

TOWN COUNCIL MEETING
September 26, 2005

Present: Gregory Laboissonniere, Ted Jendzejec, Frank Hyde, Justin Pomfret

Absent: Richard Sanetti
Acting Town Manager Richard Sullivan
Asst. Town Solicitor Frederick G. Tobin, Esq.

Pledge of Allegiance led by Town Sergeant
Invocation led by President Hyde
Town Sergeant reviewed Emergency Evacuation Plan

Motion made by Justin Pomfret seconded by Ted Jendzejec to approve minutes of Town Council Meeting September 12, 2005. All voted Aye. So voted.

Motion made by Justin Pomfret seconded by Ted Jendzejec to approve consent agenda. All voted Aye. So voted.

AGENDA

1. Resolution awarding purchase of animal control vehicle for police department
2. Resolution awarding purchase of two police detective vehicles for police department
3. Resolution awarding purchase of snow plow blades for Dept. Public Works
4. Resolution awarding purchase of refuse truck body for Dept. Public Works
5. Resolution awarding purchase of refuse truck cab and chassis for Dept. Public Works
6. Resolution awarding hydroseeding ball field at Raven Woods
7. Approval of new sewer contractor licenses for:
 - a. Northeast Construction Services, Inc., 319 Post Rd., South Kingstown
 - b. Miozzi & Sons Equipment Co., Inc., 300 Dry Bridge Rd., North Kingstown
 - c. Saccoccia's Construction & Landscaping, 405 Tiogue Ave., Coventry, RI

Resolution # 93-05-2503 awarding purchase of animal control vehicle for police department

RESOLUTION
OF THE
TOWN COUNCIL
NO. 93-05-2503

RESOLVED:

That the Town Council hereby affirms the award of a contract by the Town Manager pursuant to Chapter 2, Section 2-191 of the Town Code of Ordinances for the purchase of one (1) animal control vehicle for the Police Department.

Vendor

BAILEY-FLOOD EAST GRENVICH FORD SALES, INC. \$17,439.00
2545 South County Trail
East Greenwich, RI 02818

2006 Ford Ranger XLT 4-door Supercab

Funding is provided in the 2005/2006 Police Department Capital Improvement Budget.

PASSED AND ADOPTED this 26th day of September 2005.

APPROVED Frank Hyde
Council President

ATTEST: Cheryl A. George
Deputy Town Clerk

Resolution #94-05-2504 awarding purchase of two police detective vehicles for police department

RESOLUTION
OF THE
TOWN COUNCIL
. 94-05-2504

RESOLVED:

That the Town Council hereby affirms the award of a contract by the Town Manager pursuant to Chapter 2, Section 2-191 of the Town Code of Ordinances for the purchase of two (2) Administrative/Detective vehicles for the Police Department.

Vendor

SANDY MOTORS, INC.
118 Sandy Bottom Road
Coventry, RI 02816

(1) 2002 Ford Taurus (per bid specifications)	\$6,900
(1) 2003 Ford Taurus (per bid specifications)	\$7,900

Funding is provided for in the 2005/2006 Police Department Capital Improvement Budget.

PASSED AND ADOPTED this 26th day of September 2005.

APPROVED Frank Hyde
Council President

ATTEST: Cheryl A. George
Deputy Town Clerk

Resolution #95-05-2505 awarding purchase of snow plow blades for Dept. Public Works

RESOLUTION
OF THE
TOWN COUNCIL
. 95-05-2505

RESOLVED:

That the Town Council hereby affirms the award of a contract by the Town Manager pursuant to Chapter 2, Section 2-191 of the Town Code of Ordinances for the purchase of snow plow blades for the Department of Public Works:

Vendor

ATLANTIC PLOW BLADE COMPANY

1605 Hyde Park Avenue
Hyde Park, MA 02136

20 each	\$142.12	5/8" x 8" x 11"	\$2,842.40
10 each	\$ 87.55	5/8" x 6" x 9"	\$ 875.52

Funding is provided for in the FY 2005-2006 Capital Improvement Budget, Account 1-101-4-860-33403.

PASSED AND ADOPTED this 26th day of September 2005.

APPROVED: Frank Hyde
Council President

ATTEST: Cheryl George
Deputy Town Clerk

Resolution #96-05-2506 awarding purchase of refuse truck body for Dept. Public Works

RESOLUTION
OF THE
TOWN COUNCIL
NO. 96-05-2506

RESOLVED:

That the Town Council hereby affirms the award of a contract by the Town Manager pursuant to Chapter 2, Section 2-191 of the Town Code of Ordinances for the purchase of a refuse truck body for the Department of Public Works:

Vendor

C. N. WOOD COMPANY **\$61,200.00**
200 Merrimac Street
Woburn, MA 01801

Recycling Body: Labrie Expert 2000 (Crane Carrier Chassis)
(Per specifications)

Delivery Date: Approximately 60 days after receipt of chassis

Warranties: One year/three years – hydraulic cylinders, hoses & pump

Funding is provided for in the FY 2004-2005 Capital Improvement Budget, Account 1-117-4-860-10000.

PASSED AND ADOPTED this 26th day of September 2005.

APPROVED: Frank Hyde
Council President

ATTEST: Cheryl A. George
Deputy Town Clerk

Resolution #97-05-2507 awarding purchase of refuse truck cab and chassis for Dept. Public Works

RESOLUTION
OF THE
TOWN COUNCIL
. 97-05-2507

RESOLVED:

That the Town Council hereby affirms the award of a contract by the Town Manager pursuant to Chapter 2, Section 2-191 of the Town Code of Ordinances for the purchase of a refuse truck cab and chassis for the Department of Public Works:

Vendor

ALTRUI BROTHERS TRUCK SALES **\$104,674.00**
1100 Warren Avenue
East Providence, RI 02914

Manufacturer: Crane Carrier Company
Brand Name: LDT 2-26
Delivery Date: 90-120 days from factory order
Warranties: Engine, transmission & rear axle – five years
Chassis – 1 year

Funding is provided for in the following Capital Improvement Accounts:

FY 2005-2006	Account 1-117-4-860-10000	\$ 38,800
FY 2005-2006	Account 1-117-4-860-20000	\$ 60,000
FY 2004-2005	Account 1-116-4-860-60000	\$ 4,884
FY 2004-2005	Account 1-116-4-860-50000	\$ 990
		<u>\$104,674</u>

PASSED AND ADOPTED this 26th day of September 2005.

APPROVED: Frank Hyde
Council President

ATTEST: Cheryl A. George
Deputy Town Clerk

#98-05-2508 awarding hydroseeding ball field at Raven Woods

RESOLUTION
OF THE
TOWN COUNCIL
. 98-05-2508

RESOLVED:

That the Town Council hereby affirms the award of a contract by the Town Manager pursuant to Chapter 2, Section 2-191 of the Town Code of Ordinances for hydroseeding for the Parks and Recreation Department.

SHALVEY BROTHERS LANDSCAPE, INC.

1301 Centerville Road
Warwick, RI 02886

- Ball fields and play areas \$8,000.00
- Detention Basins \$1,000.00

Funding is provided for in the open space and recreation fee account number 1-143-5-910-24800.

PASSED AND ADOPTED this 26th day of September 2005.

APPROVED: Frank Hyde
Council President

ATTEST: Cheryl A. George
Deputy Town Clerk

LICENSES

Application by Rui Medeiros, 71 Economy Avenue for new
virtualing license at Morning Rush Coffee and Donut Shop,
642 Washington Street, Coventry

President Hyde explained that information regarding this license is incomplete, would like to entertain a motion to table.

Motion made by Justin Pomfret seconded by Gregory Laboissonniere to table license.

Mr. Laboissonniere questioned what the incomplete paperwork is and if this would cause a hardship to applicant if license it tabled.

Acting Town Manager Sullivan explained that routine police report hasn't been submitted yet.

Mr. Laboissonniere – This is strictly a coffee and donut shop though, can we approve with stipulations?

Mr. Tobin: You can approve subject to a positive police check.

Mr. Laboissonniere withdrew his second on motion to table,
Mr. Pomfret withdrew the motion.

Motion made by Justin Pomfret seconded by Gregory
Laboissonniere to approve license subject to positive police check. All
voted Aye. So voted.

RESOLUTIONS

Resolution # 99-05-2509 regarding softball fields (tabled)

President Hyde – We have before us an agreement to sever the lease option with Commerce Park. The council has had lengthy discussions on this topic. The developer has come forward and put up \$100,000.00. I feel this is a pretty good commitment personally.

It is my understanding that we are going to receive a check tonight in the amount of \$100,000.00. The 1.5 million will now become 1.4 million in the agreement, and that will need to be amended. This will be a 60 month term, the total is 1.5 million dollars with \$100,000.00 put up front, with the balance of 1.4 million dollars due over the next 60 months. We can amend that this evening.

Mr. Laboissonniere – This is pretty much the same as last time. My concerns were that in the original discussion on this for the termination of lease, I thought we were talking substantial money up front to buy back the rights. My position hasn't changed. I do respect the negotiations and that council and Mr. Cambio have continued discussions, but don't feel this is exactly where I would like this to be.

Mr. Jendzejec – Originally I wanted a shorter term, but with the other two councilmen that voted to table, their concern was more with down payment money. Need to start improving some of the recreation fields that we have around us. There are a lot of deteriorating facilities throughout the town, and we could use that money to upgrade over the next 3-5 years. Also would like to see some more money or amend this further to use towards recreation, maybe \$750,000 toward recreation, not sure how others feel about that. Does that have to be done tonight, or can that be done at a later time?

Mr. Tobin: Can be done at a later date

Mr. Pomfret – The developer is about to give us \$100,000 right off the bat. That is what I was looking for.

Motion made by Ted Jendzejec seconded by Justin Pomfret that resolution is approved as amended. Gregory Laboissonniere, Nay; Ted Jendzejec , Aye; Frank Hyde, Aye; Justin Pomfret, Aye. Motion passes 3-1.

RESOLUTION OF THE TOWN COUNCIL ∴ 99-05-2509

RESOLUTION OF THE TOWN OF COVENTRY

WHEREAS, the council desires to clarify their agreement with Commerce Park Associates 8, LLC dated February 23, 2004, regarding the Option to Purchase; and

WHEREAS, the Town Council is further desirous to terminate a lease agreement between Commerce Park Associates 8, LLC and the Town of Coventry so as to allow Commerce Park Associates 8 LLC to exercise its Option to Purchase.

BE IT THEREFORE RESOLVED, that the Town Manager is hereby authorized to sign the attached Addendum to Agreement, as amended.

BE IT FURTHER RESOLVED, this resolution shall be effective upon passage.

PASSED AND ADOPTED this 26th day of September, 2005.

APPROVED: Frank Hyde
President

ATTEST: Cheryl A. George
Town Clerk

TO AGREEMENT

THIS ADDENDUM TO AGREEMENT (hereinafter "addendum") entered into on the 12th day of September, 2005 by and between the TOWN OF COVENTRY, (hereinafter "Town") a municipal corporation duly organized under the laws of the State of Rhode Island and COMMERCE PARK ASSOCIATES 8, LLC a Rhode Island Limited Liability Company (hereinafter "COMMERCE PARK"), with a principal place of business at 207 Quaker Lane, Suite 300, West Warwick, RI 02893.

WHEREAS, COMMERCE PARK ASSOCIATES 8, LLC, is a Limited Liability Company organized under the laws of the State of Rhode Island ; and

WHEREAS, the TOWN OF COVENTRY is a municipal corporation duly organized under the laws of the State of Rhode Island; and

WHEREAS, the Town and Commerce Park have entered into a lease agreement dated May 3, 1999 (hereinafter "LEASE"), whereupon the Town leased the demised premises, as described in exhibit "A" attached hereto and made a part hereof, from Commerce Park for a period of twenty-five (25) years, with certain renewal options; and

WHEREAS the Town and Commerce Park are desirous to terminate the lease between the parties; and

WHEREAS, the parties are desirous to clarify obligations under a certain agreement dated February 23, 2004 by and between the parties entitled "Option to Purchase" by outlining the method of payment and restrict the use of said consideration by the Town; and

WHEREAS, both parties represent and warrant that they are duly authorized to enter into this Addendum.

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency and receipt of which are acknowledged by all parties, it is agreed:

1. That the lease dated May 3, 1999 for the demised premises described herein as exhibit "A" is hereby terminated subject to the conditions contained hereafter.

2. That the option that Commerce Park has to purchase the demised premises described herein as exhibit "B" in the agreement entitled "Option to

Purchase" dated February 23, 2004 is hereby exercised subject to the conditions contained hereafter.

3. That the payment of the consideration contained in said Option to Purchase of One Million Five Hundred Thousand (\$1,500,000.00) Dollars is to be paid as follows:

As a condition of the issuance of the certificate of occupancy for each of the approved three hundred (300) residential dwelling units at the Center of New England Phase 1 by the building department, Commerce Park shall pay the sum of Five Thousand (\$5,000.00) Dollars to the Town Treasurer, or his/her designee until such time as the entire consideration for the transaction is received. Failure to pay said sum shall result in the certificate of occupancy being withheld by the building department.

4. That all sums received hereunder shall be placed in a restricted account, held exclusively by the Town Council, and shall only be allocated for reasonable uses, including, but not limited to maintenance or construction of recreation facilities, infrastructure, or any other use deemed appropriate in the sole and absolute discretion of the Town Council permitted by action of a majority of the Town Council.

5. In the event that Commerce Park, its successors and/or assigns, does not complete construction of the aforementioned three hundred (300) residential dwelling units within five (5) years from the date hereof, Commerce Park shall pay the outstanding amount of the one million five hundred thousand (\$1,500,000.00) dollars to the Town of Coventry in one lump sum during the (sixtieth) 60 th month from the date of this Addendum. This In the event that no dwelling units are constructed, the entire amount of the one million five hundred thousand (\$1,500,000.00) dollars shall be paid during the (sixtieth) 60 th month from the date of this Addendum.

6. In the event Commerce Park fails to pay in either manner set forth above, and the Town of Coventry undertakes collection activities to collect said consideration, Commerce Park agrees to pay all expenses of collection, including reasonable attorney's fees.

7. This Addendum expresses the entire agreement between the Parties and merges all prior discussions, negotiations, understandings or accords, if any, and all prior agreements, covenants, promises, representations and warranties, expressed or implied, oral or written, if any, of the Parties relating to the subject matter of this Addendum.

8. A modification or waiver of any of the provisions of the Addendum or the revocation of this Addendum shall be effective only if made in writing and executed with the same formality as this Addendum. The failure of either Party to insist upon strict performance of any of the provisions of this Addendum shall not be construed as a waiver of any subsequent default of the same or similar nature.

9. This Addendum, having been executed and delivered in the State of Rhode Island, and for all purposes shall be enforced and construed in accordance with the substantive law of the State of Rhode Island.

10. The invalidity or unenforceability of any particular provision of this Addendum shall not affect the other provisions hereof and the Addendum shall be construed in all respects as if such invalid or unenforceable provision was omitted.

11. This Addendum shall be binding upon the successors and/or assigns of each party hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 26th day of September, 2005.

COMMERCE PARK ASSOCIATES 8, LLC

By: /s/ Nicholas E. Cambio, Manager

TOWN OF COVENTRY
By a Duly Constituted Majority of Its Elected
Town Council pursuant to vote of

By: /s/ Frank Hyde
Frank Hyde, President

By: _____
Richard T. Sanetti, Vice President

By: /s/ Justin A. Pomfret
Justin A. Pomfret, Member

By: _____
Gregory Laboissonniere, Member

By: /s/ Thaddeus Jendzejec
Thaddeus Jendzejec, Member

By: /s/ Richard P. Sullivan
Richard P. Sullivan, Town Manager

*****Amendment*****

Commerce Park shall, upon execution of this contract, pay to the Town immediately as a down payment the sum of One Hundred Thousand Dollars (\$100,000.00), and the balance shall be paid in accordance with paragraphs three (3) and five (5) of this Addendum of Agreement.

Witnesseth: Town of Coventry by:

/s/ Frederick G. Tobin

/s/ Richard P. Sullivan

Witnesseth: Commerce Park by:

/s/ Frederick G. Tobin

/s/ Nicholas Cambio

Dated: 9/26/2005

COMMENT

Bill Brackett
76 Wood Cove Drive

Procedural comments regarding Medeiros application. There was a motion made to table, it was seconded, then you had discussion. Once a motion is tabled and seconded, the only thing you can do is vote – no further discussion.

Mr. Hyde – Sounds like a question for our legal counsel.

Would also like to see public comment before action is taken on items and suggest that people who want to make public comment prior to the evening's business could let you know what they want to comment on.

Mr. Hyde – Could possibly use a sign up sheet.

Wayne Asselin

Regarding condominiums at Centre of New England, this is a poor decision. We are acting as a commercial lender with a very small down payment, no interest being charged and no installment plan.

Mr. Hyde – This property does not belong to the town, that is the key thing. We are going to walk away from this with 1.5 million.

Mr. Jendzejec: I feel as though we are getting money over the years instead of getting nothing over the years.

Mr. Sullivan – I know the public comment is important but you must remember that the council was elected to do a job, and if they don't do the job you like, then you replace them. Public comment is fine, but you cannot discuss every little thing for hours.

Mr. Brackett – Specifically this would be for the bigger issues in town.

Motion made by Justin Pomfret seconded by Ted Jendzejec to go into executive session. Roll call vote. All voted aye, motion carries.

Motion made by Justin Pomfret seconded by Gregory Laboissonniere to come out of executive session. Roll call vote. All voted aye, motion carries.

Motion made by Justin Pomfret seconded by Gregory Laboissonniere to seal minutes of executive session. Roll call vote. All voted aye, motion carries.

Motion to adjourn made by Justin Pomfret seconded by Ted Jendzejec. All voted Aye. So voted.

Cheryl A. George
Acting Town Clerk