

A regular meeting of the Town Council held for the Town of Scituate on Thursday, February 9, 2006 in the Town Council Chambers, 195 Danielson Pike, N. Scituate was called to order at 7:31 PM. Council President Richard presiding.

After pledging allegiance to the flag of our country, Town Clerk Long called the roll. Roll call vote as follows:

Councilman Salisbury --absent	Councilman Farrar -- present
Councilman Marchant – present	Councilman Winfield--present
Councilman Marcello -- present	Council Vice-President Budway --present
Council President Richard – present	

Councilman Salisbury arrived at 8:40PM.

Council President Richard asked retiring Tax Collector Mary Santilli to come forward. Council President Richard told the audience that Mary has been a valuable employee of the Town for the last twenty years. She has served in many capacities from the Town Clerk's Office to the Tax Collectors Office to ultimately being appointed the Tax Collector. Mary has done an outstanding job with collections and the Tax Collectors Office has run very smoothly with her there. Council President Richard presented Mary Santilli with a proclamation and a plate and said that she will be sorely missed. The Council extended their warm wishes for a happy and healthy retirement for Mary.

Town Treasurer Ted Przybyla said that it has been a pleasure working with Mary for the last ten years and he wishes her well.

Mary Santilli thanked everyone for their warm wishes and said that she couldn't believe how fast the last 20 years has passed. She said that she has met a lot of nice people and made a lot of good friends that she will miss dearly. At this time the Council recessed to have cake and coffee in Mary's honor.

Motion made by Councilman Marcello, seconded by Councilman Farrar and voted by a roll call vote to open the Public Hearing.

Councilman Marcello--aye	Councilman Farrar-aye
Councilman Winfield--aye	Council Vice-President Budway--aye
Council President Richard—aye	Councilman Marchant-aye

Motion passes; Public Hearing for Community Development Block Grant is now open.

Ralph Groves and Judy Loven, Board of Director of Western RI Home Repair Program were present to answer any questions.

Council President Richard gave a brief history of the Western RI Home Repair Program and the Community Development Block Grant. He explained that this money is federal money that is trusted through a State Program. He said the larger cities and towns apply for these grants directly, but the towns of Scituate, Foster and Gloucester have joined together to form Western RI Home Repair Program to ask for the grants so there is only one administration cost. All towns ask for money individually but, they run the

Western RI Home Repair Program collectively. He explained that there are six Board members, two from each Town.

Judy Loven said she is not certain if all of the grant money for last year has been expended yet. She said that people have to meet the income guidelines to receive the grant.

Ralph Groves said in recent years they are expanded the program to allow for rental property to be included. He said that Hope Associates did a study to qualify the Hope area for additional funds because it met the guidelines for low-moderate income. He said that in order to qualify more than 50% of the households have to meet those income guidelines. Once the area was classified, it allowed Hope Associates to ask for community development funds for Hope Park and the revitalization program in the Hope area.

Mr. Groves said that last year they did another study to recertify the area low/moderate income. The reason why the funds for rental rehabilitation can't be used in the North Scituate area is because this area does not meet the income guidelines.

Judy Loven stated that the Town of Scituate can request grants totaling \$250,000. She said that currently there are approximately \$104,000 in grant requests. She said this is the first public hearing and anyone who would like to submit a grant request should contact the program manager Ellie Tetreault.

Ralph Groves suggested that the Council appoint an ad-hoc committee to review the grants and to try to think of other areas that could be serviced by these grants. He suggested a job training program at Hope Pond in the summer. He stresses that he does not want to take away anything that has already been requested, but he feels that there might be other programs that would qualify within the Town. He said that once all of the applications have been received they will be prioritized. He also suggested that they might want to ask for some administrative money to help run the revitalizing program in Hope. He feels that we should seize the opportunity since we have not asked for the maximum in many years.

Motion made by Councilman Winfield, seconded by Councilman Marchant and voted by consent agreement to appoint Judy Loven, Robert Budway, Dwight Farrar and Ralph Groves to an ad-hoc committee to investigate other possible programs and services that we could request grant money for.

Councilman Marchant stated that he will be submitting a grant request for the Scituate Health Care Alliance. He explained that he will probably be asking for around \$6,000 to help fund the Alliance. He said that the Alliance has contracted with several doctors and dentists to provide an annual checkup and as needed sick visits for \$240 per year, once the patient pays the \$10 co-pay per visit. He said that so many people have lost their health insurance, that the Alliance has more people enrolled in it than they have funds available to pay for it.

Judy Loven mentioned that they received a \$25,000 grant last year to help purchase the new senior van. It was also mentioned that we might be able to get a grant for decorative lighting.

Mr. Iverson said that he has a lot of information on the Streetscape Program that he will share with the committee.

Motion made by Councilman Marcello, seconded by Councilman Farrar and voted by a role call vote to close the Public Hearing.

Councilman Marcello-aye

Councilman Farrar-aye

Councilman Winfield-aye

Council Vice-President Budway-aye

Council President Richard-aye

Councilman Marchant-aye

Motion passes the Public Hearing is closed.

Motion made by Councilman Marcello, seconded by Councilman Marchant and voted by consent agreement to approve the January 17, 2006 Town Council work session minutes. Councilman Winfield abstained from this vote due to the fact that he was not present at the meeting.

Motion made by Councilman Marcello, seconded by Councilman Marchant and voted by consent agreement to approve the January 12, 2006 Town Council minutes.

Motion made by Councilman Marcello, seconded by Councilman Marchant and voted by consent agreement to table the minutes of the Closed Session of January 26, 2006.

Councilman Marcello asked Richard Iverson, Director of Public Works if he has sent out the RFP for cleaning services for the Town Hall.

Mr. Iverson said that it will be ready for publication in the near future.

Councilman Marcello asked David Provonsil if the developers of the Hope Mill project has requested to go before Zoning. He also asked what the status is of the development on Nipmuc Road.

David Provonsil said nothing has been requested for the Hope Mill project and that the Council President Richard has sent a letter to the Planning Commission requiring more information from the developers.

Councilman Marcello asked if the Town has received the letter from the PWSB in regards to the purchase of land on Esek Hopkins Road for the new school.

Council President Richard said that he requested a copy from Boyce Spinelli, Acting Director of PWSB but has not received it. He said that he will call the State Properties Board to check on the status of our request. He also said that he feels that we should rehab the High School, that the necessary repairs and renovations need to be completed soon and can't wait until the new school is built (if the new school is built).

Councilman Marcello said that he feels the Council should devote a work session in the near future to review the options for a new school and to also review the NEASC (The New England Association of Schools and Colleges) report. This report listed the deficiencies related to space at the Scituate High School.

Judy Loven, Director of Senior Services told the Council that everything is going well at the Senior Center. She also said that the number of people coming to the center is increasing all of the time.

Councilman Marcello asked Emergency Management Director Richard Tucker what the status of the Ambulance Corps is.

Mr. Tucker said the Department of Health sent them a letter and told them to stop, and since they voluntarily stopped there would be no sanctions at this time. He further explained that the Scituate Fire Engineering Board initiated the complaint because the Ambulance Corp was responding to rescue calls that they had not been dispatched to. This is a violation of State Law.

Councilman Farrar asked Mr. Tucker if he could have a copy of the letter from the Department of Health.

Chief Mack told the Council that Officer Todd Rich has withdrawn his application from the Portland Maine police force.

Councilman Winfield asked Town Treasurer Przybyla if the police pension actuarial study has been completed.

Town Treasurer Przybyla said that he expects that report in the end of March or the beginning of April.

Councilman Marcello asked Town Treasurer Przybyla if he has reviewed the application for the Tax Collectors position.

He said that will review the applications and next week he will have a short list of names for the Council to review.

Motion made by Councilman Marcello, seconded by Councilman Marchant and voted by consent agreement to place and file all departmental reports.

During audience participation, Council President Richard explained that the lawyer, Ken Borden handling the lawsuit with the PWSB will be here shortly to give a brief presentation. He will explain the circumstances with the recent court decision, and anyone with questions can ask them at that time. Council President Richard asked if there was anyone in the audience that would like to make any other comments or ask any questions. No one from the audience responded.

Motion made by Councilman Winfield, seconded by Council Vice-President Budway and voted by consent agreement to appoint David D'Agostino, Jr., of 677 Central Pike a Police Constable for a term expiring January 2007.

Motion made by Councilman Winfield, seconded by Councilman Farrar to reappoint the members of the Scituate Health Care Plan Committee for a term expiring February 2007. (list herewith)

Motion made by Councilman Marchant, seconded by Councilman Farrar and voted by consent agreement to re-appoint the Human Resources Committee for a term expiring February 2007. (list herewith).

Motion made by Councilman Winfield, seconded by Councilman Marcello and voted by consent agreement to re-appoint School Space Needs Committee for a term expiring February 2007. (list herewith)

Motion made by Councilman Marchant, seconded by Councilman Winfield and voted by consent agreement to re-appoint the Police Pension Study Committee for a term expiring February 2007. (list herewith)

During discussion and /or approval, Council President Richard brought up the request from Mr. Greenwood to purchase 56 Hope Furnace Road, AP 5, Lot 73 from the Town. He said that if this request is granted it will have to stipulated that it is an

unbuildable lot, and that he or any future owners will not be allowed to come back and request that a house be built on this piece of land.

Councilman Marcello said that the land and garage will have to be appraised and listed.

Karen Beattie, Tax Assessor stated that the Town currently has it valued at \$65,000.

Council President Richard asked Town Solicitor Gorham if the Town Council has the legal right to sell Town owned land or if we have to get taxpayer approval.

Nick Gorham said that he believes the Council has the right to sell land but he will look into it to make sure.

Council President Richard said that the Town could hold a public auction. This will insure that any other interested parties get a chance to bid on it.

Richard Iverson suggested soliciting sealed bids for the land.

David Provonsil, Town Engineer said that this property is actually another property owner's front lawn and part of the porch. He said there is a lot more to this situation than meets the eye.

Council President Richard suggested that David Provonsil investigate the matter further and also notify the adjoining landowner of the possible sale.

Motion made by Councilman Farrar, seconded by Councilman Marchant and voted by consent agreement to table this request.

At this time Council President Richard introduced Ken Borden, who is the lawyer representing the Town in the dispute with the Providence Water Supply Board. Mr. Richard explained that Mr. Borden is a resident of Scituate and sits on the Zoning Board of Appeals. He asked Mr. Borden to give the audience an overview of the Superior Court decision and then answer questions from the audience and the Council.

Mr. Borden said he would give a brief overview of history on the relationship between the Town of Scituate and the City of Providence and later the PWSB. He said that in 1915 the City of Providence condemned land in the Town of Scituate for the construction of the reservoir. Then in 1928 when the reservoir was completed the City of Providence went to the Supreme Court and asked if the land could be tax exempt. The Supreme Court ruled against the City of Providence. In 1985, the PWSB requested that their land be considered farm, forest and open space under the DEM guidelines and therefore only taxed at a recommended \$100 per acre. The Scituate Board of Assessment Review denied this request and the PWSB never appealed the decision. In 2001 PWSB came back with the same proposal and the Board of Assessment Review denied it once more. The PWSB then brought the decision made by the Board of Assessment Review to the RI Superior Court. In a ruling by Judge Vogel, she ruled that the 9048 acres should be classified as farm, forest and open space. Mr. Borden thinks there is ample ground for an appeal by the Town. He feels that this decision is wrong, that it is a travesty to the town and it is like taking 42% of the town of Scituate and giving it to the city of Providence. The PWSB already has the lowest water rates in the country.

An audience member asked if the \$100 is a recommended value or the maximum that can be taxed.

Council President Richard said that amount is only a recommended amount and it was based upon what a person makes from the sale of wood per acre per year. This is a much different circumstance, the PWSB is generating 60 millions of gallons of water per day. What this land is worth is a million-dollar question. Council President Richard vowed that we would fight it until we win.

Council President Richard stated that he is gratified with the out-pouring of support from taxpayers via the telephone and e mails offering their help to over turn this inequitable decision. He mentioned that while attending a Senate Subcommittee meeting, he was glad to see that there is a tremendous sentiment at the State Legislation that this was a bad decision. He said that he had many State Legislators both Democrat and Republican tell him what a travesty Judge Vogel's decision was and that they couldn't believe that this could happen in our State. They pledged their support to defeat this outrageous decision.

Councilman Marcello said that he is glad that we have the support of the Legislature because Judge Vogel's decision is based on an interpretation of a Legislative Act. He said that we will have to get the legislation changed.

Councilman Salisbury arrived at 8:40 pm.

Council President Richard said that we have both the State and Federal Farm Bureau's support. He said that when they had the legislation drafted, they didn't mean for it to be used in this manner. He also said that the towns of Foster and Gloucester should be concerned with this decision since the PWSB also owns land in their towns.

Council President Richard said that the PWSB owns 14,500 acres in the Town of Scituate but only 9640 qualified for the farm, forest and open space classification. He said that he believes the Town has the right to tax the land at something other than a wood lot since they are generating revenue from the land.

Ken Borden said that Judge Vogel substituted her own facts instead of using the facts given to her. She said that this will benefit the taxpayers and water users.

Councilman Marcello said that the Town should come up with a recommended value for the land. He said that the Judge relied on the premise that this is Farm Forest and Open Space, but this land is being used for a commercial purpose, and that they are generating a lot more profit with the water than what they would if it was a wood lot.

Councilman Marcello asked Mr. Borden if this is a landmark case or have there been others similar throughout the Country.

Mr. Borden said that is hard to answer because each State has it's own set of statutes.

Leslie Anderson Olney, Central Ave., asked prior to the decision being brought to court who was negotiating for the Town and was there an offer on the table?

Council President Richard said that he and Mr. Borden were negotiating with the PWSB and that there is no offer that can be disclosed. He explained that there are two different parts of the negotiations, the designation of the land as Farm, Forest and Open Space and the assessed value of the reservoir. He explained that the PWSB is appealing both of these but the only one that has gone to court is the land classification issue.

Leslie Anderson Olney asked if we are budgeting for the extra cost we will need to spend for the appeal and for the appraisal?

Council President Richard stated that we are, and that the Town is concerned with spending a lot of money but realizes, in this case, we will have to spend what it takes. If this decision stands, it will effect the Town's tax base forever.

Cynthia Gianfranciso, Gleaner Chapel Road, stated that she feels that it is very important to change the legislation at the State level.

Council President Richard asked if there were any others questions from the audience or Town Council on this subject and he informed the audience that this subject will be discussed in closed session so the Council can devise a plan for the appeal.

Councilman Salisbury said that he wanted to discuss the possibility of changing the fines that the Town charges for zoning violations. He said that he feels that there should be a step increase for each violation so that the taxpayer will not be charged \$500 for the first offense. This will also allow David Provonsil some lee way with the fines.

Motion made by Councilman Salisbury, seconded by Councilman Marcello and voted by consent agreement to table the discussion on changing the zoning fines until David Provonsil can investigate the matter.

Motion made by Councilman Marcello, seconded by Councilman Marchant and voted by consent agreement to add Sandra Young's name as a signatory authorization for the Tax Collectors account.

Town Solicitor, Nick Gorham explained to the Town Council about the enabling legislation for the establishment of impact fees. He said that the State Statute is very broad, but you need to justify the reasons for them. With more residents moving into a Town it puts a strain on the infrastructure, including school, fire and rescue, public safety, public works and many other Town services. He suggested hiring a group to do the study and to implement it. He said that many municipalities have done this before and "it is crazy to reinvent the wheel". He suggested that we do an RFP for the study.

Councilman Marcello said that the NESDAC study has most of the information that we will need for the impact fees. He feels that the study that was recently completed is probably 70-80% complete.

Town Solicitor Nick Gorham said that we should negotiate with the current vendor to finish the project and that this will not go against the State's competitive bidding laws.

Council Vice President Budway suggested that we should look at impact fees and limiting building permits at the same time.

Councilman Marcello said that the Town of Smithfield recently did the study and it cost them \$29,000. But he explained that the School portion was already completed so all they would have to do is finish the rest of the assessments and tweak the school portion.

Councilman Farrar asked if we need the legislation to approve a policy limiting building permits.

Councilman Marcello stated that he feels that needs to be researched.

Council Vice-President Budway feels that we should conduct the study to substantiate the reasons for implementing both impact fees and limits on building permits.

Council President Richard said that he is against limiting building permits fees because he feels that this is taking away the rights of the property owner.

Motion made by Councilman Marcello, seconded by Council Vice-President Budway and voted by consent agreement to go ahead with the study and to have the RFP drafted by David Provonsil and Nick Gorham.

Council Vice-President Budway introduced from the audience Joe DiSilva, President of the Scituate Soccer Association. He explained that we need to have two studies performed for the Tasca Field project. The first one is a blueprint for the development, a sequence of events, and current and future needs (such as a walking path around the soccer fields).

David Provonsil, Building/Planning and Zoning Officials said that one study will be the Master Plan and that the Town will pay approximately \$4500 for the study. He said that Mr. Iverson has agreed to take the money from his Recreation Capital budget. The other study will be a topographic study that will cost approximately the same and the Soccer Association will pay for this study.

Councilman Marcello asked if this proposal has been approved by the Recreation Committee.

Mr. Iverson said he has mentioned the plan and he will get approval at the next Recreation Committee meeting.

Town Council President Richard said that Tasca field is actually held by the Scituate Land Trust and that is why Chris Modisette is involved. He said that since the plans are under \$5,000 they will not have to go out for competitive bidding.

David Provonsil said that he has someone in mind for the project, her name is Elena Pasquarelli. Ms. Pasquarelli used to work for DEM and she has quoted a price of \$4681.00.

Councilman Marcello suggested that this item not be acted upon this evening so the Council can review the proposals and send out a bid package.

David Provonsil said that he will solicit selected bids and make a few phone calls to insure that this is a fair price.

Motion made by Councilman Winfield, seconded Councilman Marchant and voted by consent agreement to pay early expenses of \$43,488.94 regular Council expenses of \$43,276.62 and supplemental Council expenses of \$111,147.90, for a total of \$197,913.46.

Motion made by Councilman, seconded by Councilman and voted by a roll call vote to adjourn to Closed session pursuant to R.I.G.L. 42-46-5(A)2 Litigation-Providence Water Supply Board and 42-46-5(A)2 Collective Bargaining Public Works Department at 9:20PM and to allow Ken Borden, Karen Beattie, Ted Przybyla and Nick Gorham to attend.

Councilman Salisbury-aye

Councilman Farrar-aye

Councilman Marcello-aye

Councilman Winfield-aye

Councilman Marchant-aye

Council Vice-President Budway-aye

Council President Richard-aye

Motion passes adjourned to closed session at

Reconvened at 10:56PM.

Motion made by Councilman Salisbury, seconded by Councilman Winfield and voted by consent agreement to reaffirm the vote in closed session to appoint an ad-hoc committee consisting of Councilmen Richard and Marcello and Ken Borden to interview Mr. MacFayden, Mr. DeSisto and Mr. Flanders for the appellate lawyer for the Supreme Court case involving the PWSB, and to allow this Committee to have the authority to retain an attorney with the majority vote of this Committee.

Motion made by Councilman Winfield, seconded by Councilman Farrar and voted by consent agreement to adjourn at 10:51 PM and to keep the minutes of the meeting previously closed to the public; closed pursuant to RIGL 42-46-4 and 42-46-5 and allow the Town Clerk 14 days to prepare the minutes of the meeting.

Attest:

Margaret M. Long, Town Clerk