**TOWN COUNCIL SPECIAL MEETING**

**December 13, 2018**

# ROLL CALL

Town Council Members present:

Mary E. Meagher, Vice President

Nancy A. Beye

Randall White

William J. Piva, Jr.

Town Council Members absent:

Michael G. White, President

# CALL TO ORDER, PLEDGE OF ALLEGIANCE

Vice President Meagher called the special meeting of the Jamestown Town Council to order at 6:04 p.m. in the Jamestown Town Hall Rosamond A. Tefft Council Chambers at 93 Narragansett Avenue and led the Pledge of Allegiance.

Vice President Meagher noted President White is not in attendance due to illness.

# PUBLIC HEARINGS, LICENSES AND PERMITS

##  Public Hearing:

1. Proposed Amendment of the Jamestown Code of Ordinances, to include a Municipal Immigrant Protection Ordinance as submitted pursuant to the provisions of Section 219 of the Town of Jamestown Town Charter; duly advertised in the *Jamestown Press* December 6th edition; review, discussion and/or potential action and/or vote

**A motion was made by Councilor Piva with second by Councilor Beye to open the Public Hearing at 6:05 p.m. President White, Absent; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.**

Vice President Meagher readthe Preamble to the proposed Municipal Immigrant Protection Ordinance. Copies of the proposed ordinance have been available at Town Hall, Jamestown Library, Town website, and on the table at the back of the Council Chambers. The ordinance is before the Council pursuant to Section 219 of the Jamestown Town Charter, as read by Vice President Meagher. On November 27th the Board of Canvassers confirmed that 455 qualified registered voters signed the petition that accompanied this ordinance, comprising the required 10% of registered voters, and on November 30th the Town Clerk certified the initiative petition. At its meeting of December 3rd the Town Council set this public hearing date. She thanked the Canvassers, Clerk, Administration and Solicitor for their professional handling of the petition and ordinance. The Council is calling this public hearing to provide a forum for discussion of the ordinance so that the Council can decide if they want to act on the ordinance. If approved by Council exactly as presented by Conanicut Sanctuary, this ordinance will not proceed to a referendum. However, if the ordinance is not adopted as presented, per the Town Charter this ordinance will proceed to a referendum election within the next twelve months. We are here to discuss the particulars of the proposed ordinance and all comments are to be directed to the ordinance. To address comments to the Town Council please raise your hand to be recognized, come up to the podium, and state your name and address. We all need to be polite and respectful of one another and be concise in our comments.

We will hear first from the petitioners, then the Police Chief, followed by Town Council members, and then comments from the public. After the comments are heard the Council will make a decision on the ordinance itself and if necessary the date of the referendum

Conanicut Sanctuary representative Helen O’Grady thanked the Council for this opportunity. They are here to address Version 1 of the Ordinance. However, there were three versions of the ordinance and Section 219 of the Town Charter allows Council to adopt any of these versions.

Vice President Meagher asked for the Solicitor’s opinion on that statement. Solicitor Ruggiero stated the way the Charter Section is written only the ordinance the signatories viewed when signing the petition is the version that must go forward, in his opinion. Vice President Meagher stated we are considering the ordinance submitted with the petition.

Helen O’Grady of Schooner Avenue noted Conanicut Sanctuary, referred to as CS, supports any of the three versions. Vice President Meagher asked Ms. O’Grady to focus on the original version. Ms. O’Grady stated the original version was drafted by the New York State Attorney General’s Office and distributed by the ACLU. This version is in compliance with Federal and State law and does not violate the Town Charter, as refuted by Immigration Attorney Carl Kruger. The proposed version will keep civil immigration enforcement and criminal law enforcement disentangled, allowing our Police Department to focus on criminal law enforcement. Explanation and discussion ensued of defined access, due process, judicial warrant, and probable cause contained in the proposed ordinance to ensure that immigrants in custody of the Police Department are subject to the same practices as any other citizen.

References to components of the ordinance proceeded, including dialogue at meetings with Chief Mello in March 2017, June 4, 2018, and meetings of the Jamestown Sanctuary Working Group. SC is trying to keep our Police Department out of the business of enforcing Federal immigration law and ensure that all people are treated the same. Various sections of the proposed ordinance were reviewed with examples and explanation of judicial warrant, Federal warrant, administrative warrant, and civil warrant. Discussion ensued of the South Kingstown Ordinance and State Police Policy/Ordinance and that they are in line with the Jamestown Resolution adopted in 2017. Ms. O’Grady noted the majority of immigrants are law abiding, hard-working members of the community and if deported would be subject to human rights violations. This ordinance would keep us all safer, would not protect violent criminals, and would not prohibit Jamestown Police from cooperating with Federal and State agencies, allowing them to focus on local criminal law enforcement.

Lengthy discussion ensued, including comparison of the value of a Resolution vs. an Ordinance. This is about trust and a policy, not judging an individual’s or police department’s character. This is about confidence and being able to contact the police without fear of deportation. An ordinance has more teeth, can be enforced, and allows our Police Department to protect all.

Police Chief Edward Mello addressed the meeting, offering his perspective on the proposed ordinance, with review by Section.

Section 1. Limitation on activities solely for the purpose of enforcing federal immigration laws.

Chief Mello has no concern with 1 (a) and 1 (b). Section 1 (c) would completely restrict cooperation with Federal agencies for all immigration matters including those involving serious crimes and where a Federal immigration warrant has been issued.

Section 2. Conditions for honoring ICE or CBP detainer requests.

Chief Mello has concerns that Sections 2 (a) and (b) would limit cooperation with Federal officials to matters in which a Federal immigration warrant has been issued or the individual has been engaged in terrorist activities and would now allow discretion by police to cooperate with Federal officials regardless of the significance of the crime committed in Jamestown or previous criminal activity. Even in cases where an individual has a long criminal history, is subject to a civil detainer, and commits a crime in Jamestown, this section would prevent cooperation with Federal officials regardless of the nature or circumstances of the crime or criminal history.

Section 3. Limitations on honoring ICE or CBP requests for certain non-public, sensitive information.

Chief Mello has concerns Section 3 would limit information provided to immigration officials beyond what is currently public information as provided in RIGL § 38-2-3.2.

Section 4. Limitations on ICE or CBP access to individuals in custody for immigration enforcement questioning purposes.

Chief Mello has concerns Section 4 would limit cooperation with Federal officials to matters in which a Federal immigration warrant has been issued and would not allow discretion by police to cooperate with Federal officials regardless of the significance of the crime committed in Jamestown or previous criminal activity. Even in cases where an individual has a long criminal history, is subject to a civil detainer and commits a crime in Jamestown, this section would prevent cooperation with Federal officials regardless of the nature or circumstances of the crime.

Section 5. Due process for persons about whom federal immigration enforcement requests have been made.

Chief Mello has no concerns with Sections 5 (a) (1). Section 5 (a) (2) would not allow discretion by police to cooperate with Federal officials regardless of the significance of the crime committed in Jamestown or previous criminal activity. Even in cases where an individual has a long criminal history, is subject to a civil detainer and commits a crime in Jamestown, this section would prevent cooperation with Federal officials regardless of the nature or circumstances of the crime. There is no concern with sections 5 (b) and 5 (c).

Section 6. Ban on use of resources to facilitate a Federal registry based on race, gender, sexual orientation, gender identity or expression, religion, ethnicity, or national origin.

Chief Mello has no concern with Section 6.

Section 7. Limitation on the collection of immigration-related information; provision of nondiscriminatory access to benefits and services.

Chief Mello has no concern with section 7 (a). The Police Department is currently finalizing the policy to address section 7 (b).

Section 8. Limits on Political Surveillance.

Chief Mello has no concern with section 8.

Section 9. Protecting Immigrant Victims of Crime.

Chief Mello has no concerns with Section 9. South Kingstown did not include this entire section within their adopted ordinance.

Section 10. Protecting the Rights of Students.

Chief Mello noted Section 10 doesn’t apply to the Jamestown Police Department.

Section 11. Collection of aggregate data regarding ICE and CBP requests.

Chief Mello noted there are no concerns with Section 11. South Kingstown did not include this entire section within their adopted ordinance.

Section 12. Enforcement.

Chief Mello referred to the Town Solicitor.

Section 13. Affirmation of Compliance with Federal Law.

Chief Mello commented there are no concerns with Section 13.

Section 14. Definitions.

Chief Mello noted Section 14 does not contain all terms used throughout the document including but not limited to “federal judicial order” which is not listed.

Section 15. Severability.

Chief Mello noted the Police Department encounters many individuals all year. No inquiry is made as to their citizenship nor do they make any inquiry to federal officials. This would only occur when someone is taken into custody and they are fingerprinted, as are all individuals taken into custody. His concern is the limitation of cooperation regarding someone in custody who is of interest to Federal officials under a judicial warrant.

Councilor White expressed concern whether the 500 people who signed the petition are aware of what they actually signed. The petition referred to an ordinance and there has been discussion of three ordinance versions over time. He holds dearly the emotion that accompanies aggressive Federal immigration policies. Do they know what led up to this evening’s public hearing and were other options noted to the petition signers? Reasonable minds can differ on how to approach an issue and a policy or resolution could be implemented to address it. The State Police operate on their good faith and conscience, as they only react to a Statute, as do our police officers. If you can trust the State Police why can’t you trust the Jamestown Police to act appropriately? CS stated an ordinance has teeth, but he heard no concern with the conduct of the Jamestown Police. The ordinance enforcement provision allows only certain parties to bring suit, which is not a rational approach to a national problem that needs to be addressed by our Congressional delegation. We should not take a reactionary approach to a problem that is not here.

Vice President Meagher opens the meeting to comments from the public.

Mary Katherine O’Neill of North Main Road noted she has family members who are naturalized citizens, she belongs to a non-profit organization that has many members who are naturalized citizens, and she is 100% opposed to the ordinance. Immigration law is criminal law under US Criminal Code 8, and conspiracy to harbor is criminal. Regarding the fear that our Police Department would be deputized to enforce immigration law, ICE is charged with such enforcement, and no local agency can enforce immigration law unless officials have a Memorandum of Agreement under 287 G. She is concerned there are a number of ordinance versions.

Vice President Meagher noted this public hearing addresses the version presented with the petition.

Ms. O’Neill stated immigrants are not in violation of law, are residents, have green cards, and have rights afforded them. The Ordinance fails to comply with our Town Charter, in her opinion, fails the due process requirement, and has no penalties. Ms. O’Neill submits a document, which is accepted as Exhibit 1.

Jean Spinoza of Southwest Avenue shared her experience regarding the signing of the petition. She was outside her home and asked to sign a petition. She asked if this would make Jamestown a Sanctuary City and was told yes. At that time she was not shown an ordinance. She asks the Council to put this on a referendum so that all citizens have the opportunity to cast their vote.

Hugh Murphy of Stern Street stated he is a member of the Board of Canvassers. This meeting should not have happened. The Charter states that only petitions with at least 10% of registered Jamestown voters are to be considered. The Canvassers were charged with validating signatures on two different petition forms and determined there were 456 valid signatures. On the first one 403 signatures compared to voter registration forms were determined to be valid, and he concurred. The second form had 53 names of registered voters but had no signature block, and the vast majority of the names were printed and not signed. The printed names were accepted by the other two members of the Board of Canvassers as valid, which brought the total validated signatures to 456, one more than required. A printed name is not a signature, is unique, and can be validated. The 53 printed names cannot be validated, and this petition process is legally flawed and should be declared invalid per the Town Charter. The proposed ordinance would be an open invitation to any illegal alien to roam free in Jamestown. He works for the Navy and we are instructed if we see something say something. An illegal alien could set up shop in Jamestown and spy on the Navy. This is a threat to national security, and if he hears that illegal aliens are harbored here in Jamestown, he would notify federal authorities, and urged citizens to do the same.

Councilor Piva asked what guidance the Board of Canvassers followed, as he saw there were printed names that did not have signatures.

Carol Nelson Lee of Buoy Street, Chair of the Board of Canvassers, stated the Board carefully looked at the Charter and found the Section related to voter initiative and the requirement at least 10% of the voters registered at the last general election, which would be the 2016 election, had to sign. Six months had passed since the signing of the petition to when it was reviewed. One person moved away and one had died, and their signatures were accepted as they were registered voters at the time of signing. There were two formats for the petition, and we looked at the Charter and carefully looked at the format, checked for registered voters and that signatures matched. The signature page in one petition did not have a place for signature and printed name. We had to look at intent, and that came down to a 2 to 1 vote to accept the names. For the second group we found that a number of the names were signed and not printed.

Vice President Meagher asked the Solicitor whether this is acceptable.

Solicitor Ruggiero stated the Board of Canvassers met and they took a vote, and anyone could have appealed their decision, and it was not appealed at that time. The matter was certified and the process in place, and it is improper to question it and derail the process. We all struggled with this, there is no checklist for what is required, and all did their best.

Discussion ensued of the 32 printed names accepted.

Michael Montoya of Lawn Avenue stated he was surprised this has gotten this far. He has a legal background, and it took him hours to review this. Enforcement in Section 12 in the ordinance drafted by the ACLU allows the ACLU to sue for any violation. In Section 10 the School Department has to set up a policy to protect students from interaction with Federal officials. The statement by Councilor White this is a solution to a problem that doesn’t exist is correct. Why set ourselves up to be sued. In Los Angeles or Providence this may be needed, but not in Jamestown. [Applause]

Peter Coble of Narragansett Avenue congratulated the new Town Council. He showed his Certificate of Citizenship; he was an immigrant and has no problem as long as people do it legally. He referenced newspaper articles about 58 illegal aliens being rounded up and the crimes, including murder, committed by some of those immigrants. He feels the proposed ordinance handcuffs the police, not the illegals, sets us up for a lawsuit, and is not a good idea. [Applause]

Keith Stavely of Capstan Street stated he will submit a statement for someone not here and that he is in favor of the ordinance. President Trump claims the majority of undocumented immigrants are guilty of serious crimes. This is not true, and the non-citizen crime rate is lower than that of citizens. President Trump reversed the Obama policy in order to make good on his promises. The Administration is keeping out new immigrants no matter what and enforcing the discriminating policies of the 1920’s. Do we want JPD to cooperate with fraudulent and abusive policies? We have been assured Jamestown will not participate in Federal enforcement. Almost 500 registered voters considered this worthy of enacting as an ordinance. We need to take a stand, and he urges enactment of the ordinance.

Mr. Stavely submits the statement of Cynthia Long Ratteron of Capstan Street, who is unable to attend. It states she has admiration for JPD and Chief Mello and that there is nothing in the ordinance that would prevent JPD from cooperating with ICE when there is a violent criminal. We are not helping ICE and this ordinance is not in conflict with the US Constitution, and local law enforcement should adopt the same protocols as the State Police and Department of Corrections. Nothing contained in the ordinance would limit a police officer’s reach when arresting someone who has committed a crime. She prefers that JPD not be complicit in separating families. Discussion continued.

Terry Glenn of Neptune Street stated he is a new resident and is against the ordinance as it will deter police officers from doing their job. He is a 31 year military veteran, having been deployed to 71 countries around the world. San Francisco was the gem of the country and is now a Sanctuary City, and residents are leaving there in droves. He is appreciative of law enforcement and against something that will tie the hands of law enforcement. [Applause]

Perry Scott of Top ‘O Mark Drive stated he is fascinated by the discussion of signatures. He has lived here two decades and brags about the safety and caring of the community, and this is not about illegal aliens. He is against the ordinance. He doesn’t bother immigrants. Do we have to support a group that doesn’t have legal status? [Applause]

Vice President Meagher stated 32 printed names were accepted by the Board of Canvassers and it was their decision working in sincerity and on our behalf. You may disagree, but they are doing the best job possible and she acknowledges the efforts made. Objections should have been made then.

Richard Hitt of Schooner Avenue thanked the Council for this opportunity. He supports the ordinance and it is not an answer to immigration reform that must be addressed on the Federal level. The President has demonized immigrant members of our population with misinformation, which is why we want the immigrant protection ordinance adopted. Myths about immigrants were noted and clarified. Undocumented immigrants are less likely to commit crimes, have lower crime rates in immigrant populated areas as proven by studies, immigration does not equal more crime, and immigrants have contributed to our society. Our immigrant community cannot trust they are safe and we need to give our community of immigrants a reason to trust and give assurances they are safe in seeking help and will be treated the same as any citizen. Achievements, accomplishments, and the overall good record of immigrant citizens were reviewed. Lengthy discussion continued. We need to give our immigrant community a reason to trust by adopting the proposed ordinance. Discussion continued.

Maria Carella of Bay View Drive commented her family were immigrants and came here to build the country not destroy it. This country made progress that would not have been possible without immigrants. She came here in 1961 through Argentina due to the free entrance agreement with the South America and settled at Nantasket Beach in Massachusetts. She noted the kindness she experienced when her family came to this country and how they prospered. We should not fear immigrants.

James Dunphy of Columbia Avenue stated he is insulted by this proposed ordinance. He loves and cares for the community, the ordinance proposed wasn’t written for Jamestown, and the people who wrote it don’t care about Jamestown. He trusts in this Council to conduct business out of love and care for our community. This is a mistake.

William W. Smith of Hull Cove Farm Road stated he was one of the people who circulated the petition and he spoke before the previous council. He has heard fear, anger and hatred regarding people who are different and don’t belong. There is no such thing as an illegal person, it is not criminal to be in the USA without papers. It is a civil violation to live here without papers, and it is the job of the Federal government to oversee immigration. There is no law against coming to the USA without papers if seeking asylum or fleeing violence and persecution. The proposed ordinance in no way prevents JPD from arresting anyone who is a criminal or threat to our citizens. Let’s make Jamestown a safer and more welcoming place by passing this ordinance.

Ken Lima of Columbia Lane stated he has been an attorney for 40 years. We have federal law, and we enforce the laws, as that is what our country was built on. The remedy to the problem is an excuse. If don’t like the laws, work to reform the laws. People are welcomed to be citizens and follow the law and come here legally. Refugees from oppression are different. He respects those who want to change the law and not tie the hands of our law enforcement officers. [Applause]

Nancy Semco of Gondola Avenue stated she wants a community where she can love her neighbors, and we can only have that when we have the protection of the law. Illegal immigrants are coming here without vaccines and have a higher rate of diseases. If ICE has a judicial warrant or no warrant because they just got here and have a criminal record in another country, their records are skewed. Tuberculosis and other diseases that are drug resistant can be contracted anywhere. I trust the government to check immigrants when they enter this country, we can’t enjoy the community if there are diseases, and we can’t be in fear of the people we live with.

Sidney Keene of Walcott Avenue stated it is difficult for people to get status here and ICE has engaged in activities that are unfair. Though there are no issues with the Jamestown Police Department, a preventative measure is still warranted, and it is important to be proactive.

Stephen Anderson of Riptide Street stated the ordinance does not say Jamestown on it. He came here open-minded, but the ordinance ties the hands of our police officers, and he is not in favor of it. At some time immigration should be addressed. Immigrants come here for a reason and there is a process they go through. We can’t live in fear of immigrants as at one time we were all immigrants.

Stefan Gislason of Beavertail Road stated we think this is a Jamestown issue and the recommendation is to deal with this on the state and Federal level, but they have failed to do so. It is important to pass this type of ordinance locally so that everyone should not fear traveling to another place and to assure people they can come here. We do need a codified ordinance to secure the rights of all and to send the message to the State House in order to get legislation passed on that level. The Town Council in South Kingstown passed the same ordinance and all is ok there and it does not violate the rule of law. He supports the ordinance and urges Council to adopt it.

**A motion was made by Councilor Piva with second by Councilor Beye to close the Public Hearing at 8:13 p.m. President White, Absent; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.**

Vice President Meagher thanked everyone for their time. We tried to get everyone’s voice heard this evening. She asks the Council’s pleasure on how to proceed.

Councilor Piva stated he wanted to hear from CS real life Jamestown examples and perhaps confrontations with or violations by Jamestown Police, and he heard none. He will not vote for this ordinance. He needed to hear the problem that happened locally that caused this to come before the Council. This is not a local issue and you don’t pass an ordinance based on emotion. JPD has done an excellent job, they have a great Police Chief, and he has faith they will continue to do the same great job they do every day. [Applause]

Councilor Beye thanked everyone for coming and being patient and respectful. We are here this evening as Congress has failed to pass comprehensive immigration reform, causing 30 counties in 7 states to adopt some type of immigration protection ordinance. She appreciates the efforts and compassion of Conanicut Sanctuary. Voting in favor of this ordinance will go against the advice of our Police Chief and Town Solicitor, and that is why she will not vote in favor of this tonight.

Councilor White stated the ordinance proponents noted the ordinance seeks to protect the 11,000,000 million undocumented immigrants who are here and need additional protections. An ordinance that makes sense for Jamestown must address a real life situation and concern, and it is difficult to get people who are vulnerable to participate in the criminal justice system as victims or witnesses. Municipal police officers have a natural instinct not to cooperate with unnecessary enforcement of immigration laws as it affects their relationship with the community. They don’t want to promote fear among our immigrant population who may be here in a vulnerable status. He has empathy for the efforts of CS. However, the proposed ordinance does not achieve what it sets out to do, and he opposes it.

Vice President Meagher commented on being one of the authors of the Resolution of 2017 that expressed support for House Bill 5515 regarding immigration enforcement on a statewide basis. It also opposed two bills that would have deputized local law enforcement and called for comprehensive immigration reform. Our Police Chief and Solicitor have raised significant questions on the proposed ordinance. She is voting against this ordinance as it places 13 local police officers in the difficult position of defying Federal law and in contradiction to their Oath to uphold Federal, State and local law. She commented on the work of the Sanctuary Working Group in trying to find an alternative, stated her appreciation for the work of Conanicut Sanctuary in gathering so many signatures, but disagrees with their unwillingness to accept anything other than an ordinance. She feels this should go to the voters.

**A motion was made by Councilor Piva with second by Councilor White to reject the ordinance as presented by Conanicut Sanctuary. President White, Absent; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.**

## Review, discussion and/or potential action and/or vote to set a date for a special referendum for a Proposed Amendment of the Jamestown Code of Ordinances, to include a Municipal Immigrant Protection Ordinance as submitted pursuant to the provisions of Section 219 of the Town of Jamestown Town Charter, if needed; said referendum to be scheduled no later than December 3, 2019.

Discussion involved potential dates for a special referendum, noting April or September would work best.

**A motion was made by Councilor Piva with second by Councilor Beye to set the date for April 2, 2019. President White, Absent; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.**

# COMMUNICATIONS

## Communications re: Proposed Municipal Immigrant Protection Ordinance; review, discussion and/or potential action and/or vote

### Letter of Donna Cote of Spindrift Street stating she is not in favor of Jamestown becoming a sanctuary city

# ADJOURNMENT

**A motion was made by Councilor Piva with second by Councilor White to adjourn. President White, Absent; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.**

The special meeting was adjourned at 8:25 p.m.

Attest:

Cheryl A. Fernstrom, CMC, Town Clerk

Copies to: Town Council Members

 Town Administrator

 Town Solicitor

 Finance Director