

**Vice Chair Ed Magill called the meeting to order at 7:00 p.m.**

## **I. Roll Call**

**Present: Ed Magill, John O'Donnell, Bruce Santa Anna, Dr. Lucien Benoit, Eugene Simone, Absent: Chair Joe Cardello.**

**Also present: Town Planner Michael Phillips and Assistant Town Solicitor Bob Rossi**

## **II. Ordinance Review**

### **a. Noise Ordinance**

**Mr. Phillips told the Board that the Town Council referred the noise ordinance to the Ordinance Review Committee. Such ordinances are common in towns around the state, including Burrillville and South County.**

**Conservation Commission Chair Don Gagnon addressed the Board and submitted a slightly revised copy (with regard to discharge of firearms). Mr. Gagnon stated that the Town Council is impressed with Burrillville's ordinance. The Ordinance Review Committee has reviewed and tweaked the ordinance. Mr. Simone asked who will monitor complaints. Mr. Gagnon said the police will enforce the ordinance, but if there are no complaints, then there will not be an issue. The ordinance is in place so the town can have some recourse if complaints arise.**

**Mr. Santa Anna asked about the section on animals and birds and**

questioned the \$100 fine for a dog barking for more than 30 minutes. He asked if a resident would be fined if the dog is barking because someone is breaking into the house. He stated that residents are always saying they want to keep North Smithfield rural and thought this ordinance may go against that. Mr. Phillips stated that if a dog outside barks 3 hours straight, it is a nuisance. Mr. Gagnon stated that if no one files a complaint, then it's not an issue. Mr. Magill asked if police can give a ticket to a resident if they go by and hear a dog barking. Dr. Benoit pointed out that the last sentence includes the word "habitual" which gives him comfort that there will not be a fine imposed for an isolated incident. Mr. Magill agreed that the inclusion of habitual and/or continual seems to cover problems of isolated instances. Mr. Gagnon added that the police have to witness it and see just cause. Mr. Santa Anna said to make sure that the word habitual stays in the ordinance. Mr. Phillips also stated that there is going to be a certain amount of discretion on the officer's part.

Mr. O'Donnell asked if there is any exemption for farms or kennels. Mr. Gagnon stated that there is a section addressing parcels of 10 acres or more. Mr. Phillips stated that there is already a section in the ordinance addressing kennels, and the Town Council approves licenses for kennels.

Dr. Benoit asked if they are going beyond what is necessary by including laughing and singing in the ordinance. Mr. O'Donnell said that that portion of the ordinance only applies between 10:00 p.m. and

**7:00 a.m. Dr. Benoit agreed that it was fine to include if only during those hours. He then asked if the police will have sound meters. Mr. Phillips stated that they will. Dr. Benoit asked if it is realistic to rely on this equipment. The machines will need to be properly calibrated, and it will be time consuming to enforce some of these issues according to ordinance. He added that it could easily be contested in court if the equipment is not properly maintained and calibrated.**

**Dr. Benoit then asked if the inclusion of “opening and closing of boxes, crates, and containers” was needed. Mr. Phillips stated that there have been complaints in the past at Park Square Stop and Shop. Dr. Benoit suggested adding times, such as between 10:00 p.m. and 7:00 a.m. to this section. He also asked for an explanation on the section regarding sound within a motor vehicle; he stated that that was a confusing sentence and should be cleared up. Mr. Gagnon said that section is referring to cars with large bass and loud music; he will clear it up. Dr. Benoit also pointed out a few typographical errors, which Mr. Phillips said he would correct.**

**Mr. Magill asked about instances of special use permits that excuse noise violations, in instance when the Zoning Board didn't know it would be that noisy at the time of the review, but the special use permit has already been granted. Mr. Phillips stated that he can see certain situations where this could be a problem and said the Zoning Board would have to be vigilant when reviewing. He said the board should include it on the plan review checklist. Dr. Benoit asked if it is**

possible to rescind or modify a special use permit. Mr. Rossi said it is not. Mr. Magill suggested taking out “special use permit” from the ordinance. Mr. Gagnon and Mr. Phillips agreed that since this is not part of the zoning ordinance, maybe special use permit is not appropriate for this ordinance. Mr. Gagnon said that they should take out references to special use permits in order to keep the ordinance within the Town Council's jurisdiction. He said it is the Town Council's intention to have this a stand-alone ordinance, with the police enforcing it. If there is a violation of special use permit, then enforcement would go to the building official, which is a totally different system of enforcement.

Mr. O' Donnell asked if there would be any exceptions for activities such as organized sports activities or band practice. Mr. Phillips agreed something should be added in, such as "sanctioned school activities." The Board then discussed that the town plans on leasing the fields, which means the activities won't be sanctioned by school. Mr. Gagnon stated that the ordinance can always be revised and tweaked if something's not working, but for now he will leave it as “sanctioned activities.” Mr. Gagnon said he will submit revisions so the Board can review the ordinance at the next meeting.

#### **b. Soil Erosion/Storm Water Pollution Prevention**

Mr. Phillips stated that along with the RIPDES general permit with the state, there must be erosion control mitigation measures for pre and post construction. He stated this is already addressed in the Zoning

**Ordinance, but it has been amended to comply with Phase II requirement. The biggest change is in post-construction measures. The changes address spill prevention and good housekeeping measures for construction. The existing ordinance blended well with requirements of RIPDES permit.**

**Dr. Benoit and Mr. Magill suggested adding in that it is no longer permissible to clear a site before final approval and no deforestation is allowed. Mr. Phillips stated that he is not sure if this section is the place for adding this; it may be better in land development regulations. The Board suggested cross-referencing this ordinance and the land development regulations to be sure it is clearly stated.**

### **c. Illicit Discharge**

**Mr. Phillips informed the board that this ordinance is new, mandated by RIPDES permit. The town needs to regulate pipes that will be discharging anything other than storm water into the storm water system. The town is responsible for monitoring discharges and eliminating illegal discharges by tracing them to their source. This ordinance gives the town the authority to make owners stop illegal discharges and remediate what they have done. There are currently about 90 cataloged and tested outfalls, with no problems yet detected. Mr. Phillips stated that they need to get this ordinance in**

place very soon. At this time the planner and a consultant are working on this, but maybe in the future the work could be done by Public Works and the highway department.

Dr. Benoit stated that the ordinance should refer to the “municipal storm drain system” instead of “storm sewer system.” He said calling it a sewer system is confusing. Mr. Phillips will check to be sure the change would be OK with the state, since he is using their terminology in the ordinance. He stated that the whole program refers to storm sewers, and he doesn’t know if the town can change it. He suggested adding a reference, such as “storm sewer will also mean storm drain.”

The Board discussed section 8.73 and whether or not it is too harsh to start charging interest on first day after discovery of a problem. They also felt that the wording “in a timely manner” is too open-ended (in reference to repayment to the town). Mr. Santa Anna stated that the interest is retroactive to the first day, because it is referring to instances when the owner has been given a notice of violation and a chance to remedy the situation but does not do anything to correct the problem. The Board decided that the timeframe for repayment should be within 30 days, which will give the owner time to obtain a loan if necessary to repay the town. They also discussed placing a lien on a property in the amount owed, until time of repayment.

### **III. Planning Board Issues**

**Dr. Benoit made a motion to place Cherry Brook on the agenda. Mr. Santa Anna seconded the motion, with all in favor. Dr. Benoit stated that he had read in The Valley Breeze, that a study of the problem will cost \$65,000, plus an additional \$300,000 or more may be needed for repair. Dr. Benoit suggested something similar to the recent sewer bond could be implemented for this situation. The residents in this area would be responsible for the cost over a period of time. Mr. Phillips stated this may be possible if the town creates a special watershed district.**

### **IV. Adjournment**

**Mr. Simone made a motion to adjourn at 8:30 pm, seconded by Dr. Benoit, with all in favor.**

**Respectfully submitted,**

**Angela Pugliese**

**Planning Board Secretary**