

**TOWN COUNCIL
JAMESTOWN, RHODE ISLAND
DECEMBER 16, 2002**

A special meeting of the Jamestown Town Council was called to order at the Jamestown Philomenian Library, at 7:30 PM by Council President Guy J. Settipane. The following members were present:

David A. Swain, Vice President
Kenneth J. Littman
David J. Long
Norma B. Willis

Also present were:

Maryanne Crawford, CPA, Town Administrator
Arlene D. Kalooski, Town Clerk
Douglas R. DeSimone, Town Solicitor
Steven J. Goslee, Director of Public Works
Thomas P. Tighe, Police Chief
Fred Pease, Town Sergeant
James R. Bryer, Fire Chief

This meeting was called by unanimous vote of the Council during its regular meeting on December 9, 2002 for the purpose of conducting Town business scheduled for the cancelled regular meeting of December 23, 2002.

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

- 1) Proclamation honoring Representative William H. Murphy (per Council President Settipane)

(This proclamation was given at the Board of Water and Sewer meeting prior to this Council meeting.)

SITTING AS ALCOHOLIC BEVERAGE LICENSING COMMISSION

Council President Settipane opened the hearing at 7:14 PM.

- 1) Is hereby given by the Town Council of the Town of Jamestown, being the Licensing Board in said Town as provided under Title 3, Chapters 1-12 of the General Laws of Rhode Island 1956, and as amended that the following application has been received by the Town Council for a TRANSFER of license under said Act, for the year ending December 1, 2003:

TRANSFER:

CLASS A

Island Beverage, Inc.
dba: Jamestown Liquors
formerly of 9 Ferry Wharf

TO:

Grapes and Gourmets, Inc.
dba: Grapes and Gourmets
47 Conanicus Avenue, Unit #3

The above application is in order and has been advertised November 29 and December 6 in the Newport Daily News for hearing on December 16, 2002. (see attached advertisement)

- a) Application for transfer from Island Beverage, Inc to Grapes & Gourmets, Inc. including a notice from the Division of Taxation Certificate of Good Standing for Island Beverage, Inc.
- b) Application for a Class Liquor License for Grapes & Gourmets, Inc. dba: Grapes & Gourmets including State Certificate of Incorporation
- c) Letter from Jeff Greer, Division of Commercial License and Regulation re: Class A License transfer
- d) Letter from Wendy A. Waller re: objection of transfer

It was moved by Councilor Willis, seconded by Councilor Swain to accept communications (a) through (d). So unanimously voted.

Michael Lynch, attorney for Grapes and Gourmet, Inc. a Rhode Island corporation with principal shareholder Frank LePere, presented information relating to Mr. LePere's business plan for Grapes and Gourmet, Inc.

Mr. Lynch referred to a letter to the Town Council President from Jeffrey Greer, Division of Commercial Licensing and Regulations, dated December 11, 2002, and a letter to Quentin Anthony from Jeffrey Greer dated December 13, 2002, indicating that these letters should be considered as nothing more than "be careful" letters; leaving the local municipality to attend to the matters under Section 3-5-16.1 of the Rhode Island General Laws (abandonment statute).

Mr. Lynch reviewed the history of the recent hearings held by the Jamestown Alcoholic Beverage Licensing Commission, their procedural issues, and decisions relating to the abandonment or cessation of license. Mr. Lynch noted that the Commission commenced the ninety-day period from August 26, 2002 for the issue of abandonment. In support of this, Mr. Lynch read from Town Council minutes dated August 26, 2002. In addition, Mr. Lynch noted that on September 9, 2002, the issue of location came before the

Commissioners, which was continued to September 23, 2002. On October 15, 2002, advertising for the license renewal of Island Beverage was addressed by the Council; at that time, advertising was denied because there was no location for Island Beverage; on November 12, 2002, a request for an extension was requested from Island Beverage, this was denied and then appealed to the Department of Business Regulations. On November 20, 2002, the 86th day following August 26, 2002, the application for transfer was filed. On November 25, the Commission approved advertising the application to transfer Class A License.

For the purpose of clarification, the Town Solicitor noted that the ninety-day period has to do with a period of time where business operations have ceased. He further noted that the issue of abandonment is not the same issue as cessation.

Council President Settupane recalled that for a few days at the beginning of April 2002, Island Beverage dba: Jamestown Liquors was open; at that point the premises was still intact and remained intact until June 2002. The issue that came before the Commission was whether or not there was cessation of the business for a ninety-day period. There were two issues, one being that the business was open for just those few days in April, although the lease was held until June 30th, and second, when the lease expired there was no location to relocate the business. Because the application was filed with the Town Clerk in June, before the lease expired, that June 30 date was used as the controlling date for triggering the right to a hearing on the matter. The hearing was scheduled and continued up until August 26, 2002; however, the ninety-day time frame should have been from the June 30 date when business ceased. Council President Settupane inquired if in fact, this is a request to transfer an expired license.

Mr. Lynch stated that on November 12, 2002, a request was made by Island Beverage to extend based on the reasons as set forth in the statute. At that time, the Town Solicitor indicated that the reasons described by the applicant were sufficient to grant the extension for up to a year. That issue has been appealed and a status quo remains with the license in place.

Mr. Lynch called for testimony from the following individuals – all being duly sworn in by the Town Clerk.

Frank LePere, 127 King Tom Drive, Charlestown, Rhode Island

Mr. LePere testified that he was the sole share owner of Grapes and Gourmet, Inc., operating the business with his sister. The business will be a full-service liquor store, offering a complete line of beers, spirits, cordials, wine, sodas and other items associated with a typical package store, with the exception of cigarettes. The hours have not been finalized as yet; however, they will be structured so that they will not interfere with the tenants ability to enjoy their residences. An agreement has been secured with Jim Estes, the owner of the unit in question. If permitted, extended hours are planned for Friday and Saturday nights until 8:00 PM. Mr. LePere noted that it is his goal to combine a unique retail environment where you will be able to purchase gourmet food and spirits. Mr.

LePere further reviewed his business plans. Mr. LePere addressed the issue of parking, noting that it would be the same parking situation as for any business in that area. Mr. LePere informed the Council that either he or his sister would be on site at all times when the business would be in operation.

Gloria Kurz, 400 East Shore Road, Jamestown

Ms. Kurz further identified herself as one of the owners of 9 Ferry Wharf, former location of Island Beverages, Inc. dba: Jamestown Liquors

Ms. Kurz referred to the "Blue Book" State of Rhode Island & Providence Plantations Department of Business Regulations Commercial Licensing, page 25, which indicates that a license may be defined as a privilege. Ms. Kurz indicated that Counsel states Island Beverage has been attempting to exercise its preservation of assets and that should be clear to all of us; however, if in fact, in attempting to preserve its assets, in this case a business, one needs to make an effort. It is impossible for one to make money if the business is not open.

Ms. Kurz reviewed the course of events that Island Beverage followed to date and referred to Council minutes. Ms. Kurz stated that the Commission should move forward with the abandonment or cessation of the license.

Upon cross examination by Mr. Lynch, Ms. Kurz stated that she, as an owner of Marina Golden Group located at 9 Ferry Wharf, was interested in obtaining the Class A Liquor License; however, they have not been approached by anyone from Island Beverage.

Mr. Lynch inquired if Mr. Anthony, attorney for Island Beverage, had approached Ms. Kurz regarding the potential sale of the business.

Ms. Kurz stated that there had been a couple of conversations where they asked what the number was for the sale of the license and we were told that it was not offered for sale. The third conversation was discussed with my partner and that was not an acceptable number to us.

Mr. Lynch noted that the Marina Golden Group consists of Ms. Kurz and her husband, as president.

Ms. Kurz noted that as a resident and concerned citizen, it had become obvious to us that competition that was intended to be fostered by having two licenses on the island and this was not in fact occurring. Although, Ms. Kurz stated that she had no desire to operate a liquor store, she did have an interest in insuring that there are two full Class A Liquor licenses in operation.

There was additional comment from both Mr. Lynch and Ms. Kurz reinforcing their statements.

Joan Goldstein, 340 Beavertail Road

Ms. Goldstein noted that she presently has the business at 47 Conanicus Avenue, Truffles By the Bay. Additionally, she noted that she had planned to work with the Ceppi's so that they would hold the license and she would sell wine to enhance her business. She stated that on a number of occasions she was approached, by Page (Dickinson) in particular, to talk about this. Therefore, she believed that they had a part and an interest in maintaining this and not abandoning their license.

Mr. LePere came into Ms. Goldstein's shop and showed interest in it. Mr. LePere has a business acumen to continue this. This would be an exceptional business for the community.

Sydney Waller, 7 Beavertail Road

Ms. Waller identified herself as the other partner in the Marina Golden Group. Ms. Waller inquired why things have changed since August 26th, that residents of that building and other people at the time who were so vehemently opposed to a liquor store of any kind being operated within a residential entity – now suddenly are silent.

Additionally, Ms. Waller noted that Ms. Goldstein stated that the Ceppi's have had an interest in both liquor stores, and that is part of the reason that we got involved with this, because of the monopoly of this situation.

Upon introduction of a letter from Kerry Sheehan, it was moved by Councilor Swain, seconded by Councilor Littman to receive the communication. So unanimously voted.

There being no further comments, it was moved by Councilor Long, seconded by Councilor Willis to close the hearing at 8:45 PM. So unanimously voted.

Following Council discussion, it was moved by Council President Settupane, seconded by Councilor Littman to grant the transfer from Island Beverage, Inc. d/b/a Jamestown Liquors, formerly of 9 Ferry Wharf to Grapes and Gourmet, Inc d/b/a Grapes and Gourmet, 47 Conanicus Avenue, Unit 3, subject to approval by the State of Rhode Island and compliance with administrative fees.

The vote was, Councilor Littman, aye; Councilor Willis, nay; Council President Settupane, aye; Councilor Swain, nay; Councilor Long, nay. The motion failed with three opposed and two in favor.

CONSENT AGENDA

It was moved by Councilor Long, seconded by Councilor Swain to accept the Consent Agenda as presented. So unanimously voted. The Consent Agenda consists of:

- 1) Copies of Minutes of Boards & Committee Meetings:
 - a) Board of Canvassers (11/20/2002, 12/10/2002)

- 2) Copy of Letter to the Town Administrator from IBPO Local 305 re: Grievance Hearing
- 3) Press Release:
 - a) Jamestown Housing Authority
 - b) Library Board of Trustees
 - c) Conservation Commission
 - d) Beavertail State Park Advisory Committee
- 4) Abatements/Addenda from the Tax Assessor

EXECUTIVE SESSION ANNOUNCEMENT

- 1) Pursuant to RIGL 42-46-5 (a) (2) collective bargaining/litigation
 - a) Contract dispute/negotiations
 - b) Potential litigation

Council President Settipane announced that there would be an executive session later in the evening.

PUBLIC HEARINGS

None

OPEN FORUM

- 1) Scheduled request to address
- 2) Non-scheduled request to address

Sirje Carl and Ernest Anthony requested permission to address the Pilot Fund waiver as requested by the Housing Authority. They were invited to the meeting on January 13, 2003 to formally address this issue.

REPORTS OF BOARDS, COMMITTEES AND TOWN OFFICIALS

- 1) Town Administrator

The Town Administrator gave a verbal report to the Council. She reported that the Russian fish processing vessel is scheduled to have their application approved in January. The vessel will be located South of the Jamestown Bridge and South of the Newport Bridge. It is being requested that operation does not take place between 12:00 midnight and 6:00 AM. It is expected that Robert Ballou will be in attendance at the next Town Council meeting on January 13, 2002 to discuss issues relating to the location of the vessel.

Council President Settipane announced that there would be a break at 9:15 PM. The Council resumed the meeting at 9:20 PM.

UNFINISHED BUSINESS

- 1) Highway Barn
 - a) Location

Council President Settupane noted that there are three sites presently being considered for the location of the Highway Facility; those sites are as follows:

- Lower Taylor Point
- Upper Taylor Point
- Transfer Station

President Settupane reviewed issues and considerations of the previous committees charged with recommending the size and location of a new Highway Facility, along with the studies and findings of Gannett Flemming and GZA GeoEnvironmental, Inc.

President Settupane noted that Laszlo Siegmund of Siegmund and Associates will present an updated plan for the Taylor Point site.

Mr. Siegmund presented a plan for the area immediately west of the Wastewater Treatment Plant at lower Taylor Point. Care was taken so that the facility would not interfere with the Wastewater Treatment Plant. The conceptual plan addressed most of the operational issues. The building, 150' x 60', is located in the partially grass and wooded area of the existing drive coming out of the site; there is a 2,000 square foot office facility on top of that proposed building, which allows for handicapped accessibility. Immediately west of the building would be an area of approximately 160' x 80'. An entrance area would be located approximately 100' west of the gate with a 40' wide opening. There would also be 10,000 square feet of miscellaneous storage. The building height would be 85' elevation at the peak. (See plan as attached to these minutes.) The plan as presented has a cost estimate of \$432,000 for site work with a 20 % contingency. Mr. Siegmund stated that he would expect that 1.2 to 1.3 acres would be needed for this project to be completed.

Upon the completion of Mr. Siegmund's presentation, Thomas Todd offered some additional information relating to elevations at the lower Taylor Point site.

Council President Settupane invited audience comment:

Alexander Wharton, Gondola Avenue and Narragansett Avenue, expressed his concern regarding the possible need for expansion and that there is no provision for salt storage.

Richard Hutchinson, 4 Ft. Wetherill Road, addressed his concern regarding the east/west traffic flow and night lighting.

Timothy Dwyer, Buloid Avenue, stated that he is concerned with well and groundwater contamination in the area of Taylor Point.

Elizabeth Minutti, Buloid Avenue, stated that she has been refused municipal water hookup and is very concerned with what will happen if there is any contamination in the area of Buloid Avenue.

Andrew Yates, Mt. Hope Avenue, inquired if there would be any risks to the reservoir.

Christopher Powell, Mt. Hope Avenue, informed the Council that the Northwest corner of this property is within 200 feet of a coastal feature.

Council President Settupane asked the Public Works Director if, in his estimation, the plan as presented would work for the Town.

Mr. Goslee suggested that the pipe storage area, originally set at 6,000 square feet, be addressed, as well as the salt storage issue. Additionally, Mr. Goslee suggested paving the lower storage area. If these three areas are addressed, Mr. Goslee felt this plan would work.

It was moved by Council President Settupane, seconded by Councilor Willis to approve the location for the new Department of Public Works facility at the site known as Plat 7, Lot 1, otherwise identified as the property adjacent to the Wastewater Treatment Plant and the undeveloped portions of Taylor Point specifically tied to the conceptual footprint as drafted and presented by Siegmund and Associates (attached to these minutes), plus or minus sixty feet with regards to the direction to the west with the following conditions:

- if approved and the site is developed, a conservation easement will be granted by the Town and placed on the remaining undeveloped portions of the Taylor Point property West of the proposed location;
- traffic flow on Bayview Drive would restrict the Department of Public Works from entering onto Bayview Drive with the exception of an emergency;
- the Town Administrator is instructed to have prepared for the next Town Council meeting a Request For Proposal and a Request For Quote on the design and architecture of the proposed structure.

The vote was, Councilor Willis, aye; Councilor Littman, aye; Councilor Swain, aye; Council President Settupane, aye; Councilor Long, nay. The motion passed with four in favor and one opposed.

It was the consensus of the Council to discuss a Neighborhood Advisory Committee at the next Town Council meeting.

EXECUTIVE SESSION ANNOUNCEMENT

- 1) Pursuant to RIGL 42-46-5 (a) (2) collective bargaining/litigation

- a) Contract dispute/negotiations
- b) Potential litigation

It was moved by Council President Settipane, seconded by Councilor Willis to enter into executive session at 10:50 PM, pursuant to RIGL 42-46-5 (a) (2) relating to collective bargaining and potential litigation. It was voted Council President Settipane, aye; Councilor Littman, aye; Councilor Swain, aye; Councilor Willis aye; Councilor Long, aye. The motion passed.

The Council returned from executive session at 11:05 PM. It was moved by Council President Long, seconded by Councilor Swain to seal the minutes of the executive session. It was voted Council President Settipane, aye; Councilor Littman, aye; Councilor Swain, aye; Councilor Willis aye; Councilor Long, aye. The motion passed.

It was moved by Council President Settipane, seconded by Councilor Long to authorize the Town Administrator to proceed with actions as discussed in executive session. So unanimously voted.

There being no further business before the Council it was moved by Council President Settipane, seconded by Council Long to adjourn the meeting at 11:10 PM. So unanimously voted.

Attest:

Arlene D. Kalooski
Town Clerk

C: Town Council Members (5)
Town Administrator
Town Solicitor
Administrative Circulation