

# **SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL**

**NOVEMBER 7, 2011**

**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 Ms. Alves, Mrs. Charest, Mr. McGee, Mr. Zwolenski and Mr. Yazbak. Town Administrator Hamilton and Town Solicitor Nadeau were also in attendance.

## **EXECUTIVE SESSION**

**MOTION** by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to enter into executive session at 7:01 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation to discuss: 1.) Retainage of counsel for North Smithfield Police Department contract negotiations and 2.) Contract proposals.

**MOTION** by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to come out of executive session at 7:20 P.M. and to seal the minutes. No motions were made and no votes were taken.

## **OPEN FORUM**

**MOTION** by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to move this item for immediate

consideration.

## **Rankin Estates Development/Narragansett Improvement vs Town of North Smithfield**

**Mr. Ernest Alter of 600 Victory Highway claimed that Narragansett Improvement has failed to meet town regulations set by the Planning Board and the Zoning Board. He urged the Town Council to fight any settlement and to submit a counterclaim for damages. The town should resolve this situation by allowing Attorney Patrick Dougherty to handle it and he wonders why the Town Council is going against Mr. Dougherty's advice not to settle.**

**Ms. Catherine Hall of 1445 Providence Pike, an attorney representing a coalition of abutters to the property, said the group was there because of the Council's request for further information to assist the Town Council in its due diligence. Ms. Hall spoke about the applicant's lack of effort to pursue an appeal or to seek a court decision. She also talked about the flaws of the master plan and how it fails to comply with town ordinances and subdivision regulations. The town's professional engineer reviewed the site plans and determined, as designed, the project is designed to remove massive amounts of earth and to have massive excavations of gravel. Ms. Hall spoke about the historic cemetery issue, topography, performance bonds, permits required by the State and the authority of the Town Council over the Planning Board. She concluded with examples of what would be considered unreasonable versus reasonable**

**settlements.**

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**Mr. Sam Fulcomer of 19 Indigo Farm Road, an abutter of the project, does not want to live next to a gravel extraction operation, which is what he believes this will become, and is concerned with a decrease in property values and quality of life.**

**Mr. William Nangle of 3 Indigo Farm Road is exasperated by the process. He has taken the time to study everything that was made available to him and has gone out to look for facts. Mr. Nangle believes this has not been taken to court by Attorney Kelly because he is waiting to get three favorable votes from Council members. He urged this Council to gather all the facts, make a decision on this matter and not pass it on to another Council.**

**Mr. Al DeCristofano of 25 Indigo Farm Road moved to North Smithfield with the expectation of having a better quality of life and he is depending on the Council to keep it intact.**

**Mr. Paul Leclerc of 286 Old Oxford Road commented on the Rhode Island Supreme Court decision on the appeal of Narragansett Improvement versus Evelyn Wheeler. He spoke about Attorney Patrick Dougherty's proposed actions in the Rankin Estates litigation**

once that decision was handed down and questioned why the Council had not met with Mr. Dougherty for an extended period of time in executive session. Mr. Leclerc feels there is no reason to settle this case without collecting evidence and determining whether it is in the best interest of the town to do so. In Mr. Leclerc's opinion the town needs to litigate the case, and others, in their entirety.

Ms. Janet Prichard of 9 Indigo Farm Road does not want the town to settle but to stand behind the decision of the Planning Board. She spoke at length about historic concerns with the property and provided the Council with excerpts from the National Park Service American Battlefield Protection Program Final Technical Report, The Battles of Nipsachuck: Research and Documentation.

**MOTION** by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an eye vote to take a five-minute recess at 8:26 P.M.

The meeting resumed at 8:30 P.M.

## **RETAINAGE OF COUNSEL FOR POLICE DEPARTMENT CONTRACT NEGOTIATIONS**

Attorney Andrew Prescott had provided a proposal to represent the Town for a fixed fee rather than at an hourly rate.

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski and Mrs. Charest, and voted unanimously on a roll call vote to retain Andrew Prescott of

**the firm Nixon Peabody LLP for the police contract negotiations for the fixed fee arrangement that he outlined in a letter dated October 14, 2011 for a price of \$13,000.**

## **2ND READING ORDINANCE AMENDMENT RE: LENGTH OF SERVICE ON BOARDS**

**There had been discussion at a prior Council meeting of possibly limiting the terms for Planning Board and Zoning Board members because they did have quite a bit of authority and responsibility.**

**Mr. Yazbak felt that if a board member sat off a board for a number of years, they should be allowed to return at some point.**

**Mrs. Charest favored term limits because change is good but, on the other hand, it's always good to welcome back those who have served.**

**Also Mrs. Charest felt all boards, including the Town Council should have staggered terms.**

**Mr. Zwolenski liked the idea of serving two five-year terms, taking five years off, and then being able to return.**

**There was a concensus that Mr. Nadeau would amend the ordinance limiting the terms for the Planning Board and Zoning Board only to two consecutive five-year terms, the person would then have to take five years off and would be able to return after that.**

**MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to continue this to the November 21, 2011 meeting.**

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#### **IT PROCESS FOR TOWN COMPUTERS**

**MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to revisit this under New Business.**

#### **FIRE CODE VIOLATIONS AT MUNICIPAL ANNEX/POLICE STATION**

**Mr. McGee noted that a meeting had been held recently. The report from the consultant was received and there is a possible brick and mortar solution but it doesn't really correct the custody issue. At this point Administrator Hamilton and Chief Reynolds are working to come up with recommendations.**

**Mr. Yazbak commented that in the meantime there is supposed to be an investigation into a range of costs for the brick and mortar solution.**

**The matter was continued to November 21st.**

#### **EXTENSION FOR SUBMISSION OF SCHOOL DEPARTMENT BUDGET**

**There was an approved Charter change regarding submission of department budget requests. Because this was the first year and the School Department has been unable as of yet to align its financial**

software to allow for the following year's budget development, the School Committee is requesting a waiver of the December 13th deadline and an extension to December 21st. They do not anticipate this will be an annual request.

Finance Director Brian Silvia was also finding difficulty with this timeline. He is supposed to get budget requests to the Budget Committee by early January and this extension will probably make him late in doing that.

Mr. Yazbak suggested that Ms. Hamilton have a discussion with the Budget Committee and investigate whether there should be a question on next year's ballot to amend the Town Charter.

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to extend the School Committee budget presentation to the Administrator and the Finance Director to December 21, 2011.

Mr. Zwolenski said he would support this because the School Committee does not anticipate that this will be an annual request.

#### **COMPUTER/TECHNOLOGY PURCHASES**

**MOTION** by Mr. Yazbak, seconded by Mrs. Charest, and voted unanimously on an aye vote to approve \$40,526.02 for Phase 1 of School Department Technology Director Eric Butash's plan for

**implementation of the Technology Assessment Plan to be paid for with the remaining amounts on the capital lease up to \$270,000 as identified.**

#### **EXTENSION OF CONTRACT WITH VELOCITY SOLUTIONS**

**MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to extend the contract with Velocity Solutions for one year for an amount not to exceed \$23,000 based upon the recommendations of the administration and with funding to come from Account No. 4194-564, Contingency Fund - Computers.**

#### **STORMWATER POLLUTION PREVENTION PLAN ORDINANCE**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to send a draft of the Stormwater Pollution Prevention Plan ordinance to the Planning Board for a determination of consistency with the Comprehensive Plan.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves and Mrs. Charest, and voted unanimously on an aye vote to adjourn at 8:56 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**