

TOWN COUNCIL MEETING  
August 24, 2009 - 7:00 p.m.

Present: Frank Hyde, Kenneth Cloutier, Glen Shibley, Ray Spear, Laura Flanagan

Town Manager Thomas Hoover  
Town Solicitor Patrick Rogers

Pledge of Allegiance led by Town Sergeant  
Invocation by Reverend Chris Baker of Knotty Oak Baptist Church  
Review of Emergency Evaluation Plan

President's Comments

President Spear announced that Ken Young's application for a hawker's license will be tabled to a future meeting and the application of Tin Cup Golf and Driving Range will be limited to discussion and action on the golf course and liquor license, with the matter of a driving range to be taken up with the Planning Department.

Manager Hoover informed the Council that Colonel DaSilva has requested that the Town Clerk's Office begin requiring a peddler's license for door to door sales of magazines and publications. Colonel DaSilva stated it will be helpful to the Police Department with regard to enforcement. Manager Hoover agreed; effective immediately a peddler's license will be required for door to door sales.

President Spear raised an issue with regard to consideration which is being given by some representatives in the State legislature pertaining to a bill establishing binding arbitration as a means of resolving disputes with teacher unions. Though it is not an agenda item tonight, President Spear is bringing the matter before the Council this evening, as this information has just come forward. I do not personally believe that we need binding arbitration. With this legislation comes the possibility of mandating that contracts, upon their termination dates, would be automatically extended to continue until such time as a new agreement has been reached. I have asked our town manager if he would be kind enough to develop a resolution that we could at least consider this evening.

Resolution reads as follows:

Whereas, mandatory binding arbitration on all issues, including wages and benefits, presently in force for local police and fire, has led Rhode Island, according to RIPEC, to having the 5th highest police costs in the nation and the highest paid firefighters nationally; and

Whereas, Connecticut mandatory binding arbitration has led to contract awards that have resulted in the highest paid teachers in the country; and

Whereas, unions don't generally strike, they "work to rule"; and

Whereas, teachers' contracts would be automatically extended if agreement is not reached by the end of the expiring contract; and

Whereas, Rhode Island cities and towns have to comply with statutory and decreasing property tax caps; and

Whereas, binding arbitration chills the negotiation process and would create a disincentive for teacher unions to settle the unresolved issues by negotiations as they will perceive that they will gain more thru an arbitration award rather than a negotiated labor agreement; and

Whereas, arbitration can take well over a year and cost tens of thousands of dollars; and

Whereas, the proposed mandatory binding arbitration legislation being advanced by the teacher unions does not take student welfare into account, conform to the existing property tax caps ("3050"), and does not recognize management rights that our courts have established or prevent strikes or work to rule.

NOW, THEREFORE, BE IT RESOLVED the Coventry Town Council respectfully requests the Rhode Island General Assembly to reject Senate Bill S-713 and any and all binding arbitration legislation currently being considered for teacher contracts and not mandate the extension of contracts for teachers beyond their expiration date.

BE IT FURTHER RESOLVED that the Town Clerk is hereby instructed to submit a copy of this resolution to State Senators and State Representatives in the Rhode Island General Assembly seeking their consideration and support.

Vice-President Flanagan suggested using the actual bill number (S-713) in the proposed resolution in the clause that begins...“Therefore, Be It Resolved.....”

Mr. Hyde raised a question as to why resolution did not appear on the agenda; as a result he hasn't had time to review and discuss. President Spear said that time is of the essence; he understands the General Assembly will be in session the first week in September. Mr. Spear commented to Councilman Hyde that if binding arbitration is implemented it would mean that when teachers unions reach a point of inability to resolve a contract settlement or particular grievance issue, it would go to mandatory binding arbitration and be settled by an arbitrator, whether we as a town can afford to pay it or not. Don't feel that this is the best way to handle the settlement of negotiations between teachers and school committees and it further creates a disincentive for teachers to want to sit and negotiate. Mr. Hyde stated that he believes that he feels the same way.

Representative Scott Guthrie cautioned that an opinionated letter should not be sent, the bill is likely to change, Council should have all the facts and he further stated that costs regarding police and fire are RIPEC's opinion.

President Spear encourages anyone who represents this community not to pass bills that mandate arbitration with teacher contracts. Mrs. Flanagan further stated that she understands that Bill S-713 would allow contracts to continue even when they expire and a new contract has not been negotiated.

Representative Guthrie indicated that although the bill may be modified it requires binding arbitration as the ultimate resolution if there is an impasse, as opposed to the current arrangement, which is negotiation.

Mrs. Flanagan questioned whether a teacher's contract could then never expire. Solicitor Rogers responded that, for instance, if there is a dispute as to whether or not a contract that has expired by its terms, is null and void, or is "evergreen", meaning that it always continues, is a legal question right now. This proposed legislation would basically prohibit

contracts from expiring; it would allow contracts to be effectively perpetual pending binding arbitration to amend them. Mrs. Flanagan commented that we need to get to a point where we can negotiate good contracts, and if we can never get to a point where they expire or if we are forced to binding arbitration, it takes away the school committee's ability to negotiate a new contract in good faith. I do think this Council has the right to form an opinion and voice that to our state legislature.

Mr. Shibley agrees and believes Council needs to send a clear message from the Town to the General Assembly. Mr. Cloutier asked about the effect this could have on "3050" and President Spear responded that arbitrator could possibly rule a higher amount of settlement than the town could meet because of the cap.

Solicitor Rogers advised that if the Council decides to place the resolution on the agenda, that the first item be a unanimous vote of consent to put resolution on the agenda, then proceed with a second vote on the resolution.

Jean Tierney, 76 Fairway Drive, feels that the Council should not rush to the General Assembly, especially since President Spear stated that he just received the information. Binding arbitration has often been the way that things get done.

Arthur Capaldi, Esq., 1035 Main Street, stated that the proposed bill is strictly union, could place a burden on the towns and cities, and urges the Town Council to invite representatives to a meeting to discuss the resolution.

Motion made by Laura Flanagan seconded by Glen Shibley to add resolution to agenda. Vote: In favor (4); opposed (1- Mr. Hyde votes no). Without a unanimous decision, motion fails.

Mr. Hyde explains that he needs more time to study the issue, know what people want and talk to the Representatives and Senators. He also raised concern with regard to the opening paragraph's references to police and fire costs.

Solicitor Rogers advised Council of the requirement of 12 hours notice for emergency meeting per Sec. 3.13 of the Charter.

Motion made by Laura Flanagan seconded by Glen Shibley to call a special meeting on August 25, 2009 at 9:00 a.m. for specific purpose of consideration of this resolution. Vote 4-1 (Mr. Hyde votes no.) Motion passes.

President Spear announced that the Town Council will be filling vacancies on the Sewer Subcommittee, Friends of Human Services, Planning Board and Juvenile Hearing Board. Applications should be filed with the Town Clerk with a deadline of September 9, 2009. The Town Council will make a determination as to who is appointed by the fourth Monday in September.

President Spear further noted that the Town Council is considering the establishment of a Charter Review Commission to take a look at some issues, for example adoption of the capital budget before the operating budget. He asked council members to give thought to matters which may need to be adjusted or changed in the Charter in order that a determination can be made as to whether it would be worthwhile to establish a commission.

- Motion made by Laura Flanagan seconded by Ken Cloutier to approve minutes of July 27, 2009 and August 3, 2009. All voted Aye. So voted.
- President Spear presented Mr. Raymond Gandy with a proclamation recognizing him for his accomplishment in swimming across the English Channel

### CONSENT AGENDA

1. Application by Bruce Capwell for renewal of Private Detective license
2. Application by Francis Brosnan for renewal of Private Detective license
3. Resolution approving financing and refinancing of sewer system extensions and improvements and approving the issuance of wastewater system revenue bonds and notes therefore in an amount not to exceed \$10,000,000
4. Resolution affirming award of contract for recycle truck body per the approved Capital Improvement Program
5. Resolution affirming award of contract for recycle truck cab and chassis per the approved Capital Improvement Program.
6. Resolution allowing sewer tie-in for Rhodes Technologies, 498 Washington Street
7. Resolution appointing Town Manager Thomas Hoover, Finance Director Warren West and Union Representative Brian Sullivan to the Police Pension Board

Motion made by Kenneth Cloutier seconded by Frank Hyde to approve Consent Agenda. All voted Aye.

- Resolution requesting the Planning Commission to delete provisions for the allowance of future Residential Compounds within the Town of Coventry

President Spear explained that the situation was brought to his attention by citizens living in one of the compounds who are paying a lot of taxes and getting no services.

We allow the construction of small housing developments, which initially started as family compounds, where an individual having sufficient acreage has the ability to build homes with road construction and everything within the compound being the responsibility of the family. These are on private streets built by the developer. The understanding is that everyone who buys the homes realizes that they will not get services that require road travel by town vehicles such as buses, plows and garbage trucks. Some people are paying as much as \$15,000 a year to the town in taxes and are getting none of the services.

Mrs. Flanagan suggested finding a way to develop a tax rate for people who live in residential compounds. After consulting with an attorney with expertise in municipal taxation, I was advised that there are four different classifications of taxation allowed under RI law. We would need to have legislation introduced at the state level that would allow a fifth tax rate for

these compounds. There is really no mechanism that exists now for us to give people any kind of credit. We can't maintain the roads because they were not built to town standards.

Mr. Spear believes the right thing to do is to establish a resolution that we are not going to build compounds in this community anymore. We are just creating a problem for the people that build them. When asked how much tax money is coming in to the Town from compounds, Manager Hoover stated about \$775,000.

Mr. Spear suggested that if citizens in the compounds want to rebuild their roads to town specifications, then the town would be obligated to provide services. I have asked the council to endorse a resolution which recommends to the Planning Commission that they not allow any further construction of compounds in this community.

Cindy Fagan, 770 Phillips Hill Road, Chairperson, Planning Commission stated that the Planning Board is in the process of changing subdivision regulations, and has been considering the idea of reducing the amount of homes in compounds to get back in line with the original family compound, no more than three homes. Gentry Farms has 20 homes and I don't know how that was passed. If the Council doesn't want any new compounds, we can accommodate that.

Mrs. Flanagan suggested that the Council talks to state legislators to see if we can get the introduction of a bill to create that fifth tax rate in the State of RI, which would allow us to tax those homes at a lower rate.

Manager Hoover is in agreement that we should adjust what people pay for what services they get. Would prefer to see roads improved and brought up to standards, then dedicate these subdivisions to be public so residents could therefore receive and enjoy all of the services that other residents enjoy.

Wayne Asselin, 30 Lorraine Ave., asked if people get some kind of credit now for compounds and condos. Mrs. Flanagan responded that we can't give compounds a credit under current tax law in RI, would need a new tax rate in RI. There are no special tax rates for condos.

Deborah Costa, Program Manager, Washington Village states that each homeowner in Washington Village is taxed on a percentage of the total land at Washington Village. Through the years the people of Washington Village have been told by the town that they are getting a tax credit and not being taxed at the same rate as an individual home owner, and that's why we don't have service either. If you go looking at these family compounds and try to help them out, what are you going to do for the condo associations when they want services?

Mrs. Flanagan responded that she would think that if any condo associations brought their roads up to the standard of a public road, the same deal would be on the table.

Mr. Hoover commented that condos are a bit different and parallel more of a commercial establishment than residential. Would have to look into that a little further.

Motion made by Frank Hyde seconded by Ken Cloutier to adopt resolution. All voted aye.

## LICENSES

### Application by Ken Young, 15B Hill Farm Road, for new hawker's license

Motion made by Frank Hyde seconded by Laura Flanagan to table until further information is received. All voted aye.

## PUBLIC HEARINGS

### Application by Shane and Mark Martin for transfer of Class B Ltd. Liquor license with victualling from A-1 Pizza, 1600 Nooseneck Hill Road, to Brick Alley Pizza, LLC.

Steven Marcello, Esq. represented the Martins and stated that his clients have signed a purchase and sales agreement with everything subject to approval of a B Ltd. License. The plan is to employ 4-8 people; the application tonight is for transfer of ownership. Motion made by Laura Flanagan seconded by Glen Shibley to grant B Ltd. License with victualling. All voted aye.

### Application by Michael D. Cornicelli, Tin Cup Golf & Driving Range, LLC, for a new Class B Liquor License at 2 Fairway Drive

Applicant Michael Cornicelli, 94 Wood Cove Drive, was in attendance seeking permission to operate a six hole golf course with a Class B liquor license. Mr. Cornicelli stated that he will hold off on the driving range until he receives approval from Planning.

Robert DiPadua, 62 Laurel Avenue, spoke in favor of Mr. Cornicelli's application. Mr. DiPadua states that he has had business dealings with Mr. Cornicelli in the past and encountered no problems.

Debra Costa, property manager for Washington Village Condo Association, stated that she has spoken with the Cornicellis, have the questions and concerns of the association answered. Mr. Cornicelli agrees to make Washington Village an additional insured on his policy. The golf course has never looked so good and the association welcomes him.

Motion made by Glen Shibley seconded by Laura Flanagan to grant license. All voted aye.

### Approval of Sewer Facilities Plan (Presentation by Weston & Sampson)

Manager Hoover announced that Chairman Bill Hall of the Sewer Subcommittee, representatives from Weston & Sampson, and project manager Barry Yacheshyn will provide a short presentation of the facilities plan. Mr. Hoover recommends moving expeditiously to approve this as we have until the end of this month to get it to DEM.

Barry Yaceshyn of Weston & Sampson presented facilities plan. (See full presentation in Town Council folder) He explained that the facilities plan needs to be updated every five years. This update includes changes with regard to new users, proposed subdivisions, and proposed changes in uses. He discussed the timeline of where we stand now, depicting the original flows for a 20 year Planning period. He further discussed flow re-allocations which would pertain to developments such as Coventry Housing Authority, Brookside Development

and Center of New England. Mr. Yaceshyn also described additional flows that should be considered along with areas that should be studied for removal.

The Town can reaffirm, update or redo the facilities plan. We have been advised by DEM that we have to update because of some significant changes that are taking place in town as well as the inclusion of Rhodes Technologies, which was not originally included in the facilities plan.

Chairman Hall further discussed various reasons why certain areas were removed as the Sewer Subcommittee reprioritized the list based on environmental and economic development.

Mrs. Flanagan has concerns as to whether any businesses coming to Coventry would be affected by the revised plan. Mr. Hall explained that had been taken into consideration, but we have the ability to take usage from one area and use for another. There is a standing resolution now for the Centre of New England. Once the facilities plan has been passed by the Town Council, we will ask for another standing resolution re-written for another 78,000 gallons per day for Centre of New England. Every year we review what they are actually using.

Motion made by Frank Hyde seconded by Laura Flanagan to accept sewer facilities plan as presented. All voted aye.

#### PUBLIC COMMENT

##### Presentation on the "Preserve America" program and an event at the Paine House

Norma Smith, 1196 Main Street, spoke on behalf of the Western RI Civic and Historical Society. The Society will host Heritage Day on September 12. Paine House will be open for tours, a band will perform between 10:00 a.m. and 1:00 p.m. Parking will be available in the field across the street next door to fire station and possibly near the bike path. Solicitor Rogers indicated that no approvals would be required from the town. Mr. Spear suggested that Ms. Smith notify the police department so that they are aware of the event. Should also check with Guy Lefebvre in Recreation if you plan to park near the bike path.

Ms. Smith stated that "Preserve America" is applying for a grant. One of the requirements is that the town has to become a Preserve America community. We need the town to submit a resolution regarding preservation. Mr. Spear asked that Ms. Smith provide the council with what she needs and Council will work with her. Mrs. Flanagan suggested she get in touch with the Town Manager as she would like him to review the materials before it gets to Council.

No further public comment.

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

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Town Clerk