

TOWN COUNCIL MEETING  
June 20, 2011

Executive Session – 6:00 PM  
Per R.I.G.L. 42-46-5 (a) (1)

1. To review qualifications of applicants to Town Boards and Commissions

Motion made by Councilman Spear seconded by Councilman Mattson to recess into Executive Session. All voted Aye.

Motion made by Councilman Spear seconded by Councilman Mattson to reconvene into regular Town Council meeting. All voted aye.

Motion made by Councilman Jendzejec seconded by Councilman Spear to seal minutes of Executive Session. All voted Aye.

Council Meeting – 7:00 PM

Present: President Gary Cote, Ted Jendzejec, Kerry McGee, Raymond Spear, Carl Mattson, Jr.

Town Manager Thomas Hoover  
Asst. Town Solicitor Arthur Read

Pledge of Allegiance  
Invocation by Councilman Spear  
Review of Emergency Evacuation Plan

President's Comments

President Cote thanked citizens who attended the Financial Town Meeting. He also thanked the School Department for the opportunity to speak at commencement ceremonies at the Ryan Center.

Councilman Spear advised that the Council recently received an anonymous letter from a citizen, leaving no name or phone number so that Council could respond. He asked that citizens identify themselves and a way they may be reached.

Approval of Town Council Minutes from May 5, May 9, May 16, May 18, 2011

Councilman Spear stated that the May 18 minutes do not reflect an agreement between the School Committee, union and Town Council. He thought there was a clear understanding of what would happen if \$1.2 million was added to the school budget. The last motion made states there were no special considerations, but it was the understanding of this Council that there was an agreement that \$600,000 would be removed from within the contract when negotiating the next contract, so that it is not recurring. It was my understanding that there was an agreement by all three parties but the minutes do not reflect that.

Councilman Jendzejec recalled that Councilman Spear had asked that the motion be amended to include conditional terms; Councilman Jendzejec did not amend it because it was made conditional and mentioned in public that they had agreed to the terms and conditions. That motion was not amended, not seconded and is missing from the minutes.

President Cote added that written agreements were received from the parties involved and Manager

Hoover suggested that for clarity purposes, the agreements be attached to the minutes of May 18. Councilman Spear agreed.

Motion made by Councilman Mattson seconded by Councilman Jendzejec to amend minutes and add agreements as attachments. All voted aye.

Motion to approve Town Council minutes from May 5, May 9, May 16 and May 18 as amended. All voted Aye.

#### CONSENT AGENDA

1. Application by John Guisti for fireworks permit on July 4, 2011 (Johnson's Pond Civic Association)
2. Application by John Guisti for fireworks permit on July 30, 2011 (following ski show)
3. Application by Our Lady of Czestochowa, 445 Washington Street for Class F and Dance licenses on July 15, 16 and 17, 2011
4. Applications for renewal of 90 day hawker and peddler licenses by:
  - a. Brian Warnock, Mishnock Garden Center, 2501 Nooseneck Hill Road
  - b. Michael Rodriquez dba Mike's Ice, 940 Quaker Lane, E. Greenwich
  - c. Joseph Ford dba Papa's Hot Dogs, 46 Laurel Avenue
  - d. Palagis Ice Cream, 55 Bacon St., Pawtucket
  - e. Randy Hesse dba T & R Ice Cream, 23 Hickory Road
  - f. Robert Arrico dba Victory Fruits and Vegetables, 18 Waterman Hill Rd.
5. Approval of tax abatements and additions for the months of April and May 2011

Motion made by Councilman Jendzejec seconded by Councilman McGee to approve items #1, 2, 3, and 5. All voted Aye.

With regard to Item #4, Mishnock Garden Center, Manager Hoover advised that the last time the proprietor, Mr. Warnock, was in front of the Council, it was agreed that he would immediately contact the Planning Department to go through the development review process. According to Planner Paul Sprague, Mr. Warnock went to the Planning Department only this afternoon and met with Zoning Officer Jake Peabody. Mr. Warnock submitted a partial application and was informed by Mr. Peabody that he needed a complete application. Tonight Mr. Warnock handed me a letter from Robert Boyer, an engineer who has been retained by Mishnock Garden Center and will try to expedite the application process.

Mr. Sprague suggested granting an extension of Mr. Warnock's Hawker's license in order to give him time to complete the development plan review process. Manager Hoover recommended an extension to the August 22 scheduled Town Council meeting.

Motion made by Councilman Spear seconded by Councilman McGee to approve license extension to August 22. All voted aye.

Motion made by Councilman Jendzejec seconded by Councilman Spear to approve Items B – F, Hawker/Peddler license renewals. All voted aye.

## PUBLIC HEARINGS

Motion made by Councilman Spear seconded by Councilman McGee to open public hearings. All voted Aye.

1. Application for Class B liquor license by Dave Thomas for Café Gianna Family Restaurant, 915 Tiogue Avenue

Manager Hoover advised that the application has gone through the review process with no objections from the Zoning Officer, Building Inspector or Police Department. Café Gianna has been operating under a BYOB and seeks a full Class B liquor license.

Applicant David Thomas, 780 Leuba Road was sworn by Attorney Read and attested to his 24 years of experience in the restaurant business.

Motion made by Councilman Spear seconded by Councilman McGee to approve Class B liquor license. All voted Aye.

2. Application for Class B liquor license with victualling and Liveshow Entertainment license for FB Coventry LLC, dba Fat Belly's, 760 Tiogue Avenue

Attorney Matthew Callahan represented Fat Belly's, stating that the business will be located at 760 Tiogue Avenue, their 6<sup>th</sup> location. Council was provided with a site plan and picture. Fat Belly's has been very well received in every community and has sponsored various community events.

Owner Scott Parker, 60 Woodbridge Drive, East Greenwich was sworn by Atty. Read and gave testimony noting his 26 years of experience in this business including the opening of about 20 restaurants in the past 15 years. He has about 190 employees in RI and will employ 50 more in Coventry. He has won awards for his pub food and currently has establishments open in Warwick, East Greenwich, Wakefield, Providence and most recently Warwick Mall.

Motion made by Councilman Spear seconded by Councilman Mattson to approve Class B and Liveshow licenses for Fat Belly's subject to the approval of the State Board of Health, RI Division of Taxation, proof of alcohol server training and submission of a food manager certificate. All voted Aye.

3. Application by David Hughes for Class E (druggist) license for Apothaca, Inc., dba Phusion Pharmacy, 17 Coventry Shopper's Park

Applicant David Hughes, 948 Knotty Oak Road was sworn by Atty. Read. Mr. Hughes described a Class E license, which allows for alcohol (ethynol) in the pharmacy for prescription preparation.

Manager Hoover reported no concerns from the Zoning, Planning and Police Departments.

Motion made by Councilman McGee seconded by Councilman Jendzejec to approve Class E license. All voted Aye.

4. Additional hours application by James Lynch for Main St. Donuts, dba Dunkin Donuts, 24 Coventry Shoppers Park

Applicant James Lynch, 1 Signal Ridge Way, East Greenwich was sworn by Atty. Read and stated that he

would like to open at 4 a.m.

Motion made by Councilman Spear seconded by Councilman McGee to approve additional hours license. All voted Aye.

Motion made by Councilman Spear seconded by Councilman Mattson to close public hearings. All voted aye.

## RESOLUTIONS

### 1. Appointment of a member to the Coventry Planning Commission

Motion made by Councilman McGee seconded by Councilman Jendzejec to appoint Scott Crowe to the Planning Commission. Vote taken 3 Aye, two opposed (Councilmen Spear and Mattson vote no). Motion passes 3-0.

Mr. Crowe was sworn into office by President Cote.

President Cote thanked Ms. Cindy Fagan for her 19 years of service on the Planning Commission. Although she was not reappointed, it is not a reflection of the job she did, but the Town Council has decided to give another individual the same opportunity that was afforded to her 19 years ago.

Motion made by Councilman Jendzejec seconded by Councilman Spear to approve the following resolutions #2, 3, 4, and 5 with one motion. All voted Aye.

2. Authorizing the issuance up to \$5,500,000 interest bearing notes in anticipation of the receipt of the proceeds of the annual tax assessed or to be assessed upon the taxable property within the said Town as of December 31, 2010 for the financial year July 1, 2011 to June 30, 2012 for the purpose of providing funds for the payment of the current liabilities and expenses of the Town of Coventry
3. Authorizing the approval of an Inter-municipal Equipment Sharing and Personnel Interchange Agreement with participating communities in the State of Rhode Island
4. Approving a new three (3) year Solid Waste and Recycling Services Agreement with the Rhode Island Resource Recovery Corporation for fiscal years 2012 through 2014
5. Authorizing the purchase of a stake body bulk pickup truck with lift for the Department of Public Works.

Resolution #6: Requesting approval by the Rhode Island General Assembly on those Charter questions approved by the electorate of the Town of Coventry in the November 2, 2010 election that are not in conflict with State law and require General Assembly approval

Councilman Jendzejec noted several concerns, one being an issue with regard to Town Council approval when ratifying School collective bargaining agreements. This is contradictory to Section 16-2-9 of State Law. Although it wasn't clear, the final outcome was that if the School Committee wants to take the Town Council to court, then let them do it. This is a violation of state law, which trumps Town Charter in my opinion. It would be a waste of money; the public should have been better informed with regard to that question.

The second issue is with non-partisan elections. Nothing was said about primaries, off year elections, nothing went out to the electorate on that. What the public thought they were voting on was a non-partisan

election. Councilman Jendzejec agrees with the merits of the Charter amendments, but does not agree with how they were proposed to the electorate. There was no explanation whether there is a primary and how it would work.

Joel Johnson of the Charter Review Commission, 164 Gough Ave., was sworn in by Atty. Read and remarked that the language in Section 2.09 of the Charter deals with a primary or run off, which would take place the same day as the statewide primary at the same polling places.

Councilman Jendzejec stated that was not presented to the voters as such, the question was “do you want non-partisan elections”? There was nothing said about primaries or how they would run. Believe the general public wasn’t informed properly.

Another issue is combining two questions in one amendment. There is no chance to approve one and not the other, referring to the amendment that has to do with four year council terms and the limit on appointment power. There is no chance to voice an opinion with two questions wrapped into one. The electorate was not given a chance to voice an opinion on two distinct questions.

Motion by Councilman Spear seconded by Councilman Mattson to accept public comment on this issue. All voted aye.

Councilman Spear remarked that the resolution placed before us has in it a statement whereby charter amendments may not supersede General Law and that all of the charter amendments must be approved by the General Assembly. A letter was sent to legislators, signed by President Cote and Councilman Spear, asking them to act on the seven changes made to the Charter. That letter ended up coming back to us, asking for signatures of the entire council and I believe that we need no other wording than that in the letter we sent out. In the resolution you should simply state that the Town of Coventry endorses the action of its’ community from a meeting in November of 2010, approving seven changes in its’ Charter and that we would like state approval.

If the General Assembly finds a conflict with State law, then they won’t approve that particular amendment. The Charter Review Commission had legal counsel working with them, and the final results were reviewed before the Town Council approved the questions. I won’t argue about whether or not we did a good job presenting this to the community, but the community did approve it and now we are asking the state to approve it.

If there are one or two amendments that are not accepted because they are in violation of state law, then we will have to readdress those issues. I object to sending it to the State House with this particular wording; I don’t believe this is against the law and we had legal counsel telling us it is not against state law.

President Cote thinks the resolution should go to the General Assembly for approval or denial. Let the General Assembly and their attorneys decide if there is a violation of the laws.

Laura Flanagan, 16 Knotty Oak Lane, was sworn by Atty. Read, and has reviewed the Charter Review Commission minutes. The Charter Review Commission and the Town Council adopted these questions for the electorate. It was discussed at length that a non-partisan election would have a run off primary. There were people who didn’t like that and people who did. If non-partisan elections had been described to me without a run off primary, I never would have sent this to the electorate. We couldn’t see any point in having 25 people on this ballot in a general election; we were opposed to this until we had a run off primary thought process. You must honor our vote or I can promise you a group of people will file a lawsuit against this town.

Senator Nick Kettle, 5 Autumn Ridge Road, was sworn by Atty. Read and remarked that it would be

wrong for a Town Council or a State legislator to interfere with the process. The General Assembly doesn't need to ratify this. It's nice and customary, but not necessary. I would like to know when we can expect a new Charter.

President Cote recommends going to the General Assembly and let their attorneys decide what's legal. Historically, municipalities have gone to the legislature for approval on charter changes, whether they needed them or not.

Joel Johnson urged the Town Council to adopt the resolution as it stands. A lot of thought and work went into these questions, and I think it needs to be passed tonight.

Lisa Tomasso, 40 York Drive, was sworn by Atty. Read. She stated that she supports the amendments in entirety. If there is a problem with legality, it is not the fault of the Charter Review Commission as we had attorneys advising them. She is in favor of seeing this resolution pass and go on to the General Assembly. However, she added that constituents need to understand what they are voting on. She referred to language changes to the Charter regarding non partisan elections and remarked that Section 2.09 talks about run off elections where the top two candidates would move on to the general election. This was not on the ballot and should be voted on. However, she does agree with doing away with master level voting.

Ron Gizzarelli, 50 Harrington Rd. was sworn by Atty. Read and commented that although he doesn't know why we have language in the resolution about violating state law, this Council should pass the resolution on to the State.

Motion made by Vice President McGee seconded by Councilman Mattson for a five minute recess. All voted Aye. Motion made by Councilman Jendzejec seconded by Councilman Mattson to resume Town Council meeting. All voted Aye.

Robert DiPadua, 62 Laurel Ave., was sworn by Atty. Read, believes Council should send in the resolution, let the lawyers handle it. If they made a mistake and if there is litigation, then go after the lawyers that messed it up.

William Wolfe, Jr., member of the Charter Review Commission, 46 Cantaberry Lane, was sworn by Atty. Read. Attorney Joe Larissa told us to combine questions. I urge you to pass this resolution, let chips fall where they may.

James Sullivan, member of the Charter Review Commission, 51 John Franklin Road, was sworn by Atty. Read, echoed the feelings of Mr. Wolfe and urged the Town Council to adopt resolution.

Charles Vacca, Fairway Drive, was sworn by Atty. Read and urged Town Council to pass resolution. My own personal opinion is there is an underlying effort to protect the unions because there has been tension regarding this Town Council with regard to all union negotiated contracts. He believes people in the General Assembly are trying to protect union interests. Mr. Vacca also asked why eight months later we are having this discussion about how the voters weren't informed; I believe the voters knew what they were voting for.

President Cote replied that there is no one sitting up here on the Council trying to defend the unions. We are going to pass a resolution tonight, and if you don't agree with the language stating..... "if it's not in violation of RI General Law" ....then that is up to you not to agree with that language. President Cote believes resolution should go to the General Assembly, have them either approve or deny it, and move forward from there.

Scott Guthrie, 31 Maplewood Drive, was sworn by Atty. Read and is concerned that certain amendments

were in conflict with RI law, didn't want to see a law passed that would cause litigation.

Joy Martin, member of the Charter Review Commission, 17 Driftwood Drive, was sworn by Atty. Read and requested that Council approve resolution.

Frank Hyde, 401 Fairview Ave., sworn by Atty. Read, remarked that he thinks people are smart enough to know what they voted for and asked that Council pass the resolution.

Councilman Mattson would like to modify resolution, doesn't see why you have to have a statement in the resolution about General laws. This resolution is very similar to the letter we sent, which was returned only to request all five signatures of the Council. The General Assembly knows what they are supposed to do, and think it is redundant to tell them what they are supposed to do.

Councilman Spear feels Council should request approval of the State legislators. It is not necessary to put a statement in the resolution about amendments superceding state law. I agree with Councilman Mattson, the letter basically did the job, they are just looking for five signatures on it. I will support the Council, but just don't feel we need to have all these extra nuts and bolts in there.

Councilman McGee believes the resolution is fine as is; we have the responsibility of giving the people what they asked for.

Motion made by Councilman McGee seconded by Councilman Jendzejec for a voice vote. All voted Aye.

Motion made by Vice-President McGee seconded by Councilman Jendzejec to adopt resolution as presented. Voice vote: Councilman Mattson – Aye; Councilman Spear – Aye with reservations; Councilman McGee – Aye; Councilman Jendzejec – Aye; President Cote – Aye.

#### Public Comment

Ron Gizzarelli, 50 Harrington Road, commented on response times of fire and emergency vehicles to the Centre of New England. President Cote advised that the Town Council has no authority over the fire districts and suggested that one idea would be to have the chiefs of each district sit down, discuss and sign an automatic aid agreement.

Motion made by Councilman Spear seconded by Councilman Mattson to adjourn meeting. All voted Aye.

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Town Clerk