

## **WORK SESSION**

**MAY 10, 2010**

At a WORK SESSION of the Town Council of the Town of South Kingstown, County of Washington, in the State of Rhode Island held at the Town Hall, in and for said Town on the 10<sup>th</sup> day of May 2010 at 6:30 PM.

PRESENT: Kathleen A. Fogarty, President  
Mary S. Eddy, Vice President  
Carol Hagan McEntee  
James W. O'Neill  
Ella M. Whaley

### **1. A. INTERVIEW**

The Town Council interviews Jon Kimpton relative to his interest in serving on the South Kingstown Partnership for Prevention.

### **2. B. WORK SESSION**

Councilwoman Whaley arrives at 6:44 PM.

Discussion ensues relative to several appointments the Town Council will be making this evening including an appointment to the South Kingstown Affordable Housing Collaborative, the Planning Board and the Waterfront Advisory Commission.

Discussion ensues relative to the Communication Item 7H in regard to resolutions adopted April 13, 2010 by the South Kingstown School Committee in opposition to mandatory binding arbitration on monetary matters for school teachers, and expressing concerns with the educational funding formula proposed by the RI Department of Education.

Discussion ensues relative to adopting a resolution crafted by the Town Manager expressing concerns with the educational funding formula proposed by the RI Department of Education.

Discussion ensues relative to Communication Item 7J dated May 4, 2010 from Jude M. Nuzum requesting to present additional information relative to the petition previously submitted to the Town Council concerning a moratorium on the granting of special use permits involving wetland and wetland stream setback relief. Mr Nuzum has requested a continuance to the May 24, 2010 Town Council meeting.

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Discussion ensues relative to the Matunuck Coastal Area Report that addresses the coastal erosion impacts along the Matunuck area shoreline.

Discussion ensues relative to New Business Items 12A and 12B rescinding awards of bid originally granted on March 22, 2010 to Fleet Construction Co., Inc., 24 Martin Street, Suite 10, Cumberland, RI 02864 for the Liberty Lane Phase I Road Reconstruction Project, and for the Old Mountain Field Paving Project; as further described in a memorandum from the Public Services Director to the Town Manager dated April 30, 2010 and entitled: "Bid Recommendation – Liberty Lane Phase I – Road Reconstruction Project" and "Bid Recommendation – Old Mountain Field Paving Project."

Discussion ensues relative to New Business Item 12C authorizing an award of bid to D'Ambra Construction Co., Inc., 800 Jefferson Boulevard, Warwick, RI 02887 for the Liberty Lane Phase I Road Reconstruction Project in an amount not to exceed \$360,000, including a contingency; New Business Item 12D authorizing an award of bid to D'Ambra Construction Co., Inc., 800 Jefferson Boulevard, Warwick, RI 02887 for the Old Mountain Field Paving Project in an amount not to exceed \$43,000, including a contingency; and New Business Item 12E authorizing an award of bid to D'Ambra Construction Co., Inc., 800 Jefferson Boulevard, Warwick, RI 02887 for the Moonstone Beach Road – Road Reconstruction Project in an amount not to exceed \$250,000; and as further described in a memorandum from the Public Services Director to the Town Manager dated April 30, 2010 and entitled: "Bid Recommendation – Liberty Lane Phase I – Road Reconstruction Project", "Bid Recommendation – Old Mountain Field Paving Project", and "Bid Recommendation – Moonstone Beach Road – Road Reconstruction Project."

Convened to Regular Session.

Dale S. Holberton, CMC  
Town Clerk

**REGULAR SESSION**

**MAY 10, 2010**

At a REGULAR SESSION of the Town Council of the Town of South Kingstown, County of Washington, in the State of Rhode Island, held at the Town Hall, in and for said Town on the 10<sup>th</sup> day of May 2010 at 7:30 PM.

PRESENT: Kathleen A. Fogarty, President  
Mary S. Eddy, Vice President  
Carol Hagan McEntee  
James W. O'Neill  
Ella M. Whaley

**1. C. REGULAR SESSION**

**2. PLEDGE OF ALLEGIANCE TO THE FLAG**

The Pledge of Allegiance to the flag is given.

**3. ROLL CALL**

Roll Call is taken and all members are present.

**4. APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

**A. Work Sessions:** UNANIMOUSLY VOTED: that the minutes of the Work Session held on April 26, 2010 are accepted, approved and placed on file.

**B. Regular Session:** UNANIMOUSLY VOTED: that the minutes of the Regular Session held on April 14, April 15 and April 26, 2010 are accepted, approved and placed on file.

**5. CONSENT AGENDA**

UNANIMOUSLY VOTED: to approve the Consent Agenda as indicated by (CA) on same.

**(CA) 6B.** UNANIMOUSLY VOTED: to grant Victualling and Holiday Sales Licenses to TOWN MEATS ON MAIN, 396 Main Street, Wakefield, RI 02879 subject to approval by the Fire Chief and Communications Superintendent. Application by Edgar O. Laplante Jr., 32 Brown Street, Peace Dale, RI 02879; Renewals. License Nos. 12445, 12446.

**(CA) 7B.** UNANIMOUSLY VOTED: that resolutions adopted by the Jamestown Town Council in support of House Bill 2010 – H 7014, An Act Relating to Waters and Navigation

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– Regulation of Boats relative to bridge safety, and supporting efforts to return the America’s Cup Races to the City of Newport are received and placed on file. (4/29/2010 Interim, Item E.)

**(CA) 7C.** UNANIMOUSLY VOTED: that resolutions adopted by the Newport School Committee, Bristol Warren Regional School Committee and the North Smithfield School Committee in opposition to House Bill 2010 – H 7581, An Act Relating To Labor And Labor Relations – School Teacher Arbitration that would expand the scope of the process to include monetary issues, and in opposition to Senate Bill 2010 – S 2603, An Act Relating to Labor and Labor Relations – Certified School Teachers Arbitration that would extend the existing terms and conditions of employment of a school teacher contract until such time as an agreement is reached between the parties (“Evergreen legislation”), are received and placed on file. (4/29/2010 Interim, Item F. and 5/6/2010 Miscellaneous, Item II B.)

**(CA) 7D.** UNANIMOUSLY VOTED: that communications from the following residents concerning school budget issues are received and placed on file (4/29/2010 Interim, Item G.):

- Cheryl Foster
- Raissa Mosher
- Jennifer DeMetrick
- Todd Corayer
- Keith Vorhaben
- Jill O’Sullivan

**(CA) 7E.** UNANIMOUSLY VOTED: that a resolution adopted April 22, 2010 by the Foster Town Council in opposition to Senate Bill 2010 – S 2603, An Act Relating to Labor and Labor Relations – Certified School Teachers Arbitration that would extend the existing terms and conditions of employment of a school teacher contract until such time as an agreement is reached between the parties (“Evergreen legislation”), is received and placed on file. (4/29/2010 Interim, Item H.)

**(CA) 7F.** UNANIMOUSLY VOTED: that resolutions adopted by the Middletown Town Council and Warwick City Council in support of efforts to return the America’s Cup Races to the City of Newport are received and placed on file. (4/29/2010 Interim, Item I. and 5/6/2010 Miscellaneous, Item II C.)

**(CA) 7G.** UNANIMOUSLY VOTED: that a resolution adopted April 26, 2010 by the Cranston City Council in opposition to the Hess proposal for a liquefied natural gas facility in Mount Hope Bay is received and placed on file. (4/29/2010 Interim, Item J.)

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**(CA) 7I.** UNANIMOUSLY VOTED: that a resolution adopted April 26, 2010 by the Portsmouth Town Council requesting the General Assembly to vacate financial mandates pertaining to municipal and school employee pensions, health insurance cost-sharing, and public school employee health care benefits is received and placed on file. (5/6/2010 Miscellaneous, Item II D.)

**(CA) 7K.** UNANIMOUSLY VOTED: that any communication added to the Agenda subsequent to this is hereby added by majority vote, in accordance with RIGL §42-46-6 (b) Notice --... “Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official.”

**(CA) 12F.** UNANIMOUSLY VOTED: to authorize the Tax Assessor to abate taxes in the total amount of \$2,305.46, as shown on Tax Abatement Request No. 454.

**(CA) 12H.** UNANIMOUSLY VOTED: to authorize the Town Clerk to advertise by reference for Order of Notice a Public Hearing relative to proposed amendments to the Town Code of the Town of South Kingstown. Several of the proposed amendments are substantive in nature and the section numbers and titles are listed below; other proposed amendments are non-substantive, typographical and grammatical changes and are being made throughout the Town Code.

- Section 3-16 Definitions;
- Section 6-1 Financial management and procedures;
- Section 9-1 Information on license application;
- Section 9-7 Termination of licenses; statement of impending expiration;
- Section 9-8 Compliance to building regulations
- Section 9-9 Relocation of licensed business;
- Section 9-14 Delinquency of applicant in payment of certain taxes;
- Section 9-15 Final report on application – Evidence from investigations; issuance of license;
- Section 9-16 Same – Approval subject to tax payment, etc;
- Section 9-18 Operation of vehicle transporting garbage, waste, etc;
- Section 9-104 Same – Number of licenses;
- Section 9-61 Prohibited locations;
- Section 10-3 Certain vehicles prohibited over Church Street Bridge;
- Section 16-22 Bond;
- Section 16-23 Insurance and liabilities;

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Section 16-26 Work by owner;  
Section 16-28 Contractor shall protect the public;  
Section 16-29 Line and grade;  
Section 16-30 Notice before starting work;  
Section 16-34 Tunneling and bracing;  
Section 16-36 Color-coded marking tape;  
Section 16-41 Utility main extensions;  
Section 17-21 Filing with the Assessment Board of Review;  
Section 18-4 Licensing generally;  
Section 19-16 Definitions;  
Section 19-68 Costs, expenses of installation;  
Section 19-69 Separate sewer for each building; exception;  
Section 19-71 Standards for installation;  
Section 19-74 Connection requirements generally;  
Section 19-76 Drainlayers;  
Section 19-143 Installment payments; interest for late payment;  
Section 19-157 (9)(12) ISDS inspection and maintenance;  
Section 19-161 Definitions;  
Section 19-192 Marking;  
Section 19-227 Ownership;  
Section 19-229 Time of installation;  
Section 19-230 Size;  
Section 19-232 Turn on and off;  
Section 19-234 Meter size;  
Section 19-252 Plans;  
Section 19-254 Individual property owner extensions;  
Section 19-256 Contract;  
Section 19-268 Use;  
Section 19-309 Time of payment;  
Section 19-313 Property transfer;  
Section 19-314 Rebates;  
Section 19-317 Schedule.

**(CA) 12I.** UNANIMOUSLY VOTED: that any New Business added to the Agenda subsequent to this is hereby added by majority vote, in accordance with RIGL §42-46-6 (b) Notice --... "Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official."

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### 6. LICENSES

A. Consideration of an application for a new Holiday Sales License by Wakefield Prescription Center Inc. is deferred, as the applicant is not present.

### 7. COMMUNICATIONS

A. UNANIMOUSLY VOTED: that communications dated April 22, 2010 from Laurie Pansa, Director of Program and Training, Girl Scouts of Rhode Island, Inc. announcing that Sarah George and Lillia Wild have achieved the Girl Scouts Gold Award, and requesting certificates of recognition for them, are received, placed on file, and the Town Council further directs that they be invited to the next meeting to be honored. (4/29/2010 Interim, Item C.)

H. UNANIMOUSLY VOTED: that resolutions adopted April 13, 2010 by the South Kingstown School Committee in opposition to mandatory binding arbitration on monetary matters for school teachers, and expressing concerns with the educational funding formula proposed by the RI Department of Education are received, placed on file, and the Town Council supports the School Committee's position. (4/29/2010 Interim, Item M.)

Representative David Caprio is present and speaks relative to the Education Funding Formula and the upcoming Work Session with RI Department of Education Commissioner Gist.

Discussion ensues, and it is

UNANIMOUSLY VOTED: the South Kingstown Town Council acknowledges the need for a fair, equitable and predictable funding formula. Further, we advocate for the following changes to the Funding Formula as presented by the Rhode Island Department of Education:

#### **1) Increase the "Core Cost of Education" amount**

Rationale: RIDE has proposed a core cost of \$8,295 per Resident Average Daily Membership (RADM). The value chosen by RIDE is presented as the average core cost of education in the states of Rhode Island, Massachusetts, New Hampshire, and Connecticut. It is noted that Rhode Island's core cost was estimated at \$8,453 in 2008. Several education related costs, notably local pension and post employment benefits (OPEB) costs and transportation costs, have been excluded from RIDE's assessment of what constitutes core educational costs.

#### **2) Consider a variety of income factors other than MFI**

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Rationale: Education Aid Formulas in other States consider a variety of other income factors other than MFI. In addition to median family income, median household income, per capita income or combinations of the three would generate differing adjustments to a community's full market value of their tax roll. The appropriateness of using MFI to modify the value of a community's tax base was called into question in a 2001 consulting study prepared for the former RI Office of Municipal Affairs, now the Division of Municipal Finance (DMF). The report completed by Almy, Gloude-mans, Jacobs & Denne is entitled "Review of Equalization Study Procedures". The consultant's concerns are outlined on page 3 of the report.

### **3) Review the weighting of the poverty formula**

Rationale: The core foundation amount for Rhode Island (\$8,295) is significantly below that of Connecticut (\$9,867) and Massachusetts (\$9,659), and yet the poverty amount is greater in the Rhode Island formula (\$3,318) versus Connecticut (\$3,197) and Massachusetts, which has a two-tier rate of \$2,619 and \$3,239.

### **4) Update the reference year**

Rationale: The reference year (December 31, 2007) is three years prior to the taxing period that it will impact. In fact, since each community must revalue their property on a three year interval, the reported tax capacity may differ substantially from the actual tax roll.

### **5) Utilize only one poverty driver**

Rationale: While there is serious question relative to the proposed manner in which the formula addresses community wealth and income, it is important to note that the Commissioner's Proposed Formula then combines the AEWAV with a second "poverty factor" that increases a community's State Share Ratio based on the number of students that are eligible for the FRPL program between PK-6. The use of a second poverty adjustment clearly redistributes more funds to lower income communities. The fact that this formula essentially doubles the financial impact associated with community income must be addressed before a final local aid distribution formula is adopted in the State of Rhode Island.

### **6) Revision to Rhode Island's equalization procedures**

Rationale: The report entitled "Review of Equalization Study Procedures", completed in 2001 by Almy, Gloude-mans, Jacobs & Denne contains many recommendations to bring Rhode Island's equalization procedures in line with professional standards and improve the accuracy of the state's full value estimates, as outlined on pages 33 and 34 of the report. These recommendations should be evaluated and if deemed appropriate, implemented in order to provide for proper equalization procedures.

### **7) Independent Review**

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Rationale: The formula being advanced by the Commissioner of Education has not been properly vetted to ensure that the appropriate interests of all stakeholders are addressed in a fair and even-handed manner. In this regard we request that the proposed formula and its underlying assumptions be referred to a peer review process by a paid consulting entity with experience in the development of educational aid funding formulas. Such independent review is both necessary and prudent given the significance of this issue to every community in the State of Rhode Island.

In addition to the concerns over the new funding formula, three other areas of financial concern, while not specifically addressed in the funding formula, need to be carefully considered.

### **a.) Continue to provide Group Home Aid**

Rationale: It is imperative to continue to provide Group Home Aid to communities who host students residing in Group Homes. South Kingstown hosts students from all over the state in our local group homes and it is important that we continue to receive Group Home Aid in addition to the State Aid provided for in the funding formula.

### **b.) Charter School Tuition**

Rationale: A review must be completed of per pupil expenditures included in the calculation of a school district's charter school payments. Expenditures not part of the charter school program should not be included in the per pupil calculation. Secondly, the financial impact associated with increased tuition reimbursement rates needs to be documented.

### **c.) Fiscal Impact Statement**

Rationale: The projected cost estimates associated with the impact that implementation of the proposed funding formula will have on individual school districts should be updated to include new property assessment data (December 31, 2007) and Resident Average Daily Membership for each school district (May 1, 2010) estimates. In addition, cost estimates associated with Charter School and Vocational School tuition reimbursement should also be prepared prior to the adoption of any funding formula.

**7J.** UNANIMOUSLY VOTED: that a communication dated May 4, 2010 from Jude M. Nuzum requesting to present additional information relative to the petition previously submitted to the Town Council concerning a moratorium on the granting of special use permits involving wetland and wetland stream setback relief is received, placed on file, and a request to continue to the next meeting is granted. (5/6/2010 Miscellaneous, Item II M.)

## **8. COMMENTS FROM INTERESTED CITIZENS**

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Council President Fogarty invites residents to come forward with comments.

Representative David Caprio reports that the May Revenue Estimating and Caseload Conference shows some increase in revenue for this current year, and it appears that tax revenues are starting to recover.

Bob Trager is present and comments that the School Committee should find a way not to close another elementary school.

Jonathan Daly-LaBelle is present and comments on the School Committee meetings not being video-stream broadcast like the Town Council meetings.

### 9. TOWN MANAGER'S REPORT

The Town Manager discusses the *Matunuck Coastal Area Report* dated April 2010, prepared by the Planning Department. The Town Manager's April 29, 2010 Interim and May 6, 2010 Agenda and Miscellaneous Reports are accepted, approved and placed on file.

### 10. TOWN SOLICITOR'S REPORT

The Town Solicitor has no report this evening.

### 11. APPOINTMENTS

**A.** UNANIMOUSLY VOTED: to appoint John Paul Virgilio to the Affordable Housing Collaborative Committee to fill a term to expire August 2010.

UNANIMOUSLY VOTED: to reappoint Orville B. "Ken" Kenerson to the Planning Board for a term to expire May 2013.

UNANIMOUSLY VOTED: to appoint Michael A. Sherry to the Waterfront Advisory Commission for a term to expire June 2013.

### 12. NEW BUSINESS

UNANIMOUSLY VOTED:

**A.** To rescind an award of bid originally granted on March 22, 2010 to Fleet Construction Co., Inc., 24 Martin Street, Suite 10, Cumberland, RI 02864 for the Liberty Lane Phase I Road Reconstruction Project; as further described in a memorandum from

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the Public Services Director to the Town Manager dated April 30, 2010 and entitled: "Bid Recommendation – Liberty Lane Phase I – Road Reconstruction Project," Ref. No. PS-2010-311(C); and

**B.** To rescind an award of bid originally granted on March 22, 2010 to Fleet Construction Co., Inc., 24 Martin Street, Suite 10, Cumberland, RI 02864 for the Old Mountain Field Paving Project; as further described in a memorandum from the Public Services Director to the Town Manager dated April 30, 2010 and entitled: "Bid Recommendation – Old Mountain Field Paving Project." Ref. No. PS-2010-312(C).

UNANIMOUSLY VOTED:

**C.** To authorize an award of bid to D'Ambra Construction Co., Inc., 800 Jefferson Boulevard, Warwick, RI 02887 for the Liberty Lane Phase I Road Reconstruction Project in an amount not to exceed \$360,000, including a contingency; and as further described in a memorandum from the Public Services Director to the Town Manager dated April 30, 2010 and entitled: "Bid Recommendation – Liberty Lane Phase I – Road Reconstruction Project," Ref. No. PS-2010-315; and

**D.** To authorize an award of bid to D'Ambra Construction Co., Inc., 800 Jefferson Boulevard, Warwick, RI 02887 for the Old Mountain Field Paving Project in an amount not to exceed \$43,000, including a contingency; and as further described in a memorandum from the Public Services Director to the Town Manager dated April 30, 2010 and entitled: "Bid Recommendation – Old Mountain Field Paving Project," Ref. No. PS-2010-316; and

**E.** To authorize an award of bid to D'Ambra Construction Co., Inc., 800 Jefferson Boulevard, Warwick, RI 02887 for the Moonstone Beach Road – Road Reconstruction Project in an amount not to exceed \$250,000; and as further described in a memorandum from the Public Services Director to the Town Manager dated April 30, 2010 and entitled: "Bid Recommendation – Moonstone Beach Road – Road Reconstruction Project," Ref. No. PS-2010-317.

**G.** UNANIMOUSLY VOTED: to oppose House Bill 2010 – H 7581, An Act Relating To Labor And Labor Relations – School Teacher Arbitration that would expand the scope of the binding arbitration process to include monetary issues for teachers and non-teacher educational employees, and request our General Assembly representatives to support our opposition to this bill.

**6A.** UNANIMOUSLY VOTED: to continue to May 24, 2010 consideration of an application for a Holiday Sales License filed by Wakefield Prescription Center Inc. for their new location at 580 Kingstown Road, Wakefield.

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UNANIMOUSLY VOTED: to adjourn at 8:20 PM.

Dale S. Holberton, CMC  
Town Clerk