

Town Council Meeting  
September 9, 2013

EXECUTIVE SESSION – 6:00 PM

Review of qualifications for Boards and Commissions per RIGL 42-46-5 (a) (1)

1. Charter Review Commission
2. Board of Canvassers
3. Friends of Human Services

TOWN COUNCIL MEETING – 7:00 PM

Present: President Gary Cote, Vice-President Kerry McGee, Councilman Jendzejec, Councilwoman Carlson, Gregory Laboissonniere

Town Manager Thomas Hoover, Town Solicitor Frederick Tobin

Pledge of Allegiance led by Town Sergeant  
Invocation by Councilwoman Carlson  
Review of Emergency Evacuation Plan

A motion was made by Vice-President McGee seconded by Councilwoman Carlson to adjourn Executive Session. All voted Aye.

Motion was made by Councilman Jendzejec seconded by Councilman Laboissonniere to seal minutes from Executive Session. All voted Aye.

President's Comments

President Cote announced that we are joined tonight by some of our youth along with their families, to receive recognition and congratulations for finishing third in the semifinals of the 2013 National Babe Ruth World Series.

Approval of Town Council minutes August 19, 2013

Motion made by Vice President McGee seconded by Councilman Laboissonniere to approve minutes. All voted aye.

PROCLAMATIONS

Recognizing the Coventry Babe Ruth League 13-year-old All-Stars for winning the 2013 Rhode Island State Championship, the 2013 New England Championship and finishing third overall in the semifinals of the 2013 National 13-year-old Babe Ruth Baseball World Series held in North Dakota.

Recreation Director Guy Lefebvre gave introductions and spoke about the many successes of the Babe Ruth 13 Year Old All Stars. President Cote offered congratulations and presented proclamations to the team, coaches and managers.

PRESENTATION - SAGE Environmental, Inc. – Black, Sticky/Oily Substance Investigation Summary Report

Manager Hoover introduced Mr. Bruce Clark from Sage Environmental, who reported on the results of the study on the black oily substance. Lab testing results indicate the substance to be black sooty mold, most likely the result of a mold that grows on the excrement of a scale insect feeding on a variety of tree species. Laboratory analysis did not reveal the presence of petroleum hydrocarbons. (See full report on file in council folder).

We tried to test before the asphalt plants opened, which we did. Preliminary samples indicated sooty mold, and the final sample was done on July 15. We took samples for lab analysis. Our job was to test for what was falling out of the sky. We found nothing non-biologic in nature, nothing particulate, the black oily substance seems to be related to mold and sooty mold. DEM is waiting for our results and is supposed to conduct additional testing. Manager Hoover sent the Sage report to DEM.

Councilman Jendzejec asked about any effect the sooty mold might have on humans and the respiratory system, if there is any at all. Mr. Clarke remarked that they did not evaluate that and he is not an expert in that regard.

President Cote asked if Sage's findings were basically the same as URI, that this is a naturally occurring substance. Mr. Clarke stated that it seems to be, although not 100% conclusive, but reasonable conclusion. You can't rule out the possibility of something else, but not a significant contributor.

### CONSENT AGENDA

1. Discussion and resulting action on tax abatements and additions for August 2013
2. Discussion and resulting action on waiving the entertainment license fee for the Paine House Beer Tasting, Food and Music Event to be held on Friday, September 27, 2013

A motion was made by Councilman Jendzejec seconded by Councilman Laboissonniere to approve Consent Agenda. All voted Aye.

### RESOLUTIONS

1. Discussion and resulting action regarding the appointment of members to the Charter Review Commission

A motion was made by Councilman Jendzejec seconded by Councilman Laboissonniere that Jean Boulanger, Arthur Capaldi, Girard Bouchard, Margaret Florio, Scott Guthrie, Carl Mattson, Andrew Perra, James Sullivan and Nicholas Gorham be appointed to the Charter Review Commission. All voted Aye.

2. Discussion and resulting action regarding the award of a three year contract to Walter E. Reynolds of Coventry, RI for emergency equipment rental at costs as shown

Manager Hoover explained that at the last council meeting a resolution was approved awarding three year contracts for equipment rental services; however, Walter E. Reynolds was mistakenly omitted from the resolution. It is requested that his name be included on the list of providers of emergency rentals.

Motion was made by Vice-President McGee seconded by Councilman Jendzejec to approve resolution. All voted Aye.

3. Discussion and resulting action regarding the award of a contract to Direct Energy Business to provide electricity to Town facilities for the period of January 1, 2014 through June 30, 2014 at a cost of 9.14 cents / kwh.

Manager Hoover explained that we have had a contract with Direct Energy for two years, as we belong to the RI League of Cities and Towns and the consortium that actually purchases the electricity. Our contract runs out on December 31 of this year.

Meanwhile, construction has begun on our two turbines at Picillo Farm, but that project will not be completed for purposes of delivery until June of 2014. We will need to engage Direct Energy for at least 6 months next year. There has been a 34% increase from our last contract, so if for some reason we find that we have to renew again with Direct Energy, we will have to reexamine our contract or move forward in another direction.

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

4. Discussion and resulting action regarding the scheduling of an Executive Session of the Town Council for the purpose of the annual performance evaluation of the Town Manager at 6:00 PM on Monday, September 16, 2013 and a Work Session of the Town Council for the purpose a presentation on automated refuse collection at 7:00 PM on Monday, September 16, 2013

Manager Hoover asked that the above work session and performance evaluation be moved to the October council meeting. Motion made by Vice-President McGee seconded by Councilman Laboissonniere to remove resolution from agenda at this time. All voted Aye.

### PUBLIC HEARINGS

1. Discussion and resulting action re an application by Alexandria Kazarian for transfer of Class B liquor license from Luk Thai Cuisine, 433 Washington Street to WOW on Washington

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

Proprietor Alexandria Kazarian was sworn in by Solicitor Tobin. President Cote asked what is "Wow" on Washington and Ms. Kazarian explained that besides cleaning and redecorating, she designed a menu trying to create a "wow" factor. She added that all of her products are purchased locally and has hired 16 people, 14 of whom live in Coventry.

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

A motion was made by Vice-President McGee seconded by Councilwoman Carlson to approve subject to receipt of a letter of good standing from the State of RI, a Board of Health Inspection, food manager certificate and proof of alcohol server training. All voted Aye.

2. Discussion and resulting action regarding amending Chapter 180 of the Coventry Code of Ordinances requiring owners or tenants of property to maintain the property in a reasonably clean and orderly manner

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

Manager Hoover stated that a few recommended amendments have been made to the original ordinance. He highlighted the changes, in that this ordinance would cite anybody that lives in R20 and who has grass either in the front, side or back that is more than 12 inches in length. If cited and not corrected within ten days, then the town would move to get the job done, and I am recommending that this not be contracted out, but to add a maintenance position in DPW. The town would bill the property owner, and if not paid within a reasonable period of time, the town would place a lien on the property, which would exist on the property until sale or transfer. We would charge no interest on the bill, as we recognize that some individuals in town cannot pay for this service.

Funding for the maintenance worker position in DPW is possible because the DPW director position remains vacant. We are in the process now of searching for a new director, but have saved enough money in this year's budget that we can afford an additional maintenance worker. In the future this would be funded through the budget. In addition, this ordinance would be subject to Article 1, Section 1-2 for fines and imprisonment if it ever got to that point, with a maximum fine of \$500.00 and no more than 30 days imprisonment. Personally I do not see any cases where such measures would have to be taken.

Councilman Jendzejec recalls that this ordinance should apply to *all* zoning districts. President Cote agreed that it should apply townwide to all residential and business districts.

Councilman Laboissonniere's understanding was that the ordinance was really intended to go after the banks for not maintaining their properties, not for going after residents who may not be able to take care of their lawns for whatever reasons. He asked whether the manager expects to derive enough revenue to hire a maintenance worker to cover this ordinance or if this is just a way to hire another maintenance worker?

Manager Hoover responded that he is recommending against the hiring of a contractor, as the town has the capabilities to perform these duties in-house; however we need another maintenance worker to accomplish this and he can't verify that it can all be done with revenue. We currently have only one maintenance worker in DPW who is responsible for maintenance of the public buildings and in the summer all cutting and trimming of town properties. During the winter these individuals are very busy with snow and ice control duties, so there is more than enough to be done year round by two maintenance workers. They will not be sitting around the rest of the year.

Councilman Jendzejec stated that he doesn't want to see someone get fined for something that really is not their fault. There should be some type of appeal process, maybe by coming before the manager or the council to explain why they can't maintain their property. I'm just concerned about people who are hurt, sick or elderly, can't maintain their property and would like to have a solution for them. Manager Hoover indicated that officially and according to town ordinances, an appeal can be made through the Zoning Board of Appeals. However, we will use a great deal of reason in these cases. The fact is we have this problem out there with people/banks who are blatantly ignoring them.

Councilman Laboissonniere had questions about how to figure the pricing, and also

asked why this was not brought up previously at budget time, but now is possible because we have not hired a DPW director. Manager Hoover replied that the cost would be the cost of the individual plus time spent.

Councilwoman Carlson asked how much in dollars it would cost for a maintenance worker. She doesn't want to see someone just sitting around and would want to make sure the new worker has enough work to do, versus the cost of a contractor.

Manager Hoover stated the cost would be about \$50,000 - \$55,000 and that includes both salary and benefits. I would never criticize our one maintenance person, but he can't keep up with everything. I know that I would have no problem keeping a second maintenance worker busy. Manager Hoover will advise the bargaining unit of his intentions.

Kenneth Jackson, 2799 Harkney Hill Road, thinks this should be put out to bid, a contractor should be hired and provide a flat rate.

Motion was made by Councilman Jendzejec seconded by Vice-President McGee to close public hearing. All voted aye.

Motion made by Councilman Jendzejec seconded by Vice-President McGee to approve ordinance with the amendment to include "all" zoning districts in the Town of Coventry. Vote taken: 4 voted Aye; Councilman Laboissonniere voted No. Motion passes.

### ORDINANCES

1. Ordinance amending Articles 5 and 18 of the Town of Coventry Zoning Ordinance, rezoning AP 31, Lots 72, 88, 89, 94 and 95 from R20 to PUD

A motion was made by Councilman Jendzejec seconded by Vice-President McGee to advertise for public hearing. All voted Aye. So voted.

### PUBLIC COMMENT

Raymond Budziak, 429 Fairview, asked if agricultural is exempt with regard to ordinance. President Cote replied yes, it is exempt.

Tom Forcier, 30 Lori Lane, asked council to check out the expansion of a road at Colwell's Campground. Manager Hoover will send the zoning officer out to check, but neither the town or DEM have reported any violations. He also offered to sit and discuss these issues with Mr. Forcier and also go to visit the site. Mr. Forcier believes that placement of a road next to a well head is a violation. He doesn't believe the owner followed proper procedures. In addition, there are campers in the field in the winter without proper septic.

Kenneth Jackson, Harkney Hill Road, asked if it is standard practice to leave a contractor's name off of a building permit. Manager Hoover would have to check with the building inspector's office.

Tammy Duxbury, 2 Orchid Trail representing CASE, remarked that she was relieved to see that Sage has found mold, as had been expected. However, there are still concerns.

On the last page of the Sage report, they say they don't have a solid conclusion as to what the black substance is. They did detect mold, but also detected the presence of some chemicals (see page 6 of report).

The testing was more of a particulate matter, things that fall from the sky. Air quality was not tested and my understanding is that DEM is supposed to pick up where this report left off and test a number of things, such as air quality and the detection of whether these chemicals are still present. We asked for water testing and I understand that is also on the DEM action plan. Would like to raise the issue that the Zoning Board of Review recently denied Mr. Baird a special use permit and one of the concerns was the watershed in that area and how it relates to the aquifer. I have a report from URI that ground water runs into the aquifer. The aquifer is very vulnerable. We need to make sure that testing occurs. We also need soil testing, there is a safety issue with regard to fire and there is a traffic problem on Reservoir Road.

There still remain issues concerning the non-conforming use of the land, where the asphalt plants are located and why they are even there. I asked in August for Council to consider taking action and am asking whether or not you have looked into that or have come to any conclusions. President Cote commented that he appreciates that CASE is concerned about

what is going on in town and the Town Council has tried to work with CASE and took their recommendations on the testing firm. As soon as DEM, our building inspector, zoning officer, state or town fire marshal can show this Council facts that there are issues there, for health and safety or for whatever reasons need to be addressed, at that time the Council will come forward and address those matters immediately. Until then we will continue to listen to and work with you and the business owners down there, but until that time we have nothing to act on.

Ms. Duxbury maintains that CASE has presented a lot of evidence to the council of a problem in that area and respectfully suggests that President Cote and Vice-President McGee, are not making decisions in the best interest of the residents of the town and the reason is because of a conflict of interest. She suggested that Vice-President McGee and President Cote should contact the Ethics Commission to see if they have a conflict of interest pertaining to Airport Road issues. Mr. Cote indicated that if CASE files a complaint with the Ethics Commission, he will be glad to answer to the Ethics Commission.

Charlotte Porter, 26 Sandra Circle, stated that she cannot breathe or open the windows and this is on a daily basis. She reminded council that there are 440 houses around those plants, which could indicate 880 voters at the next election.

Andrew Carreira, subcontractor for Tom Miozzi remarked that if Miozzi had to close his business it would put more than 400 people out of work or business.

Tom Miozzi, 66 Steamboat Ave., North Kingstown, commented that we are trying to work and conduct their business, we are not selling drugs or alcohol. We are trying to keep people employed, we fix roads. These plants have been there a long time and in my eyes I feel we were encroached upon. Years ago a prior Town Council allowed a developer to encroach. If the residents are upset at anybody, it should be the developer who knew the plants were there and still built around them. If there is anybody to be mad at, it should not be this Town Council who is trying to work with us. I feel that I am a victim of criminal harassment at this point.

Kenneth Jackson, Harkney Hill Road, disagrees and feels Mr. Miozzi is wrong. Our first responsibility is to the people who pay taxes. The north section of Wood Estates was there first. I don't know when Westwood was built.

Councilman Jendzejec remarked that no one is at fault, it is what it is, the plants are there and the people are there. It's a matter of getting along and I'm not going to sit here and argue with you.

Linda Bradley, 12 Lisa's Way, is renting a mobile home and was able to rent because the owners could not sell because the property backs up to the "tar pit". I have been there two years and love living there, but like my neighbors sometimes the smell is so bad I can't open windows. I invite anyone to come and experience this, it is very unhealthy.

John Porter, 26 Sandra Circle, said that you can't put a price on peoples' health and welfare. The smell is overpowering.

Tom Forcier remarked that there used to be an airport there, then Mr. Assalone bought the property and developed Westwood Estates. There is traffic, a school, kids and it should not have developed as it was. These people have a real concern for their health.

Ron Gizzarelli, 50 Harrington Road, believes there is a solution or compromise to everything. You should all sit together and try to resolve this. There are opposing viewpoints, but as you said, the facts should dictate where you go with this and as Ted said, it is what it is. Business has a right to survive, maybe some mistakes were made in the past, we can't change the past, so why can't the parties sit down informally and try to solve some of these problems. The businesses and the residents both have the right to survive.

Mr. Gizzarelli also wanted to comment on the proposed new maintenance worker. This town is one of the most efficient with the leanest workforce in the state. If the Town Manager thinks he needs one more body, then I think we should be supporting him.

Lastly, Mr. Gizzarelli believes that the Central Coventry Fire District needs a liaison between the fire district and the Town Council. The new board needs help and expertise. Residents are worried about the debt that was incurred. The new board is trying hard, but feel like a ship without a rudder. They are trying to reinvent the wheel and don't want to invite anyone in that has any expertise.

Nancy Sullivan, 6 White Oak Court, adheres to another school of thought which is "that was then, this is now". The town has evolved, we used to have smoking in public buildings

too, and we changed that. Just because something “was” doesn’t mean we can’t do anything about it “now”. You need to protect those who live here now.

School Committee member Judy Liner suggested forming an informal committee including a couple of council members to brainstorm and try to come up with a viable solution.

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

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Town Clerk