

**EAST HAVEN TOWN COUNCIL
REGULAR MEETING MINUTES
TUESDAY, DECEMBER 4, 2018**

The East Haven Town Council held a regular meeting Tuesday, December 4, 2018, at 7:00PM at the East Haven Senior Center, 91 Taylor Avenue, East Haven, CT 06512.

Chairman Ken Mckay calls the meeting to order at 9:43PM.
He asks all to stand for the pledge of allegiance and a moment of silence for the passing of President George Bush.

Item #1

Roll Call-13 present- 2 absent (Badamo and Butler III).
A quorum is present.

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Stacy Gruning CTC
TOWN CLERK

Item #2

Approval of minutes from the November 20, 2018 Special Meeting.

Councilman Joseph Deko makes a motion.
Councilman Louis Pacelli seconds the motion.
Voice vote: all in favor-none oppose-none abstain. Motion carries.

Item #3

Approval of minutes from the November 20, 2018 Public Hearing.

Councilman Louis Pacelli makes a motion.
Councilman Nicholas Palladino seconds the motion.
Voice vote: all in favor-none oppose-none abstain. Motion carries.

Councilman Nicholas Palladino makes a motion to move Item #6 ahead of Item#4.
Councilman Robert Parente seconds the motion.
Roll call vote: all in favor-none oppose-none abstain. Motion carries.

Item #6

To consider and act upon "An Ordinance Conveying the property located at 200 Tyler Street to 200 Tyler, LLC, or its Designee."

**AUTHORIZING ORDINANCE OF THE
East Haven Town Council**

An Ordinance Conveying the property located at 200 Tyler Street to 200 Tyler, LLC, or its Designee

WHEREAS, the Town of East Haven is the present owner of real property located at 200 Tyler Street, East Haven, Connecticut and identified by the following map, block, and lot number: "180/2313/001" (hereafter, "the Property").

AND WHEREAS, by memorandum dated January 20, 2014, the Town's Ad-Hoc "Land Disposition Committee" issued an opinion finding that the highest and best use for the property, given the responses to the aforementioned RFQ/RFP, would be to sell the property to WinnDevelopment Company Limited Partnership or an affiliate (hereafter, "Winn") for development as mixed income, affordable senior rental housing, with the twin goals of preserving the historic nature of the building and renovating, modernizing, and retaining the gymnasium and pool facilities as two separate projects located at the Property for use by the Town's residents;

AND WHEREAS, by memorandum dated February 11, 2016, the ad hoc Blue Ribbon Commission issued a recommendation to Mayor Joseph Maturo, Jr. to dispose of and/or redevelop the Property as a mixed-use project and identifying a number of development objectives;

AND WHEREAS, on March 22, 2016, the East Haven Planning and Zoning Commission issued a favorable 8-24 Referral to the Town Council for a general "mixed use" disposition plan for the Property.

AND WHEREAS, on September 29, 2016, the East Haven Town Council passed a resolution authorizing Mayor Joseph Maturo, Jr. to sign a "Development and Property Disposition Agreement" between Winn and the Town of East Haven regarding the property to facilitate Winn's application for State and Federal financial resources to finance its development of the Property.

AND WHEREAS, Winn has successfully secured all necessary State and Federal financing sources to facilitate the development of the Property;

AND WHEREAS, the Town and Winn wish to consummate the purchase and sale of the property and undertake the joint development and rehabilitation of the Property;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of East Haven that the conveyance of 200 Tyler Street, East Haven, Connecticut to 200 Tyler LLC, , is hereby approved for the sales price of \$1,740,000.00, subject to a sales price credit of \$1,240,000.00 representing:

- (a) the Town's "municipal contribution" to the project in satisfaction of State LIHTC application guidelines;

- (b) an appropriate sales price credit given that Winn is not purchasing the entire property, the Town and Winn will occupy roughly equal portions of the building post-development.
- (c) An effective sales prices as represented in the project budget is \$500,000.

BE IT FURTHER ORDAINED that the Town, acting by and through its Mayor or his designee, is authorized to execute amendments to the operative land disposition agreement between the Town and Winn memorializing said sale to ensure consistency with this ordinance and to enter into any agreements, including the condominium documents necessary to create the condominium, and execute any and all related deeds, easements (including construction easements) and documents in order to effectuate the contemplated conveyance and development of the Property.

BE IT FURTHER ORDAINED that Town Council hereby approves, and authorizes Mayor Joseph Maturo, Jr., or his designee, to execute a "Declaration of '200 Tyler Street Condominium," and accompanying "By-laws" in substantially the form as presented to this council along with any other documents necessary to give effect thereto and to have same recorded as part of the conveyance contemplated herein.

This Ordinance shall be effective in accordance with the provisions of the East Haven Town Charter.

Submitted by: Danelle Feeley, Council Clerk
 Approved by: Joseph Maturo, Jr., Mayor
 Received by: Stacy Gravino, Town Clerk

Date: _____
 Date: _____
 Date: _____

Councilman Nicholas Palladino makes a motion.
 Councilman Robert Parente seconds the motion.

No public comment.

No council comment.

Roll call vote: all in favor-none oppose-none abstain. Motion carries.

Item #4

No correspondence

Item #5

Subcommittee Reports:

- a. Subcommittee on Education, Library, and School Building; **no report**
(Robert Parente, Lou Pacelli, Linda Hennessey)
- b. Subcommittee on Public Safety, Health, & Welfare;
("BIG" Steve Tracey, Rich Anania, Joe Santino)

- Councilman Joseph Santino asks about the new wave runner. Mr. Brancati was not aware of it so Councilman Santino was going to look into it.
- c. Subcommittee on Finance; **no report**
(Judy Sittnick, Joseph Badamo, Joseph Carfora)
- d. Subcommittee on Public Services, Parks, & Recreation; **no report**
(Robert Parente, Joseph Deko, Lori Jaffe)
- e. Subcommittee on Urban Renewal/Housing;
(Richard Anania, Henry Butler, III, Joseph Deko)
 - Councilman Joseph Deko mentions at the Urban Renewal meeting they had two applications for new roofs which were approved.
- f. Temporary Subcommittee on Community Group Stipends; **no report**
(Kenneth McKay, Nick Palladino, Robert Parente)

Item #7

To consider and act upon a Resolution Approving a License Agreement between the Town of East Haven and Frank and Judith Butler regarding town property located at 825 Foxon Road and authorizing Mayor Joseph Maturo, Jr., or his Designee, to execute the same and all necessary, related documents.

Town of East Haven and Frank and Judith Butler regarding town property located at 825 Foxon Road and authorizing Mayor Joseph Maturo, Jr., or his Designee, to execute the same and all necessary, related documents

WHEREAS, The Town of East Haven (hereafter, "Licensor") is the owner of public property known as "825 Foxon Road "located in East Haven, Connecticut;

AND, WHEREAS, the Frank and Judith Butler (hereafter, "Licensee") are the owners of real property abutting 825 Foxon Road known as "31 Dora Drive;"

AND, WHEREAS, the Licensee's predecessors in title inadvertently constructed both fencing and part of the deck on the property such that both structures encroach upon the Town's property;

AND, WHEREAS, for insurance purposes, both the homeowners and the Town wish to enter into a license agreement to legally permit the encroachments on the condition that the homeowners insure them and indemnify the Town;

AND, WHEREAS, on September 5, 2018, the East Haven Planning and Zoning Commission issued a favorable 8-24 referral regarding the proposed License Agreement;

NOW, THEREFORE, BE IT RESOLVED that said License Agreement is hereby approved and Mayor Joseph Maturo, Jr., or his Designee, is authorized to execute the same and all necessary and related documents.

This resolution shall be effective in accordance with the provisions of the East Haven Town Charter.

Councilman Joseph Santino makes a motion.
Councilman Louis Pacelli seconds the motion.

Public comment:

- Niki Whitehead-Hilton Ave- Ms. Whitehead asks if there will be an update on this because this item was tabled at the last regular meeting and the minutes reflect a salient comment from Attorney Zullo. This does refer to a license agreement, which allows an encroachment to exist on Town owned land. At the end of the last meeting Attorney Joseph Zullo said that just because someone has the right to do something by statute doesn't necessarily mean you can flout the covenants of the deed. Last month she talked about restricted covenants of the deed and it was decided this would be tabled until an opinion was received by Attorney Al Zullo with respect to bypassing or flouting the restricted covenants of the deed whereby the property came to the Town of East Haven.
- Town Attorney Joseph Zullo explained that he has spoken with Attorney Alfred Zullo who is on vacation and unable to attend tonight but the Town is prepared to defend if someone brings an action, we are not aware of anyone that has any standing because there are no direct appellate rights with zoning so the Town is prepared to defend this limited circumstance. We are not going to let this set a precedence we have all intentions to preserve open space in the Town and we advocate very much for it when people don't comply we extract large amounts of monies from them in the process.
- Ms. Whitehead says so they are saying the Town is willing to breach the restricted covenants in the deed whereby this land came to the Town of East Haven. This land came as a result of a subdivision application in the 70s whereby the required open space set aside was a little over an acre and came with a deed that specifically spelled out restrictions that are to run with the land; in other words they exist in perpetuity. The first two were that the premises should be used solely and wholly for conservation purposes and open space and that the premises shall forever remain in its natural state and condition. The fact that no one can contest this doesn't make it right and it's interesting that this came back to back with the high school presentation and decision where there was conversation about loopholes and guarantees. In open space set asides with subdivisions the certainty comes with the deed restriction and the answer that was given in this circumstance with Winn development including from Attorney Zullo was that there would be a deed restriction and that is where the guarantee comes from. She thinks the belief when planning and zoning reviewed this and the reliance on the public action was the same as they are now saying is important to them with

regard to the high school; you don't breach covenants on a deed of land. This was conveyed as open space and it was specifically not allowing any uses or structures that would negate the open space. You can't have them both.

- Donna Richo-67 Charnes Drive-Mrs. Richo says this piece of property adjoins a citizen's property and they have been there for a number of years and inadvertently have a shed that encroaches on the open space. So they are doing this to benefit one of their citizens, they aren't taking away the open space it will remain open it will just have a shed on it. She thinks we have an obligation to do what is best for our citizens. She says Niki Whitehead has excellent skills as a researcher and a good component of open land. But she thinks we need to work for the citizens not some moral obligation that appears to be an issue here.
- Ms. Whitehead mentions it is not just a shed, it is 10% of the open space that would be lost and it will become 62% of its existing size.

Council Comment:

- Chairman McKay says we are not giving them the property; they aren't taking it or getting it deeded over to them.
- Councilman Nicholas Palladino says he thinks the point that is being missed is that these people bought the property and have lived there several years and then discovered that their deck and shed is on this 10% of the open space. Whoever did the deed inspection made a mistake and he doesn't think we should hold it against the homeowner. We aren't giving them anything, we are doing what we did at the high school where we put the sign on someone's property and made a lease agreement that they keep insurance on it. We aren't ruining or taking property.

Roll call vote: all in favor-none oppose-none abstain. Motion carries.

Councilman Richard Anania makes a motion to waive the reading of all of the lines in Item#8.

Councilman Louis Pacelli seconds the motion.

Voice vote: all in favor-none oppose-none abstain. Motion carries.

Item #8

To consider and act upon a Resolution to provide a tax refund of \$7,439.18 to Porsche Leasing LTD as follows:

A Resolution to provide a tax refund of \$7,439.18 to Porsche Leasing, LTD

WHEREAS, C.G.S. Section 12-129 provides that a local board of selectmen, or its equivalent, may, upon recommendation and certification of the Tax Collector, issue a refund for tax overpayments;

AND, WHEREAS, the following entity or person has requested a refund for the following overpayment:

Porsche Leasing LTD
PO BOX 24329
Nashville, TN 37202-1654

Acct/List: 2017-03-0067878
Reason: Bills adjusted
Amount: \$1,667.86

Acct/List: 2017-03-0067741
Reason: Bills adjusted
Amount: \$1,667.86

Acct/List: 2017-03-0067744
Reason: Bills adjusted
Amount: \$2,051.73

Acct/List: 2017-03-0067745
Reason: Bills adjusted
Amount: \$2,051.73

TOTAL: \$7,439.18

AND, WHEREAS, the Tax Collector, via backup paperwork submitted to this Council, has recommended and certified the accuracy of this refund;

NOW, THEREFORE, BE IT RESOLVED that said refund is approved and the tax collector is authorized to effectuate said refund.

This resolution shall be effective in accordance with the provisions of the East Haven Town Charter.

Councilman Nicholas Palladino makes a motion.
Councilwoman Judy Esposito seconds the motion.

No public comment.

No Council comment.

Roll call vote: all in favor-none oppose-none abstain. Motion carries.

Item #9

To consider and act upon a Resolution to provide a tax refund of \$614.42 to Toyota Lease Trust as follows:

A Resolution to provide a tax refund of \$614.42 to Toyota Lease Trust

WHEREAS, C.G.S. Section 12-129 provides that a local board of selectmen, or its equivalent, may, upon recommendation and certification of the Tax Collector, issue a refund for tax overpayments;

AND, WHEREAS, the following entity or person has requested a refund for the following overpayment:

Toyota Lease Trust
20 Commerce Way Suite 800
Woburn, MA 01801-2455

Acct/List: 2017-03-0071604
Reason: Cancelled plates
Amount: \$614.42

TOTAL: \$614.42

AND, WHEREAS, the Tax Collector, via backup paperwork submitted to this Council, has recommended and certified the accuracy of this refund;

NOW, THEREFORE, BE IT RESOLVED that said refund is approved and the tax collector is authorized to effectuate said refund.

This resolution shall be effective in accordance with the provisions of the East Haven Town Charter.

Councilwoman Loria Jaffe makes a motion.

Councilman Nicholas Palladino seconds the motion.

No public comment.

No Council comment.

Roll call vote: all in favor-none oppose-none abstain. Motion carries.

Item #10

To consider and act upon a Resolution Appointing Melanie Johnson to the Old Cemetery Board.

A Resolution Appointing Melanie Johnson to the Old Cemetery Board

WHEREAS, a vacancy exists on the Old Cemetery Board for a term beginning February 1, 2016 and ending January 31, 2019;

AND, WHEREAS, pursuant to the East Haven Town Charter, the Town Council is designated as the appointing authority to re-appoint individuals to said position;

NOW, THEREFORE, BE IT RESOLVED that the Town Council hereby appoints Melanie Johnson to the Old Cemetery Board to fill said term.

Councilman Robert Parente makes a motion.

Councilman Louis Pacelli seconds the motion.

No public comment.

No Council comment.

Roll call vote: all in favor-none oppose-none abstain. Motion carries.

Item #11

Adjournment of Regular Meeting.

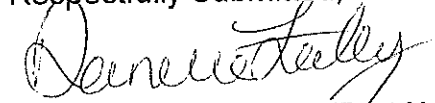
Councilman Joseph Santino makes a motion.

Councilman Louis Pacelli seconds the motion.

Voice vote: all in favor-none oppose-none abstain. Motion carries.

Meeting is adjourned at 10:07PM.

Respectfully Submitted,



Danelle Feeley, Clerk, East Haven Legislative Town Council