

Town Council Meeting
November 23, 2015

EXECUTIVE SESSION – 4:30 p.m.

PER RIGL 42-46-5 (a) (1)

1. Meeting with recruitment firm regarding Town Manager Search

EXECUTIVE SESSION – 6:00 p.m.

PER RIGL 42-46-5 (a) (1) (2)

1. Review of applicants for Boards and Commissions
2. Review of Anthony Mill Assessment Waiver
3. Review of Miozzi Consent Decree CA # KC 2010-1574
4. Ucci right of way proposal
5. Consolidated Concrete Corp. Pasteryak Asphalt, LLC vs Town of Coventry et als Consent Judgment CA # PC 13-2649

TOWN COUNCIL MEETING – 7:00 PM

Present: Vice-President Carlson, President Shibley, Councilwoman Duxbury, Councilman Laboissonniere, Councilman McGee, Interim Town Manager Richard Kerbel, Town Solicitor Nicholas Gorham.

Pledge of Allegiance

Invocation and Moment of Silence out of respect for the recent terror attacks in Paris

Review of Emergency Evacuation Plan

A motion was made by Vice-President Carlson seconded by Councilman Laboissonniere to come out of Executive Session. All voted Aye.

A motion was made by Councilmember Duxbury seconded by Vice-President Carlson to seal minutes of Executive Session. All voted aye.

President's Comments

- Congratulations go to the Coventry High School Girls Volleyball Team for winning the State championship. This makes four out of the last five years.
- A fall cleanup at the Nathanael Greene Homestead was held last Saturday and was quite a success. There will be another event, Christmas at Spell Hall, on December 5 and 6 from 12 noon to 3 p.m. Admission is \$6.00 for adults, \$3.00 for children, cookies and punch will be served and there will be musical entertainment.

Approval of Town Council minutes of November 9, 2015

Councilmember McGee referred to Page 3, second paragraph of the minutes, and objected to the name of a company specifically being mentioned in the minutes when this is a disputed issue..

A motion was made by Councilmember Laboissonniere seconded by Vice-President Carlson to approve minutes. All voted Aye.

COUNCIL DISTRICT UPDATES

District 2 Councilman Laboissonniere has no updates this evening.

District 1 Councilwoman Carlson remarked that on Saturday, November 21, the Coventry High School Air Force ROTC hosted their first drill meet of the season, which was the last drill meeting at their school as they are being deactivated on June 30. The cadets took home first place in several categories and third place in Color Guard. There is still a possibility that the Navy picks up the program.

She asked why some trash bins, after they are emptied, are placed down backwards. This happened to her this morning and the bin was not only facing the house but lying in the street. She has noticed this at other residences, and wonders what is going on with the trash bins.

In addition, there will be musical performances at the State House for Christmas on Tuesday, the 8th of December at 10:30 a.m., and on Friday, December 11 at 11 a.m. the Feinstein Mixed Honors Ensemble will perform at the State House.

Lastly, just an update on the wind turbine issue, it looks like instead of having electricity produced this month, it may not happen until next June. Apparently Mr. De Pasquale has been lobbying some of our council members, brought his attorneys in and gave a power point presentation. We have the proposed

wind turbine ordinance coming up in December, which is a guideline on future turbines.

Councilwoman Duxbury reminded citizens that there is a Legislators Meeting with the Town Council and the School Committee on December 15 at 7 p.m. She is hopeful that DOT and DEM can make it also.

District 3 Councilman McGee has no news in his district this evening.

District 4 Council President Shibley announced that Sandy's Specialty Country Store has opened at 192 Pilgrim Avenue and carries products such as Amish Crafts and gourmet chocolates. Additionally, he has received many calls on leaf bags, some people have as many as 25-30 bags in front of their homes. He asked that the Town Manager pass that message along to DPW to see if they can somehow get out there in District 4 as the bags are piling up.

In addition, he has concerns about the condition of the Byron Read building as there are several broken windows. The wind and the cold now make this a very dangerous situation, not to mention it is an eyesore and an invitation to the homeless looking for a place to stay. He asked that the town looks into having it boarded up for the sake of safety. Councilwoman Duxbury added that this is the second request on boarding up the windows. Manager Kerbel replied that the owners have been cited, and we need to take it to the next step now.

SCHOOL DEPARTMENT REPORT

School Committee Chairperson Kathy Patenaude reported that the School Committee formally recognized the work by members of the School Building Committee at an event on November 10 at CHS. Members of the Committee, including Councilwoman Carlson, former Councilman Ted Jendzejec, former Manager Tom Hoover, were recognized and will receive a framed picture and a piece of the dedication ribbon. A plaque thanking the members of the committee will be attached to the new concession stand at the Athletic Complex.

The School Department recently received notice from the Marines that they will not look to add Coventry High School as a JROTC program location next year. However, we are still waiting to officially hear from the Navy.

The first results of the PARCC assessment were released on November 16, and while the results were not great statewide, we are committed to continue to focus on improving instruction and as a result, increasing scores.

Lastly, Dr. Arthur Lisi of Alan Shawn Feinstein Middle School was named Principal of the Year by the RI Association of School Counselors.

PUBLIC COMMENT

Robert Lawrence, 26 Darton Street, does not agree with President Shibley (regarding right of way issues) when Mr. Shibley stated that he was not going to give me an answer and that it is the Town Manager's job. He stated in an e mail that none of the questions should be decided by any elected official, but the town manager. That is completely alien to what paragraph 3.14 of what the Town charter says. Mr. Lawrence also stated that the existing encroachment agreement was a terrible illegal mistake and must be rescinded.

Charlotte Porter, 26 Sandra Circle, informed Council that sixteen complaints have been sent to DEM and the police this week. The asphalt plant is operating all night. I am awake all night with the noises from the turbines, silos and trucks, and the odor is unbearable. I am asking the town to help; there are over 440 homes in Westwood Estates.

Stacy O'Gorman, 31 Elton Street, read a letter from Gregory Schulz, Special Asst. to the Attorney General, where he suggested that the town starts a Public Right of Way Advisory Committee, which could work to identify the town's public right of ways, describe the type of access, condition, and degree of public access. If a committee were in place now, we could have avoided much of the current animosity that now exists.

Nancy Sullivan, 6 White Oak Ct., Coventry, thanked the Police Department for their prompt response to complaints of residents in the abutting neighborhood of 75 Airport Road last Saturday after reports of a loud, sustained noise coming from Airport Road, approximately one mile from Reservoir Road. She also read a police report from a from November 2 incident at 5:07 am, where an officer sat 200 yards away from the asphalt plant, turned on the decibel meter and it read between 70-74 decibels for 15 straight minutes coming from the Miozzi plant, exceeding the noise level. My question tonight is whether a violation was issued and if not, why?

Marc O'Gorman referred to a letter from Representative Serpa, where she suggested that a Citizens Advisory Committee may be helpful to the Town Council, Town Manager and the solicitor in looking for solutions and establishing communication between the community and elected officials. He asked that the Council give serious consideration to the formation of a Public Rights of Way Advisory Committee, which

would be charged with specific roles and responsibilities. Although it would be strictly advisory in nature, it can help shape policies and ordinances.

Tom Forcier, 30 Lori Lane, reported that he has had ongoing problems for the last three years with the Water's Edge campground. He requested a work session with the Town Council to discuss what is going on with the campground and has information to share with the council before the licenses get renewed for next year.

LICENSES

1. Application for new Filling Station and victualling license by Mian Saleem of Aisha LLC dba Coventry Mart, 1100 Main Street

A motion was made by Councilman Laboissonniere seconded by Councilwoman Duxbury to approve licenses subject to Board of Health approval. All voted aye.

RESOLUTIONS

1. Resolution awarding five year contract for cemetery maintenance

Manager Kerbel advised that S. King Landscaping, who currently does our cemetery maintenance, has submitted the low bid for the five year contract. Councilwomen Duxbury and Carlson were concerned in granting a five year contract and felt that maybe three year would be more appropriate.

Councilman McGee responded that the town does engage in five year contracts; it was done the last time. Mrs. Duxbury does not believe it is prudent to get into a five year contract, allowing a \$1,000 increase each year. Manager Kerbel replied that the 5th year of King's contract is still lower than the first year of the higher bid. The recommendation is to award a five year contract.

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to approve resolution. Vote taken: Approve 4; Councilwoman Duxbury votes No. Motion passes.

2. Resolution adopting Citizens Advisory Committee's recommendations regarding Town Charter maintenance

Vice-President Carlson asked for an additional change to the recommendations as follows: to compare the submitted changes to the ballot, so that when the ballot is printed we can double check to make sure it is right. Solicitor Gorham replied that you could put that in the resolution, but the Secretary of State really does have the authority, even to where they change words. They have their own consultants that review the work of the Council's proposals. Mrs. Carlson thinks that since the change that prompted all of this was enormous, that the Town Clerk and the Chairperson would be the two people who would most likely check the changes.

Another topic she was concerned with is that except for the original, final Charter, all copies should designate the word "draft". She also suggested in Item #9 that the Charter Review Commission Chairperson is added to the list of people who would sign the changes which would be submitted to General Code for updating, and there should be a designated area in the Town's record vault for filing.

Nancy Sullivan, Chairperson of the Citizens Advisory Commission, agreed that the Committee would like to see all documents relating to the Home Rule Charter in one area in the vault with everything labeled.

A motion was made by Vice-President Carlson seconded by Councilwoman Duxbury to amend #9 to include signature by the Charter Review Commission Chairperson. All voted Aye.

A motion was made by Vice-President Carlson seconded by Councilwoman Duxbury to amend #8 to read "Copy of the Ballot and election results." All voted Aye.

Motion made by Vice-President Carlson seconded by Councilwoman Duxbury to approve resolution. All voted aye.

ABANDONMENT

1. Petition for abandonment of an unimproved portion of Greene Street

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to refer petition to Planning Commission and upon receipt of recommendation from Planning, to send to advertisement for public hearing. All voted aye.

PUBLIC HEARINGS

1. Amending Section 113-5 of the Coventry Code of Ordinances, Campgrounds and Trailer Parks

A motion was made by Councilman Laboissonniere seconded by Vice President Carlson to open public hearing. All voted Aye.

Solicitor Gorham explained the reason for the amendment is that there should be more flexibility with regard to year round camping. The way it is currently written, it basically requires that the council approves a license for year round camping, without the option of approving the license with or without year round camping. This amendment gives the Council a little more flexibility. That is the only change and it does not mean that a campground cannot have year round camping. So, if the Council thought that a campground was adequately protecting the public during the summer but not in the winter, they would have the ability to grant the license only in the summer but not in the winter with the 20% occupancy level.

Councilman McGee does not agree that this is something that the council should do. If an issue arises we can handle it when it happens. A business can't run not knowing what's going on from one year to the next. We want to help business in this town, but only seem to be making it more difficult for business and I am totally against this.

Gary Pomfret, Hickory Ridge Campground, agrees with Councilman McGee. This is the 4th or 5th time we have had people come out to look at the campground. I don't see other businesses in town going through what we are going through and it doesn't seem fair. I almost wonder if there is a problem somewhere other than my park, it kind of seems that way. I don't feel there is a problem with my campground, I pay taxes for the whole year. There are no kids getting on school busses from the campground, that issue has nothing to do with Hickory Ridge Campground. I would appreciate it if you would just leave well enough alone.

Chris Anderson, Esq., 2115 Harkney Hill Road, represents Brian Bamford (Camp Ayoho and Water's Edge) and stated that if this proposed ordinance amendment is going to apply to existing campgrounds, then it takes what is an expressed statutory right and makes it discretionary. That is a law suit waiting to happen. You are talking about messing with someone's business. Instead of just dealing with a problem when it comes along, you are suggesting taking away part of a business. I am curious as to what it was that prompted you to enact this ordinance. Isn't it interesting that during six months the campgrounds can operate at full capacity, with 300-350 people on the property at one time, and this council has no concerns. But yet the Council is concerned about the other six months when there are only 20-25 people on the property. Do you seriously think there will be a bigger problem with only 20-25 people on the property as opposed to 350? That this council would rather take away a business right is preposterous.

Brian Bamford, owner of Water's Edge and Ayoho Campgrounds, stated that he bought Water's Edge about three years ago. Since that time, he put about \$250,000 into the property, updated the electrical and installed a new state of the art septic system at about \$150,000. People enjoy Johnsons Pond and we are located on Johnson's Pond. The former owner had 7-10 people on one cesspool. I wanted to spread out the campers so that it looked better. However, I have been tortured for three years over this and the reason for this ordinance is because of campers I located in the field near Mr. Forcier's property. I broke no rules. I went to the town, I asked, and they said I was fine. The Zoning Board of Appeals agreed with me also.

Mr. Bamford continued that when you change this ordinance, you are taking rights away from me. If you are only moving forward with the ordinance, not applying to existing campgrounds, I have no problem, but if you are saying that you are going back into already approved campgrounds, then that is a serious issue. What are your intentions?

Solicitor Gorham stated that this ordinance applies to all campgrounds in town, unconditionally. You assume you have a right to operate year round, but that is an assumption. It does apply to all campgrounds, and that is the answer. Mr. Bamford disagreed and believes he has the right to have 20% year round recreational camping per ordinance. Solicitor Gorham responded that this is one license that can be renewed for year round operation or less than year round operation, but I respect your right to disagree.

Councilman McGee agrees with Mr. Bamford that this should not happen.

Mr. Bamford asked why the YMCA does not have to be licensed by the town, although it is a non-profit. Solicitor Gorham said that is a fair question, will need to research. Councilman Laboissonniere added that there was an ordinance change in 2006-2007 that affected all campgrounds. Before that there was no winter camping. He believes that this proposed amendment does not adversely affect the operation of the campgrounds, unless there happens to be a problem there that is affecting the safety and welfare of the people there. If there is a problem in the winter, then the Council can decide that winter camping is all done.

Councilwoman Carlson brought up the issue of the protecting citizens from adverse effects on health, safety and welfare. She is concerned about summer campers and referred to an incident during the summer with someone involved with drugs who blew up his tent or something. Mr. Bamford replied that is not true.

Councilwoman Carlson went on to say that if you run a good campground, the neighbors are happy there are no complaints. Let's not kid ourselves, people live at the campground. Mr. Bamford said that's the way it was when he purchased it. Mrs. Carlson responded that this ordinance only gives the Town Council the discretion it needs if there is a problem in the campground. Not all businesses are good businesses. Hickory Ridge is a well run campground, nice and clean. I have had issues that came to me in police reports; we weren't even allowed to go look at Bamford's campground.

Mr. Bamford does not appreciate Mrs. Carlson's approach to things. He has lived in town all his life, has donated land to the town to build a school, has donated 1.5 acres to Tiogue School, donated wood to the wood shop at Coventry High School, volunteered and rebuilt a scoreboard for CHS. What I am trying to say is that I have been entrenched in this town and I give back to this town. I owned the other campground (Ayolo) for ten years. The only complaints from Water's Edge are from Councilwoman Carlson and Mr. Forcier. Mr. Forcier owned it before, did what he wanted and there was no issue. I am not the one who built a campground around his house, he built his house in the middle of a campground. I just ask that the Council makes a fair decision.

Linda Airhart, 584 Victory Highway, lives in upstate New York and her husband is here at Hickory Ridge while is on a job for two years. She feels safe at the campground and is contributing by putting money into the economy here.

Joe Hazard, Johnston, RI, camps at Hickory Ridge, winter and summer, just for a place to get away. We work long hours, the kids are gone. The campground is clean and well maintained.

Joe White, 584 Victory Highway, lives at Hickory Ridge. He stated that he would be willing to pay school taxes if there is a problem with people living there all year around..

Vice-President Carlson agrees that Hickory Ridge is clean and well run. She doesn't believe there are problems there, but we haven't always had year round camping.

Mr. Forcier stated that he doesn't have a problem with Mr. Bamford running the campground, but he does have a problem in that Mr. Bamford needs to follow the zoning laws. I am an abutting neighbor to the campground, a property owner and a tax payer. There are people that flip me off, have parties out there, are cussing, and the zoning laws specifically call for a 100 foot setback. I have like a 50 foot setback. He needs to follow the rules, like everyone else.

Stacy O'Gorman, 31 Elton Street, agrees that the campground ordinance needs to be cleaned up. There should be posted rules and regulations and the Town Council should have the flexibility to do what they need to do regarding a license.

Colonel MacDonald was asked about the number of calls the police have responded to at the campgrounds since 2013. He replied 42 calls at Waters Edge, 5 calls at Hickory Ridge and 3 calls at Ayoho, but the calls aren't always negative, sometimes just to assist a citizen. Councilwoman Duxbury asked if the calls could be looked at as to what they related to and Colonel MacDonald said there is a wide variety, maybe ½ aid and ½ to resolve issues. Councilman McGee said that the issue is winter camping and he asked if there were more crimes in the summer; Col. MacDonald believes that the volume is probably higher in the summer with more people there. He

did have one concern for the safety of the people living in the campgrounds, which was from an EMA standpoint, relating to what would happen if there was a blizzard, for example.

Councilwoman Duxbury doesn't have any personal experience with Water's Edge Campground, but she does with Hickory Ridge as her parents camped there last summer. Many retirees stay at Hickory Ridge during the summer and go back to Florida in the winter, and some even leave their campers there. I understand what goes on at a campground both on and off season. There is a difference between residential and recreational, but what I can say about this ordinance is that one little word gives the Council the ability to look at what is going on in a campground and say you can have the license for a full year, or only for part of a year. I look at this like we are giving you the option to keep some of your rights if there is an issue at a campground. We have the ability now to say you can have a license for an entire year, but if the ordinance remains the way it is now, it is all or nothing. We would like to have a little more discretion, maybe give a license for the summer only, if there are problems in the winter. I look at this as flexibility, not taking away rights, just giving the Town Council a little more flexibility to protect the public welfare, health and safety.

President Shibley also sees this as flexibility, by just changing "SHALL" to "MAY", and thinks it is a good thing to allow the Council to address a situation if need be without taking away a whole year's license.

Mrs. Carlson added that this is not a personal issue, but an overall safeguard. Sometimes we have to take on that role to help the neighbors. If you run a good business and are a good neighbor, then the license is no problem.

Councilwoman Duxbury said that she takes her job very seriously and perhaps things may not have been done correctly in the past. In her perspective, the way the town has been run the last ten years has been awful. We need to get things back into control and she looks at this ordinance as protecting the public.

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

A motion was made by Councilwoman Carlson seconded by Councilwoman Duxbury to approve ordinance. Vote taken: 4 Aye; Councilman McGee votes no. Ordinance passes.

ORDINANCE (First Reading)

1. Amending Chapter 153 of the Coventry Code of Ordinances, Licensed Businesses, Section 153-4 Closing hours for asphalt plants and cement plants

Councilwoman Duxbury stated that this is an example of a situation where we need to have a little more definition in order to provide the police with the tools they need to enforce the law. There has been an ordinance in effect since 2013. I asked the solicitor if there was something more we could do to control the noise. One of the things that has been a problem in this town is very poor planning, with industrial parks abutting residential areas within 300 feet. Without the appropriate tools for the police, they cannot enforce issues like noise. Our solicitor, Col. MacDonald and I put our heads together. We wanted to give the residents more relief, and the police more control in providing some peace and quiet during certain times of the day and night. I began by wanting a revision to the noise ordinance, but Col. MacDonald advised that it is difficult to enforce noise ordinance. So we took a look at modifying the ordinance already in existence for businesses in an industrial area and add more definition to the ordinance as to what kinds of things can be going on during business hours.

Solicitor Gorham explained that the only changes are just adding fire wood, mulch processing and production facilities to the ordinance. For purposes of this section "operation" shall include without limitation "warming up" machinery and queuing or loading trucks, something that was already in the consent judgment that the Pastryak plant had obtained several years ago.

Mrs. Duxbury wanted to make it clear that this is not directed toward just one industrial area, but toward the type of activities that make a lot of noise. In fact recently she was outside, heard a loud noise and called the police as she thought it was coming from the industrial park, and it was

not. However, 75 decibels for a steady 15 minutes is not acceptable.

Councilman McGee feels that this Council will be happy when 75 Airport Road is closed and the tax burden is put on the homeowners in the Town of Coventry. He again remarked that he is against this ordinance.

Solicitor Gorham advised that the current ordinance supplies the hours that the asphalt plants can operate. Councilman McGee remarked that now you want to add firewood and mulch and Solicitor Gorham agreed, that he was asked to do this. Councilman McGee thinks we are opening ourselves up to a lawsuit; it is unreasonable for an asphalt plant to start work at 7:00 am. I think we are really signaling out this business. And, to me it would seem like the ideal spot to have a wood business. Mrs. Carlson said that wood chippers are very loud and Councilwoman Duxbury added that Mr. Pastryak has tried to appeal his taxes. These businesses do not want to pay any tangible taxes. Their objective is not to enhance our tax base, but to make money for themselves. It is pretty clear to me that they are pretty self motivated, especially when this asphalt plant owner comes in to Town Hall and appeals his taxes. They are driving residents out of this town who cannot stand to live here any longer. It is this town's fault for doing what they have done in letting those two plants operate back there.

A motion was made by Councilman Laboissonniere seconded by Councilwoman Duxbury to advertise for public hearing. Vote taken: Aye (4); Councilman McGee votes No. Motion passes.

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

Town Clerk