

**SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL**

**MAY 5, 2014**

**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, Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Also in attendance were Town Administrator Hamilton and Town Solicitor Lombardi.

**TRANSFER OF LIQUOR LICENSE - PARK SQUARE WINE AND SPIRITS**

**MOTION** by Mr. Yazbak, seconded by Ms. Alves and Mr. Zwolenski, and voted unanimously on a roll call vote to approve the transfer of the Class A liquor license from Park Square Wine and Spirits, Inc. to Kripalu, LLC d/b/a Park Square Wine and Spirits conditioned upon receipt by the Town Clerk of the Certificate of Good Standing from the Rhode Island Division of Taxation and letters from Horizon Beverage and RI Distributing Co. and any other vendor that comes forth in the meantime that all debts have been satisfied.

**ENTERTAINMENT LICENSE - MADAVO LLC D/B/A CUCINA AND THE GRILLE**

**MOTION** by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on a roll call vote to approve the application for an entertainment license as presented.

## **SCHOOL DEPARTMENT ACCOUNTING REVIEW**

**Mr. Walter Edge and Mr. Thomas Sweeney of B & E Consulting, LLC were in attendance to comment on their budget review of the North Smithfield School Department.**

**It was noted that at this time the school department would have a \$441,936 surplus if the Council agrees to waive the \$164,124 bond payment, which Mr. Edge is recommending. He also emphasized that budget line items change every day.**

**There are several sections included in the review: Executive Summary, Introduction, Budget Committee, Special Education Review, Compliance with the Basic Education Plan (BEP), Review of Policy Handbook, Review of Labor Contracts, Health Insurance Refunds and the Collaborative, Budget Process and Timing and FYE 2014 Budget Adjustments.**

**Mr. Edge believes the Business Manager was correct in warning everyone of a possible projected deficit of \$470,390, most significantly caused by an overage of \$387,097 in Pupil Personnel Services.**

**As was explained to Mr. Edge, the Budget Committee felt that \$240,000 (that had been appropriated but held in escrow by the Town) was the amount that might be needed to balance the school department's budget. The Budget Committee expected the School**

**Department to present a balanced budget without sports and then ask for the \$240,000. When the School Department presented a balanced budget with sports included, the conclusion was that the School Department did not need the \$240,000.**

**Mr. Edge saw no issue with the way transactions were recorded in regards to the purchase of fuel and transportation costs.**

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**The budgeting of utilities was a convoluted method of dealing with the Energy Efficiency bond payments and B & E has now made sure that the utilities will be budgeted at appropriate levels. This will eliminate the School's ability to make the bond payment to the Town; however, the Town will be able to pay the bonds with the savings obtained in the School Department budget for utilities because it will lower the overall funds needed by the School Department.**

**Although the Budget Committee has worked tirelessly reviewing budgets, has made good recommendations and deserves a lot of credit, B & E is concerned they may have overstepped their powers and responsibilities. It appears they may have been more interested in finding cuts rather than providing an appropriate level of funding for the school department.**

**Mr. Edge noted that the Budget Committee did not receive the same level of cooperation as B & E received. In part, the level of cooperation received by the Budget Committee was less because information requested was either not available at that time or in a different format than the format requested by the Budget Committee. There appeared to be a lot of mistrust between both parties.**

**Mr. Sweeney reviewed the special education department budget and found it to be the worst special education budget he has ever seen. Unfunded new student placements and transfers have resulted in at least a \$234,144 deficit. B & E recommends that “unanticipated tuitions” be funded based on a three year average of late placements and tuition increases in excess of the approved budget among other recommendations.**

**The cost of attaining compliance with the Basic Education Plan (BEP) in North Smithfield was estimated at \$1,296,846. Mr. Sweeney noted that most, if not all, school systems in Rhode Island are not in 100 percent compliance but the BEP stresses that districts must continuously work toward the implementation of new curriculum instructional protocols and assessment options to upgrade their level of compliance. There should be a time line established to meet full compliance and budget the necessary funds over as much as five years.**

**Mr. Sweeney found in the Financial Management section of the North**

**Smithfield Policy Manual that the School Committee has no responsibility. While the Financial Policies as presented may meet legal requirements, they do not give the specific insights/directions to the Superintendent in financial matters that most school committee handbooks provide.**

**Mr. Sweeney found the contracts with the NSTA and NSASSP to be very reasonable for this economic time.**

**The timing of the budget preparation is a problem. Mr. Edge feels the budget should not come to the town until March or April and even then changes will occur later. He also believes the Executive Summary, a very important part of the budget, needs to be improved.**

**The estimated surplus of \$441,936 is the result of adjustments made: Additional appropriation by Town - \$240,000; Waiver of Bond Payment - \$164,124; and Net of All Other Adjustments - \$37,812 for a total of \$441,936. The first two items (totaling \$404,124) are additional funding by the Town. It does not seem fair or appropriate to B & E that the Town should suffer a \$404,124 deficit for these two items when it turns out that the School Department may not even need these funds to balance its budget at year end.**

**B & E recommends that the \$240,000 of additional appropriation be redefined as \$164,124 of bond payment waiver and \$75,876 of new “maintenance of effort” funds. This change would reduce the School**

**Department estimated surplus to \$277,812 and reduce the Town's cost for these two items from \$404,124 to \$240,000 (the amount of the additional appropriation).**

**B & E believes that the School Department and the Town would have to agree to this unusual approach before it could be done because the Town would be waiving the bond payment for 2014 and all subsequent**

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**years and the School Department would be returning \$164,124 of its maintenance of effort.**

**In addition B & E suggests that reasonable fund balances for both the School Department and the Town would be \$500,000 each.**

**Mr. Yazbak commented that this was the first time that he and Mr. Zwolenski had heard anything about potential fuel problems and he was a bit surprised at that.**

**Mr. Flaherty commented that the notice of a \$477,000 deficit made on January 22nd was based upon the quarterly report submitted to RIDE and represented numbers six months into the fiscal year. The B & E review was as of March 31st, nine months into the fiscal year. At that time there was a projected surplus of \$441,000. It seemed like a pretty big accounting swing in just three months' time.**

**Mr. Flaherty questioned why the Special Education department was not more fully investigated when, as early as October, there were indications there were some serious issues.**

**Mr. Flaherty asked if it would be legal and appropriate for the Council to make a pledge to transfer funds to the School Department on the last day of the fiscal year if it was documented there was a deficit. He does not want to have to go through this agonizing process again.**

**Mr. Robinson responded it could be done but the question becomes will the vendors continue to provide their services.**

**Mr. Flaherty wanted to know if supplemental appropriations can be returned to the town and was told that once the money is turned over to the school department, the town loses control of the funds.**

**School Committee Vice Chair Christine Bonas commented that right now the school department is struggling to maintain current programs with funding that is appropriated, not to mention compliance with the BEP.**

**In response to a question from Ms. Alves, Mr. Edge explained how he had come up with the \$100,000 savings in health care.**

**Ms. Hamilton emphasized that if the town does not receive the bond**

payment from the school, the town will be in a deficit situation. She would like to work with the school department to come up with a resolution.

Mr. Flaherty was very angry and frustrated that the Town Council was presented with a possible deficit of \$477,000 on January 27th. He felt he had a gun to his head to produce that money immediately. Once the audit had taken place, it was found that there was an approximate \$440,000 surplus. Mr. Flaherty holds the school department administration accountable for that.

Superintendent of Schools Stephen Lindberg felt Mr. Flaherty had taken things out of context in regards to past budgets and he has stated many times that the budget process and timeline is seriously flawed. Mr. Lindberg added that he had been advised by legal counsel that a corrective action plan had to be put in place.

Last year Mr. Yazbak had asked the Council not to handle the \$240,000 in the manner that it was. He firmly believes Mrs. Marcotte did what she had to do this year in regards to the deficit.

**MOTION** by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to accept as a public document the Budget Review of the North Smithfield School Department as presented by B & E Consulting, LLC.

**MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to take a five-minute recess at 8:32 P.M.**

**The meeting resumed at 8:43 P.M.**

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**PUBLIC HEARING/FIRST READING ON AMENDMENT TO COMPREHENSIVE PLAN MAPS PLAT 17, LOTS 199, 142, 84 AND 14**  
**Petitioners RB North Smithfield Realty, LLC, Anchor Automotive Realty, LLC, Benoit Residential Realty, LLC and Benoit Realty, LLC are requesting amendments to the Comprehensive Plan map with transitional restrictions for Assessor's Plat 17, Lots 199, 142, 84 and 14. This would amend portions of the lots from Residential Suburban (RS) to Highway Business (BH).**

**Town Planner Robert Ericson noted that the original request for amendment to Plat 17, Lot 14 has been withdrawn and replaced with a new petition that is based on significant changes and includes the purchase of Lot 199.**

**Attorney for the petitioners David Iglizzi stated the request to amend Lot 14 has been changed to reduce the portion of the lot to be changed to Highway Business. There will no longer be any rear access from Sayles Hill Road onto Lot 14, not for emergency access or otherwise. The petitioners are recommending that a 100-foot strip**

**along the rear of Lot 14 remain Residential Suburban as a buffer zone. This will protect the interest of the neighbors and their homes will always abut a residential zone.**

**The engineers have redesigned the plan so that there will be no change to the topography on Lot 14. It will be a higher elevation and will supply parking space for some inventory as well as a storage building for vehicles required for cleaning the property. Any blasting required will now be more than twice the distance from where it was originally planned. They have moved the building on Lot 14 to now be entirely in the Highway Business zone.**

**In addition, the purchase of Lot 199 allowed the applicant to reduce the amount of impervious area which was being used for parking.**

**Stacking of vehicles exiting the Nissan dealership onto Sayles Hill Road will be alleviated because the exit will be moved up approximately 250 feet. At a future meeting a traffic engineer will discuss the Department of Transportation's plan for a cloverleaf at the intersection with Route 146.**

**All of the changes have been a direct result of neighbors' concerns.**

**Registered Professional Engineer Joseph Casali gave a slide presentation of the changes made to the applicants' petition.**

**Mr. Zwolenski spoke about an historic well that serves as the head of the intermittent stream. He asked if that would be considered part of the community well.**

**Mr. Ericson believes if the Council approves the change it should be made with appropriate transitional restrictions.**

**In a statement to the Council, Conservation Commission Chairman Paul Soares and resident of 171 Sayles Hill Road claimed that the Planning Board appears to have ignored Section D, Land Use, which states: “Prevent incompatible non-residential uses in a residential neighborhood. A. All zone changes hereinafter proposed 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.”**

**Mr. Soares felt no evidence had been presented at the Planning Board meeting of May 1 to establish this zone change as being compatible with and supportive of the surrounding neighborhood. He questioned where it states that economic development supersedes land use.**

**Rachel Savoie of 138 Sayles Hill Road spoke about the size of competitive dealerships and felt that the thirteen acres already owned**

by Benoit Realty was plenty big enough for its 30,000 square foot showroom to meet any obligations that it may have. She stated there are twelve abutters and three vacant lots surrounding this eyesore of a project. Ms. Savoie feels if this passes, property values will

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decrease and the town will receive less in taxes. She also questioned if this dealership might possibly be used for distribution for other dealerships because of its size.

In response to Mr. Soares' comments, Mr. Ericson stated that Section D4 in Part L refers to the role of the Town Council, not the Planning Board. The Planning Board made a decision about consistency with the Comprehensive Plan. Now the Town Council must decide if it is compatible with and supportive of the surrounding area.

Michael Thompson of Sayles Hill Road submitted a picture of wildlife found in his yard. If the plan goes forward, the deer will no longer be there. He also had a picture of lighting from the Anchor Subaru property. The 100-foot buffer is not that much and he will still be able to see the cars in the lot.

Sean Kelly of Sayles Hill Road still did not understand how a particular section of the proposed amendment could be consistent with the Comprehensive Plan.

**Lou Phaneuf felt other residential homes located on Route 146 could eventually become commercial properties if the change is approved.**

**Diane Olivier loves the quaintness of the area and the deer that is found there and does not support the change.**

**Bruce Joseph of 15 Valley View Drive questioned if the Council had considered what could happen if Anchor Subaru goes out of business.**

**Patrick Murray of Sayles Hill Road spoke about the DOT plan for the intersection and that it is inconsequential to the business. Every resident present this evening is against the proposal.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to continue this public hearing and to consider this the first reading of the amendment to the North Smithfield Comprehensive Plan maps D-1 and D-2 to allow portions of Plat 17 Lots 199, 142, 84 and 14 to be changed from Residential Suburban (RS) to Highway Business (BH) with appropriate transitional restrictions.**

**PUBLIC HEARING/FIRST READING ON AMENDMENT TO ZONING ORDINANCE/MAP PLAT 17, LOT 14 (ANCHOR SUBARU)**

**MOTION by Mr. Yazbak, seconded by Ms. Alves and Mr. Zwolenski, and voted unanimously on a roll call vote to continue this public**

**hearing to May 19th at the North Smithfield Middle School and to consider this the first reading.**

**PUBLIC HEARING/FIRST READING ON AMENDMENT TO ZONING ORDINANCE/MAP PLAT 17, LOTS 199, 142 AND 84 (ANCHOR SUBARU)**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and Ms. Alves, and voted unanimously on a roll call vote to continue this public hearing to May 19th at the North Smithfield Middle School and to consider this the first reading.**

**RESOLUTION ALLOWING STABILIZATION OF TAXES FOR RANKIN ESTATES**

**Mr. Flaherty pointed out that the legislation, if it passes, does not mandate that the town must reduce the taxes for stabilization but it merely gives the town the authority to do so.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and Mr. McGee, and voted unanimously on a roll call vote to approve the following resolution: “Whereas, the Town of North Smithfield is a party to three lawsuits filed in the Rhode Island Superior Court identified as Narragansett Improvement Company et al v. Jill Gemma, et al, C.A. No. PC 08-7468, Narragansett Improvement Company et al v. Vincent Marcantonio et al, C.A. No. PC 08-6504, and Town of North Smithfield v. Narragansett Improvement Company et al, C.A. No. PC 08-3674 (collectively, “Lawsuits”); Whereas, the Town of North Smithfield,**

**Narragansett Improvement Company and the other parties to the Lawsuits have reached an agreement to settle and resolve the Lawsuits (“Settlement Agreement”); Whereas, the Settlement Agreement provides, among other things, that the Town of North Smithfield will agree that the real estate valuation of the properties included in Rankin Estates**

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**shall remain at their assessed values, as of December 31, 2010, for a period of seven (7) years from the date of Master Plan approval with some exceptions (“Rankin Estates Tax Stabilization”); Whereas, the Town Council of the Town of North Smithfield wishes authority to vote to approve the Rankin Estates Tax Stabilization provision of Settlement Agreement, through passage of Proposed Legislation attached hereto and marked as Exhibit ”A”. It is RESOLVED by the Town Council of the Town of North Smithfield as follows: That each Representative to the Rhode Island House of Representatives and each Senator in the Rhode Island Senate whose district includes all or some portion of the Town of North Smithfield be requested to take all necessary actions to introduce and attain passage of an Act authorizing and allowing the Town Council of the Town of North Smithfield to vote on and authorize the Rankin Estates Tax Stabilization. That Town Administrator Paulette D. Hamilton is hereby authorized and directed to perform any and all acts necessary to facilitate action by the Rhode Island General Assembly to introduce and attain the passage of an Act authorizing the Town Council of the**

**Town of North Smithfield to vote on and authorize the Rankin Estates Tax Stabilization. The Town Administrator is hereby authorized to sign all documents and take all steps necessary to carry out the Resolution set forth above.”**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote at 9:58 P.M. to extend the meeting to 10:15 P.M.**

### **CHARTER AMENDMENTS**

**No action had been taken on one proposed amendment at a prior meeting because it was unclear whether it would be a legal amendment. The question reads as follows: “ARTICLE XIV. SCHOOL DEPARTMENT. Sec. 1. Membership; term. There shall be a school committee consisting of seven members, five of whom shall be elected at large at the regular biennial elections in even-numbered years to serve for a term of four years and until his successor is elected and qualified. However, in the elections of 1969 only, the three candidates with the largest number of votes shall be elected for four years; the next two candidates in vote totals shall be elected for a term of two years. Thereafter, the candidates elected at subsequent elections shall be placed on the ballot in one column in alphabetical order and the candidates with the largest number of votes shall be elected. In addition, candidates elected thereafter shall be for three or two members of the school committee, as may be required to fill the vacancies caused by the expiration of the terms. Two members**

**shall be appointed to serve two-year terms co-terminus with the Town Council. One appointee shall be selected by the Town Administrator and the second appointee shall be selected by a majority vote of the Town Council. If the appointed member selected by the Town Administrator resigns, the Town Administrator shall appoint a replacement to serve the balance of the term. If the appointed member selected by the Town Council resigns, the Town Council shall appoint a replacement to serve the balance of the term.”**

**MOTION by Mr. Yazbak to deny the amendment as proposed and leave the Charter as it is. There was no second.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 1 on a roll call vote (Mr. Yazbak voted no) to accept the proposed Charter amendment as read.**

#### **AWARD OF BID FOR TOWN ADMINISTRATOR’S VEHICLE**

**Finance Director MacDonald learned the Town could piggyback on a prior bid from Imperial Municipal Partners that had been awarded to them for the purchase of a police department undercover vehicle.**

**MOTION by Mr. Yazbak, seconded by Mr. McGee and Ms. Alves, and voted 4 to 1 on a roll call vote (Mr. Flaherty voted no) to allocate \$16,065.00 to Imperial Municipal Partners for a 2014 Ford Focus based upon the recommendation of the Finance Director and the concurrence of the Town Solicitor. Funding will come from 2013**

**Capital Expenditure which has \$15,941 in unused funds from the Highway Department and \$10,000 from Town Hall Painting.**

**MOTION by Ms. Alves, seconded by Mr. McGee, and voted unanimously on an aye vote to adjourn at 10:10 P.M.**