

## NARRAGANSETT TOWN COUNCIL

### REGULAR MEETING

### JUNE 3, 2019 MINUTES

A Regular Meeting of the Town Council of the Town of Narragansett was held on Monday, June 3, 2019 at 7:32 PM, at the Narragansett Town Hall.

Present: Matthew M. Mannix, President  
Jill A. Lawler, President Pro Tem  
Richard Lema, Member  
Patrick W. Murray, Member  
Jesse Pugh, Member  
Sean Corrigan, Acting Town Manager  
Stephen H. Marsella, Assistant Town Solicitor

Council President Mannix called the meeting to order and led those in attendance in Pledging Allegiance to the Flag. A moment of silence was observed in acknowledgement of the individuals killed and injured during a shooting at the Virginia Beach (VA) Municipal Center on May 31, 2019.

#### APPROVAL OF MINUTES:

- May 6, 2019 Executive Session: Motion by Councilor Lawler, seconded by Councilor Lema to approve the minutes as presented. So unanimously voted.
- May 13, 2019 Executive Session: Motion by Councilor Lawler, seconded by Councilor Lema to approve the minutes as presented. So unanimously voted.
- May 20, 2019 Work Session (Nyhart): Motion by Councilor Lawler, seconded by Councilor Lema to approve the minutes as presented. So unanimously voted.
- May 20, 2019 Regular Meeting: Motion by Councilor Lawler, seconded by Councilor Lema to approve the minutes as presented. So unanimously voted.
- May 20, 2019 Executive Session: Removed for future consideration.

CONSENT AGENDA: Councilor Lawler requested item #5 be removed from the Consent Agenda and Council President Mannix requested item #11 be removed. Motion by Councilor Lawler, seconded by Councilor Lema to approve the remainder of the consent agenda (9 items). So unanimously voted. The amended consent agenda consisted of:

1. A MOTION TO APPROVE the annual service agreement for the **Police Department's telephone system** from Carousel Industries, in the amount of \$3,146.35 for Fiscal Year 2019/2020.
2. A MOTION TO APPROVE the **purchase and installation of equipment** for one (1) new Police vehicle from Patrol Data, in the amount of \$6,564.50.
3. A MOTION TO APPROVE the **cost of fingerprints processed** through the Department of Attorney General (State of Rhode Island), in the amount of \$35.00 each for FY2019/2020.

4. A MOTION TO APPROVE the renewal for the **Google E-Mail filtering service**, with DLT, Inc., in the amount of \$6,340.00.
6. A MOTION TO AWARD the bid for the **Purchase of Recumbent Bicycles** to the lowest bidder, Gym Source in the amount of \$3,598.00.
7. A MOTION TO REFER the request from James M. Callaghan on behalf of Atlantic East, Ltd. for waiver of the Sewer Policy for **Plat D, Lot 210 (151 Ocean Road)** to the Sewer Policy Committee for review.
8. A MOTION TO APPROVE a **Roominghouse License** application for Calaveras, LLC, dba Inn “Tu Casa” at 83 Narragansett Avenue, Narragansett, RI subject to local and state regulations.
9. A MOTION TO APPROVE a **Holiday License** application for Walgreens Eastern Co. Inc. #19189 at 20 Woodruff Avenue, Narragansett, RI, subject to local and state regulations.
10. A MOTION TO APPROVE the **waiver of interest** for taxpayers in accordance with Ordinance 2010-936.
5. Motion by Councilor Lawler, seconded by Councilor Lema to award the bid for **Stone Sealing - Various Roads** to the second lowest bidder, All States Asphalt, Inc., at their quoted unit price of \$2.44/square yard for a one (1)-year period and authorizes the Town Manager to sign the contract after review and approval of the Town Solicitor. [Councilor Murray left the dais at this point – 7:35 PM.] Responding to Councilor Lawler’s questions about roadwork timing and street prioritization, Public Works Director Michael DiCicco said most of the work would be done next spring, with details being published on the department’s website. Motion so unanimously voted.
11. Motion by Councilor Lawler, seconded by Councilor Lema to allocate \$10,000 to **VFW Post 916** in Wakefield, Rhode Island to support its efforts on behalf of Narragansett’s military veterans. Ronald Gilchrist addressed the Council as a long term Narragansett resident and Post Service Officer of VFW Post 916 (South Kingstown). He offered a description of services provided by the Post and the ongoing needs of the building. [Councilor Murray returned at this point – 7:38 PM.] Mr. Gilchrist said the mission of the Post is to connect area veterans with available services and facilities. He said the Post has opened its building to use by other veterans service groups, and he detailed their ongoing community involvement. VFW members donate their labor to offset the cost of maintenance and repairs. Motion so unanimously voted.

### **NEW BUSINESS:**

### **TOWN MANAGER**

12. Motion by Councilor Lawler, seconded by Councilor Lema to read, pass and adopt as a second reading the **Appropriation Ordinance for the 2019-20 Fiscal Year**. Solicitor Marsella said a petition requesting a public hearing on the ordinance was received by the Town Clerk and forwarded to him. He opined that the petition process described in Section 2-1-9(a) of the Town Charter applies when no public hearing has taken place. In the case of the FY2020 Budget, he said the petition is ineffective since two public hearings had already been held. He referenced a

similar situation in 2018 regarding an ordinance related to the purchase of property at Pier Market Place with the same ruling, concluding there was a history of interpretation. Councilor Pugh questioned Finance Director Christine Spagnoli on the labeling of a line item in the Town Council's capital improvements budget regarding the library, stating it should be labeled the Belmont Building. He also questioned the line item for state revenue for the library. Director Spagnoli responded that state funding was still being included at this point since the duration of the funding was unclear. Councilor Pugh questioned the use of the unassigned fund balance. Library Board of Trustees Chair Laurie Kelly said the Board files in September for OLIS funding, but they will not be getting it this year because the Town is not level funding the library. She said they could file for waivers in October, but they should not expect to receive any state funds. Councilor Pugh said if the library loses state funding this year, they could end up in deficit this fiscal year. Councilor Murray said the budget should be recalculated to offset the anticipated loss of revenue. Council President Mannix said that had already be considered. Councilor Pugh requested a public comment period. Council President Mannix noted the two public hearings that had already been held, and Solicitor Marsella's opinion on the matter. Councilor Pugh referenced #9 in the Council Rules and Procedures with regard to citizen comment. Council President Mannix called the vote. Motion so voted by three in favor, none opposed; Councilors Murray and Pugh did not vote).

### **PUBLIC HEARING/DECISION:**

Motion by Councilor Lawler, seconded by Councilor Lema to open public hearing at 8:07 PM for a text amendment to Narragansett's Zoning Ordinance adding a new section regulating the **cultivation and use of marijuana for medical purposes**.

[Due to disruptions, intermission was called at 8:08 PM to restore order. The meeting resumed at 8:16 PM. Councilor Murray said he had a PowerPoint presentation on the library budget history. Council President Mannix called a point of order, stating the legally called public hearing had already started.]

Community Development Director Michael DeLuca began his presentation at 8:18 PM, stating the proposed amendment was drafted in response to the Hawkins/Slater Act of 2005, so called. Compliance with the state statute does not violate federal law. The following parameters have been set: a qualifying medical marijuana cardholder can hold a specified amount of the substance, there is a presumption of medical use if the individual has a valid card and the amount complies with the statute. He said there are many elements of the Act that are enabling, which allows for local regulation, and case law supports it. He said the towns of Westerly, East Greenwich and Smithfield have regulating ordinances. Referencing a PowerPoint presentation, Director DeLuca said the Planning Board and staff have differed on licensed cultivation (special use permit required versus prohibited in IA and IB zones). He detailed suggested conditions, and said the proposed ordinance picks up where state law leaves off.

Terence Fleming (Planning Board Chair) of 38 Bedford Circle was sworn in by Solicitor Marsella. Mr. Fleming said a majority of the Planning Board felt indoor cultivation in an industrial zone should be considered by the Council by special exception. He noted a ban of recreational marijuana was never on the table, and that this was just about medical marijuana.

Nancy DeNuccio of 8 Vanderbilt Drive was sworn in by Solicitor Marsella. She asked if a patient could cultivate in a rental unit without the landlord's knowledge? Solicitor Marsella said, under state law, a landlord has the right to deny rental to any cultivator and, if it occurs without permission, that would be

cause for eviction. Those circumstances were not addressed further by local ordinance. Ms. DeNuccio suggested it would be one more layer of protection.

Richard Vangermeersch of 55 Osceola Avenue was sworn in by Solicitor Marsella. He said the weed of crime bears bitter fruit, and that he was very much against the licensing of cultivation of any kind in Narragansett.

Karen Shabshelowitz of 63 Wanda Street was sworn in by Solicitor Marsella. She stated she opposed any kind of marijuana use, citing public health concerns.

Catherine Celeberto of 48 Earles Court was sworn in by Solicitor Marsella. She said there were 308 current medical marijuana cardholders in Narragansett. She said the proposed ordinance was very vague and conceivably, people could grow hundreds of plants. She said she opposed the proposal, noting these uses presented a major fire hazard.

Stanley Wojciechowski of 46 Fifth Avenue was sworn in by Solicitor Marsella. He asked if there would be a list of everyone growing and how much. He said he did not want to see any permission given to anyone to grow any amount in Narragansett. He said the town is too congested, and any location will affect someone. He said it would be problematic for landlords, and should not be allowed.

Mary Nadeau of 10 Second Street was sworn in by Solicitor Marsella. She asked questions about the definitions of zones IA and IB, which were clarified by Solicitor Marsella. She said she was against licensed cultivation.

Adam Roman of 33 Wheatfield Cove Road was sworn in by Solicitor Marsella. He said it was better to use the oil from hemp, citing fewer associated hazards.

Solicitor Marsella noted that licensed cultivation would be prohibited in zones IA and IB as the amendment is currently drafted. Also, the definition of marijuana store in the draft refers to a retail establishment, medical or otherwise, in anticipation of pending state legislation that might allow mini-compassion centers. Those were the two areas of the proposed ordinance amendment that the Planning Board had counter recommendations about.

There being no further requests to speak in favor or in opposition, motion by Councilor Lawler, seconded by Councilor Lema to close the public hearing at 8:57 PM. So unanimously voted.

Regarding zones IA and IB, the Council members unanimously supported the staff's version of the use table as advertised (prohibited), not the Planning Board's recommendation (allowed by special use permit). Regarding the phrase "medical or otherwise" in the definition of marijuana store, consensus was to remove the phrase.

Motion by Councilor Lawler, seconded by Councilor Lema to schedule a first reading of the proposed ordinance as submitted by staff, with the removal of the phrase "medical or otherwise" from the definition of marijuana store in proposed Section 7.21(B)(5). So unanimously voted.

**(Reference is made to the stenographer's transcript for verbatim record.)**

Motion by Councilor Lawler, seconded by Councilor Lema to open a public hearing at 9:03 PM on a petition from Michael Maxon dba Bed & Bistro Inc., 83 Narragansett Avenue, Plat C, Lot 344B, Narragansett, RI to transfer a Class B-Victualing Limited alcohol beverage license to **Calaveras LLC dba Calaveras**, 83 Narragansett Avenue, Plat C, Lot 344B, Narragansett RI. So unanimously voted.

Iliana Borisova and Julio Mendoza (principals of Calaveras LLC) were each sworn in by Solicitor Marsella. Ms. Borisova said a RI Division of Taxation certificate of good standing was still needed from Mr. Maxon. Director DeLuca said Bed & Bistro, Inc. received approval from the Zoning Board for beer and wine service at this location two years ago. Mr. Maxon attempted to transfer the license las year, but the transaction never came to fruition. The business has not been vacant in excess of one year. He said the special use permit was expired according to the provisions of the zoning ordinance, and the new applicant would need to restart the process. Councilor Lawler asked if they could allow patrons to bring their own beverages while going through the application and hearing process. Director DeLuca replied that the practice was prohibited by building and zoning regulations. He said the liquor license application and special use permit processes could move forward concurrently. Solicitor Marsella suggested, to be business friendly, the Council could grant the license conditionally while the special use permit process procedes.

Catherine Celeberto of 48 Earles Court was sworn in by Solicitor Marsella. She said this location has always been a restaurant, and she had no issue with the beer and wine license. She was concerned with the roominghouse license application. Manager Corrigan noted that was a separate license granted under the consent agenda, subject to compliance with all state and local regulations.

There being no further requests to speak in favor or in opposition, motion by Councilor Lawler, seconded by Councilor Lema to close the public hearing at 9:15 PM. So unanimously voted.

Motion by Councilor Lawler, seconded by Councilor Murray to grant the transfer of the Class B-Victualing Limited license from Michael Mason dba Bed & Bistro Inc. to Calaveras LLC dba Calaveras, contingent upon issuance of a special use permit by the Zoning Board and compliance with all state and local regulations. So unanimously voted.

**(Reference is made to the stenographer's transcript for verbatim record.)**

**NEW BUSINESS:** (continued)

**PUBLIC WORKS DEPARTMENT**

13. Motion by Councilor Lawler, seconded by Councilor Lema to approve the purchase of one (1) new 2019 Chevrolet Silverado 2500HD **4-wheel drive pick-up truck** from National Auto Fleet Group, in the amount of \$32,616.42. Mr. Wojciechowski suggested purchasing a zero-mileage 2018 vehicle without specifying a make and model. Motion so unanimously voted.
14. Motion by Councilor Lawler, seconded by Councilor Lema to approve Change Order #1 for the **Drainage Pipe Replacement Project** on Third Street with George Sherman Sand & Gravel Co., Inc., in the amount of \$9,181.00 and waive the current policy to use the miscellaneous contract for this project. Responding to Councilor Lema, Director DiCicco said the project was complete, that this was an overage from the existing quote and payment would come from the pavement

management fund. Councilor Lema said the Public Works budget is underfunded by \$400,000 annually, which puts restrictions on the maintenance of the Town's roads. Ms. Celeberto said it seems as though projects are put out to bid, and the low bidder is chosen, but subsequent change orders result in a total cost which is over what the high bidder submitted. Motion so unanimously voted.

### **ENGINEERING DEPARTMENT**

15. Motion by Councilor Lawler, seconded by Councilor Lema to read, pass and adopt as a second reading an ordinance in amendment of **Chapter 78 "Utilities", Article III (Sewers)**, Section 78-247 "Definitions" and Section 78-284 "Annual permit fees; permit application fees; annual monitoring fees for commercial/industrial users". So unanimously voted.
16. Motion by Councilor Lawler, seconded by Councilor Lema to award the bid for the **Community Center Building Envelope Improvements** to the lowest bidder, Martone Service Company Inc., in the amount of \$347,253.00. Responding to Councilor Pugh, Parks and Recreation Director Steven Wright said the project was in his department's Capital Improvement Project plan last April, and approved June 4, 2018. He said some funding was carried forward into 2019. Responding to Councilor Murray, he said various daily activities for various groups take place at the community center, serving several hundred people per day. Carlene Towne said she supported the maintenance of municipal buildings, but the center's usage was much less than that of the library. She said this expenditure would be over and above the center's annual operating budget, while the library's allocation was reduced. Ellen Koomia asked if there was any state reimbursement or fundraising planned for this project, to which Mr. Wright replied no. Ms. Celeberto said this was not an either/or situation. She said the seniors need a facility, but urged holding the bidder to the quote. Councilor Pugh said he did not think it was right to reverse what a previous Council approved, so he would support this motion. Motion so voted by four in favor, none opposed and Councilor Murray abstaining.

[Intermission was called at 9:30 PM; the meeting resumed at 9:39 PM.]

### **COMMUNITY DEVELOPMENT DEPARTMENT**

17. Motion by Councilor Lawler, seconded by Councilor Lema to adopt a resolution in support of House Bill **2019-H 6137** that will amend the definition of "Commission" in State Law for the purposes of property tax reduction of certain historic district properties in Narragansett. Director DeLuca said the Historic District Commission (HDC) was established in 2009, and it was subsequently discovered there was a need for tax credits. In 2016, the Council agreed and passed an ordinance requiring reporting to the local HDC. However, state law specified reporting to the state HDC. He said Representative Carol Hagan McEntee suggested submitting a bill to rectify that by adding a caveat for the local historic district in Narragansett, and Representative Teresa Ann Tanzi cosponsored it. Representative Tanzi said the legislature would not pass legislation without a resolution of support from the Council. Motion so unanimously voted.
18. Motion by Councilor Lawler, seconded by Councilor Lema to authorize the Town Manager to renew six (6) **Adopt-A-Spot agreements** for two-year terms. So unanimously voted. Those locations and adopters were Hazard Avenue (Middlebridge School), Hazard Trail (Middlebridge

School), Conant Avenue (Narragansett Surfcasters), Newton Avenue (Two Brothers Painting), South Ferry Road (Two Brothers Painting) and Conanicus Road (Theresa Guido).

### **TOWN CLERK**

19. Motion by Councilor Lawler, seconded by Councilor Lema to reappoint the following individuals to the **Conservation Commission** for three-year terms to expire on April 30, 2022: Kina C. King, Richard Thomas Nassa, Brian C. Grieve and John L. DiPanni. So unanimously voted.

Motion by Councilor Pugh, seconded by Councilor Murray to appoint Deborah A. Kopech to fill the unexpired term of resigning Stephanie E. Figary, term ending April 30, 2020. Motion failed by a voted of two in favor, Councilors Mannix, Lawler and Lema opposed.

Motion by Councilor Lawler, seconded by Councilor Lema to appoint Patricia A. Federico to fill the unexpired term of resigning Stephanie E. Figary, term ending April 30, 2020. So voted by three in favor, none opposed, and Councilors Murray and Pugh abstaining.

20. Motion by Councilor Lawler, seconded by Councilor Lema to reappoint Moira H. Hints and Judy B. Kenower to the **Historic District Commission** for three-year terms to expire on January 1, 2022. So unanimously voted.

Motion by Councilor Lawler, seconded by Councilor Lema to appoint Melissa N. Kollitides as an alternate member, term expiring January 1, 2000. So unanimously voted.

Motion by councilor Lawler, seconded by Councilor Lema to appoint Americo Mallozzi as a full member, term expiring January 1, 2020. So unanimously voted.

### **OPEN FORUM:**

Councilor Murray presented a PowerPoint history of Narragansett, stating the Town has the opportunity to revitalize the Pier with a modern library. He said there was misinformation throughout the process by the opposition. He reviewed the bond vote, site characteristics, projected costs, 2018 election results, the library budget allocation reduction, the library's status as a town department, and the projected financial status of the library.

Councilor Lema said Gilbane's original proposal had storefronts all along Beach Street with archways to the beach, and that plan was approved, but not delivered. He said the cost of the bond for moving the library to the Belmont site would be \$360,000 annually for 20 years, and that would put the Town over the tax levy cap while still not having money to maintain other buildings and the roads.

Councilor Pugh said Council President Mannix broke the Town Council Rules, because #9 allows for public comment on all agenda items. He said he would be filing a complaint with the RI Attorney General. He said Council President Mannix was inconsistent in his practice of allowing public comment at second readings.

Ms. Celeberto thanked Councilor Pugh for his involvement in allowing online payment for taxes. Ms. Celeberto commented on the incivility of supporters of the library build out. She referred to comments

made to her directly and the posting of lies on social media. She said free speech protections were waived under these circumstances, and it is the Town's responsibility to protect sitting Council members and take appropriate action. [Ms. Celeberto submitted a document to Clerk Donovan.]

Gloria Roman said Councilor Lema was biased against Gilbane. She asked what the cost to the taxpayer would be for the community center renovations. Councilor Murray responded it would be 7 cents.

Carlene Towne said the Town did not save money by cutting the library's budget, but instead diverted it to other departments. She said the library obtains grants for maintenance and the Council should reinstate the full budget.

Nancy LaPosta Frazier said there have been attempts by the Town Council to gain control of the library fund balance, with the new building being up for sale, and the existing building being crippled without funds.

Patrick Brady said the library has enough money to continue operations and he did not like being threatened with closure by library supporters. He said he was embarrassed to be a Narragansett resident because of the disruptive behavior of some Council members.

Virginia Loontjens said there were many disappointed library patrons.

Roslyn Sinclair said there were several people ready to give a few million dollars to a new library, and there was no excuse for what the Council has done. [Ms. Sinclair was subsequently removed from the meeting by a police officer for disruptive statements.]

Carol Fortin said the Council was not representing her, and the 10-year planning process has been dismantled. She said the Council was using executive sessions as an excuse to keep the public uninformed.

Patricia Mannix said the "Belmont 4" lost the election in 2018, and the silent majority voted for the successful candidates. She said the #1 vote getter in 2016 was not reelected in 2018. She said former Councilor Michael Moretti should have abstained from voting on the library when he knew he would not be running for reelection.

Nancy DeNuccio said, as president of the "Love Your Library" coalition, she was proud of the supporters and they would not be going away.

Stanley Wojciechowski said the Council was not cutting the library's budget, but was instead utilizing surplus funds. He said he wanted all departments to cut spending so the overall surplus would be held to the minimum allowed 10%.

Adam Roman said some of the taxes on telephone bills as dedicated for libraries, just as gasoline taxes are supposed to be used for road maintenance.

### **EXECUTIVE SESSION:**

Motion by Councilor Lawler, seconded by Councilor Lema to postpone the scheduled Executive Session of the Town Council to Wednesday, June 5, 2019 at 3:00 PM. So unanimously voted.

**ADJOURNMENT:** 10:15 PM.

ATTEST:

MINUTES ACCEPTED AS  
PRESENTED: June 17, 2019



Theresa C. Donovan, CMC  
Council Clerk



Theresa C. Donovan, CMC  
Council Clerk

A digital format has been made a part of the record for a complete account of the Council meeting.

<https://www.youtube.com/watch?v=aKkNny5ysps>