question from Mr. Biron, Sewer Commission member Shawn Kane noted that the letter to the sewer users in Phases IA and IB detailing the assessment and tie-in requirements has been crafted by Project Engineer James Geremia and would be ready to be sent very soon. By delaying this mailing, the residents will be losing time in which to install their sewer connections.

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

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to suspend the Council rules to allow the motion to reconsider the vote on the sewer district assessment to be heard tonight.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to reconsider the vote establishing the 2009 sewer district assessment and to confirm that Mr. Leclerc is eligible to make this motion because he voted with the majority when the vote was originally taken.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote at 8:51 P.M. to take a five-minute recess.

The meeting resumed at 9:02 P.M.

MOTION by Mr. Leclerc and seconded by Mr. Zwolenski to approve Assessment Option 4 per the recommendation of the Sewer Commission.

Mr. Leclerc stated that he voted to approve Option 4 at the last meeting based upon past practices in regards to payment by users of asphalt costs. Since then he has discovered there was a conflict in the information received.

Mr. Leclerc referenced a Providence Journal article dated July 8, 1996 that said the Sewer Commission was able to scale back parts of the sewer project and the town agreed to pay for repaving roads torn up from the sewer lines which reduced the charges. He also referred to Council minutes from September 1996 that states: “Mr. Normand Vadenais said each year his tax bill contains a small amount to pay for a previous sewer program. Mr. Ericson (Finance Director) responded that \$53,000 per year is spread through the entire town to cover the paving of town roads that were disturbed by the installation of the sewers.” He also referred to another set of minutes that indicated the town had picked up the cost of repaving the roads. The minutes also stated that the town may be able to further reduce the cost to property owners by using assessments paid on new construction projects.

Mr. Leclerc felt it was important to let everyone know that information he had heard about the cost of paving the roads was inaccurate.

Mr. Biron asked Mr. Leclerc if he had any documentation that this was actually done.

Mr. Leclerc responded that he had spoken to former Town Administrator Kenneth Bianchi and former Sewer Superintendent James DeCelles who both recalled that the paving was taken out of the \$53,000.

Through his research, Mr. Lovett found that the main sewer interceptor trunk was built to enable construction of lateral sewer lines. That project was financed 75 percent by the federal government, 15 percent by the state and ten percent by the town. There were some federal monies for which the town was supposed to be reimbursed but was not. Mr. Lovett read from the Council minutes of March 18, 1980: "Motion by Mr. Boucher, seconded by Mr. Bianchi, and voted that warrant item for

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sewer department passed at last meeting for \$39,000 be reconsidered. Motion by Mr. Boucher, seconded by Mr. Bianchi, and voted that the amount of the warrant item (for the sewer interceptor project) be increased from \$39,000 to \$53,000."

Mr. Lovett continued that in order to pull the paving or any other costs, a prior Town Council had two options: 1.) They could charge everyone in town or 2.) They could not charge everyone in town and let the debt sit in the sewer fund. If all the residents had been charged, after 1996 there should have been a line item somewhere in the budget stating that X amount of dollars was taken out of the sewer project for School Street. He has yet to find any documentation that proves either all the residents have been charged or that the town collected money from the residents and reimbursed the sewer fund. In the ordinance creating the Birch Hill/School Street sewer district, there is nothing indicating that any costs were backed

out as was done with this newest assessment. Mr. Lovett believes that, in order to reduce the assessment at that time, the money for the paving was left to sit as debt in the sewer fund with the hope that future growth would pay that debt. He questioned how that was any different than the present Sewer Commission's recommendation to build future growth into the Equivalent Dwelling Units to establish and lower the assessment in Phase II although he does not agree with the idea. Mr. Lovett also noted that the town's tax levy is restricted because of S3050.

Mr. Biron agreed with Mr. Lovett that the debt had been left in the sewer fund and that is why there was a \$2 million dollar plus deficit in the sewer budget going back to the year 2000.

Roll call vote on the motion to adopt Option 4 for the 2009 sewer district assessment: Mr. Biron – yes; Mr. Leclerc – yes; Mr. Zwolenski – no; and Mr. Lovett – yes. The motion carried 3 to 1.

EXTENSION OF ORDINANCE REVIEW COMMITTEE TERMS

MOTION by Mr. Leclerc, seconded by Mr. Biron and Mr. Zwolenski, and voted unanimously on an aye vote to extend the Ordinance Review Committee terms to March 30, 2010.

CERTIFICATION OF SEALER OF WEIGHTS AND MEASURES

MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to accept the state certification of Steven

J. Niedzwiadek who has met the requirements of General Law 47-1-1.1 and the Rules and Regulations so promulgated and to place it on file.

EXECUTIVE SESSION

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to enter into executive session at 9:41 P.M. pursuant to RIGL 42-46-5(A)(1) Any discussions of the job performance, character, physical or mental health of a person or persons and pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss the claim of K. and F. lafrate vs. the Town of North Smithfield.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to come out of executive session at 9:57 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mr. Leclerc, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to adjourn at 9:57 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk