

Town Council Meeting
January 12, 2015

EXECUTIVE SESSION

For the purpose of discussing matters of litigation as per RIGL 42-46-5 (a) (2)

1. Evergreen vs Town of Coventry

TOWN COUNCIL MEETING

Present: Vice-President Kerry McGee, Councilwoman Carlson, President Shibley, Councilwoman Duxbury, Town Manager Thomas Hoover, Town Solicitor Nicholas Gorham. Councilman Laboissonniere was absent.

Pledge of Allegiance
Invocation by President Shibley
Review of Emergency Evacuation Plan

A motion was made by Councilwoman Carlson seconded by Councilwoman Duxbury to come out of Executive Session. All voted Aye.

A motion was made by Councilman McGee seconded by Councilwoman Duxbury to seal minutes of Executive Session. All voted Aye.

President's Comments

President Shibley congratulated the members of the newly formed Citizens Advisory Committee. He also advised that a new item has been added to the council agenda whereby at each meeting council members will give updates and report on issues and news in their districts.

Approval of Town Council minutes December 8 and December 15, 2014.

A motion was made by Councilman McGee seconded by Councilwoman Duxbury to approve minutes. All voted Aye.

COUNCIL DISTRICT UPDATES

District 3 Councilman McGee reported that the Harris Mill project is moving right along; otherwise there have been no issues and things are going smoothly in District 3.

District 5 Councilwoman Duxbury commented on three items: 1. An effort is being made to get posting of the planning and zoning minutes on the website; 2. A small business forum will be held on February 4 at 7 p.m. at the Westwood Estates Clubhouse; 3. The Citizens Advisory Commission will begin to investigate how the change in the Home Rule Charter occurred along with the lengthy delay in calling for a special election.

District 1 Councilwoman Carlson gave an update on the "Laidback Forest", an obstacle course located on about an acre of land on a 78 acre parcel in western Coventry, and the need for the owners to apply for a special use permit through Zoning. On the issue of the turbines, work has begun and we are looking at July or August delivery.

District 4 President Shibley reported on remediation of the landfill on Arnold Road. He wanted to explain that what is going on is simply a clean up of that landfill; there are no new facilities or new buildings going in there. It will take a long time to rectify this problem, but remediation is a good thing.

He also welcomed the new Cumberland Farms to town, which is located at the corner of Arnold Road and New London Turnpike.

CONSENT AGENDA

1. Discussion and resulting action on tax abatements and additions for November and December

2. Discussion and resulting action regarding the approval of a sewer tie in at 614 Tiogue Avenue
3. Discussion and resulting action regarding the approval of an application for renewal of Private Detective license by Kevin Beese

A motion was made by Councilman McGee seconded by Councilwoman Carlson to approve Consent Agenda. All voted Aye.

APPOINTMENTS

1. Discussion and resulting action regarding the reappointment of Pamela Conti and Arthur Chapman to the Coventry Land Trust

A motion was made by Councilwoman Carlson seconded by Councilman McGee to approve reappointments. All voted Aye.

2. Discussion and resulting action regarding the reappointment of Joseph Spada and the appointment of Joel Johnson to the Tax Assessment Board of Review

Council will only be considering the reappointment of Mr. Spada this evening as Joel Johnson has withdrawn his application do to commitments.

A motion was made by Councilwoman Duxbury seconded by Councilman McGee to approve reappointment. All voted Aye.

3. Discussion and resulting action regarding the reappointment of Glen Skurka to the Sewer Assessment Board of Review

A motion was made by Councilwoman Carlson seconded by Councilwoman Duxbury to approve reappointment. All voted Aye.

4. Discussion and resulting action regarding the reappointment of Irene Jones, Jaime Bernard, Robert Mann and the appointment of John Sigillo to the Juvenile Hearing Board

A motion was made by Councilman McGee seconded by Councilwoman Carlson to approve appointments. All voted Aye.

5. Discussion and resulting action regarding the appointment of Gloria Martins to the Library Board of Trustees

A motion was made by Councilwoman Duxbury seconded by Councilwoman Carlson to approve appointment. All voted Aye.

LICENSES

1. Application by Cumberland Farms, Inc., 2293 New London Turnpike for new victualling license with additional hours

With all requirements met, licenses are in order to be issued. A motion was made by Councilman McGee seconded by Councilwoman Duxbury to approve application. All voted Aye.

2. Discussion and resulting action regarding renewal of Annual Campground Licenses
 - a. Hickory Ridge
 - b. Bamford Lakeside Properties LLC dba Water's Edge

Granting of the above licenses was held over from the last meeting because Councilwomen Carlson and Duxbury wanted to visit campgrounds before taking a final vote on license renewals.

Mr. Tom Forcier requested to be heard by the Council regarding Water's Edge Campground before the vote on license renewal. William Landry, Esq. represented Mr. Forcier and Sue Colwell,

abutters to this campground. Atty. Landry asked that the license not be approved until there can be an independent review with respect to land use issues associated with this campground. He described Water's Edge as an almost toxic situation in terms of its number of land use violations and problems. Attempts have been made for about 18 months to bring these issues before Council, and those attempts have fallen on deaf ears.

There are significant problems with this campground, one is that it is a non-conforming use. You can't have a campground of this nature unless you have 40 acres and this campground has roughly half of that acreage, 22 acres of a non-conforming pre-existing use. Additionally, under the land use ordinances, a campground is allowed but cannot be expanded or modified without a special use permit. The recreation area has been modified with no permits and no variances, a very unusual situation. The campground is supposed to have 25% of its area devoted to recreation, however, this campground was always non-conforming with only about 2.5 acres in the center field. It is prohibited to move a non-conforming use from one area to another, but this owner has moved campsites to that area resulting in a recreation area only about half the size that it was. So now we are down to between one and two acres, more non-conforming than it was before.

Similarly, there is a requirement of a 100 foot vegetated setback between campsites and surrounding properties, which includes my clients. This has never been enforced. There are soil and sediment control violations with regard to fill and there are no storm water management approvals, especially moving toward the pond and my client's property.

We are asking that a fresh look be taken at this situation before any affirmative action is taken on the license. These are very substantial health and safety issues in addition to compliance issues under the land use codes.

Water's Edge owner Brian Bamford, was present with his Attorney Chris Anderson. Atty. Anderson remarked that various statements have been made very authoritatively to this council about certain points of law. More specifically, that we cannot expand or modify a campground or move campers around from one place to another. Those issues are currently before the Superior Court. In the ordinance expansion is defined as additional units, and there are no additional units. It is also not true that complaints have been raised and fallen on deaf ears. Those complaints have been made to the zoning official and the zoning board. They found no violations and have no problem with this application.

It was also mentioned incorrectly that a 100 foot setback is required; that only applies to new campgrounds, not existing campgrounds. Again, these issues have been addressed and rejected by this town's Zoning Board. I am curious as to why these issues keep being brought up.

Councilwoman Duxbury asked which issues are actually in litigation now and whether those are the issues of no special use permit, the 2.5 acres of recreational use, expanding the non-conforming use, the 100 foot buffer, and the sedimentation and drainage issues.

Atty. Anderson replied that the 100 foot setback issue is not in litigation as it has already been established that this is a non-conforming use. Expansion and moving of units is before Superior Court now. As far as sedimentation and road issues, all agencies have found no violations here after multiple contacts. This property has been under endless review yet has been there in this configuration for forty years.

Councilwoman Duxbury asked that if we grant the license and something becomes apparent after the court's ruling, whether the council would be allowed to revisit the granting of the license. In light of her campground visits, owners of both campgrounds were very open and let us take a look. It was very informative. However, what is clear is that there needs to be some work on the ordinance regarding the difference between recreational camping and residential. I would like to approve Water's Edge, reserving the opportunity to revisit after the court's ruling. I would like our zoning dept. to continue to work with the parties to make sure that there are no issues with sediment and draining and to make sure that the buffer remains.

Attorney Anderson remarked that at the conclusion of the case in court, there will either be a zoning violation found or not found. If a violation is found, which is questionable at best, we would like to have the opportunity to fix it and it would not become a licensing issue before this council. Councilwoman Duxbury agreed, however, if not rectified to the letter of the law, then we can revoke the license.

A motion was made by Councilman McGee seconded by Councilwoman Duxbury to approve both campground licenses. All voted Aye.

3. Renewal of Firearms licenses for:

- a. Mid-State Gun Company, LLC, 1200 Tiogue Avenue
- b. Hawkins Machine Co Inc., 374 Hopkins Hill Road
- c. Rhode Island Gunworks, 303 South Main Street

Chief Volpe reported no violations, these businesses have been good partners in the community and he recommended approval of renewals.

A motion was made by Councilwoman Duxbury seconded by Councilwoman Carlson to approve licenses. All voted Aye.

PUBLIC HEARING

1. Application for renewal of Class B liquor license for Chen & Chen Restaurant, 856 Tiogue Avenue

A motion was made by Councilwoman Duxbury seconded by Councilwoman Carlson to go into public hearing. All voted Aye.

Chen and Chen's attorney, Seth Perlmutter, requested a continuance to the February 23, 2015 Town Council meeting as one of the principal owners of the restaurant is still in China, but is expected to return by the 30th of January. Also, after questions at the last Town Council meeting as to who is parking in the parking lot of the restaurant, it was found that Dr. Gordon next door has an easement deed proving that he has an easement over that property.

Kenneth Jackson, 2799 Harkney Hill Road, thinks that the restaurant will never open for business, but only wants to keep the liquor license in order to sell the business. Atty. Perlmutter responded that his clients just opened a new restaurant in East Greenwich and are fully committed to reopening Chen & Chen in Coventry.

A motion was made by Councilman McGee seconded by Councilwoman Duxbury to continue public hearing to the February 23 Town Council meeting. All voted Aye.

RESOLUTIONS

1. Discussion and resulting action regarding the revised Financial Improvement Plan for the Police Pension Plan

Manager Hoover explained that after a recent police arbitration decision, it became necessary to revise the financial improvement plan that was sent to the state in 2012, containing specific changes to the pension plan. New hires are being placed in a defined contribution pension plan and their contribution will be 12%, up from 9%. That's probably one of the main changes, but this is all driven by the arbitration decision. The state has asked the Council for a resolution adopting this plan.

Mr. Thibeault elaborated with further detail, but noted that the original objectives have been achieved and in 2032 the police pension plan will come out of critical status.

Councilwoman Duxbury asked Mr. Thibeault what the old contribution was before the revision, and he stated that it was \$4.5 million, of which we were required to pay \$3.93M, or 87.5% per the original FIP. In FY16 we will be required to pay 100% of the revised ADC, which is \$4.56 million, with this amount based on the revised FIP.

She then asked Mr. Thibeault why the actuary had provided projections based on two separate rates of return (6.5% and 7.0%). Mr. Thibeault replied that the state likes to see what the projections would look like with the two different rates and that we should be using 7.0%. When she asked whether the 7.0% was realistic, Mr. Thibeault replied that the rate of return for the past year was approximately 10%, but he wasn't sure about the prior years. Ms. Duxbury asked Mr. Thibeault to provide the actual returns for the past 10 years.

A motion was made by Councilwoman Carlson seconded by Councilwoman Duxbury to approve resolution. All voted aye.

2. Discussion and resulting action regarding updating the Municipal Employees Pension Plan document

Manager Hoover recommended approval by advising that the municipal plan document is out of date and both unions are in favor of updating. In general, that is what this is all about.

Mr. Thibeault explained that Milliman does not provide these services, so we have to go through an attorney that does. The cost to update each document is about \$5,000 and it will be paid out of the pension fund for each plan. Councilwoman Duxbury requested that a Rhode Island law firm is chosen to provide this service.

A motion was made by Councilwoman Duxbury seconded by Councilwoman Carlson to approve resolution. All voted aye.

3. Discussion and resulting action requesting the Rhode Island Department of Transportation to investigate the following:

a. The need for an installation of a traffic control device at the intersection of State Route 102 and Waterman Hill Road

b. The need to change the timing on the traffic light on State Route 3 (Tiogue Avenue) at Hopkins Hill Road so as to eliminate the long traffic delay on Hopkins Hill Road

c. Reservoir Road so as to alleviate the traffic back up on Reservoir Road when the Coventry High School is beginning and ending their sessions

d. Paving on State Routes 102 and 116 in the Town of Coventry

As some of these issues will be passing on to the General Assembly and the Department of Transportation, several senators and representatives have asked that council adopt a resolution.

Councilwoman Carlson added that there have been 36 accidents in the past ten years at Waterman Hill and Route 102, and we are just looking for a blinking red/yellow light. This item will be heard this week by State Traffic Commission. As far as paving, two years ago at the legislators meeting we had a representative from RIDOT there and it was mentioned that West Greenwich got their paving and I would like to again support this request with a resolution.

Councilwoman Duxbury elaborated on two traffic issues in District 5, one at Hopkins Hill and Tiogue Avenue as people are tired of waiting for the light to turn and the other being Reservoir Road and Tiogue Avenue, which is only one of the many problems we have on that road. Even before the sidewalks go in, we have to think ahead, the traffic on that road is awful, people from Wood Estates are calling and complaining about school traffic in and out and speeding.

President Shibley is in favor of adopting the resolution, but remarked that it would be up to the professionals at DOT to decide on the length of the traffic lights.

A motion was made by Councilwoman Carlson seconded by Councilwoman Duxbury to approve resolution. All voted aye.

4. Discussion and resulting action regarding placing a moratorium on the approval of anymore wind turbines in the Town of Coventry until further notice

Councilwoman Carlson advised that the reason for this resolution is the installation of ten turbines in western Coventry, two of which will benefit the town. She has received calls and e mails, with no positive feedback. Some people in that section of Coventry don't even know about the turbines. Additionally, we have waited way too long to see anything happen. This all began in 2012 and I wasn't really aware of this whole issue until I was on Council. I feel we need to stop, wait and see how we do with these turbines. Even though the town will benefit financially with the contract that we have along with the low kw cost which has been set in motion for about 40 years, the state really doesn't have regulations in place yet and we are kind of going in the back door.

Solicitor Gorham added that the purpose of the resolution is to have the moratorium until we have an ordinance in place.

Councilman McGee was on the Town Council when the turbine issue was approved and he feels it is a good deal for the town. There were plenty of advisory meetings which were well attended so people should be aware; these were not closed door meetings. Plenty of testing was done with regard to health and safety. I am in favor of this ordinance, however, there is a big lack of communication and we need to have a better relationship with the contractor and better communication with the town Zoning department. I don't know how we got to ten turbines, but we need more information and need to know what is happening before it's too late.

Mrs. Duxbury asked about taxation with respect to the other eight turbines, and whether there will be revenue as far as tangible taxes. How will that be handled? Manager Hoover responded that there has been discussion with Wind Energy Development on that issue. One alternative that was discussed is a payment in lieu of taxes, which is a guaranteed payment for the life of the agreement. That way if one of the turbines is sold off to non-profits, such as a municipality, we won't lose the revenue stream. We are at least looking at all avenues, tangible taxes, commercial or payment in lieu of taxes.

Councilwoman Duxbury questioned Mr. Hoover regarding a cost benefit analysis and Manager Hoover stated that there will be a meeting set up with Mr. DePasquale on that issue.

A motion was made by Councilwoman Carlson seconded by Councilman McGee to approve resolution. All voted aye.

PUBLIC COMMENT

Ron Gizzarelli, 50 Harrington Road, commented on three issues:

- Would like to see public comment before voting on items. President Shibley replied that Council is considering limited comment before votes in the near future.
- Concerned about traffic flow at the corner of Arnold Road and Tiogue Ave, proceeding northeast on Tiogue. He thinks it needs to be reconfigured and would like Council to take another look.
- He remarked that with regard to pensions, you tend to forget that the employees are mandated to put a fixed portion into the pension fund. However, the employers have not put in their share and that is the reason we are in this pickle, because of the employers. But somehow it gets turned around and the employees are blamed.

David Florio, 153 Princeton Avenue, thanked the Council and Manager Hoover for meeting with the School Committee; he feels it was a good discussion. He also mentioned that a constituent asked when the sidewalks would be going in near the high school. Manager Hoover said probably not until about May of this year.

Richard Reynolds of Village Green, an "over 55" community, feels that the residents of Village Green pay their share of taxes but do not receive services from the town, such as snow and trash removal.

Councilman McGee stated that the condo association is supposed to supply those services through the fees that you pay the association. If the town were to do for one, we would have to do for all, which would include mobile home parks and private roads, and we do not have the manpower.

Councilwoman Duxbury wondered if we could explore a different tax rate for condos. However, Manager Hoover indicated that it is common across the state, as this issue has been explored many times in the past. We do not have the resources available to provide these services. One of the good things about senior developments is that there is a tax freeze incentive for seniors in this town, which is pretty favorable.

A motion was made by Councilman McGee seconded by Councilwoman Carlson to adjourn meeting. All voted aye.

Town Clerk