

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

JULY 21, 2014

KENDALL-DEAN SCHOOL AUDITORIUM

6:30 P.M.

REGULAR MEETING

The meeting began at 6:36 P.M. with the prayer and the pledge to the flag. Council members present were Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Town Administrator Hamilton was also in attendance.

EXECUTIVE SESSION

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted 4 to 0 on a roll call vote to enter into executive session at 6:38 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 water and wastewater agreements with the City of Woonsocket.

(Town Solicitor Lombardi arrived a 6:53 P.M.)

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(Ms. Alves arrived at 7:06 P.M.)

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to come out of executive session at

7:07 P.M. and to seal the minutes. No motions were made and no votes were taken.

OPEN FORUM

No one spoke in the open forum.

PRESENTATION OF CITATION FOR EAGLE SCOUT ANDREW LEMIEUX

As Andrew has already left for military service, Mr. Flaherty presented a Council citation to Mr. and Mrs. Lemieux, recognizing Andrew for achieving the rank of Eagle Scout.

OUTDOOR SOUND SYSTEM PERMIT - C. FLECK

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to approve an outdoor sound system permit for Chad Fleck of 351 Grange Road for a birthday party to be held on August 2, 2014. The permit is allowed until 10:00 P.M.

OUTDOOR SOUND SYSTEM PERMIT - NORTH SMITHFIELD HOLY GHOST SOCIETY

MOTION by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski, and voted unanimously on a roll call vote to approve an outdoor sound system permit for the Holy Ghost Society as requested.

OUTDOOR SOUND SYSTEM PERMIT - K. BRUYERE/F. PLANTE

MOTION by Mr. Zwolenski, seconded by Mr. McGee and Ms. Alves,

and voted unanimously on a roll call vote to approve an outdoor sound system for Kyle D. Bruyere and Faith E. Plante from 4:00 P.M. to 10:00 P.M. for a wedding event to be held at 220 Hanton Road on August 9, 2014.

HIRING OF FIRM FOR AUDIT OF ASSESSOR'S OFFICE REGARDING ABATEMENTS

Mr. Yazbak has met with the firms Parmelee Poirier & Associates LLP and Nicholson & Associates, LLC providing both with documents pertaining to abatements. He also gave them the name and contact information of Allan Booth, a former Newport assessor, who has been reviewing the abatements and the current tax roll. Mr. Yazbak explained the situation and asked if they would consider submitting a proposal to conduct an audit of the assessor's records. Nicholson & Associates did offer a letter of engagement. Parmelee Poirier sent an email explaining they would need more time to get involved with the issue but did give a rough estimate of the cost.

Mr. Zwolenski asked Mr. Nicholson if he was associated in any way with Northeast Appraisal and was told no.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to retain Nicholson & Associates to conduct a review at a cost not to exceed \$25,000 on an agreed upon format.

AWARD OF BID - PUMPS FOR BELCHER AVENUE PUMP STATION

Based on the recommendations of the Finance Director and the Sewer and Water Superintendent, MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote to approve the purchase of two replacement pumps for the Belcher Avenue pump station from D & S Pump and Supply at an adjusted cost of \$24,733.00. Installation will be done by the Sewer and Water Department. Funds will come from the Sewer Contingency - Account #39-40337131.

WATER DEPARTMENT BUDGET

Finance Director MacDonald stated there would be no increase in the water rate.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on a roll call vote to approve the water department budget as presented.

BUILDING PERMIT ISSUED AT 764 WOONSOCKET HILL ROAD

**Mr. Flaherty read the following letter from Assistant Solicitor Stephen R. Archambault to Chief Inspector Robert Benoit: "I am writing to follow up on our meeting of July 17, 2014, wherein you presented me with a series of documents relative to the herein-above mentioned Lavallee property, Plat 8, Lot 258. Specifically, your
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office requested an opinion on the potential scope of jurisdiction for the town with respect to an issue raised by neighbors over a proposed structure that Mr. Lavallee has applied for a permit to construct on said property. After reviewing the documents you have provided, I have made the following findings: Mr. Lavallee applied for a permit to construct a 40' x 80' structure on his property, located at 764 Woonsocket Hill Road, on July 2, 2013. Said permit was issued by your office on July 10, 2013. This property is in a RS-40 zone (suburban residential). It appears that Mr. Lavallee complies with the town's zoning ordinance with respect to building setbacks for height, front/side/rear setbacks, and accessory use. More specifically, under Sec. 6.8, for Accessory Buildings and Structures, the restriction on coverage is that a building may not exceed 25% of coverage of the overall square footage of the lot. To be clear, nothing in your zoning regulations restricts any size of a proposed building beyond that requirement, as long as an applicant meets all other zoning regulations and compliance. In the case of Mr. Lavallee, the facts show that his existing house is 32' x 38', or 1,216 square feet. The proposed structure that he plans to build, an accessory garage, is to be 40' x 80', or 3,200 square feet. The total combined footage of these buildings is 4,416 square feet. It is my understanding that Mr. Lavallee's lot totals 1.65 acres, or 71,874 square feet. If one multiplies 71,874 square feet by 25% for coverage ratio, combined buildings on the lot may not exceed a total of 17,968.50 square feet. Mr. Lavallee's combined buildings total 4,416 feet; therefore, if Mr. Lavallee were to complete his plans and construct the new 40' x 80' garage, he would

be in compliance with Sec. 6.8, for Accessory Buildings and Structures. Finally, I was presented with a copy of a “Declaration of Protected Covenants and Restrictions” relative to the lot that Mr. Lavallee owns. Said covenant was created by Aram P. Jarret, Jr. and recorded in the Land Evidence Records of North Smithfield on July 10, 1986. The document sets forth restrictive covenants as to what may or may not be built on property designated as Lots 1-6 on Woonsocket Hill Road. Mr. Lavallee is the owner of one of these lots. These are private covenants. Claims made relative to any alleged breach of said covenants are private contract actions, and as such outside the scope of jurisdiction of the Town of North Smithfield. Accordingly, it is my opinion from what I have been presented that Mr. Lavallee complies with the Town of North Smithfield’s zoning requirements and the issuance of said building permits. Restrictive covenants are private in nature, and the town should not be an intermediary in any resolutions in contract claims made by owners of said properties. If you have any questions or concerns, please do not hesitate to contact me. S/Stephen R. Archambault”

Several neighbors spoke in opposition to the structure. They were against it being a metal structure. The neighbors claimed that it is a massive commercial building, that it is bad for property values, that the footprint is larger than that of the house and that it does not have DEM approval for the project. They also questioned the validity of the building permit.

Mrs. Lavallee, owner of the property in question, stated she had no issue with changing to a wooden barn and that DEM did survey the property but claims the wetland flags have somehow been removed.

Building Inspector Robert Benoit explained that a building permit is legal for two years. This one was issued in 2013, work had begun and even now the applicant could still apply for a renewal if necessary. When the Lavallees filed their application, everything met zoning requirements and if all requirements are met, Mr. Benoit cannot refuse to issue a permit.

It disturbed Mr. McGee that none of the neighbors talked to each other so he personally went to see and talk to some of the neighbors as well as the Lavallees. He felt the zoning ordinance should be reviewed in order to avoid future problems.

Mr. McGee felt the people should get together to work on a resolution with maybe a smaller building that would fit in with the neighborhood.

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Mr. Yazbak was concerned with the line of sight and questioned if it might be a public safety issue.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted

unanimously on a roll call vote to have Mr. McGee be a liaison to try to broker an amicable compromise between the neighbors and the Lavalles.

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted at 8:38 P.M. to take a five-minute recess.

The meeting reconvened at 8:46 P.M.

PUBLIC HEARING RE: CONTRACT WITH RI COUNCIL 94, AFSCME, AFL-CIO LOCAL 937

In its current form Mr. Yazbak has tagged about 25 issues. Some of these include language pertaining to the probationary period for union employees, the manner of payment for union dues, the thirty-five hour work week, the increase to twenty minutes for an evening dinner break on Thursdays, the number of holidays, bereavement time for some family members, the expansion of the rate for longevity pay, clothing allowance for the department of public works employees, and notice of revocation of a driving license.

MOTION by Mr. Flaherty and seconded by Mr. McGee to close the public hearing. This motion was withdrawn.

MOTION by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski, and voted unanimously on an aye vote to continue the public hearing to August 18, 2014.

CONSENT AGENDA

Mr. Yazbak asked that the payment of bills be removed.

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to approve the following: 1.) Town Council minutes of June 2 and 12, 2014; 2.) Conservation Commission Annual Report; 3.) Animal Control Monthly Report for June 2014; 4.) NSPD Monthly Report for June 2014; and 5.) NS Municipal Court Report for June 2014.

Payment of Bills

Mr. Yazbak asked that the invoices for Vincent F. Ragosta, Jr. and Wimborne & Summertree, LL be removed.

MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted 4 to 0 on a roll call vote (Mr. Yazbak recused) to approve payment of the following: General Fund - \$306,743.28; Sewer - \$29,137.30; Water - \$60,883.74; School Department - \$1,498,072.00; and Fire Department - \$195,147.00 for a total of \$2,014,628.01 based on the recommendation of the Finance Director.

MOTION by Mr. Flaherty and seconded by Mr. McGee to approve payment to Vincent F. Ragosta, Jr. in the amount of \$8,556.25 and to Wimborne & Summertree LL in the amount of \$4,980.00. Roll call vote: Ms. Alves - no; Mr. McGee - no; Mr. Yazbak - no; Mr. Zwolenski -

no; and Mr. Flaherty - yes. The motion failed 4 to 1.

MOTION by Mr. Flaherty, seconded by Mr. Zwolenski, and voted 3 to 2 on a roll call vote (Ms. Alves and Mr. Yazbak voted no) to approve payment to Vincent F. Ragosta, Jr. in the amount of \$8,556.25.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to approve payment to Wimborne & Summertree LL in the amount of \$4,980.00.

Mr. Yazbak stated there will be no further payments to Mr. Booth until there is an executed letter of engagement.

ELECTION REFERENDA QUESTIONS

Mr. Flaherty has been in contact with Superintendent of Schools Lindberg and School Committeeman Connell and he is hoping that the School Committee will be amenable to making adjustments to the school facilities portion of the overall facilities plan as provisionally

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adopted by the Town Council on May 19th. When the plan was adopted, it was with the understanding that there may be some tweaking to it in order to make it more attractive to the voters, especially in regards to the school portion of it. Mr. Flaherty has heard a lot of negative feedback from people regarding the fencing of

Halliwell School. He would like to have some thought given to razing the school. There has also been a suggestion to reconvene the Task Force to review any proposed changes. In addition, Mr. Flaherty would like to gather another group that could develop a campaign strategy.

Michael Clifford feels someone should look at the revenue projections so that the Council will be working off the correct tax base and will be able to more accurately verify what the cost will be to the taxpayers.

Discussion was continued to the August 4th meeting.

APPOINTMENT OF 2ND ALTERNATE TO PLANNING BOARD

MOTION by Mr. Flaherty, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to appoint Scott Lentz of 474 Buxton Street as the 2nd Alternate to the Planning Board. Mr. Lentz will be completing a one-year term that will expire on December 1, 2014.

REWRITE OF SEWER ORDINANCE FEE PROPOSAL

Ms. Hamilton noted that the Sewer Commission has approved the rewrite of the sewer ordinance.

Mr. Flaherty asked if a proposed timetable could be provided.

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted

unanimously on a roll call vote to hire Joe Casali Engineering, Inc. for the rewrite of the North Smithfield sewer ordinance at a total cost not to exceed \$10,400 based upon the recommendation of the Town Administrator, with the funding to come from the sewer budget.

BIG HEARTED BOOKS & CLOTHING INC.

Got Books containers are presently located within the town but has gotten into considerable financial trouble. Big Hearted Books & Clothing Inc. would be happy to take over the servicing of the collection containers and proceed under a new contract.

Mr. Flaherty asked if there was any data as to what this has meant to the town as far as revenue.

Mr. Yazbak commented that it not only provides some revenue but saves the town on tipping fees.

Mr. Zwolenski also would like to know what has been contributed to the town, how would this affect the Salvation Army and who determines where the containers will be located.

Ms. Hamilton agreed to get more information.

MOTION by Mr. Flaherty, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote at 9:50 P.M. to continue the meeting to 10:15 P.M.

NEXTSUN ENERGY

This company is using land in town that cannot otherwise be utilized. They are asking if the Town would consider a tax exemption or stabilization on the equipment.

Mr. Yazbak had no issue with stabilization but thinks it would be unfair to other taxpayers in town to give a tax exemption. There would also have to be something in any agreement that states the company would be responsible for removing the equipment.

Ms. Hamilton will do more research on the project.

AGREEMENT WITH RHODE ISLAND RESOURCE RECOVERY CORPORATION

Ms. Hamilton and Mrs. MacDonald noted there is no increase in cost or tipping fees at this point.

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MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to approve the Solid Waste and Recycling Services Agreement with Rhode Island Resource Recovery Corporation as outlined in a letter dated April 7, 2014 with a current cost of \$32.00 per ton that will remain unchanged and encompassing

the one-year periods beginning July 1, 2014 and ending June 30, 2015, beginning July 1, 2015 and ending June 30, 2016 and beginning July 1, 2016 and ending June 30, 2017.

AWARD OF BID RE: KENDALL-DEAN BOILER

MOTION by Mr. Yazbak, seconded by Mr. Flaherty, and voted 3 to 1 on a roll call vote (Ms. Alves voted no and Mr. McGee recused) to approve the bid of Advanced Comfort Systems in an amount not to exceed \$90,143.20 based upon information provided by the Finance Director and the Town Administrator and if the School Department can lend assistance with installation, it's still up to but not exceeding \$90,143.20.

The funds are allocated under the Town's Capital Lease for the School Department.

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to adjourn at 10:05 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk