

**TOWN OF JAMESTOWN
TOWN COUNCIL MEETING
for
TOWN, WATER AND SEWER MATTERS**

Monday, May 15, 2006

A regular meeting of the Jamestown Town Council sitting as the Board of Water and Sewer Commissioners was called to order at the Jamestown Philomenian Library, Conference Room, 26 North Road at 7:00 PM by Commission President David J. Long.

The following members were present:

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

Also present were:

Bruce Keiser, Town Administrator
A. Lauriston Parks, Esq., Town Solicitor
Steven J. Goslee, Public Works Director
Denise Jennings, Water and Sewer Clerk

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

(None scheduled)

READING AND APPROVAL OF MINUTES

1) 04/17/06 (regular meeting):

Motion was made by Commissioner Schnack, seconded by Commissioner Szepatowski to accept the 04/17/06 minutes. Motion so voted, 4 in favor; Commissioner Long abstained. Commissioner Long was not present at said meeting.

OPEN FORUM

1) Scheduled requests to address:

(None scheduled)

2) Non-Scheduled requests to address:

(No requests)

REPORT OF TOWN OFFICIALS

1) **Pumping Report:**

- Pumping was up slightly, compared to previous month (March).
- Rainfall was up.

The Public Works Director further reported that we had 5 inches of rain over the past 3 days.

- North Reservoir is just about @ capacity-usable storage, 60MG
- South Pond is just about @ capacity-usable storage, 7MG.

2) **Town project reports:** (See Project Update Report dated April 2006)

Commission President Long noted for the record that with the water improvements over the past years, we have gone from several water breaks per a week to a few breaks per a year. Commission President Long further stated that this is significant progress. Commissioner Kelly added that this is also an important aspect of our water conservation.

The Commission asked for clarification on a few items as reported by the Public Works Director.

LETTERS AND COMMUNICATIONS

(None scheduled)

UNFINISHED BUSINESS

1) **Effluent filter** for the golf course (cont. from 04/17/06)

The Public Works Director reported that a meeting is schedule for 05/26/06

Commission consensus: To continue this matter to the next Water and Sewer meeting on 6/19/06.

2) Application of Donald Muir (Plat 7, Lot 73; 44 East Shore Road) for **new water service extension and connection** (cont. from 04/17/06)

Commissioner Kelly stated that based on a memorandum from the Public Works Director it appears as though additional information is still needed. Commissioner DiGiando stated that the memorandum that Commissioner Kelly is referring to is dated October, 2004. Commissioner Kelley apologized and asked the Public Works Director if he was satisfied with the application. The Public Works Director stated that he will be satisfied with the pleasure of the Commission.

Commissioner Szepatowski stated that she has been in favor of the application since late last year, when she thought that the Commission had come to an agreement regarding the applicants purchase of low-flow washing machines to offset the his usage. Commissioner Szepatowski further stated that based on the information that Attorney Kehoe has presented, she strongly is in favor of the application. The Commission briefly reviewed and discussed the documents supplied by the applicant and his attorney.

Commissioner Schnack stated that he has read the memorandum from Attorney Kehoe and that he does not agree that the Commission is applying a different standard to this applicant. Commissioner Schnack further stated that if a previous board was weak on this matter, this Commission can not also be weak. Commissioner Schnack continued to state that it is the responsibility of the owner to fix the quality of his water and if it is a quantity issue the applicant needs to seek other options.

Commissioner DiGiando expressed his concerns and asked the Solicitor for his opinion on the application of Muir. Solicitor Parks reported that the Commission has the criteria as to what the applicant must prove and stated that this applicant fails to prove his case on 2 of the 4 criteria as follows:

- 1) The application is not consistent with the Comprehensive Community Plan
- 2) The applicant has not demonstrated that the land will not produce potable water.

Solicitor Parks further stated that the applicant has not demonstrated in accordance with the rules and regulations that we must extend the water service. Commission President Long stated that he follows the opinions of Solicitor Parks, Commissioner Schnack and DiGiando and further stated that the applicant should explore a variance for a well first.

Motion was made by Commissioner Schnack, seconded by Commissioner Kelly to deny the application of Donald Muir (Plat 7, Lot 73; 44 East Shore Road) for new water service extension and connection. Commissioner Kelly stated that he would like to continue discussion. Following clarification, Commissioner Kelly withdrew his second on the motion. Discussion ensued regarding quality and quantity of water.

Mr. Muir referred to his original letter dated October, 2004 and stated that the water quality depends upon the water table. Attorney Kehoe stated that the applicant has a dug well and can not dig deeper and that the only way to get water is to drill a new well. Attorney Kehoe further stated that he does not believe that his client has been treated the same as other applicants and that he feels that his client has met the criteria of the rules and regulations. Attorney Kehoe stated that he does not see the legal authority and the Commission must treat all applicants fairly. Attorney Kehoe suggested that the Commission come up with a policy regarding this matter. Commissioner DiGiando expressed his concerns about the well being insufficient to produce water. Solicitor Parks reported that the rules and regulations state potable (drinkable) water. Discussion followed.

Commissioner Szepatowski stated that she is not aware of any report regarding the Towns water capacity. The Public Works Director stated that there is a report entitled the "Safe Yield Study" and that he would supply copies for the next Water and Sewer meeting on 06/19/06.

Following further clarification and discussion regarding the applicants approved (expired) applications for an ISDS and a new well with no action taken by the applicant, the original motion on the floor made by Commissioner Schnack was then seconded by Commissioner Kelly.

Commissioner DiGiando asked for clarification regarding the applicant's ability to come back to the Commission, if he can not get water from a well. Following brief discussion, it was the consensus of the Commission that the applicant can reapply for a water service extension and connection.

Motion so voted, 4 in favor; Commissioner Szepatowski opposed. Commissioner Szepatowski suggested that a work session be held in the future to discuss the rules and regulations and the Commissions criteria.

- 3) Application of Raymond and Karyne Bazzano dba Preston RE LLC (10 Narragansett Avenue; Plat 8, Lot 169) for **utility service expansion/change of use** (cont. from 04/17/06)
 - a) Letter dated 05/05/06 from Raymond and Karyne Bazzano dba Preston RE LLC

Commissioner Schnack stated that he is a personal friend and neighbor of Bruce McIntyre, Esq. who is the applicant's attorney. Commissioner Schnack stated that he should recuse himself. Commissioner Schnack then removed himself from the Commission table.

Mr. Bazzano referred to and briefly outlined his memorandum dated 05/05/06 regarding annual average for condominium usage and stated that the annual usage for a condominium ranges between 23,546-29,388 gallons per a year. Mr. Bazzano further stated that this annual condominium usage includes washing machines.

Commissioner DiGiando stated that he has reviewed the information submitted by the applicant, but the numbers are puzzling. Mr. Bazzano stated that his numbers are based on actual live data submitted by the Water Division and that this range of usage is less than the annual single family average of 37.975 gallons per a year. Discussion ensued regarding estimated annual usage for an ISDS system.

Commissioner DiGiando asked the Solicitor for his opinion on the application of Bazzano. Solicitor Parks stated the applicant in accordance with the rules and regulations, shall show to the satisfaction of the Commission that the proposed expansion of use or change of use will not result in an annual consumption of water that is greater than the three year running annual average for the three previous years prior to the application which is 164,000 gallons per year.

Discussion ensued regarding the application of Liebhauser dba Slice of Heaven and the limitation set by the Commission regarding total annual usage.

The Public Works Director reported that limitations were also set on Jamestown Place and RIDEM.

Mr. Bazzano stated that there is no rule in the rules and regulations pertaining to an annual average usage for multi-family units and suggested that the Commission adopt a rule for this matter. Mr. Bazzano briefly described a proposed plan that he has for the building located at 24 Narragansett Avenue. Commission consensus: To focus only on the property located at 10 Narragansett Avenue.

Administrator Keiser stated that it appears that the three year running annual average of 164,000 gallons per year seems to fit nicely and suggested that this be set as the limit. Mr. Bazzano asked for clarification on the type of application that he should have applied for. Solicitor Parks stated that his situation is clearly an application for expansion/change of use.

Commission President Long asked that Public Works Director if he were comfortable setting 164,000 gallons per a year as a limit. The Public Works Director stated that he would be comfortable with setting the 164,000 gallon limit. Discussion followed on how the applicant would allocate the 164,000 gallons to the 10 unit (16 bedroom) condominium.

Commission President Long stated that he confers with the Solicitor, Town Administrator and the Public Works Director regarding setting the 164,000 gallons per a year limit.

The Public Works Director stated that the applicant will be responsible for 9 Water and Sewer connection fees; this includes a credit for the existing services.

Follow clarification of a few additional items, motion was made by Commissioner DiGiando, seconded by Commissioner Szepatowski to approve the application of Raymond and Karyne Bazzano dba Preston RE LLC (10 Narragansett Avenue; Plat 8, Lot 169) for utility service expansion/change of use subject to the following conditions as recommended by the Solicitor, Administrator and the Public Works Director:

1. The applicant will use no more than 164,000 gallons on an annual basis.
2. The applicant will be responsible for all connection fees as outlined in the Rules and Regulations of the Board of Water and Sewer Commissioners and as stated by the Public Works Director.
3. The applicant will be responsible for the allocation of the 164,000 gallons to each of the 10 condominium units.

Motion so unanimously voted.

Commissioner Schnack returned to the Commission table.

Solicitor Parks suggested that he review all of the condominiums documents. The Commission agreed.

NEW BUSINESS

- 1) Memorandum from the Water and Sewer Clerk re: Retrofit Program
- a) If favorable, set fee for surcharge on all properties that are not in compliance with the Retrofit Program

Administrator Keiser reported that this is a follow up to the letters that were sent out to those customers not in compliance in January and stated that the next step would be to develop a surcharge. Administrator Keiser suggested that he work with Solicitor Parks on this matter. Commission consensus: To ask the Administrator to work with Solicitor Parks to develop a surcharge to be assessed.

- 2) Amendments to the Rules and Regulations of the Board of Water and Sewer Commissioners
- a) Amendment to Section 13A & B entitled Urban and Rural Sewer District (if favorable, order advertised for a public hearing)

Administrator Keiser reported that this amendment would be to bring this section in line with the recently adopted amendment, specifically section 14A & 14B. Motion was made by Commissioner DiGiando, seconded by Commissioner Schnack to advertise the proposed amendment for a public hearing to be held on 06/19/06. So unanimously voted.

- b) Review 15B entitled Limitations on Appliances, Toilets and Fixtures. Section 3b. (if favorable, amend and order advertised for a public hearing)

Administrator Keiser suggested that this section be updated.

Motion was made by Commissioner Schnack, seconded by Commissioner DiGiando to advertise the proposed amendment for a public hearing to be held on 06/19/06. So unanimously voted.

- c) Review section entitled Retrofit Financial Incentive Program (if favorable, amend and order advertised for a public hearing)

Administrator Keiser suggested that this section be updated.

Motion was made by Commissioner Schnack, seconded by Commissioner DiGiando to advertise the proposed amendment for a public hearing to be held on 06/19/06. So unanimously voted. Commission consensus: To ask the Solicitor to update the rules and regulations as discussed and to add the surcharge to be assessed on all customers not in compliance.

BILLS AND PAYROLL

Motion was made by Commissioner Schnack, seconded by Commissioner Kelly to approve the Water Bills and Payroll. So unanimously voted. Motion was made by Commissioner Schnack seconded by Commissioner Szepatowski to approve the Sewer Bills and Payroll. So unanimously voted.

TOWN BUSINESS

- 1) **Executive Session:**
- a) Executive Session Announcement
 - i) Pursuant to RIGL 42-46-5 (a)(5) (*real estate*)
 - ii) Pursuant to RIGL 42-46-5 (a)(2) (*litigation*)

Motion was made by Commissioner Schnack, seconded by Commissioner DiGiando to enter Executive Session at 8:37 PM pursuant to RIGL 42-46-5 (a)(5) (*real estate*) and RIGL 42-46-5 (a)(2)(*litigation*). The vote was, Commissioner Schnack, aye; Commissioner DiGiando, aye;

Commission President Long, aye; Commissioner Szepatowski, aye; Commissioner Kelly, aye.
Motion so unanimously voted.

The Commission returned to regular session at 8:58 PM.

Motion was made by Commissioner Schnack, seconded by Commissioner Szepatowski to seal the minutes of the Executive Session. The vote was, Commissioner Schnack, aye; Commissioner DiGiando, aye; Commission President Long, aye; Commissioner Szepatowski, aye; Commissioner Kelly, aye. Motion so unanimously voted.

Motion was made by Commissioner Schnack, seconded by Commissioner Kelly to ask the Town Administrator to follow up on the items as previously discussed in Executive Session. So unanimously voted.

ADJOURNMENT

There being no further business before the Commission, motion was made by Commissioner Schnack, seconded by Commissioner Szepatowski to adjourn the meeting at 9:01 PM. So unanimously voted.

Attest:

Denise Jennings
Water and Sewer Clerk

xc: Commission Members (5)
Town Administrator
Town Solicitor
Public Works Director
Town Clerk