

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

OCTOBER 21, 2013

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

OPEN FORUM

Relay for Sports Event

Ms. Aimee Lombardo, a resident of Providence Pike, claimed this event, held outside at the high school, was disruptive for the neighbors because of the noise that can be heard until the early morning hours. She suggested starting the event outdoors and then moving indoors or being held in a nonresidential neighborhood.

Ms. Sue Landi of Grange Road agreed the Relay for Life event was disruptive. The public address system is too big for the area. The lights from the tennis court and the ball fields are also very bothersome.

Mr. Bill Nangle, President of North Smithfield Athletic Association that ran the event, thought it went as he had hoped. He stated the music was shut off at 11:30 P.M. The gate was closed at all times with someone sitting there and there were no kids walking the streets. The police visited the site and did not find any issue.

Mr. Nangle was amenable to discussing this further with any of the neighbors and, at the request of Mr. Flaherty, agreed to return to the Council on November 18th to talk about any suggestions made.

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Health Care Costs

Mr. Alter was concerned with increases in the cost of health care and how this will affect the cost of health care for town employees. He wondered if the town can afford to continue to pay for this benefit and thought the Town Council should look into it.

REGULAR MEETING

The meeting began at 7:05 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Town Administrator Hamilton and Town Solicitor Lombardi were also in attendance.

ADOPTION OF WATER RATE AND BUDGET FOR FY 2014

Finance Director Brenda MacDonald and Water Superintendent Russell Carpenter provided updated revenue and expenditure budgets, cost estimates for requested repair items and the new rate from the City of Woonsocket. They felt the town needed to increase the usage rate to \$6.61 per thousand gallons for residential and commercial users and that would be for the last two quarters. The commercial maintenance fee would be increased from \$37.50 per quarter to \$172.00 for the year.

Mr. Carpenter explained that the roof is collapsing on the building at

106 Main Street and he would like to have it demolished and the well filled in. The Freitas Lane pump house was taken down several years ago but the foundation was never filled in. He would like to see that taken care of. Mr. Carpenter said the Pacheco Park well casing needs to be grouted and the well filled.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted 4 to 1 on a roll call vote (Mr. Yazbak voted no) to accept the proposed water budget and rate for fiscal year 2014 of \$523,166 as recommended by the Finance Director.

SILVER PINES SEWER CONCERNS

(Mr. Yazbak recused from this discussion)

Mr. Zwolenski stated the Silver Pines residents are paying the same sewer use fees as everyone else. The question is when the lines become blocked, who is responsible for cleaning them. It is his opinion they should be entitled to have the lines cleaned. Previous Council minutes say that upon completion of this development, the infrastructure would be turned over to the town. To facilitate private development, a developer was permitted to install a line down Main Street. Users residing along the street were assessed a \$5,200 fee with \$2,600 going to the town and \$2,600 going to the developer to help offset his cost. During the planning process this was promoted as a private development. Mr. Zwolenski is on record for saying we should not make it a private development, it should be built to town

standards. He would like to establish that any ratepayer that pays a sewer fee in this town be entitled to having the lines cleaned and maintained that are in public infrastructure as a matter of public safety. The Town has accepted the pump station that is an integral part of that development. Mr. Zwolenski added that he would be very leery of any other private developer coming before the Council looking for his infrastructure to be taken over. He is adamantly opposed to that.

Mr. McGee felt the Town just blowing out a line would not be a big problem. However, there should be no maintenance done by the town.

MOTION by Mr. Zwolenski and seconded by Mr. McGee that from this point forward the Town will be responsible for flushing out sewer lines should they become blocked.

Ms. Hamilton needed to know what the town is committing to. Can the town go on private property? And if the town does this for one, is the town prepared to do it for others. The operation and maintenance fee is for maintenance of the entire system and that a portion of the user fee goes to the City of Woonsocket for the use of their facility. It is not a private maintenance fee.

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Mr. Flaherty was uncomfortable acting on the motion without Sewer Commission input.

Mr. Joseph DeMayo, a resident of Silver Pines, does not feel the present Sewer Commission has enough experience to give the Council the right information. He believes the Department of Environmental Management will be all over the town if there is a problem regardless of whether the system is considered private or public. Paying the user fee entitles the residents to waste elimination and maintenance of lines. If the town can't do that, then part of the user fee should be deducted.

Mr. Flaherty wants to be sure any action taken is consistent with the Charter and the Sewer Ordinance. He would like the Town Solicitor to review both against what is being requested.

Mr. Zwolenski added that the review should be done under the sewer regulations of 2000.

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

The matter was continued to December 2, 2013.

Mr. Michael Clifford, who owns property in Union Village, questioned

if he would be entitled to having his sewer line cleaned out. He paid to install the line on private property and two other houses are tied into it. He doesn't understand what the difference would be. Mr. Clifford questioned why an ordinance couldn't be written that would make everyone consistent.

Mr. McGee noted that the sewer ordinance is in the process of being rewritten.

BRANCH VILLAGE SEWERS

Mr. Scott Gibbs had hoped to be able to use a portion of Tax Investment Funding (TIF) for financing of the Branch Village sewers. He has since learned that legislation has been modified for TIF and that it will not provide an avenue to finance the sewer improvements in Branch Village.

TRANSFER OF BV LIQUOR LICENSE FROM PINELLI'S CUCINA TO MMCR INC.

MOTION by Mr. McGee, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to approve the transfer of a BV liquor license from Pinelli's Cucina d/b/a Cucina to MMCR Inc. d/b/a Cucina.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on a roll call vote to approve a victualing license for MMCR Inc.

AWARD OF BID FOR PACHECO PARK LIGHTING

MOTION by Mr. McGee, seconded by Ms. Alves, and voted unanimously on a roll call vote to award the bid to Musco Sports Lighting of Londonderry, New Hampshire at a cost of \$89,500, a national bid.

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to authorize the Town Administrator to sign any necessary documents.

PUBLIC HEARING RE: FORESTDALE HISTORIC DISTRICT

There was no one in the audience who wished to speak either in favor or against this proposed historic district.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on an aye vote to close the public hearing.

MOTION by Mr. Yazbak and seconded by Mr. Zwolenski to approve and accept this as a second reading.

Mr. Yazbak subsequently withdrew his motion and Mr. Zwolenski withdrew his second.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to approve the establishment of a Historic District and the Historic District Map dated June 4, 2013

referencing

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Assessor's Map 5, Plat 39 and to accept the ordinance and map as a second reading.

ZONING ORDINANCE AMENDMENT RE: SECTION 17 SITE PLAN REVIEW - 2ND READING

Town Planner Robert Ericson provided the changes made primarily to Section 17.8.1 Site Planning. It now reads as follows: "17.8.1. Site Planning. To the maximum extent practicable, development should be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, to minimize alterations of and negative impacts to natural features, historic and cultural resources, and scenic areas. A Site Analysis should be conducted prior to the conceptual site planning process (Figure 1). New development shall incorporate characteristics of the surrounding area when the area exhibits a positive site layout and/or functional patterns (e.g. buildings close to street, shared parking access, and generous landscaping). Natural Context. The following specific areas shall should be preserved as undeveloped open space or lot areas in accordance with applicable Federal, State and Town Regulations and Ordinances (Figure 2): (1) Water supply resources, including freshwater wetlands & community wellheads (2) Aquifers and h High value recreational waters (3) Significant trees or stands of trees (4) Steep slopes above 15% as measured over a 10 foot interval (5)

**Habitats for rare, threatened or endangered flora and fauna (6)
Historically significant structures and sites (7) Scenic vistas (8)
Prime agricultural soils, farmland, abandoned fields and prime forest
lands.**

**On Page 17-19 there are three paragraphs where the word “shall” is
changed to “should”: “The buffer strip shall should be planted with
grass. . .” “Parking areas shall should be located to the rear. . .” and
“Parking areas shall should be softened. . .”**

**Mr. Scott Gibbs, a member of the North Smithfield Redevelopment
Agency, found this ordinance to be extremely heavy handed. Maybe
there is a belief that the more onerous you make something, the
better in quality development becomes. He has found there are
communities throughout the country that guarantee permits in three
to seven days. Our economy is horrendous right now. Of the total
number of deals of \$1 million or more done in 2012, New England
represented three percent. Mr. Gibbs stated we need to be more
progressive in dealing with companies and less dictatorial. He
cautioned the Town Council to slow down and perhaps have another
set of eyes review the ordinance. In response to a question from Mr.
Zwolenski, Mr. Gibbs said he would be more than willing to review the
ordinance.**

**Mr. Ericson did not think the seven-day permitting process would be
appropriate in New England but he thinks it can be done faster and**

the state enabling laws have to be changed.

Mr. Gary Ezovski again emphasized that this ordinance expands from an original six pages to 34 pages and is contrary to what Leslie Taito of the Office of Regulatory Reform spoke of at a recent meeting. As a citizen of the town he wants to see sensible and regulated development, but to have the ability to turn over a bill to someone and say just pay it (Section 17.4) needs to be controlled. Requirements that land in a certain area must be preserved as open space are absurd. How do you define scenic vistas? An error made some years ago is giving this Council the opportunity to look at this ordinance and get it right. Mr. Ezovski did not feel the town can mandate that people not develop any slope, in his opinion, but what should and can be regulated is what is to be done with runoff. He feels the ordinance is offensive to the entire development process.

Mr. Ericson, in response to Mr. Ezovski's comments about Section 17.4, stated that in 1988 Massachusetts passed a law that said where you don't have the capabilities, you can retain a consultant at the developer's expense. That law has since been changed to where you can only charge them half. Rhode Island retains the concept of entirety. There are advantages to all parties when you have a law like Rhode Island does that allows small towns to bring in expertise that would allow developers to get it right the first time. That can be abused and there are risks.

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Dr. Caroly Shumway, although she has not seen the final version, believes this ordinance is voluntary for people to do conservation by design which saves both the town and the developer money. There is nothing obligatory; it just provides good design principles.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote to continue the public hearing and the second reading to November 18, 2013.

PURCHASE OF PROPERTY FROM RAM INVESTORS (DOWLING VILLAGE)

Mr. Lombardi commented that the funds from the Department of Environmental Management will not be available until the end of October so they gave an extension to November 30, 2013.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to authorize an extension for up to 30 days to November 30, 2013.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to authorize the Town Administrator to sign all documents necessary to receive said grant, draw said bond funds and complete such purchase.

Mr. McGee wished to go on record that he was not available at the meeting where this purchase was approved but he would never have voted for it. It is not a great piece of land, there is no access to it and it is all ledge.

DRAFT MANAGEMENT PLAN FOR BOOTH POND CONSERVATION AREA

Mr. Lombardi noted that the questions on amendments have been put in the document and have been accepted by the North Smithfield Land Trust.

Dr. Shumway commented that this area is ranked second in Rhode Island out of 21 land conservation deals. It is considered very high priority environmentally and is undervalued.

Both Mr. Yazbak and Mr. McGee totally disagreed with Dr. Shumway's comment.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to authorize signatures for the Draft Management Plan for the Booth Pond Conservation Area.

CONSENT AGENDA

Mr. Yazbak removed the payment of bills and Mr. Zwolenski removed the Town Council minutes.

PAYMENT OF BILLS

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to accept the following: 1.) Monthly Financial Statements for September 2013; 2.) Conservation Commission Minutes of July 9, 2013; 3.) Sewer Commission Minutes of June 19 and August 21, 2013; 4.) Animal Control Monthly Report for September 2013; 5.) NSF&RS Monthly Incident Report for September 2013; 6.) NS Police Department Monthly Activity Report for September 2013; 7.) NS Municipal Court Monthly Activity Report for September 2013; and 8.) Resolution in Support of an Aquidneck Island Family Attraction, Education and Job Training Center, Museum and Memorial from the Town of Middletown.

BOARD MINUTES

Mr. Zwolenski wished it to be noted that some board minutes are very succinct and thorough while others are somewhat confusing in the way they record minutes.

TOWN COUNCIL MINUTES

Regarding the minutes of September 16, 2013 about the Award of Bid for Police Vehicles Mr. Zwolenski wanted it to be noted that he had said there were problems with a previous bid received by Ashley Ford regarding pickup trucks. This is why he opted to vote for MHQ instead.

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Zoning Ordinance Amendment Section 17 Site Plan Review - In her letter, Attorney Engustian, representing the Rhode Island Builders Association, made statements about being succinct or not succinct with Rhode Island General Laws. Mr. Zwolenski had asked Town Solicitor Lombardi to see if the law was quoted correctly.

Page 9, Paragraph 3 under Conservation Easement for Dowling Village Land Purchase. What Mr. Zwolenski clarified was that conservation land would have much less impact on further development because of a lack of impervious material.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on an aye vote to accept the amendments to the minutes as suggested by Mr. Zwolenski.

PAYMENT OF BILLS

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 0 on a roll call vote (Mr. Yazbak recused) to approve payment of the following: General Fund - \$609,366.49; Sewer - \$32,697.72; Water - \$70,137.24; School Department - \$1,498,072.00; and Fire Department - \$195,147.00 for a total of \$2,405,420.45.

SPORTS CONTINGENCY FUND

Mr. Flaherty stated that in June the Town Council approved \$240,000

on the municipal side to be available if the School Committee could not reconcile its budget to include sports. It is his understanding that the budget, including sports, has been reconciled. The School Committee has now requested transfer of that money but the Council minutes of June 17th raise the question as to whether that can be done. Mr. Flaherty had recently spoken with Superintendent of Schools Stephen Lindberg about some financial issues but this matter did not come up.

Ms. Hamilton felt there was some miscommunication about the transfer of this money. There has been no audit.

Mr. Flaherty is hopeful there will soon be a meeting to include representatives of the Council, the School Committee, Mr. Lindberg, Ms. Hamilton, the Finance Director and the School Business Manager to sort out a host of issues including the combined audit, next year's budget and the \$240,000 in funding.

APPOINTMENT TO REDEVELOPMENT AGENCY

There was no appointment.

PERSONNEL BOARD

There was no appointment.

COORDINATOR FOR JUVENILE HEARING BOARD

There was no appointment.

APPOINTMENT TO SEWER COMMISSION

There was no appointment.

APPOINTMENT TO HISTORIC DISTRICT COMMISSION

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to appoint Eric Piette to this commission. This is a three-year term that expires 12/1/13.

ECONOMIC DEVELOPMENT COMMISSION

There was no appointment.

SINGLE AUDIT FOR TOWN AND SCHOOL DEPARTMENT

Finance Director Brenda MacDonald received School Business Manager Lisa Marcotte's suggested revisions to the RFP for the single auditing firm. After making some changes, the document was sent to the Auditor General today.

AWARD OF BID FOR SEWER DEPARTMENT TRUCK

MOTION by Mr. Yazbak, seconded by Mr. McGee and Ms. Alves, and voted unanimously on a roll call vote to award the bid for a new 2013 One Ton Dual Rear Wheel Truck with plow to Tasca Automotive Group of

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Cranston in the amount of \$44,005.00 based upon the

recommendations of the Finance Director, the Town Administrator and the Public Works Director.

TOWNWIDE RESURFACING PLAN

Ms. Hamilton noted there is \$175,000 that has been allocated for road resurfacing in the spring. There is also an engineer looking at the whole town as far as costs and it will then be up to the Town Council to determine which way it wants to go. Hopefully his recommendations will be ready by the end of December.

EASEMENT AGREEMENT LAURELWOOD PARTNERS LLC

This was apparently placed on the agenda in error.

EXECUTIVE SESSION

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski and Mr. McGee, and voted unanimously on a roll call vote to enter into executive session at 9:37 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 Kaczorowski vs. Town of North Smithfield.

MOTION by Ms. Alves, seconded by Mr. McGee, and voted unanimously on a roll call vote to come out of executive session at 9:58 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to adjourn at 9:58 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk