

Town Council Meeting  
September 10, 2012

Present: President Gary Cote, Vice-President Kerry McGee, Councilman Jendzejec, Councilman Mattson, Councilman Spear

Town Manager Thomas Hoover, Town Solicitor Frederick Tobin

Work session regarding neighborhood concerns of deposits of black, sticky, oily residue

Councilman Jendzejec brought Council up to date on the history of this issue which pertains to a black, oily, sticky residue on neighborhood houses, cars, property, mailboxes, slides, etc. Testing was done and the results indicated mold. Residents requested a meeting with the Town Council to discuss their concerns and have questions answered.

President Cote advised that David Chopy of the RI Department of Environmental Management is present tonight along with Zoning Officer Jacob Peabody, Planning Director Paul Sprague and Police Chief Brian Volpe to answer questions.

Concerned residents Debbie Bacon, Nancy Sullivan, Tammy Duxbury and Irene Drew represented residents as part of a neighborhood leadership group.

Tammy Duxbury, 2 Orchid Trail, noticed an increase in the black substance over the last year and a half. It is pervasive in the neighborhood, gets all over the cars and is difficult to remove. She has also noticed an oily sheen in the driveway after power washing. Other neighbors are experiencing this also. Neighbor Debbie Bacon brought a sample with her this evening that was taken today from a table that had been left uncovered over the weekend. Members of the community have called DEM to do testing and she understands they have tested a couple of times.

A test was done at the Bacon house, and it is reportedly sooty mold. Independent test results from September of 2011 indicated heavy mold with elements of titanium. In November of 2011 another resident had an independent test which came back showing excessive levels of TPH. TPH (total petro hydrocarbon) contains some carcinogenic contaminants. The levels were high at 2300 ppms, where DEM sets an acceptable number at 500. I'm not comfortable with the answer that the substance is pine tar and sooty mold.

If our area is noticing this, other areas should be also. I understand that mold is pervasive throughout state, but want to see independent testing conducted in accordance with EPA standards. TPH has known carcinogens. Coventry High School is adjacent to our property, Fr. John V. Doyle School is not far, Johnson's Pond is not far. We need to get this testing done and the residents should not have to bear the burden of testing.

Ms. Duxbury suggested to the Town Council that somebody pay to have this done whether it is a state body or town body. In addition, she has received an estimate of \$7,600 from an independent environmental engineer to conduct the testing and will provide Council with a copy of the estimate. She indicated that she did not request other proposals and has only received one estimate.

President Cote replied that the Town Council would have to send out a request for proposals. She asked that the criteria include specifically that this must be an agency which is

not involved with or doing business with the State of Rhode Island or the Town of Coventry.

Nancy Sullivan, 6 White Oak Court, distributed an informational brochure regarding TPH and remarked that we have it at a level five times higher than DEM allows.

President Cote asked Mr. Chopy to explain the testing that has been done. Mr. Chopy related that he has had quite a few complaints from residents. The DEM inspector brought five different samples to the lab for testing and the results indicated various forms of fungi and mold. They didn't look for anything else; however, I'm curious about the TPH sample.

Ms. Duxbury asked what type of testing procedure was used; Mr. Chopy responded that it was microscopic, just for mold and fungus.

Mr. Chopy indicated that this problem is everywhere and he would like to see the reports that Ms. Duxbury has from November 2011. He advised that if residents have any health concerns, they should call Bob Vanderslice, the Department of Health risk assessment person, at 222-7766.

With regard to TPH, Ms. Duxbury related that TPH contains many different chemicals, one of them being benzene. The health risks are potentially serious, problems such as headaches, dizziness, nerve disorders, peripheral neuropathy. Some animals have shown effects on their lungs, liver, and kidney.

Councilman Jendzejec asked Ms. Duxbury for a copy of the test results and stated that the more information the Council has, the better prepared we are to make decisions. Ms. Duxbury asked that the resident who paid for the testing is reimbursed. Residents thought it was important to have the testing done due to the lack of response from authorities. President Cote asked her to explain the "lack of response", because up until he was recently contacted, he didn't know and doesn't think anyone else on the Town Council knew anything about this. Ms. Duxbury said DEM was called twice, the first time they did not reply and the second time someone responded and testing was done. I do know that there had been contact made with a Town Council member on this issue.

Deborah Bacon, 16 Catalpa Way, contacted DEM last year. They looked at my house and told me the problem was because of the pine trees and it should go away. It was persistent and did not go away, so they came back and gave a diagnosis of arterial fungus.

President Cote stated that he is perfectly willing to answer for the town and accept responsibility, but will not take the responsibility for anything that happened with DEM. We probably could have done something before now if we had known about it.

Janet Brouillette, 5 Giblin Lane, spent \$4,500 last year to cut down trees because of mold. Even though the trees are gone, she is still cleaning the deck; there is no shine on anything in the yard anymore. The mold is worse than ever and she gets dizzy and has headaches after working in the yard.

Harold Lester, 12 Acacia Court, has had a problem the last two summers and believes it comes from the Industrial Park. There has to be something under the mold, mold has to live off of something. Think we are testing for the wrong things. We need some direction, and I look to DEM for some guidance.

David Chopy of DEM was asked by President Cote if DEM has any funds to assist with the testing. Mr. Chopy responded that there is limited funding; it depends on the nature of the testing and if we think it's necessary.

A number of citizens feel the problem may originate with the asphalt plants down the street.

Debra Fisher, 6 Catalpa Way, commented that she has dealt with mold for many years. Her house is usually covered with a green substance, but now the stuff is gritty, oily and black. Believes it is petroleum based. She has also been experiencing headaches. She suggested the possibility of airplanes dropping petroleum.

Nancy Sullivan, 6 White Oak Court, took pictures of billowing black smoke coming from one of the asphalt plants while out walking at 6:00 a.m. After checking, she found that it was not coming from Miozzi's plant, but was coming from Pasteryak's business.

President Cote advised that Mr. Pasteryak is present this evening and owns one of the asphalt plants. Mr. Miozzi owns the other plant and he is not present tonight. All business owners were notified of tonight's meeting. In a court case in April of 2011, Mr. Miozzi was given permission from the State of Rhode Island to run extra hours on occasion.

Charlotte Porter of 26 Sandra Circle in Westwood Estates complained about the smell of diesel. Her grandchildren can't play in the yard; she can't open the windows to get fresh air.

Ann Moore, 25 Catalpa Way, has two small children and one has developed asthma. The sidewalks have black on them and if this is mold, information should have been put out there that the well being of children could be affected. Information should be put on the website such as what is happening with other towns, how they are dealing with it, how she can clean up her own environment. We need a solution or management plan on how to deal with this.

Vice-President McGee stated that the Council wants answers just as badly and will do everything in our power to find out the cause.

President Cote agreed, adding that this is an important issue and we will find the money to have the testing done and get the results.

Ms. Duxbury again stressed that testing must be done by someone certified and independent; that is very important in order for us to accept the results. If the results come back that this is mold, then we have to ask the question why all of a sudden we have this.

Eileen DeWolf, 15 Catalpa Way, has paid for two tests already and has had blood tests done. Her swing set is covered with this substance.

Janet Brouillette, 5 Giblin Lane, asked for extensive testing, not just for mold.

John Maher, 16 White Oak Court, finds it odd that this substance is not found so much in "regular" Wood Estates, but only in the neighborhood of Wood Estates North.

Town Manager Thomas Hoover, 4 Azalea Court, lives in north Wood Estates and attended a neighborhood meeting last Wednesday. Tonight he brought in a cover from an appurtenance in his yard that is covered in black, and he believes it is mold. However, tonight is

the first he's heard about TPH. We will do everything we can to get answers and the testing should be independent. Manager Hoover will check with Mr. Miozzi regarding payment for some testing. Ms. Duxbury also asked that testing is done before the asphalt plants close in December.

Manager Hoover remarked that Mr. Chopy with DEM is quite responsive, and he didn't know anything about TPH. I know he will work with us towards results. This is prevalent through RI and eastern CT; we all want answers and we will find them.

Councilman Jendzejec remarked that before tonight, he hadn't heard anything about TPH, only mold.

Richard Bacon, 16 Catalpa Way, advised that Mr. Miozzi invited residents to visit his plant. However, when his wife went down there, she was chased out and intimidated by someone in a truck.

President Cote advised that the Council will do everything it can to find the solution.

#### Town Council meeting convenes:

Pledge of Allegiance led by Town Sergeant  
Invocation by Fr. Kelly of St. Vincent de Paul Parish  
Review of Emergency Evacuation Plan

#### President's Comments

President Cote reminded people to vote in tomorrow's primary. You do not have to be affiliated to vote since Coventry has non-partisan elections.

#### Approval of minutes August 20, 2012

At the top of page 4, referring to frozen taxes, Councilman Spear asked that the wording be changed to more accurately reflect the discussion on the senior tax freeze, clarifying that if citizens were removed from the current freeze and were to pay taxes on the lesser of the assessments, and subsequently assessments rose again, that they would not have to pay taxes higher than their previously frozen tax.

Motion made by Councilman Jendzejec seconded by Vice-President McGee to approve amended minutes. All voted aye.

#### PROCLAMATIONS

Recognizing St. Vincent De Paul Catholic Church on the occasion of their seventy – fifth (75th) anniversary

Vice-President McGee presented proclamation to Father Kelly of St. Vincent DePaul Catholic church.

#### PRESENTATION by Ralph Issi on the growth of the sport of Lacrosse in the Town of Coventry

Mr. Issi, 34 Fieldstone Drive, President and Program Director of the Coventry Lacrosse

Association gave presentation highlighting the growth and success of lacrosse in Coventry, experienced both by the youth program and the program at Coventry High School. (See entire presentation in Town Council records)

He went on to explain that the teams have seen much success, even with advancements to state championships and semi-finals. He has the opinion that lacrosse may become possibly the highest enrolled sport at the high school, with nearly 60 players enrolled.

The purpose of appearing before the Town Council tonight is to bring lacrosse to the forefront so that council members will be well informed when requests for support are sought for the program. In addition, Mr. Issi is requesting permission to use Rice field for the competitive division and older youth divisions due to the desirable grass surface, the lights, concession stand, handicapped availability and bathrooms.

Mr. Guy Lefebvre, Recreation Director, was present and advised that the problem with using Rice Field is that there are already 9 – 11 active programs there and the field has a big league baseball diamond. We are heading into the fall season with clinics, football, fall ball and AAU programs. Mr. Lefebvre advised that he is considering the possibility of removing the diamond at Foster Field, making it strictly a soccer and lacrosse field.

Mr. Issi stated that because of the success of lacrosse, in 2011 an effort was made to move from club status to the RI Interscholastic League, which would cost about \$13,000 to fund including coaching, bus transportation, officials and uniforms. The School Committee approved this as long as we could prove that we have the funds in place to operate as a self funded team, without costing the school department any money. He again remarked that he would like the use of Rice Field and thanked the Town Council for their time this evening.

Council thanked him for his presentation.

#### CONSENT AGENDA

1. Application for sewer tie in at Cozy Grill, 473 Tiogue Avenue
2. Approval of tax abatements and additions for August 2012

Motion made by Councilman Jendzejec seconded by Vice-President McGee to approve Consent Agenda. All voted aye.

#### PUBLIC HEARING

1. Town Council sitting as Liquor Licensing Authority conducting a Show Cause Hearing re: Black Stallion, LLC, 17 Sandy Bottom Road

Solicitor Tobin advised that it has come to his attention through Attorney Volpe that Black Stallion LLC, which was operating on Sandy Bottom Road, has abandoned the premises and subsequently was evicted from the property.

Before a license can be revoked by the Town Council, there must be a hearing, and so tonight the facts will be presented through two witnesses to show that the property has been abandoned and there has been an eviction. It is necessary to prove factual basis to the Town Council before the liquor license may be revoked.

Motion made by Councilman Mattson seconded by Councilman Spear to open public hearing. All voted aye.

Town Clerk, Cheryl George, was sworn in by Town Solicitor Fred Tobin.

Solicitor Tobin asked if the owner of Black Stallion, Barbara Giroux, was present; Ms. Giroux was not present and Solicitor Tobin proceeded with testimony:

Mrs. George testified that both certified and regular mail notices of the Show Cause hearing were sent to Black Stallion LLC, Barbara Giroux as Registered Agent and also to Barbara Giroux on Ginger Trail in Warwick, RI on August 30, 2012. Mailings have not been returned to the Town Clerk's Office. (Letters marked as Exhibit 1A and Exhibit 1B) As of today, and to Mrs. George's knowledge, the certified mail was not picked up and the regular mail has not been returned to the Town Clerk's Office.

Mrs. George also testified that Black Stallion LLC is the holder of a Class B liquor license, located at 17 Sandy Bottom Road in Coventry, RI (Exhibits 1C and 1D). The registered agent is listed as Barbara Giroux of 99 Ginger Street in Warwick, RI (Exhibit 2)

Attorney Fred Volpe, Esq. was sworn in by Town Solicitor Fred Tobin. Attorney Volpe testified that MMB Realty LLC, a Rhode Island limited liability company, owns the property at 17 Sandy Bottom Road in Coventry, RI.

Attorney Volpe also testified that on July 16, 2012 he wrote a letter to the Coventry Town Council in which he indicated that the license holder had abandoned the premises and had been evicted. (Exhibit 3)

On March 29, 2012 the property owner began commercial eviction proceedings against Black Stallion, LLC. That action was brought in Kent County District Court 2012-01488, and was heard by the court on March 29, 2012. There was a consent judgment and consent was for the plaintiff for possession of the property as well as for various damages in the form of back rent, utilities unpaid and other general obligations through the terms of the lease. As a result of that action, we then asked the court for an execution and that was presented as well to Solicitor Tobin. The execution, issued on April 5, 2012, in essence gives the sheriff or state constable the authority to evict the tenant. It indicates on the return of service that Anthony Correiri, a state constable, took possession of the premises on April 9, 2012 and at that point the tenant vacated the property. The property has been vacant since then. (Execution, Exhibit 4; Stipulation signed by the operator of Black Stallion, Exhibit 5)

When Solicitor Tobin asked why Attorney Volpe is requesting revocation of the license, Attorney Volpe responded that basically Black Stallion LLC ceased to operate at that location; however all of the kitchen facilities are owned by his client.

The tenant who vacated removed perishable items and also items that belonged to the LLC. We are looking for a new tenant; however the prior tenant, Black Stallion LLC, through Barbara Giroux, indicated to me that she will provide no cooperation during the transfer of the license whether it's back to us or to a new tenant. Attorney Volpe further stated that it is his understanding that when you have a license you must have a location. It would be to the benefit of my client that the town revokes the license, which is about to expire at the end of November.

Solicitor Tobin asked whether it is fair to also say your client is unable to rent the premises with a liquor license until this license is revoked. Attorney Volpe agreed, stating that this is the reason why we are seeking the council to revoke the license of Black Stallion.

Attorney Tobin suggested that the Town Council find that Black Stallion LLC was notified of the hearing this evening, a representative from Black Stallion failed to attend, the record reflects that an eviction had been obtained from the District Court, the property has in fact been abandoned, that only one license is allowable to one location and it is sought to be revoked so that the premises may be rented to a new tenant with a new liquor license. If the council finds those facts sufficient, I would ask the Town Council to revoke the liquor license.

Motion made by Councilman Jendzejec seconded by Councilman Mattson to close public hearing.

Motion made by Councilman McGee seconded by Councilman Spear to revoke the Class B liquor license of Black Stallion, LLC, 17 Sandy Bottom Road. All voted aye.

## RESOLUTIONS

1. Authorizing the purchase of six (6) Motorola XTS 1500 800MHz portable radios, a bank charger, additional batteries and accompanying portable microphones for the Emergency Operations Center at a cost of \$11,706.66, provided by an Emergency Management Performance Grant

Chief Volpe explained the need for the additional portable radios, which will be provided through a \$12,000 grant.

Motion made by Councilman Spear seconded by Councilman Jendzejec to approve resolution. All voted aye

2. Stating the Town of Coventry's position on the Coventry Teachers Association/School Related Personnel (CTASRP) Pension Plan

Manager Hoover stated that after attending a pension meeting today with the state, he requests that this resolution be referred back to him at this time as he has more information to share with the Town Council and may need an executive session.

Motion made by Vice-President McGee seconded by Councilman Spear to refer resolution back to Manager Hoover for further review. All voted aye.

3. Adopting the procedures for obtaining public records and a form that the Town of Coventry will use in conformance with recent amendments to the Access to Public Records Act (APRA) pursuant to Rhode Island General Law 38-2-3(d)

Solicitor Tobin explained that the Attorney General's Office issued a memo about ten days ago informing us that as of September 1, 2012 a procedure needed to be in place indicating to the public who would be responsible for processing public records requests and whether a form to go with the request was to be used.

In your packets this evening there is a form that was developed for this purpose and also a procedure which indicates that the Town Clerk would be the person to receive the request for

records. In addition, there is a requirement that the person who is going to process the records has to attend a training seminar. There was a training seminar on September 4, 2012, so that has been done. We have to certify with the state by January 1 who will be the persons responsible for processing the requests.

Councilman Mattson asked if there was an expense with certification; Solicitor Tobin said that at this point, he doesn't know if there is a cost.

Motion made by Councilman Spear seconded by Councilman Jendzejec to approve resolution. All voted aye.

4. Authorizing a renewed Power Supply Service Agreement with Direct Energy for a period of one (1) year at a price of 6.82 cents per kwh

Manager Hoover explained that we are currently under a power supply agreement under a consortium run by the RI League of Cities and Town. Direct Energy has been the supplier. All the cities and towns in RI basically are in the consortium. Our contract runs out in December and as many of you might be aware, the electric prices parallel the natural gas prices, which have been low the last several months.

Manager Hoover recommended renewal of our contract in December so that we can take advantage of the current 6.82 cents per kilowatt hour; currently we are this year at 6.94 cents per kwh. So, this will be about .12 cents per kwh savings for next year's contract. In addition, we have a power purchase agreement for wind turbines, which should be up and running by the end of next year.

Councilman Jendzejec asked about money savings; Manager Hoover feels there will be a substantial savings.

Motion made by Councilman Spear seconded by Councilman Mattson to approve resolution. All voted aye.

#### PUBLIC COMMENT

- Ron Gizzarelli, 50 Harrington Road commented on three issues:
  1. With regard to adopting procedures for public records, if this is state mandated, then there should be money with it. If they are going to create a mandate, they need to supply the money to do it.
  2. Mr. Gizzarelli referred to the presentation on lacrosse and thinks that sometimes sports and learning to win and lose is just as important as reading, writing and arithmetic.
  3. He commented that the new sign that went up at the corner of Sandy Bottom and Arnold Road states there is no right turn on red. It is not a very consumer friendly sign and should have indicated something like no right turn on red from 6 am to 9 pm. Asked what channels he can go through to change this.

Manager Hoover pointed out that the State of RI put up the sign, it is a state route. It's their choice what the sign says and they decided that they don't want anybody turning on red.

We can tell the State that we are not happy with that, but it's their choice.

Motion made by Councilman Spear seconded by Vice-President McGee to recess to Executive Session for the following purpose: discussing litigation under RIGL 42-46-5(2) relative to:

1. Pawtuxet River Authority vs. Town of Coventry
2. Jerast Realty, LLC vs. Town of Coventry

Individual voice vote. All voted aye.

Motion made by Councilman Spear seconded by Vice-President McGee to resume regular meeting. All voted aye.

Motion made by Councilman Mattson seconded by Councilman Spear to approve settlements with Pawtuxet River Authority and Jerast Realty. All voted aye.

Motion made by Councilman Spear seconded by Councilman Mattson to seal minutes of executive session. All voted aye.

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

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Town Clerk's Office