

# **REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL**

**MAY 19, 2014**

**NORTH SMITHFIELD MIDDLE SCHOOL**

**6:45 P.M.**

## **OPEN FORUM**

### **Branch Village Sewer District**

**Robert Thurber of 20 Brian Avenue spoke about the costs associated with this proposed sewer district. It has been recommended that the Town Administrator apply for the \$3 million grant from the Rhode Island Clean Water Protection Agency. He worried about how the balance would be funded. The town has ordinances that specify how certain funds may be used and he does not believe the Sewer Enterprise Fund could be used for this purpose. This should be an investment of the entire community and not just the users in that district.**

### **Nasuti Scholarships**

**Carol Nasuti explained about the George Nasuti Scholarship Fund and who could apply.**

## **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. Yazbak, Mr. Zwolenski and Mr. Flaherty. (Mr. McGee arrived by 7:35 P.M.) Town Administrator Hamilton and Town Solicitor Lombardi were also in attendance.**

## **NORTH SMITHFIELD POLICE DEPARTMENT ANNUAL AWARDS AND PROMOTIONAL CEREMONY**

**Chief Steven Reynolds announced two promotions within the department and presented various awards such as “Job Well Done”, Traffic Enforcement, DUI Enforcement, Community Service, Firearms, Leadership, Unit/Shift Award and Citizens Award. Jay Rainville was named Officer of the Year.**

## **PUBLIC HEARING/SECOND READING ON AMENDMENT TO COMPREHENSIVE PLAN MAPS**

### **PLAT 17 LOTS 199, 142, 84 AND 14**

**Town Planner Robert Ericson explained that the petition is changed to include only portions of Lots 14, 142, 199 and 84. The applicant has created significant boundaries around a buffer zone that will remain as Residential Suburban. Lot 84 is now only a sliver and Lot 199 came into play because the owner sold it to the applicant.**

**Attorney David Igliozzi, representing the applicants, explained they were now seeking a zone modification for Lot 199 as it had recently been purchased by the petitioners. They are no longer asking for a change of zone for the buffer area, it will remain as Residential Suburban. In addition the new building has been pulled back on Lot 14 and there will be no blasting on that lot. There will no longer be any access to Lot 14 from Sayles Hill Road. The buffer, totaling about 3.8 acres, will now have a conservation easement on it. There has**

**been discussion about transferring ownership of the easement to the town, maintaining ownership in one of the applicant's real estate companies or donating to some select abutters.**

**In response to a question from Mr. McGee, Engineer Joe Casali noted that the proposed building has been moved approximately an additional 200 to 300 feet away from the dwelling.**

**Rachel Savoie claimed this zone change would be spot zoning - later refuted by Mr. Ericson. She also stated expansion would have a negative impact on quality of life, it is not consistent with the Comprehensive Plan and additional parking is not necessary. She believes other car dealerships park their overstock vehicles on this property.**

**Lou Phaneuf stated Mr. Benoit recently bought Lot 199, singling out a small residential lot to become commercial land. He questioned if that was against Rhode Island law. Mr. Phaneuf wondered why Mr. Benoit would spend so much money on a small residential piece of land when he did not know whether the petition would be approved. He questioned if Mr. Benoit knew beforehand what the outcome would be.**

**Paul Soares still believes this petition is a violation of the Comprehensive Plan and the neighbors believe it is not in their best interest. He stated the primary objective of the Town Council is to**

**look out for the citizens of the town.**

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**Christine Lemay has worked at car dealerships and feels they just get bigger and bigger. It will disrupt the area and cause more traffic.**

**Michael Thompson has heard the comments about Mr. Benoit meeting the neighbors' requests. As far as Mr. Thompson is concerned Mr. Benoit has met the bare minimum of requests. At one time there was talk about a berm to protect the residents. That has disappeared.**

**Lucien Benoit commented that jobs and the economy are foremost in the news. The Benois are using personal money and looking to invest more dollars in North Smithfield. The stage is set for construction jobs and the purchase of construction materials. There would be an increase in employment taxes. New wells will have to be drilled and new vegetative screening will be planted. Potentially fifty or more new employees will be hired. There will be an increase in car sales resulting in more sales taxes for the state and an increase in taxable property. Mr. Benoit urged unanimous approval to send a message that North Smithfield is open for business.**

**Mr. Ericson stated his job is to make sure that all parties get a fair hearing and that all discourse is truthful. The reference to spot zoning is incorrect. This is not spot zoning; it is contiguous to a lot**

of other Business Highway zones. This was a very difficult design and a lot of progress has been made on it, including the conservation easement.

Robert Benoit, the applicant, explained that the issue of the berm went away because they are changing the grade and it would be useless. The conservation easement limits his expansion. Once Mr. Zwolenski stated at one of the first hearings that he would be voting no, it gave him time to reassess the design. The purchase of Lot 199 helped substantially, allowing him to give a one hundred-foot no-cut buffer rather than the sixty-foot buffer. The purchase also enabled the building to move down. Traffic coming in and out of the dealership will also be moved to behind the Nissan building, cutting down on the stacking of vehicles. The blast line has been lowered into a current business highway zone. Lighting decreases in height lower light pollution. Mr. Benoit feels the revised plan shows his effort in trying to meet requirements and he is willing to work with any town official to make improvements.

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to close the public hearing.

**MOTION** by Mr. Yazbak and seconded by Mr. McGee to approve the second reading of the amendments to the 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 to Highway Business with

**appropriate transitional restrictions.**

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

**PUBLIC HEARING/SECOND READING ON AMENDMENT TO NORTH SMITHFIELD ZONING ORDINANCE/MAP (ANCHOR SUBARU)**

**There were no additional comments made during the public hearing.**

**MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on a roll call vote to close the public hearing.**

**MOTION by Mr. Yazbak and seconded by Mr. McGee that the petition to rezone a portion of property described as Assessor's Plat 17, Lot 14, located off Eddie Dowling Highway, from Residential Suburban to Highway Business (owned by Benoit Realty LLC) be approved as a second reading on condition that the Planning Board approves the final plan.**

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

**PUBLIC HEARING/SECOND READING ON AMENDMENT TO NORTH SMITHFIELD ZONING ORDINANCE/MAP (ANCHOR SUBARU)**

**There were no additional comments made during the public hearing.**

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

**MOTION by Mr. Yazbak and seconded by Mr. McGee that the petition to rezone portions of property described as Assessor's Plat 17, Lots 199, 142 and 84, located off Eddie Dowling Highway, from Residential Suburban to Highway Business (owned by RB North Smithfield Realty, Anchor Automotive Realty, LLC and Benoit Residential Realty, LLC) be approved as a second reading on condition that the Planning Board approves the final plan.**

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

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to take a five-minute recess at 8:58 P.M.**

#### **FACILITIES AND ROAD IMPROVEMENT BOND REFERENDUM**

**Mr. Flaherty reviewed the proposals for rehabilitation of municipal buildings and road infrastructure. An amended plan has been proposed by RGB to conform to budget constraints.**

**MOTION by Mr. Zwolenski and seconded by Mr. McGee to adopt the revised facilities plan.**

**Mr. Yazbak commented that the Council had just denied a petition for a zone change that would have expanded the town's commercial tax base. This facilities plan will now put an additional burden on the residential taxpayers and he can no longer support it.**

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

**Mr. Flaherty noted that it has been demonstrated that these proposals will reduce operating costs going forward.**

## **RESOLUTIONS SEEKING GENERAL ASSEMBLY APPROVAL OF BOND REFERENDUM**

**Mr. Flaherty agreed with Mr. McGee's comment that the original resolution that had been passed should be split into three questions. Mr. Zwolenski had also initially pushed for the question to be split up.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 1 on a roll call vote (Mr. Yazbak voted no) to amend the original resolution previously enacted by the Town Council with three new ones presented this evening.**

## **RESOLUTION AUTHORIZING \$2,500,000 FOR LOCAL ROAD INFRASTRUCTURE**

**"WHEREAS the Town of North Smithfield has local roads and bridges**

that require capital improvements, and WHEREAS the Town Council consulted its fiscal advisor regarding an appropriate level of bonded indebtedness to repair and rehabilitate both town and School Department Buildings and local road repairs, and WHEREAS, a town-commissioned engineering study of local road conditions has identified priority repairs in the approximate amount of \$2,500,000. NOW, THEREFORE, BE IT RESOLVED, that the Town of North Smithfield, hereby authorizes and requests the General Assembly to enact legislation authorizing the Town of North Smithfield, with approval of the qualified electors of the Town of North Smithfield, to issue bonds and notes in an amount not to exceed \$2,500,000 for the purpose of financing the repair and rehabilitation of local road and bridge infrastructure in accordance with the Town Council approved plan for same.”

#### **RESOLUTION AUTHORIZING \$4,300,000 FOR SCHOOL CLASSROOM AND STORAGE BUILDINGS**

“WHEREAS the Town of North Smithfield Comprehensive Community Plan Section H.1 calls for providing facilities necessary to educate students who will be competitive in the state, national and world economy, and WHEREAS the Town of North Smithfield Comprehensive Community Plan Section H.2 calls for organizing public buildings in a manner which will allow the most efficient delivery of public services, and WHEREAS the Town Council and School Committee have

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**acknowledged that Halliwell Memorial School has exceeded its life expectancy, has significant deficiencies and that any further rehabilitation is not recommended, and WHEREAS the Town Council authorized a Public Facilities Advisory Task Force Committee (PFATF) to study the needs and best uses of the facilities of the town, and WHEREAS the PFATF issued a recommendation for the demolition, repair, renovation, consolidation and re-use of various town and school buildings, and WHEREAS such recommended plan was presented to residents at Public Hearings on 2/18/14 and 3/3/14, and WHEREAS the Town Council consulted its fiscal advisor regarding an appropriate level of bonded indebtedness to repair and rehabilitate both Town and School Department Buildings and local road repairs, and WHEREAS, up to forty percent of the debt service for certain investments in the renovation and improvement of the school department buildings would be reimbursed by the State of Rhode Island, and WHEREAS a member of the North Smithfield School Committee and Superintendent served on the PFATF, and WHEREAS the North Smithfield School Committee reviewed and approved in substantial form the PFATF recommended facilities plan, NOW, THEREFORE, BE IT RESOLVED, that the Town of North Smithfield, hereby authorizes and requests the General Assembly to enact legislation authorizing the Town of North Smithfield, with approval of the qualified electors of the Town of North Smithfield, to issue bonds and notes in an amount not to exceed \$4,300,000 for the purpose of financing the demolition, repair, rehabilitation and**

**consolidation of various school buildings in accordance with a plan adopted by the Town Council on May 19, 2014.”**

**RESOLUTION AUTHORIZING \$5,200,000 FOR REHABILITATION OF MUNICIPAL BUILDINGS**

**“WHEREAS the Town of North Smithfield has buildings that need capital improvements, and WHEREAS the Town of North Smithfield Comprehensive Community Plan Goal H.2-0 calls for organizing public buildings in a manner which will allow the most efficient delivery of public services, and WHEREAS the Town Council authorized a Public Facilities Advisory Task Force Committee (PFATF) to study the needs and best uses of the facilities of the town, and WHEREAS the PFATF issued a recommendation for the repair, renovation, consolidation and re-use of various town buildings, and WHEREAS such recommended plan was presented to residents at Public Hearings on 2/18/14 and 3/3/14, and WHEREAS the Town Council consulted its fiscal advisor regarding an appropriate level of bonded indebtedness to repair and rehabilitate both town and School Department Buildings and local road repairs. NOW, THEREFORE, BE IT RESOLVED, that the Town of North Smithfield, hereby authorizes and requests the General Assembly to enact legislation authorizing the Town of North Smithfield, with approval of the qualified electors of the Town of North Smithfield, to issue bonds and notes in an amount not to exceed \$5,200,000 for the purpose of financing the repair and rehabilitation of town and the most efficient use thereof.”**

In order to trim costs one of the recommendations in the amended plan was to not raze Halliwell School but to put a fence around it. Mr. Flaherty had concerns about that. This plan was supposed to be a comprehensive long-term approach and it would be a mistake to not advise people what would happen with Halliwell School. Mr. Flaherty thought there was a way to raze the school and still accommodate the students.

## **STAGE II APPLICATION TO DEPARTMENT OF EDUCATION**

Mr. Flaherty explained that the application for Stage II is fairly expensive, \$31,000. It is likely that if the voters approve the questions, the town will proceed with the project whether the Department of Education reimburses the town the \$1.7 million or not. The borrowing of the \$12 million is all based on no reimbursement. He was recommending not incurring the cost of the \$31,000 until the vote has been taken in November.

**MOTION** by Mr. Flaherty and seconded by Mr. Zwolenski to not act on the Stage II application at this time and to defer until the May 2014 approval cycle.

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Mr. Yazbak felt it would be easier for voters to support the referenda if

they know in advance that the town would be getting some reimbursement from the state.

Mr. Flaherty was comfortable with the delay because of the fact that the town already does have Stage I approval from RIDE.

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

**MOTION** by Mr. Zwolenski to go forward with the Stage II application and the expense of \$31,000. There was no second.

**RESOLUTION RE: \$3,000,000 FOR SEWERS, SEWER LINES AND PUMPING STATIONS**

Ms. Hamilton explained that the Rhode Island Clean Water Finance Agency has accepted the application from the town and will provide financial aid in the form of a loan in an amount up to \$3,000,000 for a term not to exceed twenty years after project completion.

The town would not draw on the \$3 million until there is an approved project.

**MOTION** by Mr. Flaherty, seconded by Mr. McGee, and voted 4 to 1 on a roll call vote (Mr. Yazbak voted no) to approve the following resolution for an amount not to exceed \$3 million: “**RESOLVED, That: SECTION 1. Pursuant to Chapter 354/468 of the Public Laws of 2007**

and a vote of the electorate on October 16, 2007, to the extent not otherwise appropriated, an amount not to exceed \$3,000,000 is hereby appropriated for the purpose of financing the construction and extension of sewer and sewer lines and the acquisition, construction and installation of pumping stations and related facilities and equipment within the Town (the "Project").

**SECTION 2.** The Director of Finance and the President of the Town Council be and hereby are authorized to issue on behalf of the Town either in its own name or in connection with bonds issued by the Rhode Island Clean Water Finance Agency, an amount not exceeding Three Million Dollars (\$3,000,000) bonds of the Town, at one time, or from time to time in order to meet the foregoing appropriation.

**SECTION 3.** The said officers from time to time may issue and refund not exceeding \$3,000,000 interest bearing or discounted notes in anticipation of the issue of said bonds or in anticipation of the receipt of federal or state aid for the purpose specified in Section 1 hereof.

**SECTION 4.** The manner of sale, amount, denominations, maturities, conversion or registration privileges, interest rates, medium of payment, and other terms, conditions and details of the bonds or notes may be fixed by the officers authorized to sign the bonds or notes.

**SECTION 5.** The said officers from time to time may apply for, contract for and expend any federal or state advances or other grants or assistance which may be available for the purposes specified in Section 1 hereof.

**SECTION 6.** Pending the issuance of the bonds under Section 2 hereof or pending or in lieu of the issue of notes under Section 3 hereof, the Director of Finance may expend funds from the general

treasury of the Town for the purposes specified in Section 1 hereof. Any advances made under this section shall be repaid without interest from the proceeds of the bonds or notes issued hereunder or from the proceeds of applicable federal or state assistance or from other available funds. **SECTION 7.** The Director of Finance and the President of the Town Council are also authorized, empowered and directed, on behalf of the town, to: (i) execute, acknowledge and deliver any and all other documents, certificates or instruments necessary to effectuate such borrowing, including any documents, certificates or instruments required by the Rhode Island Clean Water Finance Agency; (ii) amend, modify or supplement the bonds or notes any and all other documents, certificates or instruments at any time and from time to time, in such manner and for such purposes as such officers shall deem necessary, desirable or advisable; (iii) do and perform all such other acts and things deemed by such officers to be necessary, desirable or advisable with respect to any matters contemplated by this resolution in order to effectuate said borrowing and the intent hereof. **SECTION 8.** The Director of Finance together with the President of the Town Council be, and hereby are, authorized to deliver the bonds or notes to the purchasers and said officers be, and hereby are, authorized and instructed to take all actions, on behalf of the Town, necessary to

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ensure that interest on the bonds or notes will be excludable from gross income for federal income tax purposes and to refrain from all

actions which would cause interest on the bonds or notes to become subject to federal income taxes. **SECTION 9.** This resolution is an affirmative action of the town Council of the town toward the issuance of bonds or notes in accordance with the purposes of the laws of the State. This resolution constitutes the Town's declaration of official intent, pursuant to Treasury Regulation §1.150(2), to reimburse the town for certain capital expenditures for the Project paid on or after the date which is sixty (60) days prior to the date of this resolution but prior to the issuance of the bonds or notes. Such amounts to be reimbursed shall not exceed \$3,000,000 and shall be reimbursed not later than eighteen (18) months after (a) the date on which the expenditure is paid or (b) the date the Project is placed in service or abandoned but in no event later than three (3) years after the date the expenditure is paid. **SECTION 10.** The Director of Finance and the President of the Town Council are authorized to take all actions necessary to comply with federal tax and securities laws including Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") and to execute and deliver a Continuing Disclosure Certificate in connection with the Bonds in the form as shall be deemed advisable by the Director of Finance and the President of the Town Council in order to comply with the Rule. The Town hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, as it may be amended from time to time. Notwithstanding any other provision of this Resolution or the Bonds, failure of the town to comply with the Continuing Disclosure Certificate shall not be considered an event of

default; however, any bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Town to comply with its obligations under this Section and under the Continuing Disclosure Certificate. SECTION 11. This resolution shall take effect upon passage.”

**MOTION by Ms. Alves, seconded by Mr. McGee, and voted unanimously on a roll call vote to authorize the Town Administrator to sign the loan document.**

#### **EXTENSION OF TRASH AND RECYCLING CONTRACT**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 4 to 1 on a roll call vote (Mr. Yazbak voted no) to extend the contract with WH Equipment LLC for one year, from July 1, 2014 to June 30, 2015, at a cost of \$482,850.00. This represents a four percent increase.**

#### **AWARD OF BID FOR CRACK SEALING**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote to approve the Master Price Agreement for the purchase of Crack Sealing from Sealcoating, Inc. at a price of \$0.26/LF as presented by Director of Public Works Raymond Pendergast.**

**MOTION by Mr. Zwolenski at 9:55 P.M. to extend the meeting to 10:20 P.M. There was no second.**

## **CONSENT AGENDA**

**Mr. Yazbak requested that the payment of bills be removed.**

**Mr. Zwolenski requested that the minutes of April 21, 2014 be removed.**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to approve/accept the following: 1.) Budget Committee minutes from April 8 and 12, 2014; 2.) Conservation Commission minutes from January 14 and March 11, 2014; 3.) Sewer Commission minutes from December 18, 2013, January 15 and March 19, 2014; 4.) Animal Control Monthly Report for April 2014; 5.) NSPD Monthly Report for April 2014; 6.) NS Municipal Court Report for April 2014; 7.) Resolution from the Town of Barrington supporting “It Can Wait” Campaign; 8.) Resolution from the Town of Jamestown re: Referendum Relating to the Code of Ethics; 9.) Resolutions from the Town of Middletown re: Municipal Road and Bridge Revolving Fund and Repeal of the Master Lever; and 10.) Resolution from the Town of Warren supporting Article XII entitled “Of Education”.**

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

**unanimously on a roll call vote at 9:57 P.M. to extend the meeting to 10:05 P.M.**

### **Payment of Bills**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to remove the invoices from B & E Consulting, LLC and Law Offices of Stephen M. Robinson for a separate vote.**

**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 based upon the recommendations of the Finance Director and the Town Administrator: General Fund - \$425,007.12; Sewer - \$294,234.91; Water - \$4,872.57; School Department - \$1,498,072.00 and Fire Department - \$195,147.00 for a total of \$2,417,333.60.**

**MOTION by Ms. Alves, seconded by Mr. McGee, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to approve payment of \$13,668.75 to B & E Consulting, LLC and payment of \$781.25 to Law Offices of Stephen M. Robinson.**

**Mr. Yazbak maintained this does not comply with the Town Charter.**

**MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to adjourn at 10:00 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**