

**BOROUGH OF NEWTOWN
NEWTOWN, CONNECTICUT**

Minutes of the regular meeting of the Borough of Newtown Board of Burgesses on **Tuesday, May 13, 2014** in the Borough Office at Edmond Town Hall, Newtown, CT. Warden Gaston called the meeting to order at 7:47 p.m.

Present: Warden James Gaston, Senior Burgess Joan Crick, Second Senior Burgess Jay Maher, Burgess Betsy Kenyon, Burgess Anthony Baiad, Burgess Bill Lucas, Burgess Chris Gardner, Zoning Officer Jean St. Jean, Tax Collector Jodie Enriquez, Treasurer Paula Brinkman, Clerk Ann Benore

Absent: None.

Also Present: Two members of the public.

Burgess Lucas made a motion to accept the April 8, 2014 regular meeting minutes, seconded by Burgess Gardner and unanimously approved.

Public Participation: None.

Tree Warden: Rob McCulloch reported that a tree on East Street was removed. He will be touring the Borough soon to check on the condition of other trees. Warden Gaston stated that he was contacted by the Garden Club regarding the island on Glover Avenue/Main Street. Due to storms and replacement of curbing, there will have to be some re-planting done. Warden Gaston also stated that the State passed a statute regarding running bamboo and asked Rob McCulloch to be the person in charge for the Borough and Rob agreed.

Warden's Report: Warden Gaston had nothing new to report.

Tax Collector's Report: Tax Collector Enriquez reported the following for April 2014: Total Taxes Due for the List of 2012: \$192,172.81; Current Taxes: \$187,116.59; Back Taxes: \$6,795.53; Interest: \$5,864.17; Lien Fees: \$1,119.25; Write-Offs: \$54.98; Refunds: (\$4,515.65). Total Submitted to Treasurer to Date: \$198,500.00. Current Taxes Collected: \$187,116.59.

Burgess Kenyon made a motion to accept the Tax Collector's Report for April 2014, seconded by Senior Burgess Crick and unanimously approved.

Treasurer's Report: Treasurer Paula Brinkman read the report: A deposit of \$5,000.00 was made from Tax Collector Jodie Enriquez making a total of \$198,500.00. No transfer was needed for this month's invoicing. Capital Reserve is \$1,902.18 as of April 30, 2014.

Burgess Baiad made a motion to accept the Treasurer's Report for April 2014, seconded by Burgess Gardner and unanimously approved.

Rec'd. for Record 5/15 2014
Town Clerk of Newtown @ 1:45 pm
Debbie Aurelia Halstead

Zoning Officer's Report: Zoning Officer Jean St. Jean reported that the groundbreaking took place at Lexington Gardens and that foundations are expected to be done in June. The building at 27 Church Hill Road will be torn down and re-built by the new owner. She also reported that George Benson will be writing a letter to the owner of 48 Main Street regarding the blight issue. The Health Department went to look at 14 Queen Street and the issue of paint peeling on the outside of the house. It was determined it was lead paint so the problem has to be addressed.

Historic District: Burgess Kenyon reported that the barn at 64 Main Street which burned down will be replaced by a prefab barnyard structure. The application was approved with the following changes: vinyl windows and sliders will be replaced with wood. She also reported that tomorrow evening a conceptual meeting will be held with Newtown Hook & Ladder. When final plans come in there will be a final approval. Another application will be reviewed on May 22nd from 13 Main Street for enclosing the back deck.

Sidewalks: Senior Burgess Maher reported that he received a letter from the CHB Library Board requesting that the Borough repair the slate sidewalk in front of the library. In particular, the areas to be addressed are cracks to the slate at the intersection of the sidewalk and library's entranceway, grout repair, and uneven slate where the walkway meets the curb. Senior Burgess Maher stated that the estimate for the work to be done is \$1,200 to \$1,400. Due to the recent flooding and financial difficulties at the library, the Board felt that the request was reasonable and would show good will.

Burgess Kenyon made a motion to write a letter to the CHB Board of Trustees in support of the project up to \$1,500, seconded by Burgess Baiad and unanimously approved.

Streets & Parks: Senior Burgess Maher had nothing new to report.

New Business: Burgess Kenyon asked Second Senior Burgess Maher if any park benches were damaged due to the harsh winter. He stated that he is not aware of any damages. She also stated that she would like to see more benches in the Borough. Second Senior Burgess Maher agreed it would be very nice and will look into the matter in the summer.

Burgess Kenyon suggested that the Board look into improving the "Historic District" signs with respect to size. Zoning Officer St. Jean said she would look into the regulations for signs and discuss her findings with Burgess Kenyon. Warden Gaston asked that Burgess Kenyon look into the matter and report back to the Board.

Old Business: Warden Gaston presented "Raised Bill No. 72" (Att. A) from the State regarding "An Act Concerning Liability for the Growing of Running Bamboo". He explained that the Bill is enabling the Legislature to address the issue of running bamboo. He presented "Substitute Bill No. 72" (Att. B) which he said was a more substantial piece of legislation. He also presented a Draft Invasive Bamboo Ordinance (Att. C) which Attorney Donald Mitchell prepared for the Borough.

Mary Gaudet-Wilson, 12 Whippoorwill Hill Road, stated that she looked into the costs of removing bamboo and said she is concerned that people will use chemicals for removal. She suggested that information (in the form of a brochure) be available for residents. She feels that it is very important for the town to get information out there. Discussion followed.

Public Participation: None.

A regular meeting the Board of Burgesses will be held on Tuesday, June 10, 2014 at 7:30 p.m. in the Borough Office in Edmond Town Hall, Newtown, CT

There being no further business, Burgess Baiad made a motion to adjourn the meeting at 9:30 p.m., seconded by Burgess Gardner and unanimously approved.

Respectfully submitted,

Ann M. Benore
Borough Clerk



[A]

General Assembly

Raised Bill No. 72

February Session, 2014

LCO No. 691

00691 _____ ENV

Referred to Committee on ENVIRONMENT

Introduced by:

(ENV)

AN ACT CONCERNING LIABILITY FOR THE GROWING OF RUNNING BAMBOO.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22a-381e of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For the purpose of this section, "running bamboo" means any bamboo in the genus *Phyllostachys*, including *Phyllostachys aureosulcata*.

(b) No person who plants running bamboo or who allows running bamboo to be planted or to grow on his or her property shall permit such bamboo to grow beyond the boundaries of his or her property. [On and after October 1, 2013, any] Any person who violates the provisions of this subsection shall be liable for any damages caused to any neighboring property by such bamboo, including, but not limited to, the cost of removal of any running bamboo that grew beyond the boundaries of his or her property regardless of whether such bamboo was planted, allowed to be planted or grown prior to the effective date of this section.

(c) No person shall plant running bamboo or allow running bamboo to be planted or to grow on his or her property at a location that is one hundred feet or less from any abutting property or public right-of-way unless such [planting] running bamboo is contained by a properly constructed and maintained barrier system or such running bamboo is planted or grown above ground in a container or planter such that the running bamboo does not come in contact with the surrounding soil. Any person who violates the provisions of this subsection shall be fined one hundred dollars. In the case of a continuing violation, each day of continuance shall be deemed a separate and distinct offense until such time as such bamboo is removed or contained by a properly installed and constructed barrier system. [The provisions of this subsection shall not be deemed to apply to any running bamboo planted on or before October 1, 2013.]

(d) Each retail seller or installer of running bamboo shall provide to each customer who purchases running bamboo from such seller or installer a statement that discloses that running bamboo is a fast growing plant that may spread if not properly contained and a plain language summary of the provisions contained in subsections (b) and (c) of this section. Such statement shall also provide recommendations, based on best available information, on how to properly contain running bamboo. Any retail seller or installer of running bamboo who violates the provisions of this subsection shall be fined one hundred dollars for each plant sold in violation of this section.

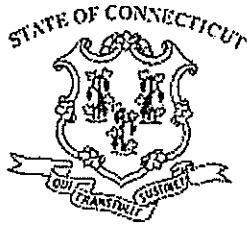
(e) The Department of Energy and Environmental Protection, any duly authorized municipal constable, municipal tree warden, zoning enforcement officer or inland wetlands and watercourses enforcement officer may enforce the provisions of subsections (c) and (d) of this section.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 22a-381e |

Statement of Purpose:

To establish liability for running bamboo that spreads beyond the boundaries of a property owner and to establish a duty to contain running bamboo that is growing in such a location that it could spread beyond the boundaries of a property owner.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



[B]

General Assembly

Substitute Bill No. 72

February Session,
2014

* SB00072ENV 032414 *

AN ACT CONCERNING LIABILITY FOR THE GROWING OF RUNNING BAMBOO.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 22a-381e of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) No person shall plant running bamboo or allow running bamboo to be planted on his or her property at a location that is [one hundred] forty feet or less from any abutting property or public right-of-way. [unless such planting is contained by a properly constructed and maintained barrier system or such running bamboo is planted above ground in a container or planter such that the running bamboo does not come in contact with the surrounding soil.] Any person who violates the provisions of this subsection shall be fined one hundred dollars. In the case of a continuing violation, each day of continuance shall be deemed a separate and distinct offense until such time as such bamboo is removed or contained by a properly installed and constructed barrier system. [The provisions of this subsection shall not be deemed to apply to any running bamboo planted on or before October 1, 2013.]

Sec. 2. Section 22a-381e of the 2014 supplement to the general statutes is amended by adding subsection (f) as follows (*Effective from passage*):

(NEW) (f) Allowing running bamboo to grow beyond the boundaries of a parcel of property that a person owns shall be deemed to be a nuisance.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 22a-381e(c) |
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| Sec. 2 | <i>from passage</i> | 22a-381e |
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ENV *Joint Favorable Subst.*

[C]

WHEREAS the Borough of Newtown is a duly organized municipality under the laws of the State of Connecticut and

WHEREAS, General Statutes Section 7-148(c)(7)(E) provides that any municipality may define nuisances within the municipality and

WHEREAS SEC. 23 of the Charter of the Borough of Newtown provides that the board of warden and burgesses, or a majority of them, may, at any regular or special meeting, make, alter, repeal and enforce such by-laws, ordinances and enactments as they shall see fit in relation to... the prevention of nuisance of all kinds arising from any cause whatever and for summary abatement by any person or persons thereto appointed by said board;

WHEREAS it is found that certain types of bamboo, specifically of the genus Phyllostachys, (hereinafter referred to as Running Bamboo) by their nature, spread rapidly underground through their root systems and underground rhizomes, thereby infesting and damaging nearby properties, that they are not native to Connecticut but nevertheless, that there presently exists within the Borough Running Bamboo that has escaped the borders of the properties upon which it was originally grown and is causing damage to adjoining property and

WHEREAS such Running Bamboo will, by its nature, invade, infest and damage to other plants, roads, sidewalks, buildings and structures in nearby areas and properties and

WHEREAS it is found that Running Bamboo is not readily controlled by customary or readily available agricultural measures;

IT IS FOUND, THEREFORE, that

- 1) the presence of Running Bamboo in the Borough of Newtown is a nuisance,
- 2) Running Bamboo that is presently growing within the Borough of Newtown and that may be introduced into the Borough in the future, needs to be regulated and controlled so that it does not invade or infest properties within the Borough and does not create or present a danger to the safety and well-being of its citizens and their property

NOW, THEREFORE, the Board of Warden and Burgesses, according to the powers invested in them under the laws of the State of Connecticut and the Charter of the Borough of Newtown, adopt the following Ordinance, which may be referred to as the Invasive Bamboo Ordinance:

Section 1. Purpose and Intent.

The purpose of this ordinance is to preserve and protect both public and private property from the damaging effects of certain non-native plants, to protect indigenous plant life, to prevent damage therefrom, to maintain property values and provide for the general welfare of the Freeman, residents and property owners of the Borough of Newtown.

Section 2. Definitions.

A. Running Bamboo means any bamboo plant of the genus *Phyllostachys*

B. Bamboo Owner means any property owner or occupant who has planted and/or grows Running Bamboo, or who maintains Running Bamboo on property owned or occupied or controlled by him, or who permits or allows Running Bamboo to grow to remain on such property, even if it has spread from an adjoining property.

Section 3. No person or legal entity shall plant or cause to grow Running Bamboo on any property within the Borough of Newtown unless done so pursuant to plans for containment designed by, and signed and sealed by a licensed arborist or forester and approved by the Borough's _____, which plans shall provide, in the opinion of the Borough official, for an effective barrier to prevent the spread of such Running Bamboo to any land within 40 feet of the property boundary on which it is to be planted or grown.

Section 4. Any Running Bamboo that is planted or otherwise permitted or allowed to grow on any property within the Borough, whether such running Bamboo existed before or comes into existence after the effective date of this ordinance shall not: (A) be planted, maintained or otherwise be permitted to exist within forty (40) feet of the traveled portion of any public street or sidewalk or within forty (40) feet of the boundary of the property on which it exists, (B) be permitted or suffered to encroach or grow upon any adjoining or neighboring property, including all public property and rights of way.

Section 5. Notice to Bamboo Owners. Removal of Running Bamboo. Enforcement.

A. Each Bamboo Owner shall be responsible for ensuring that any Running Bamboo on property owned or occupied or controlled by him or her does not violate the provisions of this ordinance and for ensuring that Running Bamboo that originated on property owned, occupied or controlled by him does not invade neighboring or adjoining properties. In the event there is found Running Bamboo growing or existing in violation of this ordinance, the Borough or its authorized representative may notify the Bamboo Owner(s) in writing of the existence of the violation. Notice, when given, shall specify the corrective measures to be taken, whether such remedial measures are required upon property of the Bamboo Owner or on properties to which Running Bamboo originating on the Bamboo Owner's property has spread. Notice shall be sent to the Bamboo Owner(s) by certified mail to the Bamboo Owner(s). Such notice shall be sufficient if it is directed to the property address upon which the violation exists (if improved) and/or the address of the property owner on file with the Newtown Tax assessor.

B. Bamboo Owners to whom such notice of violation is directed shall cause to be removed from the property on which the violation occurs all such running Bamboo, including underground roots systems and rhizomes that are in violation of this ordinance within such time

as the Borough or its representative determines is reasonable, given the extent of the violation among other factors.

C. In the event the Bamboo Owner(s) does not remedy and correct the violations set forth in the Notice of Violation within the allotted time, the Borough of Newtown may remove so much of such Running Bamboo as is in violation of this ordinance, take any actions it deems reasonable to prevent its regrowth and restore the property to its natural condition prior to such measures. All Running Bamboo removed or uprooted or otherwise separated from the ground for any reason whatsoever, including its underground roots, structures and rhizomes, shall be disposed of only by incineration and shall not be composted, deposited in any landfill or otherwise disposed of.

D. All costs incurred by the Borough in removing Running Bamboo that exists in violation of this ordinance or in remedying any violation of this ordinance, which condition is not corrected by the Bamboo Owner(s) within the time allotted in the Notice of Violation is chargeable to the Bamboo Owner(s). Such expense as is charged to the Bamboo Owner(s) shall become a lien upon the property upon which the violation existed

E. In addition to the foregoing remedies, continuing violations of this ordinance beyond the time specified in the Notice of Violation are subject to a fine of \$100.00 for each day such violation continues by way of the Borough's citation process and are subject to such other remedies as are available at law or in equity.

Section 6. Miscellaneous.

A. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications, and to that end, the provisions of this ordinance are declared to be severable.

B. It the expressed intent of this ordinance that it may be enforced both by the Borough of Newtown and its agents and by individual Freeman, citizens and property owners of the Borough whose property has been invaded by Running Bamboo originating on property other than on that they own or occupy by means of a civil action or otherwise as provided by law, regardless of when the Running Bamboo was originally planted or grown.

C. This ordinance shall become effective fifteen (15) days after publication thereof as provided by law.