

TOWN COUNCIL MEETING
March 12, 2007

A regular meeting of the Jamestown Town Council was called to order at the Jamestown Philomenian Library, 26 North Road at 7:00 PM by Town Council President David J. Long. The following members were present:

Julio J. DiGiando, Vice President
William A. Kelly
Michael Schnack
Barbara A. Szepatowski

also present:

Bruce R. Keiser, Town Administrator
Arlene D. Petit, Town Clerk
Peter D. Ruggiero, Town Solicitor

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

- 1) Rolling Agenda re: “Best Land Use: Jamestown School Grounds & Perimeter Study” and request for funding

Carol Nelson-Lee, Chair of the Rolling Agenda, presented the Council with a Rhode Island Bike Map and a Greenways Newsletter. Ms. Nelson-Lee stated that the Rolling Agenda was organized in an effort to make improvements on and around the Jamestown school grounds and to improve pedestrian, bicycle, automobile and school bus traffic flow. Ms. Nelson-Lee further defined the goals of the organization stating that it is their intention to create a safe environment for children and adults to ride their bicycles to and from school, as well as to encourage children, young adults, and the elderly to become involved in recreational biking. The area being considered for the improvements is Melrose Avenue, Narragansett Avenue, and Arnold Avenue to North Road. It is hoped that an aerial survey can be done for detailed mapping as well as improvements to sidewalks and crosswalks. The plan is to be completed in the following stages:

- Phase I Survey \$7,500.00
- Phase II Land Use Study \$25,000 to \$30,000
- Phase III Project Design (unknown)
- Phase IV Construction (unknown)

The total project cost is unknown at this time; however, it is believed that with proper funding the project could be completed in the spring of 2008. Currently the Rolling Agenda has \$23,600 of funding committed.

Clayton Carlisle, 25 West Passage, member of the Rolling Agenda, stated that he supported the Rolling Agenda’s efforts and hoped the ballfield maintenance issues and the assessment of field use study would dovetail with the proposed Best Land Use Study.

Lisa Bryer, Town Planner, stated that Rhode Island Department of Transportation is considering the Jamestown project as a demonstration project under the “Safe Route to School” initiative. If the Jamestown project is accepted as a demonstration project, this could make funding available in the amount of \$300,000 to \$500,000. Ms. Bryer noted that the project has the potential of benefiting the entire Jamestown community.

The Town Planner provided the following answers to Council questions:

- It is hoped that the project would connect to the proposed bike path at North Road.
- TIP money could be available; however, funding would not be awarded until 2008 or after.
- U. S. Park Services assistance is available for “water crossings” and not for the bicycle path.

In answer to the question of whether the money received from the film production company for “Dan in Real Life” was available for this project, the Town Administrator noted that the \$5,000 received is readily available for this type of community project.

It was moved by Councilor Szepatowski, seconded by Councilor DiGiando to provide the funds received from “Dan in Real Life” to the bicycle program as presented by the Rolling Agenda. The funds are to be administered by the Finance Director. So unanimously voted.

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 numbered 2, 4 (a), and 6 (a) be removed from the Consent Agenda. It was moved by Councilor Schnack, seconded by Councilor Szepatowski to accept the Consent Agenda as amended. So unanimously voted. The Consent Agenda consisted of the following:

- 1) Adoption of Council minutes:
 - a) February 26, 2007 (regular meeting)
- 2)
- 3) Minutes from Boards, Commissions and Committees:
 - a) Planning Commission (12/20/2006, 01/17/2007, 02/07/2007)
 - b) Zoning Board of Review (01/23/2007)
- 4) CRMC Notices:
 - a)
 - b) March 2007 Calendar (*amended*)
 - c) Notice re: change 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
- 5) DEM Notices:

- a) Notice of Meeting and Proposed Public Hearing for amendments to the rules and regulations governing the administration and enforcement of the freshwater wetland act on Tuesday, March 2, 2007 (*public comment extended to March 16, 2007*)
- 6) Proclamations & Resolutions from other Rhode Island Cities and Towns
 - a)
 - b) Town of Burrillville:
 - i) 07-078 Resolution supporting legislation requiring utilities to pay for relocation of infrastructure
 - ii) 07-079 Resolution supporting legislation amendments to Chapter 98 Energy Facility Siting Act §42-98-7(a)(2). – Powers and Duties
 - iii) 07-080 Resolution in Support of Amendments to §16-7-44. School Housing Project Costs
- 7) US Census Bureau News re: 2010 census

2) Bills and Payroll

Councilor Kelly inquired about the following items:

70090.901 Blue Cross – health benefits for March \$47,018.14

The Town Administrator noted that although the cost of health care has risen dramatically over the past few years, the costs in Jamestown are relatively stable as a result of a 20% contribution from employees hired after 1996 and a lower price quote from Blue Cross. In addition, health care cost containment is being addressed through contract negotiations.

70310.309 Karen A. Catlow – reimburse conference fee \$1,494.45

The Town Administrator stated that all police training is reviewed by Chief Tighe and Lt. Donovan. As requested by the Council, the Town Administrator will make sure that training is shared with other members of the Police Department.

42004.100 Bens Uniforms – raingear \$3,905.00

The Town Administrator confirmed that the raingear was purchased through the recycling grant from the State.

New Dump Truck Colony Ford Truck Center \$88,732.00

The Town Administrator confirmed that this is the last purchase of new equipment from the previous budget.

Councilor Szepatowski asked about the expenses listed under the heading of Golf Course. The Town Administrator noted that these expenses are for adult classes which were previously held at the Golf Course and now held at an offsite facility.

It was moved by Councilor DiGiando, seconded by Councilor Szepatowski to accept the bills and payroll as presented. So unanimously voted.

4) CRMC Notices:

- a) Notice of Violation to Janice Matthews, 10 Katelan Court, Cranston re: blocking of CRMC designated Right of Way G13 located at Decatur Avenue, Jamestown, Plat 7

Councilor Kelly requested that the Town Administrator inventory the public rights-of-way to ensure that access remains open to the public.

It was moved by Councilor Kelly, seconded by Councilor Schnack to accept the Notice of Violation from CRMC. So unanimously voted.

- 6) Proclamations & Resolutions from other Rhode Island Cities and Towns
 - a) Town of Westerly

It was requested by Council President Long that the resolution passed by the Town of Westerly relative to the non-renewal of insurance for coastal properties, be placed on the March 26, 2007 Council meeting for consideration.

It was moved by Councilor Schnack, seconded by Councilor Szepatowski to accept the resolution from the Town of Westerly. So unanimously voted.

EXECUTIVE SESSION ANNOUNCEMENT

The Town Council may seek to go in Executive Session to discuss the following items:

- 1) Pursuant to RIGL 42-46-5 (a) (5) Real Estate: conservation protection
- 2) Pursuant to RIGL 42-46-5 (a) (2) Litigation: landfill

Council President Long announced that the Council may enter into executive session later in the evening, pursuant to RIGL 42-46-5 (a) (5) real estate and pursuant to RIGL 42-46-5 (a) (2) litigation.

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

- 1) Town Administrator's (verbal report)
 - a) Copy of Finance Director's report

No action taken.

Jamestown Arts District

The Town Administrator noted that the Conanicut Island Art Association has requested that the Town consider setting up a Tax-Free Arts District in the town of Jamestown. As further explanation, the Town Administrator stated that legislation [RIGL §44-18-30B(6)] has been passed giving specific communities the tools and incentives to develop a portion of its community by helping artists to live, work and contribute to community life, and for art galleries and exhibition spaces to help contribute to the economy of the state and local community. The legislation provides specific tax incentives, as follows:

- for artists who live and work within a specified district, any sale of work created within the district is exempt from state sales tax.
- for artists who live and work within a specified district, any income they receive from the sale of work they have created within the district is exempt from state personal income tax (§RIGL 44-30-1.1).

- and, for gallery spaces located within the boundaries of a specified district, the sale of original, one-of-a-kind works of art are exempt from state sales tax, whether or not they were created within the boundaries of the arts district.

The Town Administrator requested that the Council consider holding a work session for an educational overview and possible referral to the Planning Commission.

It was the consensus of the Council to hold a work session to discuss the concept and to determine if there is a possibility of establishing an arts district in the town of Jamestown.

- 2) Town Solicitor (verbal report)
 - a) Copy of letter from the RI Attorney General's office re: Iannetta vs. Jamestown Town Council

The Town Solicitor informed the Council that he is collecting data regarding the notice of complaint from Raymond Iannetta relating to accusations that the Council improperly used executive sessions to discuss the highway facility and will forward a draft response to the Council for their review at the March 26, 2007 Council meeting.

- 3) Tax Assessment Board of Review
 - a) Letter from Chairman, Anne Maxwell Livingston re: elected officers, appeals and attendance

It was moved by Councilor DiGiando, seconded by President Long to accept the letter from the Tax assessment Board of Review Chair, Anne Maxwell Livingston. So unanimously voted.

PUBLIC HEARING

- 1) Article 4. Chapter 82 of the Zoning Ordinance of the Town of Jamestown: Sec. 82-410. Project Review by Outside Consultants

It was moved by Councilor Szepatowski, seconded by Councilor Schnack to open the public hearing on the proposed amendment to the Zoning Ordinance relating to Section 82-410 entitled "Project Review by Outside Consultants" at 7:40 PM. So unanimously voted.

The Town Planner introduced the proposed amendment to the Council, noting that the Planning Commission and Town Staff have determined that there is a periodic need for professional consultants to assist both the Planning Commission and the Zoning Board of Review in the review of applications. Specifically, the Planning Commission has, in the past, sought professional advice on hydrogeological, traffic, engineering, and architectural issues among others. Ms. Bryer noted that although currently permitted, it is not clear in the ordinance that such studies should be paid for by the applicant. The ordinance as presented clarifies that the fee for such services shall be the responsibility of the applicant.

Ms. Bryer noted that in the past, peer review services were needed so often that the Town hired an engineer to assist the Planning Commission and Zoning Board of Review in reviewing information submitted by applicants and their professional consultants.

Councilor Szepatowski asked if there were any checks and balances to show the applicant that costs would be considered in hiring outside consultants to review their information. Councilor Szepatowski also inquired if the applicant had any issues with the professional selected by the Town, would they have an opportunity to request that a more neutral party be used.

Ms. Bryer stated that, as in the past, three quotes would be requested for the type of expertise needed. Also, any conflict between professional and applicant would be considered on a case-by-case basis.

Councilor Kelly noted that when he was on the Planning Commission there was occasion for the Town to seek professional assistance on project review. At that time, it was made clear that the cost of the consultant would be paid for by the applicant.

Ms. Bryer stated that in order for the boards to make an informed decision, they need proper advice, either the Town could pay for it or the applicant could pay for it. Ms. Bryer stated that if the Town were to pay for it, there should be a line item in the budget to cover the potential costs. However, the standard practice is that these professional services are part of the cost of development in order to protect the public from any adverse impact from a project.

Councilor DiGiando asked the Town Solicitor what the liability is to the Town if it allows a developer to develop a property that causes harm to a neighbor.

The Town Solicitor stated that this is a difficult question to answer generally, but if proper procedure is followed, it would be a civil matter between the developer and the resident.

In answer to several additional questions from the Council, the Town Solicitor noted that this procedure is more prevalent than not and is used by most urban cities and rural towns such as Charlestown, Exeter, North Kingstown, and East Greenwich. The fees are nominal as compared to the cost of development, approximately \$2,000 to \$3,000 for a professional peer review and comments on the information provided by the applicant and or their consultant.

Council President Long opened the hearing for public comment.

Charles Petit, Bryer Avenue, representing the Jamestown Chamber of commerce, commented that he felt the proposed amendment was anti-business and penalized the applicant for the Town's lack of experience. He mentioned his concerns regarding the lack of parameters on costs and need for professional review.

Michael de Angeli, Intrepid Lane, stated that this would allow a Town official to hold up a project. There is no limitation on expenditures mentioned in the proposed ordinance. Roger Lavalee, Luther Street, stated that this could possibly lead to litigation because there is no way to determine which expert would be considered correct.

Bruce McIntyre, Clarke Street, commented that although well intentioned, the proposal as drafted is open-ended and gives the Town blanket authority and complicates what should be a simple process.

Michael Swistak, Narragansett Avenue, asked that the Council send the proposed amendment back for review and suggested that there be a cap on expenditures, and a sunset clause be added. Mr. Swistak suggested that the Council ask for detailed written testimony from individuals that have gone through the process.

Jennifer Clancy, North Main Road, inquired if the language used in other communities would be more fitting.

Matthew Clarke, Keel Avenue, asked how many times this proposed ordinance would have been used in the past ten to fifteen years. Mr. Clarke commented that this would have an affect on anyone with limited means.

Jack Brittain, Conanicus Avenue, read a statement opposing the proposed ordinance.

Norma Willis, North Main Road, indicated that this could be used by spiteful board members to hold an applicant up. It is too open-ended.

Sav Rebecchi, Sail Street, suggested that the present Town Solicitor review the proposed ordinance and resubmit it if necessary.

David Clancy, North Main Road, stated he was opposed to the ordinance.

There being no further comments from the public, it was the consensus of the Council to ask the Town Solicitor to consider the following concerns:

- Review like ordinances from other communities.
- Consider average cost of a review.
- Consider a possible cap on cost.
- Consider a sunset clause.

It was moved by Councilor Schnack, seconded by Council President Long at 8:30 PM to continue the public hearing on the proposed amendment to the Zoning Ordinance, Section 82-410, Project Review by Outside Consultants to the Town Council meeting on April 9, 2007 at 7:00 PM, at which time the Town Solicitor will present a review and comments. So unanimously voted.

President Long called for a five-minute break at 8:30 PM.

The Council returned to the regular meeting at 8:35 PM.

ORDINANCES AND RESOLUTIONS

1) Resolution #07-003 re: April as Fair Housing Month
It was moved by Councilor DiGiando, seconded by Councilor Szepatowski to approve Resolution #07-003, proclaiming April as Fair Housing Month as outlined in the resolution. So unanimously voted.

COMMUNICATIONS AND PETITIONS

1) Invitation from Newport Mayor Stephen C. Waluk re: 51st Annual St. Patrick's Day Parade on Saturday, March 17, 2007
It was moved by Councilor DiGiando, seconded by Councilor Szepatowski to accept the invitation from Newport Mayor Stephen C. Waluk. 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) One Day Exhibition License Application:
a) Application from **Save the Bay** to hold the annual Save the Bay Swim on Saturday, July 21, 2007 at 6:30 to 11:30 am (fog date: 07/22/2007) at Potter's Cove/Taylor Point. Application complete and insurance certificate attached.

The Town Clerk noted that the application from Save the Bay would require coordination with the Town Administrator and Chief of Police.

It was moved by Councilor DiGiando, seconded Councilor Szepatowski to approve the One Day Exhibition License for Save the Bay to hold an annual Save the Bay Swim on Saturday, July 21, 2007 at 6:30 to 11:30 am (fog date: 07/22/2007) at Potter's Cove/Taylor Point.. So unanimously voted.

- 2) Once Day Peddler License Application
a) Application of the **Quononoquott Garden Club** to hold their annual plant sale on Saturday, May 19, 2007 (rain date: 05/20/2007) from 9:00 am to noon at East Ferry (left of Veteran's Square). *Applicant did not submit and insurance certificate*

The Town Clerk informed the Council that we have received the insurance certificate from Quononoquott Garden Club.

It was moved by Councilor DiGiando, seconded by Councilor Szepatowski to approve the One Day peddler License for the Quononoquott Garden Club to hold an annual plant sale on Saturday, May 19 (rain date May 20, 2007), from 9:00 a.m. to 12:00 noon at East Ferry (left of Veteran's Square). So unanimously voted.

- 3) Holiday License Renewal Applications:
a) Ace's Pizza Inc. dba: **Ace's Pizza**; 1 Clarke Street

- b) Barbara & Michael Gall dba: **Theatre Family Restaurant**; 34 Narragansett Avenue

It was moved by Councilor DiGiando, seconded by Councilor Kelly to approve the Holiday Licenses for Ace's Pizza Inc., dba: Ace's Pizza at 1 Clarke Street, and Barbara & Michael Gall dba: Theatre Family Restaurant; 34 Narragansett Avenue. So unanimously voted.

OPEN FORUM

- 1) Scheduled request to address
 - a) Representative Bruce Long re: Legislative update

Representative Long suggested that the Council invite Randall Rosenbaum to their work session to provide information about establishing a Tax-Free Arts District in the town of Jamestown. Mr. Rosenbaum is the Executive Direct of Rhode Island State Council on the Arts.

Representative Long presented a verbal legislative update to the Council.

- 2) Non-scheduled request to address

Valerie Malloy, Columbia Avenue suggested that well users and municipal water users should participate in the next water ban.

APPOINTMENTS AND RESIGNATIONS

- 1) School Committee
 - a) Appointment of David E. Dolce (R): pursuant to the Jamestown Town Charter: Article V. Section 503; for a term ending November 6, 2007

It was moved by Councilor DiGiando, seconded by Councilor Kelly to appoint David E. Dolce to the Jamestown School Committee, pursuant to the Jamestown Town charter, Article V, Section 503, for a term ending November 6, 2007. So unanimously voted.

UNFINISHED BUSINESS (cont. from 02/26/2007)

- 1) Beavertail Lighthouse and Adjacent Structures
 - a) Environmental remediation and the use of the Lighthouse Keeper's quarters

The Town Administrator reported that the Federal Government does not support the Town's leasing of the lighthouse keeper's quarters as a residence; however the Town has not as yet received anything in writing indicating changes in the agreement. The Town Administrator noted that the lighthouse keeper's apartment has been leased by the Town to a tenant qualified to provide maintenance and upkeep to the property for more than thirty years. The present tenant is to vacate the lighthouse keeper's apartment by March 31, 2007. However, until the question of whether the Town can lease the apartment as a residence is answered, the new tenants cannot take position of the apartment, nor is remediation required unless the property is used as a residence. The Town is also waiting for the status on how the property will be surplus by the Federal Government.

No action was taken.

- 2) Harbor Management Commission
 - a) Letter from Chairman Michael de Angeli re: Increase in harbor fees

Mr. de Angeli reviewed the revised harbor fees proposed by the Harbor Commission. Mr. de Angeli noted that the user fees have been increased by approximately twenty percent on moorings, out hauls, and docks. One exemption to that increase is the “club moorings” held by out-of-town yacht clubs, which has a proposed increase of fifty percent, still well below the fee charged by other towns. The rate for dockage of commercial fishing boats at East Ferry is proposed to be raised by approximately 8%, which brings the rate more in-line with the rates charged at State piers.

It was moved by Councilor DiGiando, seconded by Councilor Szepatowski to approve the harbor fees as presented. So unanimously voted.

The harbor fees as approved by the Council are as follows:

2007 Harbor Rates as Adopted by the Town Council		
Mooring Permit	Rates	Notes
Resident	\$3.35	
Non-Resident	\$6.70	
Commercial	\$6.70	
Club	\$1,000.00	
Wait List		
Mooring Permit	\$10.00	
Ft. Getty Outhaul	\$10.00	
Outhauls Fees		Ft. Getty and West Ferry
w/ Commercial Fishing License	\$420.00	
w/o Commercial Fishing License	\$480.00	
Public Piers		East Ferry Wood Pile Pier
Commercial Vessels	\$40.00	
Pleasure Vessels	\$80.00	
Beach Boat Storage		EF/Head’s Beach/Maple Ave ROW
Vessels up to 11’	\$60.00	
Vessels 11’ and over	\$24.00 per ft. beam	
Vessels on Rack	rates same as above	
West Ferry Dingy Dock		
Vessels up to 10’	\$240.00	
Touch and Go Docks		30 Minutes
EF & WF Pumpout Facilities		\$0.00

Donald Richardson, Conanicus Avenue, asked why there were increases in the mooring fees and if it includes any work on Jamestown property.

Councilor DiGiando stated that the monies coming in from the Town leases would be used for improvements on Town properties. The money that is coming from the management side (mooring fees) would be used to run the operation of the harbor and the harbormaster, and a small amount would be used for infrastructure.

It was the consensus of the Council to instruct the Town Clerk to arrange for a tour of the East Ferry for the Town Council, Town Officials, Harbor Commission members, Town Administrator, Town Solicitor, William Munger, and the Chief of Police.

NEW BUSINESS

- 1) Resolution #07-002 re: Resolution Authorizing Issuance of Bonds and Notes for the New Town Hall Facility for Council approval

The Town Administrator explained that the resolution is for \$3,300,000 because it includes the \$300,000 architect services approved at the financial town meeting in June 2005. Those funds were approved in 2005, but not budgeted for and has been made as part of the construction costs rather than from the undesignated fund balance and lowering the Town's reserve surplus.

The Town Administrator informed the Council that he participated in a ratings call from Moody's Investors Service on Wednesday, whereby the financial condition and other elements of the Jamestown community and project details were discussed. Mr. Keiser proudly informed the Council that the Town's rating has been upgraded from an A1 to an Aa3 rating, affording Jamestown the opportunity to fund projects at a lower interest rate.

It was moved by Councilor Schnack, seconded by Councilor Szepatowski to approve Resolution No. 07-002, authorizing the issuance of bonds and notes for the new town hall facility, as stated in the resolution. So unanimously voted.

EXECUTIVE SESSION

It was moved by Councilor Schnack, seconded by Council President Long to enter into executive session at 9:04 PM, pursuant to RIGL 42-46-5(a) (5) real estate to discuss the acquisition and conservation protection of property, and pursuant to RIGL 42-46-5(a) (2) litigation to discuss the landfill. It was voted, Councilor DiGiando, aye; Councilor Kelly, aye; Councilor Schnack, aye; Councilor Szepatowski, aye; Council President Long, aye.

The Council returned to the regular meeting at 9:30 PM. Council President Long noted that there were no votes taken in executive session.

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

Councilor Kelly, aye; Councilor Schnack, aye; Councilor Szepatowski, aye; Council President Long, aye.

It was moved by Councilor DiGiando, seconded by Councilor Schnack to instruct the Town Administrator to continue moving forward with plans for land acquisition. So unanimously voted.

It was moved by Councilor Schnack, seconded by Council President Long to adjourn the meeting at 9:34 PM. So unanimously voted.

Attest:

Arlene D. Petit
Town Clerk

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

ADJOURNMENT