

TOWN COUNCIL MEETING
May 29, 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
Michael Schnack
William A. Kelly

Barbara A. Szepatowski arrived at 7:25 PM
also present:

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

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

Presentation from Paul Dolan, Program Manager for the Division of Forest Management

Paul Dolan, Program Manager for the Division of Forest Management, presented the Council with a 5th year award for being selected as a Tree City USA. Mr. Dolan explained that in order for a community to be selected, criteria as set forth by the Division of Forest Management must be met.

A community must:

- celebrate Arbor Day
- adopt a tree ordinance
- form a Tree Committee
- make a major commitment to take care of their trees

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) Application of Conanicut Marine Services re: Class G liquor license for permission to serve alcoholic beverages on the ferries of *the Jamestown* and *the MV Katherine* while dockside for thirty (30) minutes prior to departure and until departure, as stated in RIGL §3-7-15 (b).

It was moved by Councilor DiGiando, seconded by Councilor Schnack to approve the Class G liquor license to serve alcoholic beverages on the *Jamestown* and *the MV Katherine* ferries while at dockside for thirty (30) minutes prior to departure and until departure, as stated in RIGL §3-7-15 (b). So voted with four in favor with Councilor Szepatowski being absent for the vote.

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 Schnack, seconded by DiGiando to accept the Consent Agenda as presented. So voted with four in favor with Councilor Szepatowski being absent for the vote. The Consent Agenda consisted of the following:

- 1) Adoption of Council minutes:
 - a) May 14, 2007 (regular session)
 - b) May 14, 2007 (executive session Phase I)
 - c) May 14, 2007 (executive session Phase II)
- 2) Bills and Payroll
- 3) Minutes from Boards, Commissions and Committees:
 - a) Water Resources Protection Committee (3/22/2007)
 - b) Harbor Commission (3/28/2007, 4/11/2007)
 - c) Buildings and Facilities Committee (10/24/2006, 12/12/2006, 04/11/2007)
- 4) CRMC Notices:
 - a) May 2007 Calendar (amended)
 - b) May 22, 2007 Agenda
- 5) Zoning Board of Review abutter notification
 - a) Application of Larry and Rebecca Knight, property located at 53 Melrose Avenue, Plat 8, Lot 35 for a variance from Article 3, Table 3-2, to construct an open front porch which will be 26' from the front property line instead of the required 30'
- 7) Proclamations & Resolutions from other Rhode Island cities and towns
 - a) Town of Westerly re: resolution in support of legislation that would eliminate the straight party ticket ballot in Rhode Island
 - b) City of Cranston re: resolution urging legislation that would allow the City of Cranston to increase the Cranston Probate Court Fees
 - c) Town of Portsmouth re: resolution requesting the completion of the 911 GPS Survey Tracking System Project in the State of Rhode Island

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 (5) re: real estate acquisition
Council President Long announced that the Council would enter into executive session pursuant to RIGL 42-46-5 (5) re: real estate acquisition.

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

- 1) Town Administrator Report (verbal)
 - a) Sole Source Aquifer responses

The Town Administrator reported that he has received responses from the Newport City Manager and the North Kingstown Town Manager regarding their ability to supply an alternative source of water for Jamestown on either a short-term emergency basis or a longer-term basis.

Although North Kingstown would provide Jamestown with emergency access to water in an amount not to exceed 200,000 gallons per day, it would be understood that there would be exceptions in the event of certain unanticipated situations such as weather conditions or equipment problems. Mr. Keiser noted that the 200,000 gallons per day would be short of the 350,000 gallons per day used by Jamestown in the summer.

Newport responded that since an interconnection does not exist between the two communities the only manner they would have to assist would be to identify a location in Newport whereby Jamestown residents could fill containers with water.

The Town Administrator informed the Council that upon receipt of this information, Douglas Heath, USEPA New England Sole Source Aquifer Coordinator, would continue to analyze the petition and inform the Town when a hearing would be scheduled.

b) NRCS grant funding for Round Marsh

The Town Administrator informed the Council that the Natural Resource Conservation Service has awarded a grant to the Town in the amount of \$67,255.00 for the wildlife habitat program. The Town Administrator recognized the efforts of Carol Lynn Trocki, Jamestown Conservation Commission member and the Conservation Commission in preparing the application for this highly competitive grant. It was noted that there is a local match in the amount of 25% or \$22,000.00. It is expected that the local grant match will be made through in-kind services such as wildlife biologist services, conservation biologist services, Save the Bay assistance and the Town's Public Works Department. This funding will be used for the restoration of eight to ten acres of the salt marsh on the northwest side of the sanctuary. It is expected that the project will begin in the spring of 2008 or summer of 2009.

The Town Administrator commented that this will tie in with the farmland acquisition and the long-term goal of establishing walking trails in that area of the town.

2) Town Solicitor Report

a) Letter to Mark T. Reynolds re: Siegmund & Associates, Inc and Town of Jamestown

The Town Solicitor reported that the original agreement has been enforced and the check distributed to Mr. Siegmund's attorney.

b) Letter to Christopher J. Behan re: High Street Right of Way

The Town Solicitor noted that former Town Solicitor Parks had been working on the issue of the High Street Right of Way extensively prior to this. Because Mr. Parks is familiar with the pending Superior Court litigation Mr. Ruggiero suggested that it would be prudent to have Mr. Parks continue his involvement in order to address the outstanding issues. However, Mr. Ruggiero noted that the Town may want to proceed independently of the CRMC action, in which case the Town Solicitor would like to follow up with the Town Administrator to review those options.

Council President Long mentioned that it was his understanding that this issue was resolved several years ago.

There being no objection, the Town Solicitor stated that he would review options for the Council to consider.

- 3) Conservation Commission
 - a) Letter from Chris Powell, Chair re: Sole Source Aquifer

It was moved by Councilor DiGiando, seconded by Councilor Kelly to accept the communication from the Conservation Commission Chair. So voted with four in favor with Councilor Szepatowski being absent for the vote.

PUBLIC HEARING

None

ORDINANCES AND RESOLUTIONS

None

COMMUNICATIONS AND PETITIONS

- 1) Invitation to Planning Commission Workshop, June 6, 2007 at 5:00 p.m.
It was moved by Councilor DiGiando, seconded by Councilor Schnack to accept the invitation to the Planning Commission workshop on June 6, 2007. So voted with four in favor with Councilor Szepatowski being absent for the vote.

- 2) Invitation to a Tick Control Awareness Day event at 11 America Way, Saturday, June 2nd at 3:00 p.m.
It was moved by Councilor DiGiando, seconded by Councilor Schnack to accept the invitation to Tick Control Awareness Day on June 2, 2007. So voted with four in favor with Councilor Szepatowski being absent for the vote.

- 3) Notice from the Department of Administration, Budget Office/Municipal Affairs re: approval of the Town's notice of proposed property tax rate change
It was moved by Councilor DiGiando, seconded by Councilor Schnack to accept the notice from the Department of Administration, Budget Office/Municipal Affairs approving the Town's notice of proposed property tax rate change. So voted with four in favor with Councilor Szepatowski being absent for the vote.

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) Fort Getty Pavilion Request:

- a) Application request of Laretta Gladding dba: Bridges, Inc. re: Recognition Day for Bridges, Inc. on Friday, July 27, 2007. Applicant requests to waive the \$200.00 rental fee.

It was moved by Councilor DiGiando, seconded by Councilor Kelly to waive the \$200.00 Fort Getty rental fee for Bridges, Inc. for Friday, July 27, 2007. So voted with four in favor with Councilor Szepatowski being absent for the vote.

2) Entertainment License Applications:

- a) Application of Harriet Mistowski dba: Jamestown Golf Course to have a band for the Ocean State Parrothead Club 6th Annual Tournament on Sunday, September 9, 2007 from noon to 4:00 pm. *Insurance policy not submitted.*

It was moved by Councilor DiGiando, seconded by Councilor Schnack to approve the Entertainment License for the Jamestown Golf Course on September 9, 2007 from noon to 4:00 p.m. So voted with four in favor with Councilor Szepatowski being absent for the vote.

- b) Application of Shamus Flaherty dba: (same) to have a band at the Ft. Getty Pavilion on Saturday, June 9, 2007 from 2:00 to 10:00 pm. *Insurance and pavilion application attached.*

It was moved by Councilor DiGiando, seconded by Councilor Schnack to approve the Entertainment License for Shamus Flaherty at Ft. Getty Pavilion on Saturday, June 9, 2007 from 2:00 p.m. to 10:00 p.m. So voted with four in favor with Councilor Szepatowski being absent for the vote.

3) One Day Peddler License Application:

- a) Application of St. Matthew's Church dba: (same) to sell misc. items and raffle tickets on Saturday, July 21, 2007 from 9:00 am to 1:00 pm.

It was moved by Councilor DiGiando, seconded by Council President Long to approve the One Day Peddler License for St. Matthew's Church to sell miscellaneous items and raffle tickets on Saturday, July 21, 2007 from 9:00 a.m. to 1:00 p.m. So voted with four in favor with Councilor Szepatowski being absent for the vote.

4) Victualing License TRANSFER Application:

- a) Application of Joy Vieira dba: Ace's Pizza, Inc. (transfer from: John Vietri dba: Ace's Pizza, Inc.) located at 1 Clarke Street

It was moved by Councilor DiGiando, seconded by Council President Long to approve the transfer of Victualing License from John Vietri, dba: Ace's Pizza, Inc. to Joy Vieira, dba: Ace's Pizza, Inc. So voted with four in favor with Councilor Szepatowski being absent for the vote.

5) Holiday License TRANSFER Application:

- a) Application of Joy Vieira dba: Ace's Pizza, Inc. (transfer from: John Vietri dba: Ace's Pizza, Inc.) located at 1 Clarke Street

It was moved by Councilor Schnack, seconded by Councilor DiGiando to approve the transfer of Holiday License from John Vietri, dba: Ace's Pizza, Inc. to Joy Vieira, dba:

Ace's Pizza, Inc. So voted with four in favor with Councilor Szepatowski being absent for the vote.

- 6) Exhibition/Event Application:
 - a) Application of BJ Whitehouse dba: Jamestown Fireworks Committee to hold the annual fireworks display at Mackerel Cove beach on Wednesday, July 4, 2007 from 3:00 to 10:00 pm.
Insurance policy not submitted.

It was moved by Councilor Schnack, seconded by Councilor DiGiando to approve the Event Application for the Jamestown Fireworks Committee to hold the annual fireworks display at Mackerel Cove Beach on Wednesday, July 4, 2007 from 3:00 p.m. to 10:00 p.m. So voted with four in favor with Councilor Szepatowski being absent for the vote.

OPEN FORUM

- 1) Scheduled request to address
 - a) Representative Bruce J. Long re: legislative update

Representative Long informed the Council that any proposed legislation for this General Assembly session must be received by June 11, 2007.

- 2) Non-scheduled request to address

Ginny Perry, Bay View Drive, asked if the contract for the "Best Land Use Plan for Jamestown School Grounds and Neighborhood" is handicapped accessible.

Carol Nelson-Lee, Buoy Street answered that every effort will be made to make the school grounds and neighborhood handicap accessible.

Walter Boll, Clinton Avenue, informed the Council that not all residents on Clinton Avenue oppose the building constructed by Jack Brittain. Mr. Boll read a statement in support of the design and construction. Mr. Boll noted his concern with trucks cutting through the parking lot on Howland Avenue through to Clinton Avenue.

William Johnstone, Summit Avenue, expressed his concern that a light was moved on the corner of Summit Avenue and Narragansett Blvd.

Councilor Szepatowski arrived at 7:25 p.m.

APPOINTMENTS AND RESIGNATIONS

- 1) Coastal Resource Management Council Representative (one [1] vacancy with a two-year [2] term ending 5/31/2009) duly advertised and interviews complete; if favorable, appoint
 - a) Request for reappointment
 - i) Emmet E. Turley

It was moved by Councilor DiGiando, seconded by Councilor Schnack to reappoint Emmet E. Turley to the Coastal Resource Management Council for a term ending 5/31/2009. So unanimously voted.

- 2) Tax Assessment Board of Review (one [1] vacancy with a three-year [3] term ending 5/31/2010) duly advertised and interviews complete; if favorable, appoint

- a) Letter of recommendation from Chair

It was moved by Councilor Schnack, seconded by Council President Long to accept the letter of recommendation. So unanimously voted.

- b) Request for reappointment

- i) Stuart L. Rice, Jr.

It was moved by Councilor Kelly, seconded by Councilor DiGiando to reappoint Stuart L. Rice, Jr. to the Tax Assessment Board of Review for a term ending May 31, 2010. So unanimously voted.

- 3) Town Building and Facilities Committee (one [1] vacancy with a three-year [3] term ending May 31, 2010) duly advertised and interviews complete; if favorable, appoint

- a) Request for reappointment

- i) Duncan Pendlebury

It was moved by Councilor Kelly, seconded by Councilor Schnack to reappoint Duncan Pendlebury to the Town Building and Facilities Committee for a term ending May 31, 2010. So unanimously voted.

UNFINISHED BUSINESS

- 1) Jamestown Fire Department (JFD) Incentive Program; for review and adoption if favorable (continued from 5/14/2007)

William Murphy, committee member for the incentive program was present to answer questions from the Council.

Questions directed to Mr. Murphy were as follows:

- Page 3 – It is the intention of the Town of Jamestown that in regard to two JFD members in good standing owning the same property, each shall receive a taxable \$75,000 property tax abatement...

Q: If a member belongs to the JFD and JEMS will they receive more than one tax abatement.

A: Only one tax abatement will be given per person no matter whether they are on both departments.

- Page 2 – Individuals not rates as a member in good standing are not eligible for the incentive period.

Q: Explain the reason for deleting: There shall not be any pro-rating of eligibility or incentives during any given incentive period.

A: Leaving that statement in would not allow for someone coming on in the middle of a year. Without the deletion they could actually go on 100 runs in, say a nine-month period and not be compensated.

- Page 6 – This incentive is transferable upon the retired life member’s death to their spouse, regardless of spouse’s age and shall continue until the spouse remarries...

Q: Someone who serves for twenty-five years or longer with a spouse supporting those efforts, maybe that spouse should be considered for lifetime compensation.

A: That issue was not addressed when putting the document together; however, this is an agreement between the Town Council and the Fire Department, for Council review and action.

The Town Solicitor informed the Council that if this agreement is before them for review and action, they may make the appropriate changes.

It was the consensus of the Council that the words *until the spouse remarries* be stricken from the document.

It was moved by Councilor DiGiando, seconded by Councilor Schnack to adopt the Jamestown Fire Department (JFD) Incentive Program (Final Version – 5/1/2007) as amended. So unanimously voted.

NEW BUSINESS

- 1) Siting of the Highway Facility (*the Council may vote to address this issue following Item VII on the agenda*)
 - a) Highway Barn Location Resolution (for Council adoption)
 - b) An Act Authorizing the Town of Jamestown to Finance the Construction of a Highway Garage (for Council adoption and submission to the General Assembly for passage)

The Town Administrator reported that several conditions have come forward that affect the timing of the selection of a site for the construction of a highway facility.

Bridge Site

The Newport Turnpike and Bridge Authority (NTBA) has voted to offer the parcel of property that the town would need in order to site the facility adjacent to the Newport Bridge. A written proposal has been received from NTBA and negotiations are presently ongoing.

Lot 47

The North End Concerned Citizens group met with Michael Sullivan, Director of RIDEM, relative to concerns regarding the siting of a highway facility on Lot 47. The portion of dirt road, allowing access to the present material storage area is shown in the 50% design plan as an access road to Lot 47 and would be used on a daily basis. That high level of use may require additional design work and permitting as part of the landfill closure. Dr. Sullivan indicated that he would send the question back to his staff as part of the 30% design review to determine whether or not a change or modification in the proposed construction of the road. At the present time there are no cost estimates if any modification would be necessary. GZA is presently evaluating this issue. It is expected

that more will be known the latter part of this week. In addition, the Town Administrator noted that it may be necessary to revisit the Summit Avenue access.

Offer of Purchase

The Town Administrator informed the Council that an abutter to lot 47 has made an offer to purchase lot 47. The Town Administrator suggested that the Council meet in executive session to discuss this offer.

The Town Administrator advised that based upon the new information, it may be premature to select a specific site tonight.

Next Step

The Town Administrator informed the Council that in order to meet the General Assembly deadline it would be necessary to forward proposed legislation as soon as possible. The Council could decide to pass two motions: 1) Resolution for \$1,500,000 to construct a highway facility at the bridge site, **and** 2) Resolution for \$1,500,000 to construct a highway facility at lot 47 site. Or, the Council could wait for the additional information needed and then decide. The Town Administrator noted that time constraints may point to the first option of passing two resolutions.

There was a great deal of Council discussion on the procedure to be followed to enable the Council to select the site in the timeframe that would allow for legislation to be presented to the General Assembly in order to ensure passage this session.

Another area of concern was a meeting held by RIDEM and the North End Concerned Citizens. It was the consensus of the Council that as a courtesy the Town should be notified of these meetings and if necessary, have representation there.

It was moved by Councilor DiGiando, seconded by Szepatowski to request Representative Long and Senator Paiva-Weed to submit the proposed legislation requesting the General Assembly authorize a bond referendum to permit the financing of the construction of the highway facility at the bridge site for an amount not to exceed \$1,500,000. So unanimously voted.

It was moved by Councilor DiGiando, seconded by Szepatowski to request Representative Long and Senator Paiva-Weed to submit the proposed legislation requesting the General Assembly authorize a bond referendum to permit the financing of the construction of the highway facility at the Lot 47 site for an amount not to exceed \$1,500,000. So unanimously voted.

- 2) Award of Bid for the contract for the “Best Land Use Plan for Jamestown School Ground and Neighborhood” to Gates, Leighton & Associates, Inc. for a fee not to exceed \$30,480.00, dependent on the funds being available from the fundraising efforts of Rolling Agenda

Councilor Kelly suggested that the Town Administrator explore if it would be feasible for the Department of Public Works to do any of the work in order to reduce the costs for the “Plan”.

It was moved by Councilor DiGiando, seconded by Councilor Schnack to award the contract for the “Best Land Use Plan for Jamestown School Ground and Neighborhood” to Gates, Leighton & Associates, Inc. for a fee not to exceed \$30,480.00, dependent on the funds being available from the fundraising efforts of Rolling Agenda. So unanimously voted.

- 3) Letter to Captain Roy A. Nash, United States Coast Guard re: opposition to Weaver’s Cove LNG proposal (as requested at 5/14/2007 Council meeting); if favorable, for Council President’s signature

It was moved by Councilor DiGiando, seconded by Councilor Szepatowski to approve the letter to Captain Roy A. Nash for Council President’s signature. So unanimously voted.

- 4) High Street right-of-way update (per Council President Long)
Previously addressed.

- 5) Proclamation honoring the service of James R. Filkins

It was moved by Councilor Schnack, seconded by Councilor Szepatowski to authorize the Town Clerk to prepare a proclamation for President Long’s signature honoring James R. Filkins for his service to the community. So unanimously voted.

- 6) Sole Source Aquifer – legal benefits/consequences (as requested at the 4/23/2007 Council meeting)

The Town Solicitor provided information from the U.S. Environmental Protection Agency regarding the Sole Source Aquifer Program. No action was taken.

- 7) Thank you letter to Ellicott and Mary Wright and Patrick and Jemma Driscoll for their generous donation to protect property located at Fox Hill Farm from development (per Councilor Kelly)

Councilor Kelly recognized the efforts of Ellicott and Mary Wright and Patrick and Jemma Driscoll in protecting property located at Fox Hill Farm from future development.

The Town Administrator suggested that he be allowed to research other communities and make a recommendation on a process of recognition.

- 8) CRMC Public Notices re: boating facility applications
 - a) Beth E. Smith to construct and maintain a residential facility at 86 Orient Avenue; Plat 1, Lot 320
 - b) John P. Somyk to construct and maintain a residential boating facility at 401 Seaside Drive; Plat 16, Lot 232
 - c) Thomas Markarian to construct modifications to an existing residential boating facility at 746 East Shore Road; Plat 2, Lot 225
 - i) Request to CRMC to extend the date for comment on the above-mentioned applications
 - ii) Memorandum regarding above-mentioned applications from the Harbor Clerk indicating that at a meeting of the

Harbor Commission on May 16, 2007 there was found to be no issues relating to the applications as submitted. It was moved by Councilor Schnack, seconded by Councilor Szepatowski to accept the CRMC Public Notices regarding Beth E. Smith, John P. Somyk and for Thomas Markarian. So unanimously voted.

EXECUTIVE SESSION

It was moved by Councilor Schnack, seconded by Councilor DiGiando to enter into executive session at 8:20 p.m. pursuant to RIGL 42-46-5 (5) re: real estate acquisition.

It was voted, Councilor DiGiando, aye; Councilor Kelly, aye; Councilor Schnack, aye; Councilor Szepatowski, aye; Council President Long, aye.

Upon the return of the Council to the regular 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; Council President Long, aye.

Council President Long announced that there were no votes taken in executive session.

ADJOURNMENT

There being no further business before the Council, it was moved by Councilor Schnack, seconded by Council President Long to adjourn the regular meeting at 8:46 p.m. So unanimously voted.

Attest:

Arlene D. Petit
Town Clerk

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