

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

JANUARY 18, 2011

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

OPEN FORUM

Middle School Lights

Mr. Dennis Falardeau of 2002 Providence Pike had brought forth concerns about the stairwell lights at the Middle School being on twenty-four hours a day and to date he has not received any resolution. In speaking with Deputy State Fire Marshal Scott Caron, Mr. Falardeau learned there is no law that states stairwell lights in a newly constructed public building need to be illuminated twenty-four hours when the building is unoccupied. The law does state, "If a building is occupied, the means of egress need to be illuminated for the sole purpose of an emergency means of egress." It also states the illumination wattage does not need to be more than one candle light of power being emitted from the light fixture itself. Mr. Falardeau asked for someone to show him where it says in writing where the lights in a stairwell in a hallway or in a common area in a public building such as a school need to be illuminated twenty-four hours. He suggested that the Council call in the design firm of Robinson Green Berretta as well as the School Building Committee to clarify his concerns. He also suggested contacting the State Fire Marshal's office.

Mr. Falardeau has a problem with the town spending money on

electrical costs when the building is unoccupied.

REGULAR MEETING

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mrs. Charest, Mr. McGee, Mr. Zwolenski and Mr. Yazbak. Town Administrator Hamilton and Town Solicitor Nadeau were also in attendance.

CONSENT AGENDA

MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to remove the payment of bills from the Consent Agenda.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to approve the following items on the Consent Agenda: A.) Town Council Minutes of October 4, 18, 25 and 29, 2010, B.) Conservation Commission Minutes of October 12, 2010, C.) Historic District Commission Minutes of December 9, 2010, D.) Sewer Commission Minutes of October 13 and 20, 2010, E.) Animal Control Monthly Report for December 2010 and F.) NSF&RS Inc. Monthly Incident Report for December 2010.

PAYMENT OF BILLS

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to approve payment of the following: General Fund - \$248,418.66; Sewer - \$4,281.63; Water - \$48,738.06;

Wire Transfer School Department - \$1,750,234.00; and Wire Transfer Fire Department - \$195,146.67 for a total of \$2,246,819.02.

RESOLUTION SUPPORTING ADVANCEMENT OF THE EDUCATION FUNDING FORMULA

MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to adopt the following resolution: “ BE IT RESOLVED BY THE TOWN COUNCIL OF NORTH SMITHFIELD AS FOLLOWS: Whereas: the Rhode Island Coalition of Municipal Leaders is a group of Rhode Island municipal elected officials and managers who advocate for the interest of municipal taxpayers; and Whereas: The Rhode Island Coalition of Municipal Leaders’ overall goal is to support local and

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state policy designed to fairly and more effectively balance the tax burden of our shared constituents and to that end the Town of North Smithfield supports the Coalition’s agenda to enhance and accelerate the school funding formula; and Whereas: The Rhode Island Coalition of Municipal Leaders has identified that 75% of the residents in the State of Rhode Island have historically been and continue to be underfunded by the State of Rhode Island in school funding; and Whereas: The Town of North Smithfield is being underfunded by \$1,983,802 in the current Rhode Island FY2011 budget; and Whereas: The town of North Smithfield and the cities/towns of Barrington, Coventry, Cranston, Cumberland, East Greenwich, East Providence,

Johnston, Lincoln, Narragansett, New Shoreham, North Providence, Pawtucket, Providence, Scituate, Smithfield, Warwick, West Warwick, Westerly and Woonsocket have been historically underfunded and continue to be underfunded in the Rhode Island FY2011 budget in the total amount of \$84,246,425; and Whereas: The proposed phase-in for the new Rhode Island school funding formula will cost taxpayers in the Town of North Smithfield \$5,078,533 in the next three years and \$7,915,370 in the next seven years; and Whereas: The proposed phase-in for the new Rhode Island school funding formula will cost taxpayers in the Town of North Smithfield and the cities/towns of Barrington, Coventry, Cranston, Cumberland, East Greenwich, East Providence, Johnston, Lincoln, Narragansett, New Shoreham, North Providence, Pawtucket, Providence, Scituate, Smithfield, Warwick, West Warwick, Westerly and Woonsocket a total of \$215,668,288 in the next three years and \$333,139,246 in the next seven years (see Attachment A); and Whereas: The above communities in Rhode Island with populations totaling 796,992 residents have been over taxed as a result of being historically underfunded for years in state education aid; and Whereas: The taxpayers in the communities in the underfunded communities have been subsidizing property taxes in communities for which their LEAs have been identified in the 2011 School funding formula for the past decade as receiving more than their fair share (see RIDE Attachment B.) NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF NORTH SMITHFIELD, RHODE ISLAND, AS FOLLOWS: Section 1: The Town Council of the Town of North Smithfield supports The Rhode Island Coalition of

Municipal Leaders in recommending that Governor Lincoln Chafee and the members of the General Assembly who represent the taxpayers in the Town of North Smithfield and the cities/towns of Barrington, Coventry, Cranston, Cumberland, East Greenwich, East Providence, Johnston, Lincoln, Narragansett, New Shoreham, North Providence, Pawtucket, Providence, Scituate, Smithfield, Warwick, West Warwick, Westerly and Woonsocket approve a plan to accelerate the allocation of the proposed phase-in of the state school funding funds to communities that have historically been and continue to be under funded. Section 2. The Town Council of the Town of North Smithfield supports The Rhode Island Coalition of Municipal Leaders in recommending that the acceleration of funding begin in the FY2011 budget with the \$32.9 million dollars of federal education funds that former Governor Carcieri proposed to use to “plug a hole” (http://www.projo.com/news/content/no_ed_jobs-saved_09-01-10_IHJ_NQSD_v89.22a5c95.html) in the FY2011 State Budget. Section 3. the Town Council of the Town of North Smithfield supports The Rhode Island Coalition of Municipal Leaders in recommending that the \$32.9 million of federal education funds be distributed directly to the municipalities which have been identified in the 2010 state school funding formula as being under funded (see attached RIDE document Attachment B.) Section 4. The Town Council of the Town of North Smithfield supports The RI Coalition of Municipal Leaders in recommending that \$32.9 million of federal education funds be distributed based on the communities percentage of the total state

funding shortfall in the FY2011 state budget (see Attachment A column g) and provide the communities with relief from the maintenance of effort where appropriate to allow communities the flexibility to use these funds to promote the Coalition's mission of providing their constituents with property tax relief. Section 5. THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE BY THE COUNCIL."

AWARD OF BID RE: FUEL DELIVERY CHARGES

Finance Director Brian Silvia felt it would be a good practice to have an alternate vendor in case of an emergency. Also the primary vendor, Santa Buckley has several stipulations within the contract that could prove to be costly to the town.

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MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to approve the bid for fuel delivery charges to Santa Buckley as the primary vendor and if there are issues with payment within thirty days, then Dennis K. Burke will be the secondary vendor.

AWARD OF BID RE: EMERGENCY MANAGEMENT AGENCY TRAILER

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to award the bid for a trailer to Tourbillon Trailer Sales for the amount of \$9,724.00. Funding is available through a Federal EMPG grant in the amount of \$10,000.00.

INSPECTION CONTRACTS FOR PLANNING DEPARTMENT

Mr. Ericson explained that the Planning Department uses outside engineering consultants for construction inspection. The developer deposits a pre-determined dollar amount into a Town escrow account. The Town then pays for billed and itemized inspection services. When the account balance falls below 25 percent, the developer replenishes the account. Any funds remaining in the escrow account upon completion go back to the developer.

Pound Hill Estates

MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to approve Pare Corporation for construction inspection at Pound Hill Estates.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to authorize the Town Administrator to execute the contract.

Dowling Village

MOTION by Mrs. Charest, seconded by Mr. McGee, and voted unanimously on an aye vote to extend the agreement for Pare Corporation for Dowling Village for a period of an additional two months as recommended by the Town Planner.

MOTION by Ms. Alves, seconded by Mrs. Charest, and voted

unanimously on an aye vote to authorize the Town Administrator to sign the agreement if that needs to be done.

PUBLIC HEARING RE: LIQUOR LICENSE VIOLATION – LOWER LEVEL BAR & GRILL/ TUROYO INC.

Captain Tom Lafleur explained that an alcohol compliance check had been done on December 4, 2010 by the North Smithfield Police Department using civilian surveyors. One minor was served at the Lower Level Bar & Grill. Captain Lafleur noted that Lower Level had also been in violation in November of 2009.

Mr. George Blacksmith, owner of the establishment, commented that he has now hired a person to card customers.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to impose suspension of the liquor license for Lower Level Bar & Grill for one weekend day, January 22, 2011.

MIDDLE SCHOOL LIGHTS

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

Mr. Paul Vadenais read a letter from David DeQuattro of Robinson Green Beretta Corporation. In his letter, Mr. DeQuattro states in part, “The initial design concept of the facility was to create a safe and

enduring learning environment, without sacrificing the beautiful surroundings. Also as important was energy consumption. The facility is positioned to receive 85% natural light to minimize the cost of lighting. Its solar shades are a device which control the direct sunlight and reduces glare on the space it shields (the classrooms). North Smithfield Middle School also received 'Advanced Building Recognition', the first such award from National Grid for its reduced energy use and controlled consumption use. As a basis of design, RGB made the stairwells transparent to broadcast light to the exterior as well as lighting the stairway. This saved the cost of lighting of the exterior of the building, ultimately reducing overall electrical

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consumption for the facility. Exterior wall packs are expensive to operate. T-8 fluorescent bulbs on the inside stairwells were less expensive to operate and met the requirements to allow for a monetary rebate. In fact, the School Department received over \$40,000.00 in rebates because of the design and selected electrical components. The Middle School is occupied between 6:00 a.m. and 11:30 p.m. Only 6 ½ hours per day is the building unoccupied. The egress lighting throughout the facility uses 200 kilowatts per year for the unoccupied time, at a rate of 15 cents per kilowatt, which equates to an annual cost of \$360.00 per year, or \$1.00 per day. Initially, RGB met with the Fire Marshal and he said that in an emergency, it is safer for his men to have some lights on. The fire code, which was cited by the Fire Marshal, is a minimal level in which professionals use as a

guideline. In fact, it's very common to leave emergency lights illuminated within stairwells, or 'places of refuge' and emergency egress corridors, circuited together to remain on for 24 hours a day, especially in public buildings. Historically, the High School has been plagued with vandalism. During construction of the Middle School, graffiti was encountered twice. The Middle School is designed to not only save money in energy costs, but to assist the local police when patrolling the facility. By simply walking or driving by, a patrolman can see into and around the building, which helps deter vandalism. This is common practice in all school design today."

Mr. Yazbak read from a letter signed by David Chamberland and Paul Vadenais, co-chairs of the North Smithfield School Building Committee. They advised that the Building Committee completely concurs with Robinson Green Beretta Corporation and supports all of the egress lighting remaining on at all times.

The letter states, "In order to reduce or eliminate some or all of the egress lighting being on after the school is occupied, extensive re-wiring and re-circuiting would be necessary and may include time clocks or motion detectors or other controls to allow lights to remain on while the building is occupied. The payback period on electrical consumption savings as a result would be 16 years or more at today's rates and costs. Further, time clocks typically need to be reset in power outages and motion detectors and other devices can and sometimes do fail. The School Department would assume

responsibility to monitor these systems to make sure they function during the appropriate times. Further, we would also relieve the architect, The Robinson Green Beretta Corp., and their electrical engineer, BER Engineering, of any liability surrounding this issue.”

In a letter to Mrs. Hamilton, Fire Chief Joel Jillson wrote, “The Marshal states that in his ample conversations, both with the architects and the building committee members, the rationale behind why the threshold should be ‘slightly’ exceeded was based in part on the fact that the facility in question was unusually large, multi-storied, indoor and outdoor security, and visibility for responding police and fire/rescue personnel. Though our Fire Prevention Bureau’s primary responsibility is to insure all fire codes meet minimum standards, we are certainly not adverse to augmented code compliance when doing so only enhances the health and safety of the occupants and our response personnel.”

Mr. Vadenais added that the thought process for the design was that exit lights need to be lit 24 hours per day. Stairwells and corridors need to be lit while the building is occupied. Those are code issues. This design eliminated the need for outside lighting. The town saved on additional wiring circuits, outside wall units that are more expensive to operate, and the security of the building was enhanced.

Several months ago the Building Committee tried to compromise and had a redesign done, shutting off one-half the lights at a cost of

\$7,500.00. They brought it before the Council who did not want to do it.

MOTION by Mrs. Charest, seconded by Ms. Alves and Mr. McGee, and voted unanimously on a roll call vote to leave the Middle School lights status quo according to the letters presented by Mr. Vadenais tonight.

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EXTENSION OF TERMS FOR ORDINANCE REVIEW COMMITTEE

Mr. Zwolenski, Mr. Yazbak, Mr. Ericson and Mr. Silvia met and discussed membership of the Ordinance Review Committee. Mr. Zwolenski was looking for seven members to be on the committee.

Mr. Yazbak thought there should be a smaller group of four or five people but, since Mr. Zwolenski will be the chair, he was willing to acquiesce to Mr. Zwolenski's wishes. Instead of naming members, Mr. Yazbak felt each board should submit a name. There is no money for secretarial duties so it was the hope that one of the Town Hall staff could dedicate maybe one half day per week for document control. The resolution will need to be fine-tuned.

Mr. Zwolenski said their charge will be to meet the Comprehensive Plan, to meet the zoning requirements.

Mr. Ericson would much prefer to see the committee as a sub-committee of the Town Council with the Town Council being responsible for making sure the group follows the Open Meetings laws.

Mr. Yazbak asked Mr. Zwolenski if he would meet with the Town Administrator and the Town Planner in the next few weeks to work on the framework and what resources are available.

PROCESS FOR PAYMENT OF BILLS

Mr. Yazbak noted that no work has been done on this and it was continued to February 7, 2011.

SEWER AND WATER SERVICE FOR MARSHFIELD COMMONS

The Sewer Commission postponed their meeting because of the weather so there was no recommendation from them.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to table this to February 7, 2011.

APPOINTMENT TO HISTORIC DISTRICT COMMISSION

There was no appointment and it was tabled until February 22, 2011.

DOWLING VILLAGE TAX RESOLUTION

Mr. Yazbak drafted a resolution for the Council's consideration. The

purpose is to have our local General Assembly members put forth legislation for relief from S3050 for the Dowling Village tax revenue to offset the debt service for the North Smithfield Middle School in addition to any other limitations placed upon North Smithfield by the requirements of S3050.

Mr. Nadeau made a couple of suggested changes to the resolution.

This was placed on the agenda for February 7, 2011 for passage.

LEVEL FUNDING OF UTILITIES FOR SCHOOL DEPARTMENT

This was something that came out of the joint meeting with the School Committee when Mrs. Johannis had asked for consideration of an ordinance.

For example, if the high school electric bill is \$200,000, they want to be assured they will get \$200,000 for high school utilities in their budget over the next twenty years or so. Savings will be put into a sinking fund that will enable them to accumulate funds to pay their debt service for the Johnson Controls energy saving project.

Mr. Yazbak and Mr. Nadeau will work on drafting two ordinances – one to level fund the utilities and the other to allow the savings because of that level funding to be used for the debt service in a sinking fund.

Mr. Nadeau said an ordinance is not exactly for level funding the utilities as much as for getting the idea across that the savings are dedicated towards bond repayment, not towards any other use.

PROPOSED CELL TOWER

Mr. Ericson, in his research, learned that it is much less costly to lease from a tower than to maintain it. Mr. Ericson spoke with Mr.

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Currie, who is knowledgeable in this area, and he said the best thing to do is look at your potential sites and put them out to the marketplace.

There is town-owned property on Union Hill that may be a more desirable location than the school property.

Some points that Mr. Currie made to Mrs. Hamilton:

- Take a look at public property that is owned by the town and that the town would be willing to put a cell tower on.**
- Plot where the existing towers are, their height, and who is on them right now.**
- Contact those individual existing sites and make sure everyone is aware of any and all town restrictions.**

RECREATIONAL VEHICLES AND STONE WALL PROTECTION AND PRESERVATION ORDINANCES

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to refer both of these ordinances to the Planning Board for review.

EXECUTIVE SESSION

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to enter into executive session at 9:12 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss Narragansett Improvement vs. Town of North Smithfield, litigation review and potential litigation regarding the Caruolo Act and the estate of Scott Wright.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to come out of executive session at 10:09 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote at 10:09 P.M. to extend the meeting to 10:30 P.M.

Narragansett Improvement vs. Town of North Smithfield

MOTION by Mrs. Charest, seconded by Mr. McGee, and voted 4 to 1 (Mr. Zwolenski voted no) on an aye vote to allow the Town Solicitor to enter into negotiations for settlement with Narragansett Improvement for all pending lawsuits on terms as outlined by the Town Solicitor.

Estate of Scott Wright

MOTION by Ms. Alves, seconded by Mrs. Charest, and voted unanimously on an aye vote to deny the claim made by the estate of Scott Wright.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to instruct Mr. Nadeau to communicate the Town Council's action to the estate of Scott Wright's attorney.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to adjourn at 10:12 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk