

TOWN COUNCIL MEETING

March 22, 2010 - 7:00 p.m.

Present: President Raymond Spear, Vice-President Laura Flanagan, Glen Shibley,
Kenneth Cloutier, Frank Hyde

Town Manager Thomas Hoover
Town Solicitor Patrick Rogers

Pledge of Allegiance led by President Spear
Invocation by Rev. Jon Juneau of Knotty Oak Baptist Church
Review of Evacuation Plan

President's Comments

President Spear announced a Town Council work session on the school budget on April 5; public hearing on municipal budget on April 22 and public hearing on school budget on April 27.

Motion made by Frank Hyde seconded by Glen Shibley to move item J5. "Resolution supporting the redevelopment of the Anthony Mill property" to a position on the agenda preceding the landfill litigation presentation. All voted aye.

Resolution supporting the redevelopment of the Anthony Mill property

Councilman Hyde explained this resolution is to reaffirm a previous resolution in support of the Anthony Mill project. Mr. Paul Bogoshian, owner of Anthony Mill, appreciates the support of the Town Council and is looking forward to picking up the reigns on this project.

Councilwoman Flanagan clarified that the Council is not authorizing any project at this point, as this first needs to go before the Redevelopment Agency.

Motion made by Frank Hyde seconded by Glen Shibley to adopt resolution. All voted aye.

Presentation by the Town Solicitor regarding landfill litigation and Resolution authorizing the financing of the settlement agreement on litigation

Solicitor Rogers began by advising that a decision has been made in the best interest of the community regarding this very longstanding lawsuit. He continued with the history of the lawsuit, involving a ten acre parcel that was leased to Commerce Park Realty with a 99 year lease. It further involves surrounding property, owned by Commerce Park.

Several attorneys from EAPD participated in this matter and were introduced by Solicitor Rogers: Richard Sherman, Environmental lawyer (remediation and cleanup); Mark Freel, litigation attorney; Karen Grande, bond counsel.

Attorney Richard Sherman summarized the environmental status, describing the site and surrounding property containing hazardous and municipal solid waste. In 2003, DEM ordered the town and other responsible parties to clean it up. The costs associated with the cleanup would be much less expensive and offer more remedies at a lesser cost if the Town were able to gain control of the land, in which case savings would be anywhere from \$29 million to \$32 million.

Attorney Freel commented that Commerce Park claimed it did not know about the waste at the time of purchase, and filed a suit against Cardi (former owner) as well as against the town, which is called the trespass suit.

In the settlement of the cleanup and Centre of New England related litigation, the Town acquires control of the landfill and three adjacent parcels. The cost to acquire control and settle litigation is \$5,450,000, and of that amount, \$1,644,000 will be contributed by five other responsible parties; \$3,806,000 contributed by the Town via a settlement bond. The Town and the principal responsible parties will split ongoing landfill investigation and clean-up costs on a 60/40 basis; the result is dismissal of litigation and release of all related claims. The Town total is \$3.8 million (1/3 of the cost paid for by parties other than the town). The principal responsible parties were persuaded that it would be in their best economic interest to contribute.

The benefits to the Town of the settlement are \$20 million savings in landfill clean-up costs, \$12 million Centre of New England litigation exposure, \$100,000 - \$300,000 savings of attorneys and expert fees for litigation and to maintain control over costs of the clean-up.

Vice-President Flanagan commented that this was a catastrophic situation and could not be ignored. In the end, the town is paying \$5+ million and receiving \$2+ million from other parties. Attorney Grande gave further explanation that the RI General Laws have a provision to settle litigation against the town with a settlement bond, in this case borrowing approximately \$4.3 million to be financed up to 15 years.

Jeff Hakanson, President of Tiogue Lake Association, questioned whether liens by Tiogue lake Association still stand against the developer. Atty. Rogers replied that DEM will supervise the cleanup and those objections should be addressed. The liens remain in place with regard to the other property.

Gary Cote, 29 Pettine St, suggested that the town sell the property and get some money back once land is cleaned up and holds some value.

Jerry Bouchard, Rebecca St, said that Central Coventry fire district will lose tax money with this property taken off the tax role. Solicitor Rogers stated that town taxes have not been paid at all on this land.

Rick Kalunian, 607 Blackrock Road raised questions regarding costs to the town of the suit (\$3.8 million) and whether attorney fees will be part of the bonded amount. Mr. Rogers replied that legal bills were submitted on a monthly basis. Manager Hoover stated could possibly be financed with the bond.

When asked about the difference in costs of cleanup, Attorney Sherman explained that the difference is that the lower amount is based on containment remediation. A full clean up would be much more expensive. There will be an environmental land use restriction on the property. Manager Hoover further explained that the capping remedy is a very desirable method of remediating the landfill, acceptable not only to DEM but to the US EPA. The taxpayers of this community cannot afford \$35 million to remove everything, as compared to capping it and monitoring it; this method is a huge savings to the community.

Fred Tobin, Esq, asked whether bond issuance requires a special meeting before the taxpayers per Charter 8.55. Attorney Karen Grande, explained that per RIGL 45-12-4.4, a settlement bond does not go to the voters because it is settling a town obligation.

Motion made by Laura Flanagan seconded by Glen Shibley to adopt resolution authorizing financing of settlement agreement. Vote taken 4-1 (Mr. Hyde votes no.) Motion passes.

PUBLIC HEARING

Motion made by Laura Flanagan seconded by Frank Hyde to move application of Andrew Catanzaro for transfer of Class B liquor license with live show, dance and pool table licenses for Strikers Bar & Grill, Inc. to the next position on the agenda, ahead of Team Consulting presentation. All voted Aye.

Application of Andrew Catanzaro for transfer of Class B liquor license with live show, dance and pool table licenses for Strikers Bar & Grill, Inc., 17 Sandy Bottom Road (formerly The Sandy Bottom)

Applicant Andrew Catanzaro, 891 Tunk Hill Rd., Scituate stated his plan is to open a bar and grill.

Manager Hoover advised that an outstanding bill of \$1900 remains, which was incurred by the present owner. The bill is for police detail and should be addressed tonight along with consideration for approval of the application. His recommendation is that the Town Council approve license transfer subject to conditions being met: approval from the Board of Health and satisfaction that the existing lien is cleared up.

Abutting property owner, Rosemary Hobson, 1060 Main Street, expressed concern for her own safety, degradation of the neighborhood, no ample parking available, the fear of rowdiness and overflow of patrons into the parking lot.

Councilman Shibley urged Mr. Catanzaro to abide by laws and remain trouble-free.

Motion made by Frank Hyde seconded by Laura Flanagan to approve Class B transfer subject to Board of Health approval and satisfaction of outstanding \$1900 police detail bill. All voted Aye.

Presentation by Team Consulting, LLC on the review of the Assessing Department

Mr. Fred Chmura reported on a recent evaluation of the practices and procedures of the Tax Assessor's Office. His findings were that office is in compliance with General Laws, the Town Charter, town ordinances and with the IAAO. Further, the Tax Assessor's Office is professionally run with a competent and educated staff.

Recommendations (on file in report) included improvements in 14 various areas.

Manager Hoover reminded the Town Council that Team Consulting's proposal also included two further options available to the Town Council, but he doesn't believe we need to pursue those options.

CONSENT AGENDA

1. Resolution establishing a 401A Deferred Compensation Program for the Town Manager in lieu of providing membership in the Coventry Municipal Employees Retirement System

2. Resolution approving an emergency sewer tie-in for Normand Morin, 543 Washington Street

3. Renewal of the following peddler licenses:

- Mishnock Garden Center, dba Joe's Produce, 2501 Nooseneck Hill Rd., Brian M. Warnock, 5 Bank Street, Hope Valley, RI
- Papa's Hot Dogs, Joseph M. Ford, 46 Laurel Avenue, Coventry
- Palagis Ice Cream, Alajandro Arteaga, 55 Bacon St., Pawtucket

Councilman Hyde requested that items on agenda are dealt with separately and asked for more detail regarding Item 1. Resolution establishing a 401A Deferred Compensation Program for the Town Manager in lieu of providing membership in the Coventry Municipal Employees Retirement System.

Manager Hoover advised that because he is unable to become a member of the retirement plan for the Town of Coventry, this allows the set-up a 401A plan at 8% of his salary.

Motion made by Laura Flanagan seconded by Ken Cloutier to approve resolution. Vote taken 4-0 (Mr. Hyde abstains)

2. Resolution approving an emergency sewer tie-in for Normand Morin, 543 Washington Street

Manager Hoover explained this was an emergency situation, the septic system failed, and the property needed to be hooked up immediately. The resolution is here for affirmation.

Motion made by Laura Flanagan seconded by Glen Shibley to approve resolution. All voted aye.

3. Renewal of the following hawker/peddler licenses:

- Mishnock Garden Center, dba Joe's Produce, 2501 Nooseneck Hill Road Brian M. Warnock, 5 Bank Street, Hope Valley, RI

Motion made by Laura Flanagan seconded by Glen Shibley to approve 90 day license renewal, subject to obtaining retail sales permit. Vote taken 4-1 (Councilman Hyde votes no.) Motion passes.

- Papa's Hot Dogs, Joseph M. Ford, 46 Laurel Avenue, Coventry

Motion made by Laura Flanagan seconded by Ken Cloutier to approve 90 day license renewal. All voted aye.

- Palagis Ice Cream, Alajandro Arteaga, 55 Bacon St., Pawtucket

Motion made by Laura Flanagan seconded by Glen Shibley to approve 90 day license renewal. All voted Aye.

RESOLUTIONS

Resolution appointing a member to the Board of Canvassers

Motion made by Frank Hyde seconded by Glen Shibley to appoint Lori Hart to the Board of Canvassers. All voted aye.

Resolution appointing members to the Redevelopment Agency

Motion made by Frank Hyde seconded by Glen Shibley to appoint Robert Thibeault and Robert DiPadua to the Redevelopment Agency. All voted aye.

President Spear administered oath of office to new members.

Resolution approving three agreements with Cox Communications for the installation of communication towers at the Department of Public Works, Coventry High School and Hopkins Hill Elementary School

The town seeks to install three "monopoles", upon which to mount communication devices; locations are at Dept. of Public Works, Hopkins Hill School and Coventry High School. The two school locations were previously approved by the School Committee in December of 2009.

Presentation by Ed Warzycha, Director of Information Technology. He advised that Cox will build the sites and the town will take ownership and be able to lease out equipment. Town will receive revenue. Pictures of the structures were shown to the public, two of which will have transmitters. Mr. Kola Akindede of SBA, 1 Research Drive, Westboro, MA informed that the FCC established safety levels, the antenna operate below that level and there is no evidence of harmful effects.

Mr. Warzycha has looked into insurance issues, Cox will maintain the equipment. CHS location set into woods with a buffer; Hopkins Hill is only a pole, DPW will be located behind the Public Works garage. The town will receive a fee of \$10,000 per pole per year from Cox; if poles are fully populated could receive up to \$250,000 per year in revenue. Have received phone calls already from interested parties.

Planning Director Paul Sprague submitted a favorable report from Planning Department.

Resident Vanessa Cosmo, 59 Twin Lakes Ave., feels location is too close to Hopkins Hill School and suggested that the town look for a different location. Mr. Jeff Steinberg, Westboro, MA remarked that it is common to build this close to a school and there are two other similar locations in Rhode Island. Mrs. Flanagan asked for locations.

Mr. Douglas James of King Street is concerned whether any radiation may be emitted; there is no proof the kids won't be affected. Cox's engineer stated levels are 95% under the required level.

Charles Vacca of Fairway Drive questioned proposed location at the high school, whether it would intrude on a site for passive recreation; Planner Sprague stated that it would not.

Vianne Thibeault, 18 Grant Drive, asked who gets the money from the towers. Manager Hoover replied that the school gets school tower money and town from town tower.

Motion made by Laura Flanagan seconded by Ken Cloutier to table issue to first meeting in April for further information. All voted aye.

Resolution in opposition to Senate Bill 2010-S2603 regarding Mandatory Labor Contract Continuation Legislation

School Committee Chairperson Nancy Sprengelmeyer advised that the School Committee also opposes this resolution.

Motion made by Laura Flanagan seconded by Glen Shibley to dispense with reading resolution. All voted aye.

Motion made by Laura Flanagan seconded by Ken Cloutier to adopt resolution. Vote taken 4-0 (Mr. Hyde abstains).

PUBLIC COMMENT – No comment at this time

Motion made by Laura Flanagan seconded by Frank Hyde to adjourn meeting.

Motion made by Frank Hyde seconded by Glen Shibley to reconvene meeting to give two Brown University students a opportunity to present a communication from RI for Fair Elections. Emily Koo and Ali Wolfson from Brown requested support of proposed legislation pertaining to the RI Public Financing of Elections Act and submitted to the Town Council for consideration.

Motion made Laura Flanagan seconded by Glen Shibley to adjourn.

Town Clerk