

**REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL**

**MARCH 17, 2014**

**KENDALL-DEAN SCHOOL AUDITORIUM**

**6:45 P.M.**

**OPEN FORUM**

**School Issues**

**Ernest Alter requested there be a future agenda item where the Council will vote to have Council members Yazbak and McGee refrain from voting on all school matters. He later commented that his request is not a personal attack but rather to protect the town against conflicts of interests.**

**Raymond Leclaire felt the town could save \$600,000 by going after the students in our school system who are illegally there. He compared municipal and school employee salaries from eight years ago.**

**Joseph DeMayo stated Council members are elected by taxpayers and anyone who recuses on whatever matter it may be is wrong and that person is not working for the taxpayers.**

**Robert Boucher stated Superintendent of Schools Stephen Lindberg used the children and the taxpayers to get the \$240,000 from the Town Council. Reportedly there was a deficit and yet the Superintendent brought back laid-off personnel and hired new staff. He did not notify the town of the school department deficit within the**

**five-day time period required. Mr. Boucher felt Mr. Lindberg is a fraud and should be terminated. He is looking forward to the school department audit. He hopes the residents vote to have a School Committee appointed by the Town Administrator and ratified by the Town Council so that the town will have more control of the situation.**

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**School Committee member William Connell informed the Council that the topic of sharing Kendall-Dean with municipal offices is on the School Committee agenda tomorrow evening.**

#### **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, Mr. McGee, Mr. Yazbak (arrived at 7:02 P.M.), Mr. Zwolenski and Mr. Flaherty. Also in attendance were Town Administrator Hamilton and Town Solicitor Lombardi.**

#### **Passing of Robert E. Mowry, Sr.**

**Mr. Flaherty asked for a moment of silence for the passing of former Town Councilman and Primrose Fire Chief Robert Mowry, Sr. who passed away recently.**

#### **AMENDMENT TO ZONING ORDINANCE/MAP - BENOIT REALTY (ANCHOR SUBARU)**

**Town Planner Robert Ericson explained that as soon as a Master Plan**

is provided, it goes first to the Planning Board for approval then sent back for conditional approval for a zoning change. This hearing needs to be continued so that the Planning Board may hear the petition first on Thursday night when there will be a public hearing on the Master Plan.

Mr. Ericson noted that one of Anchor Subaru's engineers has found a way to move forward without blasting and this may eliminate a lot of problems.

**MOTION** by Mr. Zwolenski, seconded by Ms. Alves and Mr. McGee, and voted unanimously on a roll call vote to continue the public hearing and vote to May 5, 2014.

**AMENDMENT TO COMPREHENSIVE PLAN MAPS - PLAT 17, LOT 14**  
Planning Board members Dean Naylor, Arthur Bassett, Mali Jones and Cynthia Roberts were present for the joint meeting.

Mr. Ericson stated that the Planning Board has already found the Anchor Subaru petition consistent with the Comprehensive Plan. He explained the reasoning behind going forward with the amendment to the Comprehensive Plan. Adoption of Proposal #63, that is for Plat 17, Lot 14 located behind the Anchor Subaru auto dealership, would make the lot eligible to be changed to BH with appropriate transitional restrictions. But even if it is adopted, it does not have to be used.

**Mr. Zwolenski asked if this had to be done and Mr. Ericson responded that he thought it would be appropriate to make the applicant's need bullet proof.**

**Mr. Zwolenski felt that if the Council made this decision now it would be giving credence to the applicant's petition.**

**Mr. Zwolenski asked when the Planning Board takes a look at changing zones, what is the breadth and what is the depth of changing a zone and if that is taken into account.**

**Mr. Ericson answered most towns have a mix of the number of feet set back from the road and a mix of go to the end of the lot. In this case there is no established rule about what is acceptable and what is not.**

**Paul Soares compared the Anchor Subaru lot to the drive-in theater lot located further south on Route 146 noting that the back lot line of the drive-in borders a road, not residential properties. There are no issues with quality of life or traffic behind the drive-in. He feels it would be a travesty to extend the business highway zone to the backs of residential yards. That would give Anchor Subaru 1,000 feet of business highway zone whereas other properties in the zone are about 200 feet. When people bought their homes on Sayles Hill Road, they knew there was a residential zone behind them.**

**Mr. Soares provided a copy of a section of the Comprehensive Plan Five-Year Update: 4. Prevent Incompatible Non-Residential Uses in Residential Neighborhoods - A. All zone changes hereinafter proposed**

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**shall be in accordance with the recommendations of this Comprehensive Plan as it may be amended from time to time. A residential area change to a non-residential use shall be supported by findings that the use will be compatible with and supportive of the surrounding neighborhood. He has seen no evidence that this proposal would be compatible with the neighborhood.**

**Mr. Ericson commented that the Planning Board is considered the final arbiter of what the Comprehensive Plan means and the members are very aware of transitional buffering.**

**Mr. Zwolenski asked if all of Lot 14 is undeveloped.**

**Mr. Ericson stated 95 percent of the lot is not being used. They do have permission from a previous plan to add more parking in that area. They would have the ability to do an administrative subdivision to wrap that building so it has all the setbacks, front, back and rear.**

**Mr. Zwolenski questioned what would be appropriate transitional restrictions.**

**Mr. Ericson responded it would be whatever satisfies all parties and if it doesn't satisfy all parties, there would be no appropriate transitional restrictions.**

**Michael Thompson of Sayles Hill Road does not want to make any concessions and he does not want the Council to approve the zone change. He noted there are some lots that have not been purchased and he wondered if those parcels are included in the petition.**

**If the zone change is approved, Mr. Ericson anticipates a significant buffer on Sayles Hill Road. The drive-in won't be there forever and that could possibly be a location for future expansion.**

**Sean Kelly feels the Comprehensive Plan amendment is like an end around. If it gets passed, the zone change will also get approved.**

**Mr. Ericson stated this cannot be considered as an end around. It merely opens it up as an option only in relation to the Supreme Court case that probably does not apply with this case. Therefore, if it is changed, it is an option and you don't have to do it. One does not have to follow the other. If the Council opts not to make the amendment, it does not preclude Anchor Subaru from going forward because the Planning Board has already found the petition to be consistent with the Comprehensive Plan.**

**Rachel Savoie commented that the dealership is already huge. If the rezoning is approved, there will be over 22 acres of commercial property. At the last meeting, Mr. Benoit said he had to expand his business because of the competition. Other competitors, with smaller lots, have sited their buildings closer to the highway. She added that anyone who has spoken or will speak in favor of the zone change is not personally affected.**

**Mr. Ericson felt there probably was no need for a vote tonight because he sees significant changes coming in regards to the Anchor Subaru petition.**

**With the purchase of Lot 199, neighbor Lou Phaneuf commented that Mr. Benoit will own all of Sayles Hill Road and it will be turned into a highway.**

**Gerald Thifault of Keene Street would not want this in his back yard. Homes will depreciate in value.**

**Mr. Zwolenski noted there are several lots that could be changed in the surrounding area because of concerns over protecting the water supply. He wondered why they were only looking at this one particular lot.**

**Mr. Ericson responded that the Comprehensive Plan proposes the lots be down zoned because that is a surface watershed that protects**

**the reservoir in Smithfield.**

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**Mr. Zwolenski disagreed. He stated that this area is the Woonsocket Water supply where existing homes in the area have already been affected by MBTEs.**

**James Carey of 119 Sayles Hill Road had traffic and blasting concerns and he questioned why entryways to the business on Route 146 had been abandoned. There is no water infrastructure in the area so if the wells go dry, they will have major problems.**

**There was no motion to continue this matter to a later date.**

#### **PRESENTATION OF FISCAL YEAR 2013 AUDIT**

**Ms. Debbie Mitchell of Markum presented and reviewed the audit.**

#### **SOLICITATION LICENSE - B. VINCENT**

**Mr. Yazbak wondered why Mr. Vincent would need to go door-to-door, interrupting people in their homes, instead of just advertising.**

**Mr. Vincent responded that this is the way that Edward Jones does business; they only deal with people face to face, no cold calling or email blasting. He doesn't have access to phone numbers or email addresses.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 1 on a roll call vote (Mr. Yazbak voted no) to approve a solicitation license for Benjamin Vincent, working for Edward Jones.**

### **PUBLIC FACILITIES ADVISORY TASK FORCE PROPOSALS**

**Ms. Hamilton gave a power point presentation on the costs for Option 1 (\$10,222,616.25) and Option 2 (10,663,048.87). The options are identical except that Option 1 includes a brick and mortar classroom addition at NSES and a bump out to the cafeteria there.**

**Ms. Hamilton reviewed the benefits for the residents and students.**

**Finance Director Brenda MacDonald reviewed options for bond repayment and tax levy projections.**

**Mr. Ericson spoke about expected savings and the reuse of some of the buildings.**

**Mr. Steve Maceroni of The PFM Group, the town's financial advisor, did a presentation on Moody's Indicated Rating Scorecard, Rhode Island Medians, Balance Sheet Medians, Debt Medians, Tax Base/Population Medians, Projected Debt Service - \$11.91 Million Project and Tax Rate Impact - \$11.91 Million Project.**

**Advice from Mr. Maceroni was to limit the amount of bonding to \$12 million. The town is also considering road repair issues being placed**

on the ballot, with an approximate cost of \$2.5 million for the top priority roads. This would leave \$9.5 million for the public facilities plan. There have been discussions about eliminating the courts and the salley port from the police station, eliminating air conditioning from the Middle School and razing Buildings 10 and 11 at Halliwell, initially pegged for storage.

Discussion followed regarding whether to have separate questions on the ballot -- one for the public facilities plan and one for the road improvements.

Mr. Zwolenski was in favor of separating the road repair bond and public facilities bond.

**MOTION** by Mr. Yazbak and seconded by Mr. McGee to prepare a resolution to have a single question on the ballot for \$12 million for the next meeting.

Roll call vote: Ms. Alves - no; Mr. McGee - yes; Mr. Yazbak - yes; Mr. Zwolenski - no; and Mr. Flaherty - yes. The motion passed 3 to 2.

## **CONSENT AGENDA**

Mr. Yazbak requested the payment of bills be removed.

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**Mr. Flaherty and Mr. Zwolenski requested the minutes of February 3 and February 10 be removed.**

**MOTION by Ms. Alves, seconded by Mr. McGee, and voted unanimously on an aye vote to accept the remainder of the consent agenda: 1.) Town Council minutes of February 18, 2014; 2.) Budget Committee minutes of February 4, 11 and 20 & March 6, 2014; 3.) Conservation Commission minutes of August 13, September 10 and November 19, 2013; 4.) Historic District Commission minutes of March 18, April 15, May 20, June 17, July 15, August 19, September 16, October 21, November 18 and December 16, 2013; 5.) Parks & Recreation Commission minutes of February 24, 2014; 6.) Animal Control Monthly Reports for January and February 2014; and 7.) Resolution Re: Federal Highway Trust Fund and Transportation Infrastructure from the City of Newport.**

#### **Minutes of February 3, 2014**

**Mr. Flaherty felt the minutes should better reflect that Mr. Yazbak did participate in the executive session of February 3rd.**

**Mr. Yazbak felt the minutes were clear enough and no motion to amend was necessary.**

#### **Minutes of February 10, 2014**

**At Mr. Flaherty's request, MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to replace the**

**second paragraph of the last page as follows: “Mr. Flaherty commented that the initial Town Council proposed deficit elimination agreement sent to the School Committee was rejected as unacceptable. Mr. Flaherty indicated that the proposed agreement was then modified to accommodate some of the School Committee’s concerns. Specifically he cited that all references to an ad hoc committee for review of the school finances were removed and replaced with a provision for the hiring of an independent accounting review to verify the existence and extent of the school department’s projected deficit.”**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to amend a paragraph on Page 2 as follows: “When Mr. Flaherty responded that would happen at the appropriate time, the School Committee adjourned its meeting and all members left the room. School Committee members Narodowy and Connell did return and there was subsequent dialogue with them.”**

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on a roll call vote to accept the minutes of February 3rd as presented and the minutes of February 10th as amended.**

### **Payment of Bills**

**Except for payments made to Attorneys Robinson and Ragosta, Mr. Yazbak recused from voting on the bills because he has clients on the list.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 0 on a roll call vote to approve payment of the following: General Fund - \$457,162.39; Sewer - \$4,770.34; Water - \$2,349.81; School Department - \$1,498,072.00; and Fire Department - \$195,147.00 for a total of \$2,157,501.54.**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to approve payment of \$2,843.75 to the Law Offices of Stephen M. Robinson.**

**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 approve payment of \$9,527.50 to Vincent F. Ragosta, Jr.**

**Mr. Yazbak believes hiring of these two attorneys is a violation of the Charter.**

#### **AWARD OF BID RE: POLICE VEHICLE**

**Mr. Yazbak and other Council members feel this purchase is not an emergency and it should go through the budgetary process. This circumvents the process and is not the preferred way.**

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**MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted 4 to 1 on a roll call vote (Ms. Alves voted no) to deny the purchase.**

**AWARD OF BID FOR HIGHWAY DEPARTMENT TRUCK WITH PLOW**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to purchase a six-wheel truck and plow from Peterbilt of Rhode Island for the amount of \$159,950.00 based upon the recommendations of the Finance Director and the Director of Public Works. Other bids did not meet the bid specifications.**

**OPEN MEETINGS ACT COMPLAINTS**

**Mr. Flaherty stated that three complaints have been filed with the Attorney General -- two by Mr. Paul Vadenais and one by Mr. Albert Brien. No findings of error were found on the part of the Town Council. Mr. Flaherty knows people are entitled to file complaints but it does cost the town to defend them.**

**APPOINTMENT TO ASSESSOR'S BOARD OF REVIEW**

**There was no appointment.**

**APPOINTMENT TO CONSERVATION COMMISSION**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and Ms. Alves, and voted 4 to 0 on an aye vote (Mr. McGee had stepped away for a moment) to appoint Eric Piette to complete a three-year term that expires December 1, 2014.**

## **APPOINTMENT TO ECONOMIC DEVELOPMENT COMMISSION**

**There was no appointment.**

## **APPOINTMENT TO PERSONNEL BOARD**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to accept Ms. Hamilton's appointment of Melvin Bilezerian. This is the completion of a three-year term that expires December 1, 2014.**

## **APPOINTMENT OF PLANNING BOARD 2nd ALTERNATE**

**There was no appointment.**

## **APPOINTMENT TO SEWER COMMISSION**

**There was no appointment.**

## **APPOINTMENT OF ZONING BOARD 2ND ALTERNATE**

**There was no appointment.**

## **FINAL BUDGET SUBMISSION DATE BY BUDGET COMMITTEE**

**Budget Committee Chairman Michael Clifford had made a request to extend the date of submission of the Budget Committee's proposed budget to June 9, 2014.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to extend the date for the Budget**

**Committee to submit their budget to June 9, 2014.**

### **RESIGNATION FROM SCHOOL COMMITTEE**

**Mr. George Hemond has submitted a letter of resignataion from the School Committee effective March 1, 2014.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to send a letter of appreciation to Mr. Hemond.**

### **APPOINTMENT TO SCHOOL COMMITTEE**

**MOTION by Ms. Alves and seconded by Mr. Zwolenski to appoint Mr. Chris Puccetti to the School Committee.**

**Mr. Yazbak felt that former School Committee member Francesca Johannis has the financial background and experience to fill the vacancy. She would not need a learning curve at all.**

**Roll call vote on Mr. Puccetti: Ms. Alves - yes; Mr. McGee - no; Mr. Yazbak - no; Mr. Zwolenski - yes; and Mr. Flaherty - yes. The motion carried 3 to 2.**

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**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted**

**unanimously on an aye vote to adjourn at 9:56 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**