

**REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL**

**FEBRUARY 21, 2012**

**KENDALL-DEAN SCHOOL AUDITORIUM**

**7:00 P.M.**

**OPEN FORUM**

**Silver Pines Phases 1 and 2**

**Mr. Joseph DeMayo of 62 Alpine Way has been waiting through two Council meetings to be heard on Silver Pines Phases 1 and 2 and he would like to be placed on an agenda.**

**Aggregate Extraction Ordinance/Rankin Estates**

**Mr. Steven Biron of 2000 Providence Pike stated that the Narragansett Improvement lawsuit is not because the Planning Board denied its application but because certain board members and attorneys who no longer work for the town decided to converse in a meeting outside of town and deny due process to Narragansett Improvement. He also was appalled that a certain Council member claimed that he was shocked and awed when he saw the ordinance proposal when Mr. Biron was aware of at least three meetings that person had attended prior to all of this taking place. Mr. Biron added that Town Solicitor Richard Nadeau is here for one reason only and that is for the betterment of the town. People should be ashamed of themselves for writing letters that have been written.**

**Dr. Lucien Benoit, a direct abutter of Rankin Estates, wanted to clarify an article written in the Valley Breeze that stated he had met**

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**with Mr. Nadeau and Town Planner Robert Ericson about the aggregate extraction ordinance. In actuality it was Building Inspector Robert Benoit who had attended the meeting. Dr. Benoit stated that misrepresentation of facts and exaggerated claims by neighborhood groups do little to resolve a complex issue. He took exception to comments written in the Valley Breeze attributed to Mr. Nadeau that an ordinance should “pass muster with developers.” Mr. Nadeau never uttered those words. What he did say last June in an open forum was that he, Mr. Ericson and other interested parties, including the owners of Holliston Sand & Gravel, Material Sand & Stone, and Narragansett Improvement had all given some input to the proposed ordinance. It is standard operating procedure to include the business entities most likely to be impacted by proposed regulations into the discussion and formulation early on in order to craft an ordinance that will fairly represent their business interests and reduce the risk of legal challenge. Dr. Benoit urged that it be made public what the impact of a \$6 million bond would be to all property owners and compare it to that of a \$100,000 settlement as an example.**

**Several residents (Sam Fulcomer, 19 Indigo Farm Road; James Lombardi, 7 Indigo Farm Road, Ernest Alter, 600 Victory Highway; and Mali Jones, 19 Indigo Farm Road) questioned and were concerned with the apparent lack of transparency in the town’s government and a couple of them called for the**

**suspensions/resignations of Councilman Yazbak, Solicitor Nadeau and Town Planner Ericson.**

## **REGULAR MEETING**

**The meeting began at 7:14 P.M. with the prayer and the pledge to the flag. Council members present were Mr. Yazbak, Mr. Zwolenski and Mrs. Charest. Ms. Alves arrived later in the evening and Mr. McGee was unable to attend. Also in attendance was Town Solicitor Nadeau. Town Administrator Hamilton arrived later.**

## **CONSENT AGENDA**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted 3 to 0 on an aye vote to remove the payment of bills, approval of Town Council minutes and the invoice from Partridge Snow & Hahn LLP from the consent agenda.**

## **Minutes of February 6, 2012**

**Mr. Zwolenski stated he had been very succinct in reminding fellow councilors that the Ordinance Development Committee is comprised of volunteers who are as frustrated as he is regarding the lack of decision on Town Council members. He also said the ODC may or may not want to act on an aggregate extraction ordinance.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted 3 to 0 on an aye vote to amend the minutes as recommended.**

**Mr. Yazbak had a couple of questions on the bills that were answered by Finance Director Brian Silvia.**

**Because Ms. Alves was not present at the time and because Mr. Yazbak would be recusing himself from voting on the payment of bills, MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted 3 to 0 on an aye vote to table the vote until and if Ms. Alves arrived.**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 3 to 0 on an aye vote to approve the following: 1.) Minutes of January 17, 2012; 2.) Invoice from Division of Taxation – Employer Tax Section; 3.) Invoice from Mark Hadden; 4.) Monthly Financial Reports for January; 5.) Budget Committee Minutes for January 26 and February 1 & 9, 2012; 6.) Conservation Commission Minutes for November 8, 2011; 7.) Ordinance Development Committee Minutes for December 14, 2011 and January 12, 2012; 8.) Parks & Recreation Commission Minutes for November 28, 2011; 9.) Personnel Board Minutes for October 11 and December 12, 2011; 10.) Zoning Board Minutes for November 29 and December 13, 2011; 11.) Animal Control Monthly Report for January 2012; 12.) NSF&RS, Inc. Monthly Incident Report for January 2012; 13.) Resolution Requesting Amendment to RIGL §16-7-23 from the Town of Glocester; 14.) Resolutions Requesting Amendment to RIGL §17-11-1, Voting Districts and Officials from the Towns of Little Compton and Richmond; and 15.) Resolutions Opposing H-7250 that Mandates Expired**

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**Teacher Contracts Must Continue at the Existing Terms and Conditions from the Towns of Coventry and East Greenwich.**

### **AGGREGATE EXTRACTION ORDINANCE**

**Once again Town Planner Robert Ericson said the town needs an aggregate extraction ordinance. If there is another case like the one from 1998, the current process and performance would not be applicable. Mr. Ericson proposed putting all extraction under the Planning Board's Major Land Development process. He did not think the town should consider moving anything beyond the special use permit in a manufacturing zone.**

**Mr. Yazbak was not in agreement that this is the time to start working on aggregate extraction nor if the Ordinance Development Committee should craft every ordinance.**

**(Ms. Hamilton arrived at 7:33 P.M.)**

**Mr. Zwolenski commented that when this Council came in, the Ordinance Development Committee was denuded of its volunteer purview to look at ordinances. He added that there is a mining ordinance on the books that does not allow mining anywhere at all in town except for special use within a manufacturing zone.**

**Ordinance Development Committee member Caroly Shumway was**

**not willing to consider reviewing this ordinance until some questions are answered.**

**Ms. Shumway noted that the committee is currently working on a use table that prohibits mining in all uses. She has contacted two attorneys who never heard of creating an ordinance when the use is not permitted in all zones. Ms. Shumway said that if the aggregate extraction ordinance is referred to the ODC, she would request that it is not just to review that ordinance but all zoning and subdivision regulations.**

**Mr. Ericson said that the current use table allows mining in a manufacturing zone with a special use permit. The existing earth removal ordinance cites a section of state law that has been repealed, it cites the wrong section of zoning for its cross reference and it cites the wrong state publication for its authority.**

**Mr. Paul Soares, Chairman of the Conservation Commission, provided and read a letter explaining the position of the commission regarding aggregate mining. They feel there are already guidelines in place to control and regulate land use in a manner protective of the residents and accommodating to local business and future development. Of special note, he says, is that creating a new ordinance to allow for an expansion of mining in town is inconsistent with the Comprehensive Plan. In addition, they had concerns about cultural and historic factors.**

**Mr. Ericson suggested that the ODC just strike all “Nos” in the earth removal section of the use table. That will eliminate a zoning use.**

**Ms. Catherine Hall of 1445 Providence Pike stated this was not a case requesting permission to mine, it was a case that requested an application for 122 houses. None of the gravel or mining ordinances in place now can resolve the issue of this particular case. She feels this plan was based on an ordinance on the books that allows land clearing and earth removal necessary for development.**

**MOTION by Mr. Zwolenski and seconded by Mrs. Charest to consider remanding this issue to the Ordinance Development Commission whether it be for review of an aggregate extraction ordinance or review of existing zoning ordinances.**

**Mrs. Charest stated she would like to see Mr. Ericson, Ms. Hamilton and Mr. Nadeau review it and bring it to the ODC for its recommendation.**

**Mr. Zwolenski could not support that because those people had already been involved in the process of drafting the ordinance. He would like**

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**to see it come before the ODC with technical help from the Town**

**Planner, with legal advice from the Town Solicitor and with the resources that the Administrator would have.**

**Mr. Michael Rapko suggested that North Smithfield look to surrounding towns to see what they have done to protect themselves regarding gravel extraction.**

**Roll call vote: Mr. Yazbak – no; Mr. Zwolenski – yes; and Mrs. Charest – yes. The motion carried 2 to 1.**

**(Ms. Alves arrived at 8:19 P.M.)**

#### **WIND ENERGY PROPOSAL**

**Mr. Ericson explained there has been a setback in that Site Resources has removed its equipment from the site for lack of payment.**

**MOTION by Ms. Alves, seconded by Mrs. Charest, and voted 4 to 0 on an aye vote to table this to the March 5th meeting.**

#### **APPOINTMENT TO SEWER COMMISSION**

**Based upon the recommendation of Mr. McGee, MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 0 on an aye vote (Mr. Yazbak abstained) to appoint Steven D'Agostino to the Sewer Commission. This is a five-year term that expires December 1, 2016.**

#### **PAYMENT OF BILLS**

**Invoice from Partridge Snow & Hahn LLP**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 0 on an aye vote to table this until Mr. Zwolenski has seen the back-up information for the invoice.**

**Monthly Bills**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 0 on an aye vote (Mr. Yazbak abstained) to approve payment of the following: General Fund - \$267,642.15; Sewer - \$12,230.41; Water - \$51,340.79; School Department - \$1,440,455.00; and Fire Department - \$195,147.00 for a total of \$1,966,815.35.**

**EXEMPTION FROM NOISE ORDINANCE – DOWLING VILLAGE**

**Since no one was present regarding this request, MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 0 on an aye vote to continue this to March 5, 2012.**

**CREDIT/ABATEMENT OF SEWER ASSESSMENT RE: INDUSTRIAL DRIVE DEVELOPMENT CO.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted 4 to 0 on an aye vote to refer this to the Sewer Commission for its recommendation.**

**1ST READING NEW ORDINANCE RE: PUBLIC HEARINGS REQUIRED PRIOR TO APPROVAL OF COLLECTIVE BARGAINING AGREEMENT OR PUBLIC UNION CONTRACT**

**Mr. Yazbak introduced this ordinance and it was considered the first reading.**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to schedule the second reading for March 5, 2012.**

**Ms. Hamilton raised several concerns about the proposed ordinance noting in particular that the School Committee would not have to follow it and the school department has the most union members in town.**

**Mr. Zwolenski agreed that the school department should join in this but did not have much faith that it would happen.**

## **LOW- AND MODERATE-INCOME HOUSING REPAIR PROGRAM REVISIONS**

**Mr. Ericson explained that the state now allows loans up to \$15,000 with fifty percent forgiven after the first five years and the remainder paid back upon sale or transfer of the property. This would allow the town to do larger projects and to expend more money from the state allotment.**

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**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted 4 to 0 on an aye vote to approve the modifications to the program as**

**outlined by Mr. Ericson.**

**AGREEMENT WITH CITY OF WOONSOCKET FOR HOUSING REHABILITATION PROGRAM**

**Mr. Ericson explained this is an extension of a current agreement.**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to ratify the agreement as presented based on the recommendation of the Town Planner and to authorize the Town Administrator to sign it.**

**APPOINTMENT TO BOARD OF CANVASSERS**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to reappoint Paul Laprade to the Board of Canvassers based upon the recommendation of the Republican Town Committee Chairman. This is a six-year appointment that will expire on March 1, 2018.**

**RESOLUTION RE: INCREASING THE NUMBER OF VOTERS PER VOTING DISTRICT**

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted 4 to 0 on an aye vote to adopt the following resolution: “WHEREAS, the Town of North Smithfield supports House Bill 7055 co-sponsored by Representatives Carnevale, Hull, DaSilva, Messier and Ruggiero, which proposed to amend RIGL §17-11-1 entitled “An Act Relating to Elections – Voting Districts and Officials” Division of towns and**

representative districts into voting districts; and WHEREAS, the current law was enacted when over-sized voting machines requiring large spaces were used, accommodating a limited number of voters at the same time, compared to compact voting booths and optical scan equipment now used, that need a minimal amount of space and facilitate a fluid and efficient process; and WHEREAS, there are currently 9,527 registered voters in the Town of North Smithfield; and WHEREAS, the proposed amendment of RIGL §17-11-1 would increase the number of voters served by the same polling place from 1,900 to 4,000 voters, or allow the North Smithfield Board of Canvassers to increase the number of voters at a single voting place above 4,000 if the effect to the contrary would create a voting place serving less than 1,000 voters; and WHEREAS, the proposed amendment of RIGL §17-11-1 would provide that increasing the maximum number of voters would be based on location and accessibility, with final approval by the State Board of Elections; and WHEREAS, with reduced State aid to cities and towns and economic conditions generally, it is incumbent on municipal officials to examine areas of potential savings of taxpayer dollars that will not impact negatively on town services; and WHEREAS, the proposed amendment will have the effect of reducing the number of North Smithfield voting districts from six to four or five, resulting in a reduction of polling locations, election workers and support services needed, creating a substantial cost savings for the Town; and WHEREAS, the Town of North Smithfield has always reduced the number of voting districts in Primary and Special elections, when

**possible, with no negative impact on voters; and WHEREAS, with the passage of no excuse mail ballot voting, there will be a significant increase in mail ballot voting, resulting in a reduction in the number of voters at the polls. NOW, THEREFORE, BE IT RESOLVED that the North Smithfield Town Council supports amending RIGL §17-11-1 entitled “An Act Relating to Elections – Voting Districts and Officials” – Division of towns and representative districts into voting districts and urges passage of House Bill 7055; and BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the State Board of Elections, Secretary of State Elections Division, Governor Lincoln Chafee, State Senators Therese Paiva-Weed, John Tassoni, Jr., Paul Fogarty and Marc Cote and State Representative Brian Newberry.”**

#### **EXECUTIVE SESSION**

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted 4 to 0 on an aye vote to enter into executive session at 8:58 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 MacSteel Service Centers USA, Inc. as a successor to Edgcomb Metals Company vs. Town of North Smithfield.**

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**MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted 4 to 0 on an aye vote to come out of executive session at 9:05 P.M. and to seal the minutes. No motions were made and no votes were taken.**

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted 4 to 0 on an aye vote to adjourn at 9:06 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**