

Town Council Meeting
February 23, 2015

EXECUTIVE SESSION – 6:30 pm

Review of Candidates – Board of Canvassers' Alternates per RIGL 42-46-5 (a) (1)

TOWN COUNCIL MEETING – 7:00 PM

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

Pledge of Allegiance
Invocation by Manager Hoover
Review of Emergency Evacuation Plan

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

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

President's Comments

On behalf of the Town Council, President Shibley offered condolences to the family of Andrew Baynes, who served as Chief of the Central Coventry Fire District for 2 ½ years. Chief Baynes was a dedicated public safety servant. He passed away unexpectedly at the age of 63 while vacationing in Florida.

Congratulations went to the Coventry Police Department for their good work in apprehending a suspect leaving the scene after a theft at Walmart. While the suspect was fleeing, he rammed into two police vehicles and is facing numerous charges.

Lastly, he commended DPW on an outstanding job dealing with snow removal and trash pickup during all the recent snowstorms.

Approval of Town Council minutes from February 9, 2015.

A motion was made by Councilman Laboissonniere seconded by Councilwoman Carlson to approve minutes. All voted Aye.

COUNCIL DISTRICT UPDATES

Councilman McGee, District 3, commended DPW for doing a great job and working tirelessly through all of the snowstorms. He advised that he has spoken with the Director of Public Works regarding the state of some of the roads in town, Route 116 for example, and Director McGee has contacted our state delegation to see what can be done as some of these roads are beyond repair and need to be replaced.

Councilwoman Duxbury, District 5, agreed that DPW is doing a great job, not only with the roads but with keeping snow off town roofs also. She reminded citizens of the Town Council meeting on Monday, March 3 with our state legislators and School Committee. And lastly, there is a court date tomorrow with regard to the marijuana grows on Reservoir Road; we will be asking for a cease and desist order.

There was nothing new to report this evening from District 1.

District 2 Councilman Laboissonniere referred to a situation in a new development off of Teakwood Road where a certificate of occupancy was issued, but the road is not up to standard for town services. As a result, there is no trash pickup. Since it is not the homeowner's fault that the road is not up to standard, I am working with the Town Manager to come up with a way to have trash pickup for this household.

Council President Shibley wanted to let residents know to expect a one day delay on garbage pickups during snowstorms. Manager Hoover added that it is not an automatic delay during a snowstorm; however, we try to put the updated information on the website as to what we are doing with trash collection. On a holiday week typically there is a one day delay.

SCHOOL DEPARTMENT REPORT

School Committeewoman Ann Dickson updated the Council on three recent school issues:

The Google for Education Summit is a two day event focusing primarily on Google Apps for Education. The summit will be held February 28 through March 1 at Coventry High School. It is expected that almost 400 educators will participate in the summit from RI, MA and CT. In addition, presenters will attend from Tennessee, California, Oregon, Montreal, New Jersey and Australia along with members of our Tech21 Community. The event focuses on the use of technology in the classroom, but will also bring people into our community who will use the neighboring hotels, restaurants and other services.

Secondly, the superintendent will hold the first meeting of the Advisory Council for Coventry Education on March 12. Focus groups have concluded their work and the final report is ready. The purpose of this group is to advise the Superintendent on the school department's communication plan, which is a plan to strengthen the relationship between the Coventry Public Schools and the Coventry community.

Lastly, an update was given on School Committee deliberations on the FY2015-2016 budget. Dr. Almeida presented his budget at a School Committee meeting on February 17, recommending a 0% increase over the budget for 2014-2015. The budget does include the purchase of a truck with plow, science kits to support our science curriculum, athletics and clubs for the middle school and Jr. Varsity athletics for the high school. He also presented a list of potential expenditures for the school committee to consider at their meeting on March 3.

INDEPENDENT AUDITOR'S REPORT FY2014

Paul Dansereau of Baxter Dansereau gave an overview of the auditor's annual financial report for the fiscal year ending June 30, 2014. He highlighted new accounting standards that were being put in place this year and then directed council's attention to certain aspects of the report. He went on to discuss Page 14 Statement of Net Position showing in detail assets and liabilities of the town with

the net financial picture detailing governmental and business-type activities.

He turned to pages 15, 16 and 17, giving an overview of governmental funds, statements of revenues, expenditures and changes in fund balances. He advised that overall, the town did better than was budgeted for. Attention was given to Page 18 reconciliation of the statement of revenues, expenditures and changes in fund balances of governmental funds; Page 19 and 20 statements of net position on sewer fund and self insurance reserve; Page 21 cash flow statements and Pages 22 and 23 showing revenue in and out and how it effects cash, fiduciary funds and activities and Pages 73 and 74 showing revenue generated by the town.

In addition, a federal compliance audit was performed and the results were unmodified at both levels. Further information and financial reports are located at the back of the report, which was combined to make up the reports at the front of the book.

Councilwoman Duxbury had a question on Page 2, correction of error. Mr. Dansereau explained that when the town received the \$12 million from RIBEC for the schools, \$4 million was taken to refund a bond with other pieces used for school projects, which is what that money was designed for. What happened was that at the end of 6/30/2013 the audit firm was not aware of that bond being issued and the \$4 million that was refunded. So, it shows in the report what the effect would have been if we were aware of that.

She also asked if there is a summary showing previous year surplus. Mr. Dansereau replied that the surplus just "rolls".

He suggested looking at Page 16, in the unassigned general fund balance, where there are restricted, committed and unrestricted funds. The \$1.9 million came from unassigned, and you can use some of that \$1.9 for the next year's budget.

Ms. Duxbury understands that you don't want to keep eating into this fund and use it because we need it for bond ratings, for example. Mr. Dansereau suggested that if you are going to use fund balance, it should be used on a capital budget, not in operating. You need to be cautious when you use fund balance.

After lengthy discussion and explanation of the audit report, Manager Hoover commented that this is an unmodified, clean budget, which is important as we currently have an A1 rating. Our policy by council resolution is that anything over 10% fund balance goes to the unfunded liabilities in our pension fund. We should hear from Moody's this week with regard to our current bond rating standing and I expect that we will keep our A1 rating, which is very helpful when it comes to issuing debt.

Manager Hoover explained further that a previous Town Council adopted a resolution that anything over 10% of fund balance would be applied to pension liability, which would be over and above our required payment. Mr. Dansereau advised that the town is actually getting more fiscally healthy by taking care of long term obligations; it makes the state and bonding agencies happy.

PUBLIC HEARINGS

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to open public hearing. All voted aye.

1. Application for renewal of Class B liquor license for Chen & Chen, 856 Tiogue Avenue (continued from January 12, 2015)

Attorney Seth Perlmutter represented Chen & Chen and reported that although they do not have all clearances from the RI Division of Taxation, RI Department of Health and various town inspections and clearances, they have obtained building permits to do renovations and expect to be current with their tangible taxes within 30 days. Their intent is to be up and running by Mother's Day in May.

However, their investors are in China and are trying to get back here before April. We are not trying to buy time; we do not intend to sell this restaurant but to renovate and bring it back to a first class restaurant. He asked the Town Council for a continuance to April 27.

Manager Hoover remarked that this license is an annual renewal, we are coming into the month of March and the renewal is still not complete. Atty Perlmutter responded that it is an arduous procedure for these investors to leave China and bring over a million dollars out of China with them.

When asked about whether there would be a change in ownership and what the difference would be if the renewal was not approved now, but start the reapplication process when everything is in order, and Atty. Perlmutter responded that as far as the investors are concerned, they want to be assured of a liquor license. Ownership will remain the same; however, it is a corporation and the stock percentages may change. Mr. Perlmutter indicated that they had intended to take money out of their other restaurant, Jade Garden, in East Greenwich, but between the bad weather and renovations taking place at that plaza, business has been down. He asked for a continuance to April 27, 2015.

Public Comment

Ken Jackson, 2799 Harkney Hill Road, asked who actually owns the Tiogue Avenue property: Atty. Perlmutter replied that the Hong Kee Corporation owns it. Mr. Jackson asked where the cars from the doctor's office will park that are using the lot now and Attorney Perlmutter stated that there is an easement there; however, the Mai Tai didn't have a problem with cars as the restaurant is more of a night time crowd where the dentist has more cars during the day.

A motion was made by Councilman Laboissonniere seconded by Councilwoman Carlson to close public hearing. All voted Aye. Motion was made by Councilman Laboissonniere seconded by Councilwoman Duxbury to continue hearing to April 27, 2015. All voted aye.

2. Amending Coventry Code of Ordinances Chapter 113 Campgrounds and Trailer Parks

A motion was made by Councilman McGee seconded by Councilwoman Carlson to open public hearing. All voted Aye.

Tom Forcier, 30 Lori Lane, believes there is expansion of the campground. It doesn't get any better there and earlier tonight people were exiting through his property. The right of way is private,

not public; however, Mr. Bamford won't sand or plow properly, people can't make it up the hill and are using the private right of way.

Gary Pomfret of Hickory Ridge Campground commented that the Town recently awarded us our renewal license, but now you have proposed an ordinance to take away winter camping. There is no problem at Hickory Ridge, you can confirm that with the fire and police departments. This campground was built in the early 60's and the former owners had winter camping before they left, in 1975-76. Since we have been there we have had as many as 12-14 people in the winter. There was never a problem, we don't put any stress on town services. The town doesn't plow us, we do our own maintenance. Our campers spend money in town and have needs like the rest of us.

President Shibley commented that this ordinance is to prevent year round residences, people living there year round who do not pay taxes to the town.

Councilman McGee stated that this Town Council has stressed that they are in favor of small business and this proposed ordinance does not send the message that the Town Council is in favor of small business. This gentleman/campground pays taxes for the whole year, so who are we to tell him he can only operate for six months? This makes no sense to me and I don't know why you are choosing to hurt business. Are you going to give him back six months of taxes? I am all for not having families in there with children attending our schools, but there is no reason not to let them operate all year. Even now there are construction workers staying there because of jobs they have been assigned to, that happens.

Mr. Pomfret confirmed that there are no children living in the campground and still doesn't understand what the problem is with winter camping.

Councilwoman Duxbury asked how many people are in there now and Mr. Pomfret replied there are six. She questioned how the revenue stream helps during the winter months and wants to get a feel for this. Mr. Pomfret replied that although they usually make money in the winter, this winter they lost money. It does help to operate in the winter and we wouldn't do this if it didn't help us, however, we do need to maintain in, keep it plowed, and keep the water tested and analyzed..

Councilman McGee is not in favor of the ordinance and feels it is not fair.

Mr. Justin Pomfret remarked that they are happy with the 20%, as it is, and doesn't know of any other business that is asked to shut down. I don't know why this is before you. I served four years on the Town Council, my wife and I coach in town, we are law abiding citizens, our town taxes and fees are paid. Mr. Pomfret added that winter camping has been going on since before the Pomfrets owned the campground. A subsequent ordinance was approved granting the 20% while Mr. Pomfret was a member of the Town Council, but there was never an issue and he still does not understand why they are here.

Councilman Laboissonniere gave the history of how the 20% winter camping ordinance came to be, remembering that there were heated discussions around the subject. Zoning Inspections were always done by the zoning officer before the end of the camping season in the middle of October and camping was only allowed between April and October.

The year that we lost the town manager, we were in kind of disarray and the campground inspections were done in November, after the close of the season. The zoning officer reported that there were numerous people living at Hickory Ridge. At that point we became concerned that people were living there after the close of season. Councilmember Laboissonniere added that he believes in

2006 Mr. Pomfret found that he could not live within the ordinance, so the ordinance change happened so that he could live within the ordinance.

Justin Pomfret suggested that before the Town Council takes a vote on tonight's proposed amendment, that Council considers a work session with the campgrounds. Have you come out and checked to see if people are living there? The Zoning Officer didn't see any problems after his inspection.

Councilwoman Duxbury indicated that she wants to take a fresh look, understand the impact of approving this amendment, but also wants to make sure that we are doing what is best for the town and not hurt small businesses. There is no clear line between residential and recreational camping.

Ken Jackson, 2799 Harkney Hill Road, stated there are year round campers used as residences. Why should we, who are paying real estate taxes, have to fund their services?

Mr. McGee doesn't believe we are helping small business here, the campground itself does pay taxes.

Suzanne Colwell, Lori Lane, agrees with Mr. Jackson regarding residences and states that Water's Edge has people there all winter. There are people in there with mailboxes; I call that residential.

Councilwoman Carlson said that she has lived near Hickory Ridge for 15 years and has always had an issue with residential vs. recreational. This ordinance was adopted when Mr. Pomfret was on Council. There is an issue of kids going to school from the campground, mailboxes put up, Christmas decorations and Christmas trees. Mr. Pomfret responded that campers can get mail there, for example there are people staying at the campground from out of state, working on local construction jobs and they will be there four or five months, until the job is done.

Ken Jackson thinks that the people living at the campground are taking the plates off of their campers to avoid having to pay tangible taxes. The town and fire departments should start taxing them.

Tom Forcier added that he sees expansion at Waters Edge, people are living in the field there and not paying taxes. The Zoning law states you need 40 acres for a campground. The campground needs to conform to the ordinance.

Manager Hoover thinks it is a good idea to have a work session before voting on this amendment. Councilwoman Duxbury agreed, she needs more information, especially with regard to what the impact to the business will be, before she makes a decision. Zoning Officer Jacob Peabody added that there is at least one year round resident in Camp Ayoho as well.

A motion was made by Councilwoman Duxbury seconded by Councilwoman Carlson to close public hearing. All voted aye.

A motion was made by Councilwoman Carlson seconded by Councilman Laboissonniere to table this amendment and wait for better weather to schedule work sessions on all three campgrounds. All voted aye.

3. Amending Coventry Zoning Ordinance, Article 6 – Zoning Use Regulations

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to open public hearing. All voted aye.

Solicitor Gorham stated that simply this is an amendment to the zoning ordinance to proscribe on the use table the facilities known as compassion centers under the medical marijuana and cooperative cultivation act, another type of facility where the patient growers and caregiver growers can collaborate, which is called a cooperative cultivation. By approving this ordinance, it would make this a non-permitted use in any area of the town and it would be on the “use table” of the zoning ordinance. You can amend the zoning ordinance as you see fit, but should be consistent with the comprehensive plan of the town, and by doing this you would be consistent with the comprehensive plan.

Councilwoman Duxbury wanted to make sure that this would not prohibit individual card holders from growing in their homes and Solicitor Gorham replied that it would not. He added that federal law does not allow people to sell marijuana. Federal chartered banks also do not allow accounts and will not take deposits, yet you have a phenomenon where a lot of these facilities carry a lot of cash, so they become attractive to crime.

President Shibley spoke out against this as a Senator, this is still a Schedule 1 controlled substance and is federally outlawed. The state has three compassion centers now and is one of eleven states that allows medical marijuana. It is federally outlawed and I believe there are still a lot of concerns with law enforcement as far as who is using, who is growing, who is the caregiver, etc. Our ordinance is silent presently regarding this issue and I think this ordinance sends a message loud and clear that we do not want this in our town. Even if we pass the ordinance it doesn't totally exclude that it may result in having to go to a “use” variance, so can still get a “use” variance; however, it is much tougher to get a use variance.

Solicitor Gorham advised that if someone wants to grow in their home for their own treatment, this ordinance has no effect on that, even if two card holders grow in their own private residence, it would not be a cooperative. The Planning Commission's recommendation is advisory only, only the Town Council can amend it. Zoning Officer Jake Peabody said the Planning Commission gave a positive recommendation to add that use to the zoning ordinance, with regulations, but ultimately the Planning Commission does not make the decision.

Councilman McGee thinks the town should take the lead on how to regulate this. Whether we like it or not, it is here and the council should be taking the lead and make some regulations, set the standards.

Solicitor Gorham indicated that this is the most important and significant step that you can take to protect the town from growing and selling in the town. This is an evolving area and there may be different things that you will address in the next few months. I'm not sure what exactly is happening at Reservoir Rd., that depends on how a judge defines a cooperative cultivation. When you allow home growing, the town might want to put some amendments into the zoning ordinance, as to regulations, rules and things you might want to address.

President Shibley wanted to confirm that if we adopt this ordinance, future grow facilities will be prevented. Solicitor Gorham agreed and advised that this is the most important and significant step you can take toward protecting the town from marijuana growing and selling in the town. Councilman McGee asked if by voting the way the ordinance is written, if you are totally saying no to this kind of

activity. Solicitor Gorham said this would not be permitted in any zone unless by a special use variance, that would be the only way.

Ken Jackson, Harkney Hill Road, asked that since federal banks will not deal with these facilities for this type of operation to open accounts, where is the money going from the Reservoir Road operation?

A motion was made by Councilman Laboissonniere seconded by Councilwoman Carlson to close public hearing. All voted Aye.

A motion was made by Councilman Laboissonniere seconded by Councilwoman Carlson to amend zoning ordinance as presented. All voted aye.

RESOLUTIONS

1. Discussion and resulting action regarding the award of a contract to Auto Land, Inc. of Coventry, RI for a used Ford F-350 Diesel cab and chassis for the Department of Parks and Recreation at a cost of \$10,950

Manager Hoover explained that Parks and Recreation is in need of a replacement truck because their stake body can't be used for the upcoming season. Mr. Lefebvre went out to bid, got two bids, one was for a new truck, and we can't afford a new truck. The second bid was from a local Coventry dealer and it is a diesel F450 with high mileage, slightly under \$11,000 in cost. We will make some adjustments to put a body on it that we have from an old truck, labor to be performed by parks and recreation. The truck has been checked out by a mechanic and we also checked carfax.

Councilman McGee thinks it is a good idea. Councilman Laboissonniere asked if it meets impact fee criteria and Manager Hoover replied that it does.

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

A motion was made by Councilwoman Carlson seconded by President Shibley to adjourn meeting. All voted aye.

Town Clerk