

TOWN COUNCIL MEETING

December 10, 2007

Prior to the regularly scheduled meeting the Council met to conduct committee interviews at 6:30.

A regular meeting of the Jamestown Town Council was called to order at the Jamestown Town Hall, 93 Narragansett Avenue at 7:00 p.m. by Council President Julio J. DiGiando. The following members were present:

Michael G. White, Vice President
William A. Kelly
Robert W. Sutton, Jr.
Barbara A. Szepatowski

also present:

Bruce R. Keiser, Town Administrator
Peter D. Ruggiero, Town Solicitor
Arlene D. Petit, Town Clerk
A. Lauriston Parks, Esq.

Executive Session Announcement

Town Council President DiGiando announced that the Council may enter into executive session pursuant to RIGL 42-46-5 (a) (2) litigation later in the evening regarding the appeal of Jennifer and David Clancy.

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

None

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.

- 1) **Request to order advertising for a public hearing** for the following:
NOTICE: It 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 license TRANSFER under said Act, for the year of December 1, 2007 to November 30, 2008:

TRANSFER:

CLASS B-VICTUALER
Alexander Enterprises, Inc.
dba: Narragansett Café
25 Narragansett Avenue
Jamestown, RI 02835

TO:

Jamestown Restaurant Group, LLC

dba: Narragansett Café
25 Narragansett Avenue
Jamestown, RI 02835

NEW LICENSE:

Jamestown Restaurant Group, LLC
dba: Narragansett Café
25 Narragansett Avenue
Jamestown, RI 02835

The above application will be in order for hearing at a meeting of said Licensing Board on MONDAY, January 14, 2007 at 7:00 pm at the Jamestown Town Hall, Council Chambers, 93 Narragansett Avenue, in said Jamestown, at which time and place all remonstrants may make their objections against granting this license.

It was moved by Council President DiGiando, seconded by Councilor White to advertise a public hearing for January 14, 2007 at 7:00 p.m. for the transfer of a Class B Victualer License from:

Alexander Enterprises, Inc.
dba: Narragansett Café
25 Narragansett Avenue
Jamestown, RI 02835

to

Jamestown Restaurant Group, LLC
dba: Narragansett Café
25 Narragansett Avenue
Jamestown, RI 02835

So unanimously voted.

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 moved by Councilor Kelly, seconded by Councilor White to accept the Consent Agenda as presented. So unanimously voted. The Consent Agenda consisted of the following:

- 1) Adoption of Council minutes:
 - a) November 7, 2007 (special session)
 - b) November 13, 2007 (regular session)
 - c) November 16, 2007 (special session)
 - d) November 20, 2007 (special session)
 - e) November 21, 2007 (special session)
 - f) November 26, 2007 (regular session)
- 2) Bills and Payroll
- 3) Minutes from Boards, Commissions and Committees:
 - a) Jamestown Housing Authority (10/10/2007)
 - b) Zoning Board of Review (10/23/2007)
 - c) Town Buildings and Facilities Committee (7/24/2007)

- d) Jamestown Conservation Commission (10/9/2007)
- 4) CRMC Notices:
 - a) Notice of Public Hearing re: proposed changes to 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; for hearing January 8, 2008 at 6 p.m. in the Boardroom, Narragansett Bay Commission, One Service Rd., Prov.
 - b) Agenda, Tuesday, November 27, 2007 (received 11/27/2007)
 - c) Agenda, Tuesday, December 11, 2007
 - d) December Calendar
- 5) Abatements/Addenda of Taxes

EXECUTIVE SESSION

- 1) Pursuant to RIGL 42-46-5 (a) (2) litigation
 - a) David and Jennifer Clancy appeal

It was moved by Councilor Szepatowski, seconded by Council President DiGiando to enter into executive session at 7:05 p.m. pursuant to RIGL 42-46-5 (a) (2) litigation to discuss the Clancy matter. It was voted, Councilor Kelly, aye; Councilor Sutton, aye; Councilor Szepatowski, aye; Councilor White, aye; Council President DiGiando, aye.

Upon the return of the Council to regular session at 7:24 p.m. Council President DiGiando announced that there were no votes taken in executive session.

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to seal the minutes of the executive session from the public. It was voted, Councilor Kelly, aye; Councilor Sutton, aye; Councilor Szepatowski, aye; Councilor White, aye; Council President DiGiando, aye.

It was the consensus of the Council to move open forum to this point on the agenda, to be followed by the Clancy appeal under unfinished business.

Open Forum

Council President DiGiando noted that at this time he would invite those wishing to make comments regarding the appeal of David and Jennifer Clancy.

Those speaking in favor of the Clancy's appeal for a special use permit were as follows:

Daniel Capuano, Cedar Lane
 Agnes Filkins, Bayberry Road
 Jody Ziegler, Union Street
 Donald Minto, North Road
 Hallie Krider, Skysail Court
 Paul Cardin, Center Street
 Karen Krider, Skysail Court
 Peter Gadoury, Weeden Lane

Those speaking in support of the Council's rendering an opinion were as follows:
Mark Bardorf, Esq., attorney representing the Clancys
Michael deAngelis, Intrepid Lane

Those speaking in support of the Zoning Board of Review denial process were as follows:
Christopher Powell, Conservation commission Chair, Mt. Hope Avenue
Richard Allphin, Zoning Board of Review member, Bonnet View Drive
Rosemary Enright, Clarke Street

Those speaking in opposition to the Council rendering an opinion were as follows:
Deborah Foppert, Ocean Avenue
Kenneth Newman, Avenue B
Quentin Anthony, Esq., attorney representing the Conanicut Island Land Trust
John Murphy, Esq., attorney representing the Jamestown Historical Society

Council President DiGiando asked that A. Lauriston Parks, attorney representing the Town in the Clancy matter, comment on the status of the appeal. Mr. Parks stated that the Clancy case was appealed to Superior Court and was reviewed by Justice Gale, Superior Court Judge. Judge Gale wrote an opinion in which he said that he did not understand the decision of the Zoning Board and wasn't sure that it had been based on the proper criteria. The matter was sent back to the Zoning Board with a specific request that the Zoning Board examine its opinion and revise it showing what criteria it was using. The matter went to the Zoning Board and they were unable to agree on anything.

Mr. Parks stated that it is now necessary for him to go back to Superior Court to tell Judge Gale that the Zoning Board could not revise, expand upon, or explain its opinion. Mr. Parks stated that it was his opinion that Judge Gale may decide the matter and suggested that the Town Council inform him as to what their position is.

The Town Solicitor noted that it was important to understand that the Town Council cannot supersede the decision by the Zoning Board of Review; however, the Council can forward an opinion in the form of a resolution to the Court.

There being no further comments, Council President DiGiando announced that this would conclude this part of the open forum.

Council members commented on the appeal coming before them. Some of the concerns raised were as follows:

- It is not the intention of the Council to interfere with decisions made by the Zoning Board of Review.
- The Council would like to ensure that the boards and commissions are receiving proper legal guidance in order to make decisions that can be upheld.
- Any action taken by the Council is not viewed as precedent setting.
- Uncertainty of Court action without any input from the Town Council.

Councilor Sutton stated that he was prepared to make a resolution expressing the Council's opinion that if adopted would be given to the attorney representing the Town and forwarded to Court. The following resolution was put forth by Councilor Sutton:

WHEREAS, The Town Council of the Town of Jamestown for the purposes agree that David and Jennifer Clancy are recognized professional artisans working from their home and studio at 382 North Road and, given the present nature, size and scale of their decorative glass blowing artistic profession, the Town Council is willing to accept their operation as a highly skilled "home occupation"; and,

WHEREAS, The Town Council of the Town of Jamestown has reviewed the legal transcript, provided by the Town Solicitor, of the Jamestown Zoning Board of Review meeting dated October 23, 2007 and specifically the conditions of a proposed agreement between the Clancy's and the Zoning Board of Review that was approved by a simple majority of the Zoning Board of Review at that October 23, 2007 regular meeting. The Town Council in reviewing the transcript also recognizes that the Zoning Board of Review Chairman, on advice from Counsel, noted that it was the responsibility of the Town Council to "fashion a remedy"; and,

WHEREAS, The Town Council of the Town of Jamestown has reviewed the memo from the Clancy's attorney Mark Bardoff, Esq. dated November 19, 2007, to the Town's Zoning Board of Review attorney A. Lauriston Parks, Esq., in which the Clancy's give their approval of the list of conditions approved by a simple majority of the Jamestown Zoning Board of Review at the October 23, 2007 regular meeting; and,

WHEREAS, The Town Council of the Town of Jamestown recognizes that this particular discussion between the Jamestown Zoning Board of Review and the Clancy's, and now the Rhode Island Superior Court, has been going on for two years at significant cost to the Town and the Applicants and that the most recent list of conditions, approved by a simple majority of the Zoning Board of Review and the Clancys,

NOW THEREFORE BE IT RESOLVED that we, the Town Council of the Town of Jamestown, consistent with conditions approved by the majority of Zoning Board of Review in their meeting October 23, 2007, and by the Clancys in a memo dated November 19, 2007, supports resolution of the matter, consistent with the following conditions:

For the purposes of this agreement "Retail Sales" shall mean the display and sale of only those glass products designed and manufactured by David and/or Jennifer Clancy, at the 382 North Road studio site. No art work from any other artists may be displayed or sold, *nor may any other product be sold retail or wholesale* at the 382 North Road site.

The Clancy's agree that they will not apply for, design nor create any expansion of the physical size of their existing studio or any additional studio buildings, or any subdivision of their 382 North Road property Plat 7 Lot 22.

All Parties agree that the Special Use permit shall run to David and Jennifer Clancy and **NOT** the property specifically Plat 7 Lot 22. If for any reason the Clancys move from, sell, abandon or no longer retain fee ownership of their property, the Special Use Permit allowing for retail sales shall immediately be null and void and there shall be no expectation that a similar Special Use Permit shall be approved by the Town or in any way be transferred to the new tenant and/or owner.

Retail Sales months of operation from 382 North Road shall be limited to June 1 through December 31 of the calendar year and no retail sales between January 1 and May 30 of any calendar year will be requested or allowed.

Retail Sales, days of operation from 382 North Road for every calendar year shall be Thursday thru Sunday June 1 thru December 14 and December 25 thru December 31. Days of operation from December 15 thru December 24 would be every day and no other days of operation will be requested or allowed.

Retail Sales hours of operation from June 1 thru December 31 of every calendar year shall be 11:00AM to 4:00PM and no other hours of operation will be requested or allowed.

All Parking for the studio and the retail space at 382 North Road shall be provided by the Clancys as "off road" parking at 382 North Road. All parking areas shall be constructed of a permeable surface of gravel with a "year round" capability to handle parked vehicles. Other than the road in and out of the property no surface shall be of an impermeable (blacktop/concrete) surface. **No** Parking shall be allowed or permitted on the surface or shoulder of North Road.

Signs notifying passersby of the studio and retail sales shall be limited to the existing sign in terms of present size and information given and existing lighting. There shall be no lighted signs of any type, area lighting or any lighted parking area. Lights on the exterior of the building shall be limited to decorative lights during appropriate holidays and consistent with normal residential decorative holiday lighting.

It was moved by Councilor Sutton, seconded by Councilor Szepatowski to adopt the resolution as presented. So unanimously voted.

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

- 1) Town Administrator Report (as attached to these minutes)
 - a) Acquisition of Farmland Development Rights
 - b) Solid Waste Management

- c) Highway Barn
- d) West Ferry Lease
- e) Town Building Cleaning Services
- f) Teen Center
- g) Historic Park Improvement Grant application

The Town Administrator presented his written report to the Council which is attached and made part of these minutes.

- 2) Jamestown Conservation Commission
 - a) Taylor Point Highway Facility
 - b) Information regarding Conservation Commissions in Rhode Island

It was moved by Councilor Szepatowski, seconded by Councilor Sutton to accept the reports from the Jamestown Conservation Commission. So unanimously voted.

Town Council Agenda Deadline

The Town Clerk stated that individuals are delivering information after the Council agenda deadline and are requesting that they be given to the Council prior to the meeting. It was the consensus of the Council that the Clerk continue with the agenda deadline and not “hand deliver” documents on the night of the Council meeting.

PUBLIC HEARING

Council President DiGiando opened the public hearing on the proposed amendment to the Jamestown Tree Preservation and Protection Ordinance at 9:10 p.m.

- 1) Proposed amendment to the Jamestown Tree Preservation and Protection Ordinance; duly advertised in the Jamestown Press on November 27, 2007

Council President DiGiando called for public comment.

The Town Solicitor inquired if the Tree Warden had any input into the proposed amendment. The Town Administrator stated that the amendment was proposed by the Tree Preservation and Protection Committee and the present Tree Warden.

There being no public comment in favor of or in opposition to the proposed amendment the public hearing was closed at 9:15 p.m.

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to adopt the amendment to the Jamestown Tree Ordinance. So unanimously voted.

ORDINANCES AND RESOLUTIONS

None

COMMUNICATIONS AND PETITIONS

- 1) Communications relating to the Clancy appeal to the Jamestown Zoning Board of Review
 - a) John A. Murphy and G. Quentin Anthony, Co-Counsel for the Jamestown Historical Society

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to accept the communication from John A. Murphy and G. Quentin Anthony. So unanimously voted.

- b) Mark B. Bardorf, Counsel for Jennifer and David Clancy

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to accept the communication from Mark B. Bardorf. So unanimously voted.

- 2) Letter requesting to be placed on the agenda from the Beavertail Lighthouse Museum Association President, George A. Warner

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to accept the communication from George A. Warner, President of the Beavertail Lighthouse Museum Association. So unanimously voted.

The Town Administrator reported that he has been in contact with the Coast Guard office in Providence to request that they reconsider allowing the Town to house a caretaker at the lighthouse because of the Town's concerns relating to the possibility of vandalism at the facility. The Coast Guard has denied the request to have a permanent resident at the lighthouse.

In order to continue this discussion and to further address the subject, it was moved by Councilor Szepatowski, seconded by Councilor Sutton to move item #1 under new business up on the agenda. So unanimously voted.

New Business

- 1) Beavertail Lighthouse Lease
 - a) US Coast Guard / Town of Jamestown
 - b) Clarification re: tenant vs. caretaker

There was a lengthy conversation on the Council's concerns regarding the protection of the lighthouse and the fact that if left without a caretaker the facility becomes susceptible to vandalism.

The Town Administrator suggested that in order to move forward quickly, he draft a letter saying that we must put a caretaker at the lighthouse in order to safeguard it. In addition, he would contact our congressional delegation to get some assistance through Senator Reed, Senator Whitehouse and Representative Kennedy.

It was moved by Councilor Sutton, seconded by Councilor Kelly that the Town Administrator work with the Department of Environmental Management and the President of the Beavertail Museum Association to immediately to put together a plan for the occupancy of a caretaker at the Beavertail Lighthouse. So unanimously voted.

Larry Mouradjian, Associate Director, RIDEM, Department of Natural Resources, shared the Council's concerns and stated that there is a job description defined for the position of caretaker that was acceptable in the past and suggested that the Council provide the job description to applicants.

- 3) Letter from Gwen Bauer requesting street light installation on pole number ZN25-2, at 137 Narragansett Avenue

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to accept the communication from Gwen Bauer and to refer it to the Town Administrator. So unanimously voted.

- 4) Letter from Frank Meyer re: response to Beavertail Minutes question

It was moved by Councilor Kelly, seconded by Councilor Sutton to accept the letter from Frank Meyer. So unanimously voted.

In addressing Mr. Meyer's letter Councilor Sutton gave some insight into the functioning of the Beavertail State Park Advisory Committee, noting that the legal responsibility for the park belongs to the Parks and Recreation Division of RIDEM. Councilor Sutton noted that Jamestown was allowed to have representation on that committee because the Town owns a portion of the land at Beavertail and because Beavertail is of such great importance to the Town.

Council questions arose as to how the Beavertail State Park Advisory Committee was intended to function.

It was the consensus of the Council that a representative from the Rhode Island Department of Environmental Management be invited to the January 14, 2008 Council meeting to discuss the function of the Beavertail State Park Advisory Committee.

- 5) Letter of Opinion from Adam J. Sholes, Special Assistant Attorney General re: Iannetta v. Jamestown Town Council and Bolger v. Jamestown Town Council (open meetings act complaints)

It was moved by Councilor Szepatowski, seconded by Councilor Kelly to accept the communication from the Special Assistant Attorney General Sholes. So unanimously voted.

Councilor Kelly asked that it be noted that there was found to be no open meetings violation by the Jamestown Town Council.

- 6) GZA GeoEnvironmental, Inc. re: second quarter 2007 environmental monitoring report of the former Jamestown landfill

It was moved by Councilor Szepatowski, seconded by Councilor Kelly to accept the second quarter 2007 environmental monitoring report of the former Jamestown landfill from GZA GeoEnvironmental, Inc. 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.

1) **Request advertising** for the following hearing:
VICTUALING LICENSE WITH EXTENDED HOURS:

Hina Enterprises, Inc.
dba: Jamestown Mobil
35 Narragansett Avenue
Plat 9 Lot 246

APPLICATION OF HINA ENTERPRISES, INC., dba: **Jamestown Mobil**, for additional operational hours between 5:00 AM and 6:00 AM for said establishment, holder of a Victualing License issued by the Town of Jamestown. If granted, this will allow this establishment to continue to be open from 5:00 AM to 2:00 AM daily (RIGL 5-24-1 allows this establishment to be open until 2:00 AM).

The above application will be in order for hearing at a meeting of said Licensing Board on MONDAY, January 14, 2008 at 7:00 pm at the Jamestown Town Hall, Council Chambers, 93 Narragansett Avenue, in said Jamestown, at which time and place all remonstrates may make their objections against granting these licenses.

VICTUALING LICENSE WITH EXTENDED HOURS:

Hina Enterprises, Inc.
dba: Jamestown Mobil
35 Narragansett Avenue
Plat 9 Lot 246

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to advertise for a hearing for extended hours to be held on January 14, 2008 at 7:00 p.m. for Hina Enterprises, Inc. So unanimously voted.

OPEN FORUM (Continued)

- 1) Scheduled request to address
a) Representative Bruce Long

Representative Long gave an update on legislative business. Representative Long mentioned that Middletown has recently adopted a “pay as you throw” policy for recycling and invited the Town Administrator to contact the Middletown coordinator for information that Jamestown may use.

- 2) Non-scheduled request to address

Daniel Capuano, Cedar Lane, encouraged the Town to work directly with the recycling contractor to ensure that recycling is being collected and disposed of properly.

John Doty, Union Street, encouraged the Town Council to name the council chambers after Rosamond A Tefft, Town Clerk from 1959 to 1979.

Ginny Perry, Bay View Drive, asked that the Council recognize Melissa Minto for the

wonderful job she did in bringing the Teen Center into reality.

George Warner, Beavertail Lighthouse Museum Association, stated that the association has received grant funding for work on the lighthouse buildings. It is expected that there will be additional grant funding available in the near future. Mr. Warner encouraged the Council to move forward with providing security for the lighthouse.

Larry Mouradjian, stated that Beavertail Park is one of the most popular parks in the state system and he looks forward to working with the Town and the Beavertail Lighthouse Museum Association in providing a better understanding of the functions and vision of the Beavertail Lighthouse Advisory Committee.

It was the consensus of the Council that the Town Administrator coordinate the meeting with the State, Town Council and the Beavertail Lighthouse Museum Association.

APPOINTMENTS AND RESIGNATIONS

- 1) Jamestown Philomenian Library Board of Trustees
 - a) Letter of Resignation from Lisa G. Tyre

It was moved by Councilor Kelly, seconded by Councilor Szepatowski to accept the resignation from Lisa G. Tyre. So unanimously voted.

UNFINISHED BUSINESS

- 1) Naming of the Council Chambers
 - a) Rosamond A. Tefft (requested by John Doty, Jr.) continued from 11/26/2007)

Councilor Sutton reviewed the history of Miss Tefft's tenure as Town Clerk from 1959 to 1979 and especially in 1975 when he was hired as Town Administrator and worked directly with Miss Tefft. Councilor Sutton noted that Miss Tefft represented the Town of Jamestown and for many years was the "face" of Jamestown.

It was moved by Councilor Sutton, seconded by Councilor Kelly to name the historical part of the building being used as council chambers as the "Rosamond A. Tefft Town Council Chambers". So unanimously voted.

Councilor Kelly suggested that the Town Council plan a ceremony to include the hanging a plaque in the council chambers honoring Miss Tefft.

It was moved by Councilor Sutton, seconded by Councilor DiGiando to initiate a protocol to be used for the naming of, in memoriam, streets, buildings and parks within the Town of Jamestown. So unanimously voted.

- 2) David M. Clancy and Jennifer R. Clancy v Jamestown Zoning Board of Review
 - a) Letter and attachments from A. Lauriston Parks, Esq.

Previously addressed.

NEW BUSINESS

- 1) Beavertail Lighthouse Lease
 - a) US Coast Guard / Town of Jamestown
 - b) Clarification re: tenant vs. caretaker

Previously addressed.

- 2) Open Meetings Law

The Town Solicitor reviewed the Open Meetings Law and how it relates to conducting business at a Town Council meeting. Mr. Ruggiero informed the Council that the Attorney General's office holds an open meetings forum each August and suggested that Council members attend.

There being no further business before the Council, it was moved by Councilor Kelly, seconded by councilor DiGiando to adjourn the meeting at 10:18 p.m. So unanimously voted.

Attest:

Arlene D. Petit
Town Clerk

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