

# **REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL**

**JANUARY 22, 2008**

**KENDALL-DEAN SCHOOL AUDITORIUM**

**7:00 P.M.**

## **GOOD & WELFARE**

### **TOWN BUDGET**

**Mr. Michael Rapko suggested that the Town Council meet with certain departments such as the School Department, Police Department and Fire Department to look for ways to save money.**

## **REGULAR MEETING**

**The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Mr. Keeley, Mr. Leclerc, Mr. Zwolenski and Mrs. Thibault. Mr. Lovett was unable to attend due to a family illness. Town Administrator Lowe and Town Solicitor Hadden were also in attendance.**

## **APPROVAL OF MINUTES**

**Mr. Zwolenski corrected the following sentence on Page 200 regarding the Growth Management Program/Needs Assessment for Impact Fee Schedule and Ordinance: "If you take \$105,000 over an eight-year term, that's \$13,000 per year and that does more damage to the town than it attempts its attempt to attract business."**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to approve the minutes of December 17,**

**2007 and January 7, 2008 as amended.**

## **PAYMENT OF BILLS**

### **Monthly Bills**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve payment of the following: General Fund - \$2,236,656.79; Sewer - \$11,814.68; and Water - \$68,151.34 for a total of \$2,316,622.81.**

### **Gilbane Building Company**

**Mr. Leclerc commented that the electrical contractor on site will be treated the same as any other contractor that is involved in the project despite any relationship that has been established with any town official. No substitutions will be allowed unless approved and specified by the School Building Committee and its engineers. He will execute his signed contract as specified in the bid documents. He will work in conjunction with the project schedule or his bonding company will be notified accordingly.**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve Requisition #17 Job #4178 in the amount of \$1,621,690.45, Requisition #6 Job #4178010 in the amount of \$75,932.33 and Requisition #4S Job #4178010 in the amount of \$68,572.24 for a total of \$1,766,195.02 based upon the recommendations of the School Building Committee and the Finance Director.**

## **FINANCIAL STATEMENTS FOR YEAR ENDED JUNE 20, 2007**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to move this item up on the agenda.**

**Auditor Debi Mitchell briefly outlined various sections of the financial statement for the Council.**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to accept the Town of North Smithfield Basic Financial Statements and Supplementary Information for the Year Ended June 30, 2007.**

## **EXECUTIVE SESSION**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to move Item VI A to the end of the meeting and to enter into executive session at 7:32 P.M. pursuant to RIGL 42-46-5(A)(5) Any discussions or considerations related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.**

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**MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on an aye vote to come out of executive session at 7:55 P.M. and to seal the minutes. No motions were made and no votes were taken.**

**AWARD OF BID – FORD F350 PICK-UP TRUCK FOR SCHOOL DEPARTMENT**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to award the bid for a 2008 Ford F350 truck to Tasca Ford in the amount of \$24,999.00 based upon the recommendations of the Finance Director and the Town Administrator.**

**ROCKCLIFF FARM**

**There had been discussion at a previous Council meeting regarding the location of an office building at this development.**

**Town Planner Michael Phillips and the Planning Board reviewed the plans. The office building was originally proposed for the north side of the access road. Due to some concerns, the entrance was shifted resulting in a change of the office location to the other side of the driveway. This was done before the Planning Board gave its final approval in 2003. The phase plan on record shows clearly that the office building was part of Phase III. Mr. Phillips added that the project was approved as one phase. The numbered phases were determined by the developer.**

**Mr. Leclerc asked if Mr. Phillips was confident the office building would be built.**

**Mr. Phillips had spoken today with a representative of the developer who said that it would. If it is not, then it becomes a zoning violation.**

**Mr. Zwolenski questioned if a safeguard could be set conditioning that a certain amount of condominiums cannot be built until the office building is in place.**

**Mr. Phillips replied that the project is being recorded in phases and he told the representative that if the building is not part of the final phase, it will not be recorded.**

## **RETENTION OF ATTORNEY TO REPRESENT ASSISTANT TOWN SOLICITOR**

**Assistant Town Solicitor Robert Rossi has been subpoenaed as a witness because of his representation of the town regarding Rankin Estates. He requested that the town hire Patrick Dougherty to represent him during these proceedings.**

**MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on a roll call vote to retain Attorney Patrick Dougherty as legal representation for Robert Rossi at a fee of \$150.00 per hour plus reasonable expenses.**

## **NORTHERN RI PRIVATE INDUSTRY COUNCIL SETTLEMENT**

**Mr. Hadden explained that the Northern RI Private Industry Council was designed to provide job opportunities to eight communities in northern Rhode Island. Contracts were signed by individual towns. The towns were required to indemnify NRIPIC when it became insolvent. There was approximately \$2,000,000 in claims being sought in the receivership. Mr. Hadden attended a mediation session in November 2007 that was ordered by Judge Silverstein regarding a global settlement. Contributions were to be made by the eight cities/towns, the accounting firm and the insurer for the officers and directors of NRIPIC. The contribution to be made by the town of North Smithfield is \$35,000.00, which is the smallest contribution of any municipality and any defendant.**

**MOTION by Mr. Keeley, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to approve the settlement agreement to be paid by North Smithfield to William J. Delaney as permanent receiver of the Northern Rhode Island Private Industry Council. The settlement is to be approved by Judge Silverstein on January 28, 2008.**

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## **MIDDLE SCHOOL PROJECT**

### **Changes to Design/Builder's Contingency**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve changes to the Design/Builder's Contingency that include the addition of bearing plates to steel beams in the amount of \$4,109.00, the addition of a foundation footing near the elevator in the amount of \$2,447.00, the repair of erosion damage in the amount of \$861.00 and the release of funds for Phase #1 from the Design/Builder's Contingency in the amount of \$136,500.00 based upon the recommendation of the School Building Committee.**

## **NSES SECURITY SYSTEM**

**Mr. Paul Vadenais noted that the School Building Committee has recommended a change to the security system at NSES for the addition of electrified door hardware in the amount of \$4,067.00.**

**Finance Director Jill Gemma questioned where the funding for this would be coming from as there is nothing more available from the 1999 school bond.**

**Mr. Keeley questioned whether the money could come from the School Department's surplus.**

**MOTION by Mr. Keeley, seconded by Mr. Leclerc, and voted**

**unanimously on a roll call vote that if the town is unable to fund this change to the security system, the school department be requested to fund it from the school surplus.**

## **MIDDLE SCHOOL PROJECT**

### **Changes to Owner's Contingency**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to approve changes to the Owner's Contingency that include the temporary treatment of graffiti in the amount of \$626.00, the temporary electrical tie-in of the high school parking lot lights in the amount of \$701.00, the upgrading of the fuel pump to meet the required specs in the amount of \$1,582.00, the revision to a double wall acid waste holding tank per RIDEM in the amount of \$1,851.00, the rental of a temporary generator while awaiting tie-in from National Grid in the amount of \$5,394.00 and trench rock removal for the installation of water lines to connect Well C to Well A as well as a sewer forced main in the amount of \$19,362.00 based upon the recommendation of the School Building Committee.**

### **Credits Due**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to apply credits that are due from the deletion of joint caulking in the amount of \$835.00, revisions to the high school parking lot in the amount of \$5,105.00 and Phase #1 transfer of funds from the Design/Builder's Contingency to the**

**Owner's Contingency in the amount of \$102,500.00 based upon the recommendation of the School Building Committee.**

### **CONSERVATION COMMISSION MINUTES**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to accept and place on file the minutes of December 11, 2007.**

### **PLANNING BOARD MINUTES**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to accept and place on file the minutes of November 1 and 15 & December 6, 2007.**

### **ZONING BOARD MINUTES**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to accept and place on file the minutes of October 16 & November 6 and 20, 2007.**

### **CHERRY BROOK**

**Mr. Phillips received correspondence from the Natural Resource Conservation Service and the Federal Emergency Management Agency relative to inquiries about grant funding. The NRCS cannot fund the town's request for a study because of appropriation issues and FEMA indicated the planning portion of the mitigation grants would not**

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qualify under their jurisdiction. They saw it as more of a feasibility study. Mr. Phillips thinks there may be a possibility of getting the study funded if the town commits to doing the actual project and submit the culvert replacement as a mitigation project. In order to do that, the town would have to hire an engineer to do some of the study work and also hire an engineering company to design it, permit it and allocate it in the capital budget. He received a project estimate of \$365,000.00, which broken down is \$65,000.00 for engineering costs and \$300,000.00 for the pipe.

Mr. Lowe felt it was important to find out how much damage has been done to the homes in this area before hiring an engineer.

Mrs. Thibault believed that a cost/benefit analysis could be done simultaneously with an engineering study.

Mr. Phillips agreed to draw up a request for proposals for the February 19th meeting.

## **LIZ DEVELOPMENT**

Last Wednesday a group, including Mr. Rossi, Mr. Zwolenski, Mr. Leclerc, Mr. Lowe, Public Works Director Ray Pendergast and Michael Phillips met with Mr. Mesolella, an investor in the LIZ Development project. They showed him photos of the road paving, manhole covers, drainage areas and the substandard condition of the road

**itself. Mr. Mesolella acknowledged there was a problem and he would attempt to remedy the situation but he needs a plan of what has to be done. He proposed seeking a design from Pare Engineering that would then be presented to the Planning Board for review.**

**Mr. Zwolenski indicated he would like to have closure of this situation by May.**

#### **APPOINTMENTS TO ASSESSOR'S BOARD OF REVIEW**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to appoint Richard Martin of 50 Tom Lee Drive and James Snowden of 22 Deerfield Drive to the Assessor's Board of Review. These are three-year terms that will expire on December 1, 2010.**

#### **HISTORIC DISTRICT COMMISSION**

**There was no appointment.**

#### **PLANNING BOARD**

**There were no appointments.**

#### **SEWER COMMISSION**

**There was no appointment.**

#### **MORATORIUM ON WOOD-BURNING STOVES/BOILERS**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted**

**unanimously on an aye vote to table this discussion to February 4, 2008.**

**Mr. Hadden is in the process of locating an authority on these stoves who will be able to provide more information that may support a moratorium.**

**INTEREST PAYMENT ON LATE TAX PAYMENT – M. DITUSA**

**MOTION by Mr. Zwolenski, seconded by Mr. Keeley, and voted unanimously on an aye vote to move this item up on the agenda.**

**Mr. Michael DiTusa of 111 Woonsocket Hill Road was assessed a \$38.00 penalty on his late tax payment and he questioned how the town calculated that number. He recently received a letter stating he owes additional penalty because the first amount had not been paid.**

**Mrs. Gemma explained that the fee is based on twelve percent per year, one percent per month on the entire unpaid balance. She invited Mr. DiTusa to come to her office one day so that she could explain the method of calculation to him.**

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**NORTH SMITHFIELD FIRE & RESCUE SERVICE INC. CONTRACT**

**MOTION by Mr. Keeley, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to enter into executive session at 9:31 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation and also for the purpose of seeking legal counsel.**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to come out of executive session at 9:43 P.M. and to seal the minutes. No motions were made and no votes were taken.**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to amend Item 7 "TERM" to read that "this contract shall commence on July 1, 2008 and shall terminate on June 30, 2009 June 30, 2010.**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on a roll call vote to accept the contract by and between North Smithfield Fire and Rescue Service, Inc. and the Town of North Smithfield as amended.**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to authorize the Town Administrator to sign the contract.**

**ACCELERATOR MASS SPECTROMETER DATING OF HUMAN**

## **REMAINS**

**Conservation Commission Chairman Donald Gagnon explained that the commission has been working diligently to preserve and protect the Native American ceremonial and burial sites in the Nipsachuck Swamp and Hill area. They recently received scientific proof that the mound and stone features of Nipsachuck are of pre-colonial vintage. Human remains were discovered at one of the sites and preliminary study suggests that it is the remains of a young girl between the ages of three and six years old and perhaps 400 years old or greater. Precise dating of the bone through Accelerator Mass Spectrometer testing will provide the conclusive evidence that this entire area is part of a much larger Native American habitation. Therefore, the commission requested that the council authorize the expenditure of \$900.00 for this testing.**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on a roll call vote to approve \$900.00 for Accelerator Mass Spectrometer testing with Beta Analytical Laboratory for nuclear dating.**

## **COMMUNICATIONS**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to place the following on file: A.) NSF&RS Monthly Incident Report for December 2007, B.) Animal Control Monthly Report for December 2007, C.) Report from Veteran's Advisor, D.) RIDEM Insignificant Alteration Permits and E.) Resolution**

**Re: Veterans' Benefits from the Town of Warren.**

**EXECUTIVE SESSION**

**MOTION by Mr. Keeley, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to enter into executive session at 10:00 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss Macsteel Tax Litigation, Narragansett Improvement Litigation and Material Sand and Stone Litigation.**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to come out of executive session at 10:22 P.M. and to seal the minutes.**

**Macsteel Litigation**

**MOTION by Mr. Zwolenski, seconded by Mr. Leclerc, and voted unanimously on an aye vote to continue to retain the Town Solicitor for special litigation in this matter.**

**Material Sand & Stone Litigation**

**MOTION by Mr. Keeley, seconded by Mr. Leclerc, and voted unanimously on an aye vote to retain the Town Solicitor for special litigation regarding Material Sand and Stone on both counts.**

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## **Narragansett Improvement Litigation**

**MOTION by Mr. Keeley, seconded by Mr. Leclerc, and voted unanimously on an aye vote to retain Town Solicitor Mark Hadden for special litigation to defend Conservation Commission Chairman Donald Gagnon and to pursue other litigation issues in this matter.**

**An additional motion was made in executive session regarding Narragansett Improvement that, consistent with the Open Meetings Laws, shall be revealed at a time when executive session privilege is no longer necessary.**

**MOTION by Mr. Leclerc, seconded by Mr. Keeley, and voted unanimously on an aye vote to adjourn at 10:28 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**