

Town Council Meeting
March 14, 2016

EXECUTIVE SESSION – 6:00 P.M.
RIGL 42-46-5 (a) (2)

1. Discussion of settlement agreement in the matter of Stop & Stop Supermarkets v. Picard CA No. KC-2012-0261; KC-2013-0050; KC-2014-0311; KC-2015-0485 and a pending appeal for the property for tax year 2015
2. Discussion of settlement agreement in the matter of Fiskeville Realty Co., Inc. v. Patricia Picard, Tax Assessor, CA No. KC13-0214 and Fiskeville Realty Co., Inc. v. Patricia Picard, Tax Assessor, CA No. KC14-0301

A motion was made by Vice-President Carlson seconded by Councilman McGee to come out of Executive Session. All voted aye.

A motion was made by Councilwoman Duxbury seconded by Vice-President Carlson to seal minutes of executive session. All voted aye.

WORK SESSION – 6:30 P.M.

1. Discussion and update on Coventry landfill remediation including steps to move forward

Richard Hittinger, Engineer and Attorney Joe Farside presented an update to the Town Council regarding the proposed synthetic cap at the landfill, a continuation of the presentation on January 11, 2016. Mr. Hittinger went on to remind the town that they are seeking an upgrade regarding the cover on the landfill, a traditional synthetic membrane, which will allow us to accept a higher level of lead. The synthetic cap will replace the current plans for a soil cap. The storm water controls at the site will be upgraded and odor monitoring will be put in place. We had a technical meeting with DEM on February 23, which resulted in their agreement with the proposed change, provided that we have odor monitoring and dust control plans in place. DEM needs to see the designs before approval. It is estimated that the proposed changes will result in approximately one to two million dollars net savings as compared to the existing program. In addition it will allow closure to proceed more quickly and result in a higher quality site closure. We anticipate that the revised application will be ready for submittal to DEM on March 18, if Council gives approval.

There will be six monitored locations to measure odor. And even though we will be able to accept up to 2000 PPM, the actual lead average will be much less, and likely to be between 500 and 1000 PPM. The storm water system will be expanded with larger areas to manage rain water. Astro turf is less maintenance and better in the long term environmentally, as well as more aesthetically pleasing.

In summary, we recommend that the town move forward with the BUD program revisions including installation of the impermeable cap, submittal of a DEM application which includes the synthetic turf cap and request the acceptance of lead levels up to 2000 PPM and C & D fines. At the same time, negotiate the appropriate change order with DiGregorio, which must be finalized before work can commence. We will implement a phased trial of C & D fines with perimeter odor monitoring; the Town will have authority to immediately stop acceptance of C & D fines if odors become a problem.

President Shibley asked who would check the odor monitoring sensors. Mr. Hittinger replied that the consulting engineer from GZA and they use a very sensitive measuring instrument

Councilman McGee is concerned about storm water runoff and asked if it would also be monitored by GZA. Mr. Hittinger replied that it will. Mr. McGee asked about the change order and Mr. Hittinger said that the change order will be the cap, and even though the materials cost more than the soil cap, we will still have a one to two million dollar savings.

Councilwoman Carlson asked if we will accept materials from out of state and Mr. Hittinger replied that we would, however, everything is subject to a rigorous acceptance program. An environmental professional evaluates where it came from and it is analyzed by a certified lab. A company would need to complete an application package, it is then reviewed by GZA to make sure everything is done professionally and everything meets our criteria. If all criteria are met, then materials are accepted.

Mrs. Carlson asked how far off schedule we are at this point with the landfill project and Mr. Hittinger feels that we are less than a year behind schedule. She asked about torrential rains and if the catchments are in working order. Mr. Hittinger said they are and the system has already been tested with rainfall.

Councilman McGee asked whether you might be able to use this property as a solar farm when it is complete. Mr. Hittinger explained that you cannot cut through the cap, but in the case of a solar structure, you would support it with a ballast system at the base of the solar structure.

Councilwoman Duxbury referred to the application process and the security of it, and how would you know when the materials get to the facility that it is exactly what it is supposed to be? Mr. Hittinger replied that one of the things they have to do is to certify that these are the same materials applied for. They have to send in photographs

of the material. We do not have the ability to test at the facility, but they are certifying to it and don't want to damage their reputation.

Mrs. Duxbury suggested the idea of a hot line for residents, so that they can call if they have questions or smell an odor. Mr. Farside indicated that contact information would be posted at the entry way of the landfill. However, Mrs. Duxbury would prefer notification by mail to residents with contact information.

Gerry Narkiewicz, 21 Beach Street, asked the effect on the lake with the increase in the lead levels being accepted. Mr. Farside responded that the retention ponds are designed to infiltrate the rainfall, none of the materials should ever get to Lake Tiogue. Although Mr. Narkiewicz understands infiltration, he suggested that the Town Council test the lake at the beginning of the project and then test on a yearly basis as they clean the retention basins to see if we are getting lead infiltration. Manager Waters agreed that a lead test could be incorporated into the testing that Parks and Recreation or the Department of Public Works performs three times a year.

2. Discussion re Waterman/Fiske Assistance Program in order to enable Coventry Housing Associates Corp. to secure financing for low income housing.

Manager Waters received a letter on January 29 from Coventry Housing Associates Corp. requesting a loan from the Waterman Fiske Fund. Tonight Executive Director of the Housing Authority, Julie Leddy, is here to talk about that request. Mrs. Leddy explained that Coventry Housing Associates is a non-profit developer of affordable housing in Coventry. Over the last ten years we have developed 113 units of affordable housing. We have taken out mortgages and deed restricted those properties so that they would forever have to be available to low and moderate income families. We have an opportunity in front of us to purchase an 8 unit building at 20-22 Anthony Street; (7) one bedroom and (1) two bedroom. Our biggest difficulty right now is that we used to be able to secure financing at 10% down; now the lenders are requiring 20%. We have the 10% to put down and looking for assistance from the town for the other 10%.

The units are occupied right now, the place is in move-in condition. It has been renovated and connected to fire alarm systems that go right to the fire department. The heating and electric has been redone. President Shibley asked if the Housing Authority takes over, will those same people stay there? He also asked the cost of the building. Mrs. Leddy replied that current occupants would stay, they have all been qualified. The purchase price is \$410,000 and we have been approved for a mortgage of \$328,000. A payback program would have to be worked out with the town and Manager Waters suggested that this is referred to the Waterman Fiske Committee to work out the details. Councilman McGee thinks this is a great idea and will also add toward the required 10% low/moderate housing.

Finance Director Thibeault recommended that the loan is made from the Waterman Fiske Trust, not the assistance fund and asked that the resolution is changed to clarify the source of funding. Mr. Thibeault also gave an update of two funds: As of June 30, 2015 there was \$2,669,528 in the Waterman Fund and the Fiske fund had \$248,267.

TOWN COUNCIL MEETING – 7:00 p.m.

Present: Councilman McGee, Vice-President Carlson, Councilwoman Duxbury, Councilman Laboissonniere, President Shibley, Town Solicitor Gorham, Town Manager Waters

Pledge of Allegiance
Invocation
Review of Emergency Evacuation Plan

Approval of Town Council minutes February 22, 2016

A motion was made by Vice-President Carlson seconded by Councilwoman Duxbury to approve minutes. All voted aye.

President's Comments

President Shibley announced that Ace Hardware has opened across the street from Anthony Mill Lofts. There is still one small vacant unit in that plaza. Coventry High School Girls lost in the semi finals yesterday at the Ryan Center, but they did very well and we are proud of them.

COUNCIL DISTRICT UPDATES

Councilman McGee reported no issues in District 3. District 5 Councilwoman Duxbury announced that the budget season has begun and the first work session with department heads will be held on March 21.

District 1 Councilwoman Carlson received a few inquiries regarding the "tubes" on the side of

Route 102. Lynch, the contractor, had to do some extra work on driveways and leveling, but they began picking them up today. District 2 Councilman Laboissonniere had no updates at this time. District 4 President Shibley reported that a new business, DiPietro Roofing, has opened on Tiogue Avenue.

CONSENT AGENDA

1. Renewal Application by David Cross for Private Detective license
3. Renewal application by Jo Jo's Cupcakes, LLC for 90 Day Peddler's license

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to approve consent agenda. All voted aye.

RESOLUTIONS

1. Reappointing Joseph Spada to the Sewer Subcommittee

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to approve reappointment. All voted aye.

2. Appointing new Tax Assessor for the Town of Coventry

A motion was made by Councilwoman Duxbury seconded by Vice-President Carlson to approve the appointment of Mr. Thomas Kane as Tax Assessor. All voted aye.

3. Authorizing a loan from the Waterman Fiske Trust Fund to Coventry Housing Associates

A motion was made by Councilman McGee seconded by Councilman Laboissonniere to approve resolution. All voted aye.

4. Appointing members to the Municipal Pension Board

A motion was made by Vice-President Carlson seconded by Councilman McGee to approve resolution appointing Manager Waters, Finance Director Thibeault and Union representative Mark Robitaille. All voted aye.

5. Appointing members to the Police Pension Board

A motion was made by Councilwoman Duxbury seconded by Vice-President Carlson to approve resolution appointing Manager Waters, Finance Director Thibeault and Police Union representative Lt. Skorski. All voted aye.

6. Discussion and approval of settlement agreement in the matter of Stop & Stop Supermarkets v. Picard CA No. KC-2012-0261; KC-2013-0050; KC-2014-0311; KC-2015-0485 and a pending appeal for the property for tax year 2015

Solicitor Gorham summarized the settlement agreement, which involves three lawsuits plus an appeal for 2015. The town assessed the property at \$12 million, Stop and Shop's appraiser came up with \$8 million dollars, leaving a four million dollar spread. This settlement requires that the town issue credit for the next three years, beginning with \$124,000 credit next year. This is actually a good deal for the town and is all set forth in detail in the settlement agreement.

A motion was made by Councilwoman Duxbury seconded by Vice-President Carlson to approve agreement. All voted aye.

7. Discussion and approval of settlement agreement in the matter of Fiskeville Realty Co., Inc. v. Patricia Picard, Tax Assessor, CA No. KC 13-0214 and Fiskeville Realty Co., Inc. v. Patricia Picard, Tax Assessor, CA No. KC 14-0301

Solicitor Gorham indicated that this case is almost identical to the last one, but the numbers are smaller. It is a little stronger case for the town, but given the numbers we are settling at, it is really hard to turn down, with about \$64,000 in credits for the next two years. There would be a risk in trying the cases and this settlement eliminates the risk and stabilizes the tax rate. Solicitor Gorham recommended approval as did the town manager, finance director and other professionals involved with the settlement.

A motion was made by Vice-President Carlson seconded by Councilwoman Duxbury to approve resolution/settlement. All voted aye.

8. Approving updated plan for landfill remediation

As per tonight's presentation, this resolution will allow the town to proceed with their application to DEM for the use of a synthetic cap and to finish closing the landfill.

A motion was made by Councilman McGee seconded by Councilman Laboissonniere approve resolution. All voted aye.

ORDINANCE (First Reading)

Ordinance providing for the protection and preservation of the Town's historic stone walls

Manager Waters explained that the ordinance was proposed by Vice-President Carlson and has been referred to the Historic District Commission for research. Mrs. Carlson went on to explain the importance of the ordinance as there are a lot of old walls and cemeteries everywhere in town. The walls need protection as historically they delineated property lines and people will just come along and take parts of the walls. Therefore, we would like to have an ordinance with a provision that it is against the ordinance to do this.

Councilman McGee is concerned, one reason being that by having the building department enforce or check into this may have an effect on the workload for that department. In addition, District 3 has many quarter acre lots and not many stone walls, just a few. I agree that we should preserve the stone walls, but don't want to create a difficult situation for someone who wants to build on a quarter acre lot. He questioned whether this is really necessary in the eastern end of town.

Planning Director Paul Sprague agreed that most of the walls are in the rural areas of the town. However, when a subdivision is under consideration, the Planning Commission may ask that the lot is reconfigured or that the walls are relocated, allowing for some symmetry in the lot lines. We are not talking about walls that were built last week, but those before 1900.

A motion was made by Vice-President Carlson seconded by Councilwoman Duxbury to advertise for public hearing. All voted aye.

PUBLIC HEARING

Ordinance amending Coventry Zoning Ordinance and Zoning map, Assessor's Plat 76, Lot 1 from Rural Residential 2 (RR-2) to R-20 (proposed White Tail Estates, Leuba Road)

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to open public hearing. All voted aye.

Planning Director Paul Sprague gave a brief history of the development, a 29 acre parcel at the terminus of Leuba Road, from its beginning to present. The applicant and developer, Doug DeSimone, had a proposal to develop a low/moderate housing development with 43 units, 7 of which were duplexes, without much open space. Tonight the applicant seeks a change of zone from RR 2 to R 20 and Mr. Sprague pointed out that the surrounding property is currently R-20. The Planning Commission had concerns, some of which were the placement of a cul de sac in the middle of development and concerns with respect to the status and condition of Leuba Road. The Planning Commission denied the petition.

An appeal was then taken by the applicant to the State Housing Appeals Board (SHAB) At that time Solicitor Gorham became involved with this process. He spent a substantial amount of time on this in order to work out a resolution that would be reasonable for all parties involved.

After substantial negotiations, what has been proposed is that the property be rezoned R-20, the duplexes eliminated, the number of units reduced from 43 to 30, with a substantial amount of open space within the development. The matter was then remanded to the Planning Commission for master plan approval. At that level, the Planning Commission granted conditional master plan approval and then remanded it to the Town Council for a zone change. It was recommended that Leuba Road be widened, there be no low/moderate housing, and that the cul de sac is eliminated,

Developer Doug DeSimone agreed to widen Leuba Road to 22 feet. He and the DPW director have walked and measured the road. The road will not just be resurfaced but the asphalt that is removed will be recycled. This has been going on for three years and actually with regard to this particular piece of property, should be identified as R-20, according to the town's comprehensive plan. We have agreed to limit the number of lots and there will be more open space than required; sidewalks will be put in. This is also conditioned upon the Planning Commission giving final

approval.

Solicitor Gorham added that at the time the appeal was taken to the State Housing Appeals Board, is approximately when his law firm began doing the legal work for the town. We have made some good points as to why the Planning Board decision should be upheld. The SHAB is a friendly forum for low/moderate income projects and was created to make sure that more low/moderate got approved. That is why the deck is stacked when you go to that commission. The problem we face as a town is how do we control the risk, from a project that was rejected by the Planning Commission but is going to be sent to the SHAB, a group of people who know nothing about the town. We negotiated for months, tried to get the best deal, worked with the Planning Commission and with Mr. DeSimone. This is the best deal we could negotiate. What is before Town Council tonight is one component, and that is the zone change. However, you can still go to the Planning Commission and oppose the project.

Richard Laboissonniere, 39 Chandler Drive, is concerned about the width of Leuba Road, specifically at the bend where the fire hydrant is before Chandler Drive. He asked if residents of Leuba Road have been made aware that footage could be taken from the front of their houses? Solicitor Gorham believes the town's right of way is more than the 22 feet and there should be plenty of room to do the expansion.

Mr. DeSimone added that the road is close to 18 feet at the bend, as he has measured with the DPW director, which is the narrowest area of Leuba Road. We would hope to expand the asphalt on both sides, probably 2.5 or 3 feet of asphalt. Mr. Laboissonniere noted that Leuba is very narrow, you can't walk down the road and has already been a fatality on the road. Mr. Laboissonniere is going to check into telephone pole distance requirements.

Ed Panarello, 8 Thompson Drive, is concerned about the number of children we will be bringing into the schools with 30 houses going up, the cost to educate a child and the burden on a fire department in trouble and barely hanging on now with more homes to be responsible for. Another question is whether the road will be fixed to the end of the road and Solicitor Gorham responded that it will go right to Route 117. It has all been negotiated.

In the beginning there were going to be no improvements to Leuba. We kept hearing from Councilman Laboissonniere that if this project was to go forward, we needed to do something about Leuba Road. If you restrict the development to no school children, (over 55 generally) it would diminish the amount of impact fees that the town could have collected \$7,596.00, which will all go to the improvements of Leuba Road. Leuba Road was at the center of the deal.

Mr. Panarello stated that everyone who attended the meetings was against this. We need more industry, not more houses. They just built 70 houses back there, now you are going to add another 30.

Councilman McGee explained that if we go to court with this issue, we are going to lose. Mr. DeSimone has the right to develop his property. I understand that we do need more industry, but we are going to be forced to do this whether we want to or not and we want to do it in the best interest of the town. Planning Director Paul Sprague added that the RI Supreme Court has ruled and we have no choice.

Mr. Panarello feels that it makes no sense to have a Zoning Board if the court can just rule against them. Everybody encourages us to get involved, then we get shot down and it all gets overruled. Councilman Laboissonniere said that it took a lot of negotiation to get this deal.

Planning Board Chairman Russell Crossman advised that we are up to 5.6% now with the low/moderate income housing; 10% is required by the state. This will keep happening. Mr. Laboissonniere responded that if we could get mobile homes approved as low/moderate housing, then we would have met the 10% a long time ago.

Ken Jackson, 2799 Harkney Hill Road, asked the price range of the proposed houses and Mr. DeSimone replied in the \$300's.

David Cattalano, 100 Leuba Road, is the last house on Leuba with a 4.5 acre lot. He asked if the zoning designation would change on his lot and Mr. Crossman replied that it will not change. In addition, there will be another public hearing on this development at a Planning Commission meeting and you are welcome to attend.

Councilman Laboissonniere asked if the 50 foot buffer still exists and Mr. DeSimone replied that it is still there, and there is also open space that will never be touched.

A motion was made by Councilman Laboissonniere seconded by Vice-President Carlson to close public hearing. All voted aye.

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to approve the amended zoning ordinance change. All voted aye.

PUBLIC COMMENT

Stacy O’Gorman, 31 Elton St., recapped a May 2015 letter from the attorney general that public rights of way should have some sort of signage designating them as public rights of way. In addition right of way boundaries should be marked. There is still a lot of work that needs to be done with our right of ways and we also ask for the town to revoke the questionable encroachment agreement for the Elton Street right of way. A fence needs to be erected to cordon off the area separating 83 E. Shore Drive from the Elton Street right of way.

John Cook, Vice-Chairman of the Coventry Fire District Board of Directors asked that Councilman Laboissonniere’s suggestion asking for a study committee to look at fire departments be following through. Senator Raptakis also introduced legislation that a commission be formed to study this and it never made it out of committee. I am here with the approval of the district Chair Ben Perra, to ask you to form a study committee, including all four districts and yourselves, invite the state legislature, sit down at a roundtable to see where we need to go with fire districts in this town.

Ken Jackson, 2799 Harkney Hill Road, said that Western Coventry Fire district does not want any board formed to shove something down our throats and tell us what to do. No way are we going to get involved with 2 fire departments that got themselves in trouble. It is not up to the fire boards, it is up to the people in each district.

Marc O’Gorman, 31 Elton Street, advised that new work has been done down at the right of way on Elton Street and he doesn’t know if it was authorized by the town or DEM. A new load of sand was dumped on the beach area and a boulder has been removed from the lake. This right of way has been taken over and now there are obstacles on the right of way. Also, why is the water so low in the lake? President Shibley replied that the gate is still being worked on and there is enough water in the lake to sustain wildlife and fish according to DEM; Manager Waters agreed.

John Cook, 1 Centennial Drive, we are not trying to force a new fire board. I realize it is rural in western Coventry and not as well populated as Districts 3 and 4. We have to look at the safety of the town, this needs to be studied and I think you need to form a study commission.

A motion was made by Councilman Laboissonniere seconded by Councilman McGee to adjourn meeting. All voted aye.

Town Clerk