

## TOWN COUNCIL

January 8, 2007

A regular meeting of the Jamestown Town Council was called to order at the Jamestown Philomenian Library, 26 North Road at 7:03 PM by Council Vice President Julio J. DiGiando. The following members were present:

William A. Kelly  
Michael Schnack  
Barbara A. Szepatowski

absent: David J. Long, Council President

also present:

Bruce R. Keiser, Town Administrator  
Arlene D. Petit, Town Clerk  
J. William W. Harsch, Town Solicitor  
Michael Gray, Town Engineer

### AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

1) Officer Keith J. Woodbine re: Promotion to Sergeant  
Council Vice President Julio DiGiando administered the oath of office to Keith J. Woodbine for his promotion to Sergeant on the Jamestown Police Department.

### COUNCIL SITTING AS ALCOHOLIC BEVERAGE LICENSING BOARD

*All approvals for licenses and permits are subject to the resolution of debts, taxes and appropriate signatures as well as, when applicable, proof of insurance.*

None

### CONSENT AGENDA

*An item on the Consent Agenda need not be removed for simple clarification or correction of typographical errors. Approval of the Consent Agenda shall be equivalent to approval of each item as if it had been acted upon separately.*

It was requested that items number 2 and 7 be removed from the Consent Agenda. It was moved by Councilor Schnack, seconded by Szepatowski to accept the Consent Agenda as amended. So unanimously voted. The Consent Agenda consisted of the following:

- 1) Adoption of Council minutes:
  - a) December 11, 2006 (regular session)
  - b) December 11, 2006 (executive session)
- 2)
- 3) Minutes from Boards, Commissions and Committees:
  - a) Jamestown Planning Commission (11/15/2006, 12/06/2006)
  - b) Jamestown Housing Authority (11/08/2006)
  - c) Harbor Commission (11/08/2006)
  - d) Jamestown Zoning Board of Review (11/28/2006)

- e) Jamestown Substance Abuse Prevention Task force (12/15/2006)
- 4) CRMC Notices:
  - a) Pursuant to the provisions of the “Administrative Procedures Act” (Section 42-35-3 of the General Laws of Rhode Island and the Rule and Regulations of the Coastal Resources Management Council, notice is hereby given of the intention to change the management plans, policies, procedures and regulations of the agency regarding planning and management of the coastal resources of the State relative to Chapter 46-23 of the State of Rhode Island (written comments may be submitted to Grover J. Fugate, Executive Director, by January 19, 2007
- 5) Zoning Board of Review abutter notification re: application of Patrick Kilroy, whose property is located at Conanicus Avenue (Tax Assessor’s Plat 9, Lot 352) for a variance from Article 82, Section 302 to build a single family residence and provide a front yard set back of 15’ (30’ required). Said property is located in an R-40 zone and contains 6,370 sq. ft. For hearing on January 23, 2007.
- 6) State Planning Council Supplemental Notice re: Rescheduled workshop and public hearing in connection with the consideration of adoption of a draft Rhode Island Comprehensive Solid Waste Management Plan as updated State Guide Plan Element 171
- 7)
- 8) Abatements/Addenda of Taxes

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2) Bills and Payroll

Councilor Kelly requested additional information or commented on the following bills:

70430.313 RI Dept of Corrections \$2,944.00

Councilor Kelly commented that this amount, which was erroneously reported in the paper to be \$6,000.00, was for the rehabilitation and restoration of the 2003 dump truck.

70490.101 Coverall of Southern New England Inc. \$2,522.00

Councilor Kelly inquired if this amount was expected to change when the new town hall is built. The Town Administrator answered that this line item is being evaluated. There is some consideration being given to hiring a part-time employee to take on these duties, as well as for other expanded duties.

70600.454 JEMS \$28,840.50

The Town Administrator informed the Council that incentive payments are reviewed by the Finance Director.

New Town Hall Pezzuco Construction, Inc. \$127,314.00

The Town Administrator informed the Council that the town hall construction project is now three weeks ahead of schedule.

7) Rhode Island Department of Environmental Management re: America the Beautiful Grants Program

Councilor Kelly asked if the grant application would be forwarded to the Tree Committee. The Town Administrator explained that the request for grant funds would be forwarded to the Tree Committee for their recommendations and reviewed administratively.

It was moved by Councilor Schnack, seconded by Councilor Kelly to approve consent agenda items numbered 2 and 7. So unanimously voted.

### **EXECUTIVE SESSION ANNOUNCEMENT**

Councilor DiGiando announced that there would be a vote to enter into executive session towards the end of the regular meeting, pursuant to RIGL 42-46-5 (a) (1) under personnel to discuss the Town Administrator's evaluation (performance).

Councilor DiGiando noted that there would be no discussion relating to the position of Town Solicitor.

- 1) Pursuant to RIGL 42-46-5 (a) (1) Personnel
  - a) Town Solicitor position
  - b) Town Administrator evaluation

### **COUNCIL, ADMINISTRATOR, SOLICITOR, COMMISSION/COMMITTEE COMMENTS & REPORTS**

- 1) Town Administrator's Report (as attached)
  - a) Golf Course Lease

The Town Administrator expects to provide a lease recommendation to the Council at the January 22, 2207 Council meeting.

- b) Sole Source Aquifer Petition

The Town Administrator reported that following a meeting with Dr. Daniel Urish, retired professor emeritus from the University of Rhode Island, it is believed that Jamestown has three geologically separated areas that do not share a common water source. Doug Heath, EPA Administrator for the Sole Source Aquifer Program, has been invited to meet with the Water Resource Protection Committee to discuss the program criteria and regulations. The Town Administrator will continue to report the results of the Town's research.

- c) Affordable Housing

The Town Administrator reviewed the regulations for the distribution of funds under the \$50 million State Affordable Housing Bond. The Town Planner is developing a proposal for the Council's consideration. It is expected that the state agency staff will be ready to make awards by late Spring and early Summer.

The Town Administrator was asked to research into the possibility of the building at 44 Southwest Avenue fitting into the criteria for affordable housing.

d) Town Hall construction  
Previously discussed.

e) Deer Management  
The Town Administrator reported that from November 2006 to date, there have been 29 deer killed; of that amount, five were taken at Beavertail. In addition, there have been 26 deer killed by vehicles.

The Town Administrator noted that the Town is investigating the possibility of a controlled deer hunt at the Town Reservoir.

The Town Administrator was asked to investigate the cost of damages caused by deer/automobile accidents.

### **PUBLIC HEARING**

- 1) Proposed ordinance amending Chapter 70 of the Code of Ordinance re: Sec. 70-88 Parking at Jamestown Shores Beach; the proposed ordinance would also amend Sec. 70-87 in reference to “Seaside Drive”, Prohibited or restricted parking on specified streets (duly advertised in the Jamestown Press on December 28, 2006)

Councilor DiGiando opened the hearing at 7:25 PM on the proposed ordinance amending Chapter 70 of the Code of Ordinance relating to the parking at Jamestown Shores Beach and prohibiting or restricting parking on Seaside Drive.

Charlotte Zarlengo, Seaside Drive, representing Jamestown Shores Association, gave a statement on the position of the Jamestown Shores Association relating to the support of the proposed restricted parking. In addition Ms. Zarlengo pointed out the difficulty with vehicles parking in the boat ramp access.

Frank Meyer, Southwest Avenue, stated that there are problems with parking in the Mackerel Beach area; however, he feels that the restriction being proposed creates an exclusionary zone.

Paul Hines, Seaside Drive, stated that the area being used as a boat ramp is, in fact, a 10' wide access which has been filled with cars and does not allow for emergency access to the water. Mr. Hines stated that there is no enforcement because of the lack of an ordinance addressing this issue.

Joseph Rezendes, Beacon Avenue, spoke in opposition to the proposed ordinance and encouraged the Council to continue to allow parking near the beach.

Charles Flagg, Lugger Street, expressed his concern with parking on both sides of the road and suggested that there should be limited parking on both sides of Seaside Drive.

Phil Zarlengo, Seaside Drive, stated that the parking issue relates to the safety of children walking to the beach as well as allowing immediate access to the boat ramp. In addition Mr. Zarlengo stated that parking has never been allowed on that portion of Seaside Drive.

Leo Errara, Riptide Street, suggested that parking only be allowed with beach stickers.

Sav Rebecchi, Sail Street, noted that he was in favor of improving the boat ramp, but was not in favor of limiting access to the shorefront. Mr. Rebecchi also expressed concern that the rights-of-way in Jamestown have not been maintained and in many cases have been obstructed.

Robert Bowen, representing the Harbor Commission on the Traffic Committee, suggested that the ordinance could be returned to the Traffic Committee to relook at the 1000' no parking on Seaside Drive issue.

Harrison Wright, Clarke Street, stated that the Town of Jamestown already has an ordinance which prohibits any person from impeding access to the water. Mr. Wright encouraged the Council to support public access to the water. Mr. Wright cautioned that restricting access could become a CRMC issue rather than a town issue.

Nancy Kolman Ventrone, Nautalis Street, suggested that the issue is one of dealing with the trash and garbage at the beach area.

Gary Girard, Seaside Drive, informed the Council that there are at least eight rights-of-way in the Shores area. Mr. Girard was in support of the proposed ordinance citing the dangers of the curve at the beach area.

Richard Ventrone, Nautalis Street, suggested that the rights-of-way should be made more obvious and better maintained. Mr. Ventrone addressed the money that the Town has spent on brush cutting.

Jill Anderson, West Reach Drive, addressed her concern with the need for a parking sticker and the lack of parking, if you do have a sticker. Ms. Anderson asked the Council to continue to make the beach accessible to everyone in town.

Robert Gibbs, Frigate Street, stated if the traffic in the area is creating a dangerous problem, then the Council could take action to enforce a reduction on speed. In addition, Mr. Gibbs stated he opposed limiting access to the Shores Beach.

There being no further public comment, the Council discussed the proposed ordinance.

Councilor Schnack stated that although the map provided to the Council indicates that there would be no parking from the edge of the pavement on Seaside Drive to the boat launch west for a distance of 175', the proposed ordinance does not provide for this restriction. Councilor Schnack noted that there are several no parking signs immediately north of the driveway to the boat launch area, as well as in the driveway to the boat launch area. Councilor Schnack stated that the boat launch area is inaccessible and in

poor condition; and in need of repair. Councilor Schnack was not in favor of limiting parking on both sides of Seaside Drive. Councilor Schnack stated he would, after a review by the Police and Traffic Committee, consider limited parking on one side of Seaside Drive.

As a point of clarification, Robert Bowen noted that when he attended the Traffic Committee meetings, there was never a discussion about limiting parking on the boat ramp area.

Councilor Kelly addressed the issues relating to the garbage in the beach and boat ramp area and asked that the Recreation Department plan accordingly. Councilor Kelly noted that he is aware of rights-of-way that are inaccessible due to barriers being put up by neighboring properties. Councilor Kelly suggested that there be signage for rights-of-way and that the Public Works Department be instructed to maintain the beach access for these rights-of-way. Councilor Kelly expressed his concern that the parking restriction as proposed will just move the problem to nearby streets such as Frigate. Councilor Kelly stated he could agree with restricting parking on one side of Seaside Drive.

Councilor DiGiando stated that he had hoped the sticker parking recently adopted by the Council would take care of some of the parking issues at the Shores Beach; however, information will not be available until we go through a summer season. Councilor DiGiando supported section one of the proposed ordinance, restricting any vehicle parking within 75 feet east of the mean-high water mark in the area of the boat launch. However, he was not ready to decide on restricting parking on Seaside Drive without a study of how it would affect the access to the beach.

Michael Gray, Town Engineer, informed the Council that a permit would be required prior to any improvements to the boat launch site.

Councilor Szepatowski stated that the proposed ordinance was developed with the recommendations made by the Traffic Committee and the Chief of Police. Councilor Szepatowski agreed that this is a dangerous situation and suggested adoption of the complete proposed ordinance.

The Council discussed other ways of controlling traffic in the area of the Jamestown Shores Beach rather than restricting the parking as proposed in section two of the ordinance under consideration.

It was the consensus of the Council to delete section 2 of the proposed ordinance for further discussion at a Council meeting in February.

There being no further comment, it was moved by Councilor Schnack, seconded by Councilor Szepatowski to close the public hearing at 8:18 PM. So unanimously voted.

It was moved by Councilor Schnack, seconded by Councilor Kelly to adopt Section 1 of Article IV of Chapter 70 of the Jamestown code of Ordinance entitled "Stopping, Standing and Parking: Sec. 70-88 Parking at Jamestown Shores Beach – *No person shall*

*allow, permit or suffer any vehicle to stand or park within 75 feet east of the mean-high water mark in the area of the boat launch at the Jamestown Shores Beach.*

The proposed amendment to Section 2 of the proposed ordinance was deleted during Council discussion.

So unanimously voted.

- 2) Proposed amendment to the Jamestown Zoning Ordinance re: Sec. 82-314 High Groundwater Table and Impervious Layer Overlay District (duly advertised on December 21, 28, 2006, and January 4, 2007)

Councilor DiGiando opened the public hearing to consider the proposed amendment to the Jamestown Zoning Ordinance, Section 82-314 entitled “High Groundwater Table and Impervious Layer Overlay District” at 8:26 PM.

Charlotte Zarlengo, Seaside Drive, thanked the Council for their continued efforts in improving the ordinance and supported the changes as proposed.

Sav Rebecchi, Sail Street, noted that there is an undeveloped lot on the corner of Spirketing Street and Beacon Avenue that is being filled, causing runoff onto neighboring properties. Mr. Rebecchi asked to have situations like this addressed in an ordinance.

Gary Girard, Seaside Drive, representing the Planning Commission commented that filling of undeveloped lots should be addressed in a separate ordinance.

Leo Errara, Riptide Street, stated that the Planning Commission and Zoning Board of Review have already been notified about the filling of this undeveloped lot.

Lisa Bryer, Town Planner, informed the Council that the issue of filling has been addressed in the soil erosion and sediment control ordinance adopted by the Council on December 6, 2005, as indicated by the letter included in your packet from the Town Solicitor dated October 2, 2006.

Richard Ventrone, Nautalis Street, asked for clarification on the section entitled “The Percent of Maximum Impervious Cover for Sub-District A Lots”; more specifically Impervious Layer 0-20”/Water Table 0-10”. Mr. Ventrone indicated that this table measurement would allow building on a lot with surface water.

There being no further comment, it was moved by Councilor Schnack, seconded by Councilor Szepatowski to close the public comment portion of the hearing. So unanimously voted.

Councilor DiGiando opened the discussion for Council comments.

Councilor Kelly commented that if there is an ordinance addressing the issue of filling a lot, then this becomes an issue of enforcement. Councilor Kelly addressed section B. *Development within sub-district B. #4. All ISDS and any well serving new dwellings shall*

*be located on the same lot as the structure they serve.*, and asked if this language was strong enough.

Town Engineer Michael Gray answered that it is important that each lot supports its own use; this provision in the proposed ordinance specifically addresses that issue.

Councilor Kelly stated that the issue of lots being self supporting is important and that we should still address the issue related to new homes being serviced by an alternate water supply. It was agreed by the Town council that this should not be permitted. The Town Planner stated that she would address this in a separate ordinance amendment.

Following additional discussion and in clarification, The Town Planner commented that sub-district A must, in addition, meet all requirements of sub-district B; therefore, all districts must meet the requirement which states “All ISDS and any well serving new dwellings shall be located on the same lot as the structure they serve”.

In addressing Mr. Ventrone’s concerns, Councilor Schnack pointed out that the amendment to the ordinance states that “Freshwater wetlands shall be subtracted from total lot size prior to calculating maximum impervious cover.

Councilor DiGiando reviewed the amended provisions of the proposed ordinance. There being no further comments and the public hearing closed, it was moved by Councilor Schnack, seconded by Councilor Szepatowski to approve the proposed amendment to Section 82-314 High Groundwater Table and Impervious layer Overlay District as advertised and presented. So unanimously voted.

### **ORDINANCES AND RESOLUTIONS**

- 1) Resolution No. 07-001 approving the Mutual Aid Agreement between the Jamestown Police Department and the Newport Police Department (The Mutual Aid Agreement appears in New Business for adoption by the Jamestown Town Council)

It was moved by Councilor Kelly, seconded by Councilor Schnack to adopt Resolution No. 07-001 approving the mutual aid agreement between the Jamestown Police Department and the Newport Police Department. So unanimously voted.

### **COMMUNICATIONS AND PETITIONS**

- 1) Letter from Janice and Jeffrey Spotts re: opposing the use of public space for making movies

It was moved by Councilor Schnack, seconded by Councilor Kelly to accept the communication from Janice and Jeffrey Spotts. So unanimously voted.

- 2) Newport County Community Mental Health Center re: request for increased funding

It was moved by Councilor Schnack, seconded by Councilor DiGiando to accept the request from Newport County Community Mental Health Center for increased funding

and forward the request to the Finance Director for consideration at the next budget session. So unanimously voted.

## **LICENSES & PERMITS**

*All approvals for licenses and permits are subject to the resolution of debts, taxes and appropriate signatures as well as, when applicable, proof of insurance.*

None

## **OPEN FORUM**

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

Nick Robertson, Carr Lane (former Town Council member) informed the Council that in years past the issue of maintaining rights-of-way had been discussed with CRMC. The Town was given permission by CRMC to maintain those rights-of-way; however, the Town did not take action to continue maintaining and monitoring them. In addition Mr. Robertson requested that the Council fast track the building of the highway facility on lot 47.

Susan Little, North Main Road, encouraged the Council to support the request for designation as Sole Source Aquifer and noted that the State has never rejected a project because a community was a Sole Source Aquifer.

Sav Rebecchi, Sail Street, stated that the executive session was not noticed correctly for a discussion regarding the position of Town Solicitor.

## **APPOINTMENTS AND RESIGNATIONS**

- 1) Water Resource Protection Committee (One (1) vacancy with a three-year term ending December 31, 2009); duly advertised and interviews complete; if favorable, appoint
  - a) Letter requesting reappointment
    - i) Jack Hubbard

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to appoint Jack Hubbard to the Water Resource Protection Committee for a term ending December 31, 2009. So unanimously voted.

- 2) Library Board of Trustees (Three (3) vacancies; term ending dates December 31, 2009); duly advertised and interviews complete; if favorable, appoint
  - a) Recommendation per Nancy Logan, chair, regarding term-ending dates
  - b) Attendance record
  - c) Letters of recommendation and support
  - d) Letters requesting reappointment
    - i) Rosemary Forbes-Woodside

- ii) Heidi Keller Moon
- e) Letters of interest
  - i) Mary E. Gayron
  - ii) Jeff McDonough
  - iii) Kevin J. Carty

It was moved by Councilor Schnack, seconded by Councilor Szepatowski to appoint the following individuals to the Library Board of Trustees:

Reappoint Rosemary Forbes-Woodside for a term ending December 31, 2009  
 Reappoint Heidi Keller Moon for a term ending December 31, 2009  
 and Appoint Kevin J. Carty for a term ending December 31, 2009  
 So unanimously voted.

- 3) Tree Preservation and Protection Committee (Three (3) vacancies with terms ending December 31, 2009); duly advertised and interviews complete; if favorable, appoint
  - a) Attendance record
  - b) Letters from Emmet Turley, Chair, re committee applicants
  - c) Letters of recommendation
  - d) Letters of resignation
    - i) Bob Dolan (previously approved by the Council)
    - ii) Judith DiBello
  - e) Requests for reappointment
    - i) Matt Largess (Chair has indicated that Mr. Largess has since requested that he not be considered for reappointment)
  - f) Letters of interest
    - i) Joseph P. Tamburini (previously interviewed in 2005)
    - ii) Anthony Antine
    - iii) John P. Collins
    - iv) Edwina S. Cloherty
    - v) James Rugh

It was moved by Councilor Szepatowski, seconded by Councilor DiGiando to appoint James Rugh to the Tree Preservation and Protection Committee for a term ending December 31, 2009. So unanimously voted.

It was moved by Councilor Szepatowski, seconded by Councilor Kelly to appoint Anthony Antine to the Tree Preservation and Protection Committee for a term ending December 31, 2009. So unanimously voted.

It was moved by Councilor Szepatowski, seconded by Councilor Kelly to appoint Edwina S. Cloherty to the Tree Preservation and Protection Committee for a term ending December 31, 2009. So unanimously voted.

- 4) Harbor Management Commission (Two (2) vacancies; one (1) member of the Non-Riparian Recreation Boating Community and one (1) member of the Riparian Property Resident, for terms ending December 31, 2009); duly advertised and interviews complete; if favorable, appoint
  - a) Attendance record

- b) Letters of recommendation from Michael de Angeli, Chair
- c) Letters requesting reappointment
  - i) Richard Anderson (Non-Riparian Recreation Boating Community)

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to reappoint Richard Anderson to the Harbor Management Commission, representing the Non-Riparian Recreation Boating Community, for a term ending December 31, 2009. So unanimously voted.

- d) Letters of interest
  - i) Alek Bonovitsky
  - ii) Lance Gershenoff
  - iii) Phillip E. Brian
  - iv) Rick Dunne
  - v) Terry Jones

It was moved by Councilor Kelly, seconded by Councilor DiGiando to appoint Terry Jones to the Harbor Management Commission, representing Riparian Property Residents, for a term ending December 31, 2009. So unanimously voted.

### **UNFINISHED BUSINESS**

- 1) Letter from John and Charlotte Zarlengo re: RIDEM ISDS application of David and Marina Thurston, Seaside Drive (Plat 16, Lot 12), continued from Board of Water and Sewer Commission meeting 12/18/2006

The Town Administrator noted that RIDEM has requested that the Thurston's resubmit their application with changes addressing the areas of concern to RIDEM. Once resubmitted, RIDEM will continue their review. The Thurston's have been notified that the Council will consider responding to RIDEM regarding their application.

Charlotte Zarlengo requested that the Town Council forward a letter of objection to RIDEM immediately, as she has been informed by RIDEM that there will be no extensions to the deadline for comments.

The Town Administrator was asked to review any legal ramifications to forwarding a letter to RIDEM prior to the January 22 Town Council meeting.

- 2) Golf Course Lease re: continued negotiations

There was no action taken.

### **NEW BUSINESS**

- 1) Mutual Aid Agreement between Jamestown and Newport and their Police Departments (see resolution)

This was previously discussed and accepted.

- 2) Notice of proposed ISDS requiring variance from ISDS regulations re: ISDS Variance Application #0215-2412; Plat 3, Lot 185; Sloop Street and

Beacon Ave. Property owner, Maria Hellen has been duly notified of this agenda item.

The Town Engineer, Michael Gray, reported that he conducted a file review and found no reason, on technical merits to object. Once this application is submitted to the Town for a building permit the Town will review it for adherence to the ordinance.

### **EXECUTIVE SESSION**

It was moved by Councilor Schnack, seconded by Councilor Szepatowski to enter into executive session at 9:36 PM, pursuant to RIGL 42-46-5 (a) personnel to discuss the Town Administrator evaluation. It was voted, Councilor DiGiando, aye; Councilor Kelly, aye; Councilor Schnack, aye; Councilor Szepatowski, aye.

Upon return from executive session, it was moved by Councilor Schnack, seconded by Councilor Szepatowski to seal the executive session minutes from the public. It was voted, Councilor DiGiando, aye; Councilor Kelly, aye; Councilor Schnack, aye; Councilor Szepatowski, aye.

There being no further business before the Council, it was moved by Councilor Schnack, seconded by Councilor Kelly to adjourn the meeting at 9:40 PM. So unanimously voted.

Attest:

Arlene D. Petit  
Town Clerk

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