

TOWN COUNCIL MEETING

February 9, 2004

A regular meeting of the Jamestown Town Council was called to order at the Jamestown Philomenian Library, 26 North Road, at 7:06 PM by Council President Kenneth G. Littman. The following members were present:

David J. Long, Vice President
Julio J. DiGiando
Claire M. Ferguson
Guy J. Settipane

also present:

Maryanne Crawford, CPA, Town Administrator
J. William W. Harsch, Town Solicitor
Arlene D. Petit, Town Clerk

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

None

SITTING AS ALCOHOLIC BEVERAGE LICENSING COMMISSION

None

CONSENT AGENDA

It was requested that items # 1 (a) and 5 be removed from the Consent Agenda. It was moved by Councilor Long, seconded by Councilor Ferguson to approve the Consent Agenda as amended. So unanimously voted. The Consent Agenda consisted of the following:

- 1) Adoption of Council minutes:
 - a)
- 2) Bills and Payroll
- 3) Minutes from Boards, Commissions and Committees:
 - a) Planning Commission (12/03/2003, 12/17/2003, 01/07/2004)
 - b) Harbor Management Commission (01/21/2004)
 - c) Library Board of Trustees (12/16/2003)
 - d) Jamestown Housing Authority (12/11/2003)
 - e) Tree Preservation and Protection Committee (12/16/2003)
- 4) CRMC Notices:
 - a) Corrected February 2004 Calendar
 - b) Cancellation Notice re: 01/26/2004 Meeting
 - c) Assent:
 - i) Thomas & Linda Pearson, 15 Seaside Dr., re: construction of a residential boating facility located at plat 14, lot 18; said location

- ii) Mark Lancaster, 175 Narragansett Avenue, re: removing an existing dwelling, construct a new four bedroom dwelling to be located 130 ft. from a coastal feature, swimming pool, and ISDS. Located at plat 4, lot 49, 388 East Shore Rd.
 - iii) Isenberg Family Ltd. Partnership, 42 Eames St., Providence, re: construct renovation to an existing residential dwelling by razing and removing the existing dwelling and constructing a new dwelling removing a portion of the existing garage and installing a new DEM approved ISDS; dwelling will be serviced by existing well, located at plat 2, lot 29; 5 Court St.
 - d) Certificate of Maintenance
 - i) Joan Engel & David Guiney, 43 Avondale Rd., W. Hartford, CT re: replace failed ISDS with new and improved ISDS; located at plat 7, lot 69; 32 E. Shore Rd.
 - ii) Duncan Laurie, Dragonline, LLC, 275 Beavertail Rd. re: Alteration to existing ISDS located at plat 10, lot 124; 2 Ft. Wetherill Rd.
 - e) Finding No Significant Impact
 - i) Joseph & Nancy Logan, 149 Seaside Dr., re: construction and maintenance of a deck addition located at plat 5 lot 12, said location
- 5) Statewide Planning Council Public Notice re: DOT and TIP's Highway Program amendments
- 7) Zoning Board of Review abutter notification notice re: application of John & Darla Barber, whose property is located at 31 Hull St., and further identified as Tax Assessor's Plat 14, Lot 85 for a variance from Article 3, Section 302 Table 3-2 (District Dimensional Regulations) to construct an addition 13 ft. from the corner setback where 20 ft. is required. Said property is located in a R40 zone and contains 7200 sq ft.

- 1) Adoption of Council minutes:
 - a) 01/26/2004 Regular Meeting

Council President Littman stated that the Unreserved Fund balance is incorrect as reported on page 4 of the minutes and requested that it be corrected to read \$1,850,000.00.

It was moved by Council President Littman, seconded by Councilor Long to approve the minutes as amended. So unanimously voted.

- 5) DEM Notice re: Fresh Water Wetlands Act application of Bartholomew Catanzaro

Councilor DiGiando noted his concerns that the property located on Riptide Street is in a very wet area.

Councilor Settipane suggested that the Town Administrator send a letter to RIDEM if it is found to be appropriate.

It was moved by Councilor DiGiando, seconded by Councilor Long to accept the DEM Notice. So unanimously voted.

EXECUTIVE SESSION ANNOUNCEMENT

None

PUBLIC HEARING

Council President Littman opened the public hearing regarding proposed changes to Section 78-72 Composition of the Jamestown Harbor Management Commission at 7:12 PM.

- 1) Jamestown Code of Ordinance Section 78-72 Composition of the Jamestown Harbor Management Commission (duly advertised on January 29, 2004)

The Town Solicitor reported that the proposed amendment was prepared pursuant to the Jamestown Charter and the Jamestown Code of Ordinance and in consideration of the proposed Harbor Management Ordinance, which is currently being reviewed by the Town Council.

James Archibald, Harbor Management Commission Chair, suggested that the Council consider current members to fill the amended positions and to begin advertising for vacancies as soon as possible. Additionally, Mr. Archibald suggested that the terms be staggered.

Councilor Settipane questioned if it would be necessary to include the term limits in the ordinance.

Richard Allphin, Clarke Street, suggested that the Council omit the term staggered and include language indicating that the appointments are for three-year terms.

Council President Littman mentioned that the language of the existing ordinance refers to overlapping three-year terms so that approximately one-third of the membership terms will expire each year.

The Town Solicitor recommended addressing issues relating to term limits and the staggering of terms through the Harbor Management Ordinance. Additionally, the Town Solicitor noted that it is not necessary to be exclusively or primarily involved in one particular water related activity, which would allow the Council to be more flexible in appointing individuals that reasonably represent a particular interest.

Councilor Settipane expressed his concern that the proposed ordinance amendment does not include the striking out of the old language and showing the new language to be included.

Council President Littman stated that the proposed changes are in consideration of Section 78-72 of the Jamestown Code of Ordinance and that it is Section 78-73 that contains the term limit language.

Jean Brown, Holland Avenue, inquired if committee terms are addressed in the Jamestown Charter.

The Town Administrator informed the Council that terms are covered in the Charter.

Thomas Johnson, Bow Street, expressed his concern that the east harbor riparian representative and west harbor riparian representative are no longer considered separate appointments. Mr. Johnson stated that this would make it difficult if there were issues relating to one side of the island versus the other.

Council President Littman stated that the proposed ordinance gives the Council more flexibility; however, the Council would still attempt to appoint members representing each side of Jamestown.

There being no further comments, it was moved by Councilor Settipane, seconded by Councilor DiGiando to close the hearing at 7:25 PM. So unanimously voted.

It was moved by Councilor DiGiando, seconded by Councilor Long to adopt the proposed amendment to Section 78-72 of the Jamestown Code of Ordinance as presented. So unanimously voted.

The Town Solicitor informed the Council that this amendment would take effect upon its passage.

It was moved by Council President Littman, seconded by Councilor Long to advertise for four openings on the Harbor Management Commission, with preference being given to a representative of riparian property resident (costal waters), non-riparian recreational boating community and a member of the commercial fishing industry. So unanimously voted.

OPEN FORUM

- 1) Scheduled request to address
 - a) Frank Meyer re: Beavertail State Park Advisory Committee

Frank Meyer read the statement submitted to the Council regarding the meeting location and the membership of the Beavertail State Park Advisory Committee. Additionally, Mr. Meyer requested an opinion from the Town Solicitor as to whether or not the Committee meetings are subject to the Rhode Island Open Meetings Act.

The Town Solicitor referred to the Rules and Regulations for the Development and Operation of Beavertail State Park, Section 11, membership, noting that there are not specific terms mentioned. Mr. Harsch stated that the term limits for Council appointees have been set by the Council; term limits for other representatives could be set by agreement with RIDEM. Mr. Harsch also stated that the meetings of the Beavertail State Park Advisory Committee are public meetings and as such are subject to the Open Meetings Act.

Mr. Meyer stated that the committee membership as stated is comprised of five members. Mr. Meyer noted that the representative listed for RIDEM is Mr. Mouradjian; however, Mr. Sutton has also been attending these meetings and voting on issues.

The Town Administrator informed the Council that RIDEM is represented by either Lawrence Mouradjian, Chief of Parks and Recreation or by Robert Sutton, Chief of Planning and Development; however, only one representative will vote on an issue.

It was the consensus of the Council that the Town Administrator relay the concerns as discussed to Fred Vincent, Interim Director at RIDEM.

2) Non-scheduled request to address

Jean Brown requested that the Council reappoint her to the Planning Commission.

Representative Bruce Long updated the Council on the following:

- The General Assembly passed legislation to approve a moratorium on the comprehensive permit issued to private developers until January 31, 2005 allowing for city and towns to work on their Affordable Housing Strategy Plan. The legislation has a severability clause so that if it is challenged in Court it will not harm the remaining sections of the Bill.
- State Fire Marshall will be discussing the new Fire Safety Code and compliance issues on February 19, 2004 at the Jamestown Philomenian Library.
- Legislation has been introduced to mandate the reimbursement of tolls for school transportation.
- Work continues towards the passage of legislation regarding volunteer fire fighters.

William Kelly, Grant Writer updated the Council on the progress of grant applications that have been submitted on behalf of the Town.

REPORTS OF BOARDS, COMMITTEES AND TOWN OFFICIALS

1) Town Administrator's report (attached)

Additional items discussed:

Jamestown Police Department

The Town Administrator reported that Lieutenant Paul Balzer has retired after thirty-two (32) years of service to the community.

Contract Negotiations – Council Liaison

The Council discussed the letter submitted by the Town Solicitor regarding the advantage of appointing a Council Liaison to attend union contract negotiations and concluded that the opinion was cautionary rather than restrictive.

GZA GeoEnvironmental Report

Comment No. 6 and No. 8

Councilor DiGiando indicated that he could not support the recommendation by members of the community that prohibits all residential, commercial or municipal activity on the former landfill site.

Waterline Connection to North Kingstown

The Town Administrator reported that RIDOT has agreed to replace the water connection presently on the old Jamestown Bridge to the Jamestown Verrazano Bridge.

Water Rate Study

The bid proposals for the rate study will be on the Water and Sewer meeting for the Council's consideration on February 17, 2004.

School Budget

The Town Administrator addressed the anticipated surplus from the 2003/2004 School Department budget of approximately \$350,000.00. The Town Administrator cautioned that this is not an audited number but rather an anticipated amount. The Town Administrator noted that she would like to apply a portion of the current surplus to the present budget being presented to the voters on March 1, 2004. It was also noted that the Town Solicitor has advised that this action can be taken.

The Council discussed the need for communication between the Town Administrator and the School Committee. Additionally, the Council requested that the Town Solicitor advise them on the rights and obligations regarding the anticipated surplus and provide the necessary legal analysis.

- 2) Planning Commission
 - a) Four (4) vacancies exist; (1) term ending 12/31/2005 (resignation of Susan Barker) and (3) terms ending in 12/31/2007; duly advertised and all interviews complete (4-year appointments)
 - i) Requests for reappointment:
 - Betty L. Hubbard
 - Victor V. Calabretta
 - Jean MacGregor Brown

- ii) Letters of interest:
 - William A. Kelly
 - Abigail Campbell-King
 - Michael Schnack

It was moved by Council President Littman, seconded by Councilor Long to appoint Victor V. Calabretta, William A. Kelly and Betty L. Hubbard to the Planning Commission for terms ending 12/31/2007. So unanimously voted.

It was moved by Councilor Settupane, seconded by Councilor Littman to reappoint Jean MacGregor Brown for a term ending 12/31/2005. It was voted Councilor DiGiando, nay; Councilor Ferguson, aye; Councilor Long, nay; Councilor Settupane, aye; Council President Littman, aye. The motion passed.

- 3) Conservation Commission
 - a) Letter from Chair re: Reappointments
 - b) Two vacancies exists; terms ending 12/31/2006; duly advertised and interviews complete, if favorable:
 - i) Reappoint:
 - Steven Ryba
 - Thomas Johnson
 - ii) Letter of Interest:
 - Jennifer Stearns Talancy

It was moved by Council President Littman, seconded by Councilor DiGiando to accept the letter from the Conservation Commission Chair. So unanimously voted.

It was the consensus of the Council to continue appointments to the Conservation Commission to the Council meeting on February 23, 2004 so that the Council could interview Thomas Johnson.

- 4) Jamestown Housing Authority
 - a) Letter from Executive Director re: resignation
 - b) Resignation of Isabelle R. Verducci
 - c) Letter from Chair re: reappointment of Ralph Misto
 - c) Letter from Ralph Misto re: reappointment

It was moved by Councilor Settupane, seconded by Councilor DiGiando to accept the letter from the Executor Director. So unanimously voted.

It was moved by Councilor Settupane, seconded by Councilor DiGiando to accept the letter from Isabelle R. Verducci as communication so that she can continue to serve until replaced. So unanimously voted.

It was consensus of the Council to advertise for one vacancy on the Housing Authority.

It was moved by Councilor Settupane, seconded by Councilor Long to accept the letter

from the Jamestown Housing Authority Chair. So unanimously voted.

It was moved by Council President Littman, seconded by Councilor DiGiando to accept the letter of interest from Ralph Misto. So unanimously voted.

Council President Littman announced a short break at 9:15 PM.

The Council returned at 9:24 PM.

UNFINISHED BUSINESS

- 1) Harbor Management Commission (cont. from 01/26/2004)
 - a) 2004/2005 Marine Development Fund Budget for approval:
 - i) Town Infrastructure
 - ii) Harbor Management

The Town Administrator noted the following changes to the 2004/2005 Marine Development Fund Budget:

Town Infrastructure

Transfer from Fund Balance added \$6,700.00 for a total budget of \$71,000.00

Harbor Management

Printing and Mailing increased by \$750.00 for a total of \$9,000.00
Boat Capitalization Fund increased by \$10,146.00 for a total of \$17,646.00

Total Budget \$213,111.00

The Town Administrator stated that the rate structure will remain the same as in the previous year.

James Archibald gave additional information regarding the Boat Capitalization Fund, noting that this fund is for anticipated replacement of a vessel. Mr. Archibald commented that the present balance of retained earnings is \$42,193.00, plus the addition of the \$17,646.00 being budgeted from this year's budget.

Councilor DiGiando expressed his concern that more money is being generated than needed and suggested that consideration be given in the future to an adjustment to fees.

It was moved by Councilor DiGiando, seconded by Councilor Ferguson to approve the 2004/2005 Marine Development Fund budget for the Town Infrastructure and the Harbor Management, as presented. So unanimously voted.

- iii) Long Range Infrastructure Plans

It was moved by Councilor Settupane, seconded by Councilor DiGiando to accept the Long Range Infrastructure Plans as communication. So unanimously voted.

- b) Town Solicitor opinion re: liability and enforcement issues related to East Ferry (continued from 1/26/2004)

It was the consensus of the Council that the Town Solicitor's opinion regarding the liability and enforcement issues related to East Ferry be continued to the February 23, 2004 Council meeting, when Mr. Parks will be in attendance to further discuss this issue.

- 2) Public Access and Maintenance to Rights-of-Way (cont. from 12/08/2003)
 - a) Report and recommendations from Town Administrator
 - b) Request for continuation

Council President Littman stated that the Town Administrator is working with the Town staff to put a report together and requested that any recommendations be continued to the Council meeting on March 8, 2004.

Victor Richardson, Hamilton Avenue requested that the Council protect the rights of individual citizens to access the shoreline.

- 3) Petition for Abandonment of Street/Highway, pursuant to RIGL 26-6-1 et.seq
 - a) Petition from John A. Murphy, Esq., representing all abutters to a portion of Columbia Avenue, further described as the northern boundaries of lot 495 and lot 609 on Tax Assessor's plat 9
 - b) **Request for continuation** to Town Council meeting on 2/23/2004 from John A. Murphy

It was the consensus of the Council to continue the Petition for Abandonment of Columbia Avenue to the Council meeting on February 23, 2004, as requested by John A. Murphy.

The Town Solicitor reported that it has been established that the plat map shows the portion of Columbia Avenue in question as a paper street; however, the tax map shows the property as a separate parcel of land owned by the Town. Mr. Parks is continuing research to establish if the property in question is a road that was never completed.

COMMUNICATIONS

- 1) Letter from Andrew Yates re: Highway Barn project

It was moved by Councilor Long, seconded by Councilor Settipane to accept the letter from Andrew Yates regarding the Highway Barn project. So unanimously voted.

- 2) Harbor Management Commission
 - a) Letter from Attorney Turner Scott re: appeal of Dr. Jerrold Rosenberg – request for new hearing date

It was the consensus of the Council to instruct the Town Clerk to coordinate the hearing date for the appeal of Dr. Jerrold Rosenburg.

- 3) Letter from RIDOT re: demolition and disposal of the old Jamestown Bridge

It was moved by Councilor Long, seconded by Councilor Ferguson to accept the letter from RIDOT regarding the demolition and disposal of the old Jamestown Bridge. So unanimously voted.

NEW BUSINESS

- 1) Strategic Affordable Housing Plan
 - a) Council liaison (appoint liaison to work with Affordable Housing Committee, Planning Commission liaison and Barbara Sokoloff Associates to prepare plan and develop public education)

It was the consensus of the Council that Councilor Settipane be appointed as the Council Liaison to work on the Strategic Affordable Housing Plan with the Affordable Housing Committee, Planning Commission Liaison and Barbara Sokoloff Associates.

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

Attest:

Arlene D. Petit
Town Clerk

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