



*File*

**Board of Selectmen**

**Town of Provincetown  
Massachusetts 02657**

July 18, 1975

Mr. John W. Downey  
c/o Shamrock Motel  
49 Bradford Street  
Provincetown, Massachusetts 02657

RE: RECALL AFFIDAVIT.

Dear Mr. Downey:

Pursuant to a request for legal opinion of Town Counsel by the Board of Selectmen relative to a determination of the legality of an Affidavit submitted by your committee on July 17th, 1975 purporting to have been filed pursuant to Section five (5) of Chapter Seven of the Charter of the Town of Provincetown, be advised that it is our legal opinion that said Affidavit does not constitute an affidavit within the meaning of section 5, subsection 7-5-1 of Chapter seven in that it fails to contain "... a complete enumeration of specific grounds for recall." Pursuant to an authorization by said Board of Selectmen as a result of the aforementioned opinion, you are hereby put on notice that the Selectmen of the Town of Provincetown as the executive officers of the Town do not recognize said affidavit in its present form. Further, that the petitions issued to you by the Town Clerk pursuant to Chapter seven, section five, subsection 7-5-2 on July 17th 1975 were issued in error and any signatures that have been obtained or might be obtained on said petitions shall not be given recognition pursuant to the appropriate provisions of the Charter of the Town of Provincetown.

Enclosed please find your aforementioned affidavit.

By the Attorneys for the  
Town of Provincetown,

*Edward E. Veara*

Edward E. Veara

*Richard L. Zisson*

Richard L. Zisson

*✓  
new folder  
Recall*



Minutes of meeting of Recall Group Members with Town Manager, on Tuesday, July 22, 1975, Town Manager's office, 9:30 am.

Present were: Marion Taves, James Meads, John Henrique, Mary Jo Avellar, Robert Martin, Heaton Vorse,

Mr. Taves opened the meeting by stating: This past Friday the Selectmen held a meeting. Are minutes of this meeting available, was meeting posted? I have knowledge that Town Counsel was present. Is this so?

Mr. Benson, Town Manager: Is this group represented by counsel?

Taves: No.

Manager: May I ask you who counsel is?

Mr. Henrique: What difference does that make?

Taves: If you don't want to answer, this is all right with us.

Manager: I would request that your questions be in writing. Also, there is a statement I should read to you... *not done*

"Statement from Town Counsel: If the affidavit is presented in proper form with specific charges against particular individuals with particularity, it will be accepted and processed in accordance with the Charter.

However, we are not to be threatened or coerced because legally, in the opinion of Counsel, this current affidavit has no legal significance."

Taves: Tell Counsel for us that <sup>no</sup>by/means were threats given. According to our opinion we are in the right, and we'll challenge them there if we have to.

Miss Avellar: We have the right to come to Town Hall to ask if minutes are available and right to see them.

Manager: The official depository of the minutes is with the Town Clerk's office.

Taves: The Selectmen, with Town Counsel Veara and his partner, Atty. Zisson, received the document of affidavit given to Town Clerk. That same documented affidavit is in our hands and in the hands of our attorney.

Henrique: I would like to ask the Manager if Atty. Zisson is retained by the Town.

*copy to  
Ed Veara & Board of Selectmen*

Henrique: I would like to ask the Manager if Attorney Zisson is retained by the Town.

Manager: When we retained Attorney Veara we were in essence retainint his Firm.

Taves: I beg to differ. When Atty. Long was introduced, among others, I introduced Atty. Weara whom we appointed. We appointed one individual.

Manager: It was my appointment, not the Board of Selectmen's.

Taves: You took the opinion of the majority, 3 to 2. Never in my experience have we appointed more than one Town Counsel, not a firm.

Mr. Vorse: Any record that a single person, not a firm was appointed,

Manager: No record of that. The benefit is having a law firm rather than one lawyer.

Mr. Martin: A firm was not submitted, it was an individual name submitted for position of Town Counsel.

Manager: ~~On further questioning~~ on the presence of Attorneys Veara and Zisson, I called Mr. Cook, Town Clerk, and he got the affidavit.

Mr. Meads: He was sommoned here to his office. Was the meeting posted?

Manager: // I want to make it clear, no meeting was called. Individually and without any calling of a meeting, they appeared at his office. //

Taves: Very conveniently, Town Counsel was here too.

Manager: No, I asked him to be here.

Taves: Don't agree, think <sup>you are</sup> not telling the truth...

Manager: Think matter to discuss with your counsel. ✓

Avellar: Don't think Selectmen should use Town Counsel to further their political desires.

Martin: Without a formal meeting being held, Selectmen and Manager did go to his office (Town Clerk).

Manager: That is not so, go to the Town Clerk, he'll tell you.

Martin: As result of no formal meeting, that affidavit was taken from the Town Clerk's office.

Manager: If presented in proper form, it will be accepted.

Vorse: No.

Martin:(?) We are on advise of counsel. A group of citizens here to get answers to our questions from the administrative office.

Taves: Under whose orders to Police to deliver this affidavit?

Manager: I don't know, I left Town Hall before it was delivered, nor the individual was who gave order for it to be delivered.

Henrique: Think we should then go now to Town Clerk.

Meeting adjourned.

July 22, 1975

**Finance Committee**

**Ladies and Gentlemen:**

I want my remarks to be fully understood that they are in no way political in nature and should not be interpreted or inferred as such. Acting in your capacity as members of the Finance Committee and realizing the important role this Committee plays, I felt it imperative in my function as Manager that I inform you of a serious drain on both our manpower and financial resources.

We closed out our fiscal year the last day of June 1975 and began a new one. This is a very busy time of year for our accounting office. Already 40+ man hours have been spent by the Town Clerk-Accounting office on duties called for under a recently submitted affidavit. These are man hours that we can ill afford, particularly at this time of year. I would also bring to your attention that the time of two departments have been taken up with respect to this matter, together with my office. It may become necessary in the foreseeable future to seek from this Committee additional financial assistance to make up for these lost hours. I have asked the Department Heads involved to enumerate for me in detail exactly what these costs shall be.

Because of the resignation of a member of the Board of Selectmen and the calling of a special election, additional costs shall be incurred, none of which at budgetary time were contemplated. As soon as these costs are ascertained I shall appear in front of you requesting the necessary transfer. While it may seem to some that these costs may be insignificant, I can assure you that no matter how small they are they were neither planned for nor foreseen and as such I shall not ask these departments to operate under a financial burden.

Copy: Board of Selectmen

Minutes of meeting of Recall Group Members with Town Manager,  
on Tuesday, July 22, 1975, Town Manager's office, 9:30 am.

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"Statement from Town Counsel: If the affidavit is  
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with the Charter.

However, we are not to be threatened or coerced  
because legally, in the opinion of Counsel,  
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Meeting adjourned.

July 22, 1975

STATEMENT FROM TOWN COUNSEL

If the Affidavit is presented in proper form with specific charges against particular individuals with particularity, it will be accepted and processed in accordance with the Charter.

However, we are not to be threatened or coerced because legally, in the opinion of Counsel, this current Affidavit has no legal significance.

Cape Times 7/22/75

# Cape-tip committee collects enough signatures for recall

PROVINCETOWN — The SCRAM Committee of Provincetown already has sufficient signatures on recall petitions but additional ones are being sought before the deadline in early August when they must be filed with the town clerk.

There are about 650 signatures on the petitions and 624 are needed (20 per cent of the voting list of the town) to request a recall of the existing board of selectmen.

However, not all the petitions were brought to the group's Monday night meeting and the members decided to continue seeking signatures so there would be an ample number after the board of registrars checks on the names. Only four days have elapsed since the petitions were first circulated.

The SCRAM Committee (Serious Citizens Revolting Against Mis-management)

also discussed at length what was called a violation of the committee members' civil rights. A Civil Rights Committee of SCRAM was named.

The aim of this committee would be to investigate an alleged violation of civil rights in the removal of the recall affidavit from the town clerk's office for what was said to be a private meeting of selectmen late last week.

The affidavit is the first step in recall proceedings. The charter requires 25 signatures on this initial paper which Edward E. Veara and Richard L. Zisson, listed as attorneys for Provincetown, said does not constitute an affidavit under the charter.

The SCRAM civil rights committee includes Robert Martin, Marion Taves and Mary Jo Avellar, committee secretary, aided by Joel O'Brien. It was scheduled to meet in town hall this morning to see if the members can

find out how the affidavit was taken from the town clerk's office

Atty. John C. Snow, whose office will be the headquarters of the civil rights committee, said the original of the affidavit was in the same letter as the one from the town attorneys.

The group's next step is to contact civil rights groups, including the FBI in Hyannis. If an appointment can be made, the committee will travel to Hyannis. Otherwise, they may make contact with the U.S. Attorney, Attorney General or District Attorney to find out about the removal of the affidavit from the town clerk's office.

There was some discussion about pressure being applied by town officials against signers of the recall petition, and an executive committee was named to take action in the name of the committee between meetings if required.

# SCRAM recall papers found lacking

Cape Times 7/22/75

PROVINCETOWN — A recall affidavit, submitted by the SCRAM Committee (Serious Citizens Revolting Against Mismanagement) does not constitute an affidavit within the meaning of the charter and selectmen do not recognize it as such, attorneys for the Town of Provincetown informed the committee today.

SCRAM was formed at a meeting last week and the affidavit, as it was described, was signed by the necessary 25 registered voters of Provincetown with all signatures were notarized.

Last Wednesday, the affidavit, as it was described, was filed with Town Clerk Paul Cook, who presented the committee with recall petitions, and the canvassing for signatures by the committee got underway. It has 20 days to get 624 signatures, or 20 per cent of the voting list.

However, in a letter addressed to John W. Downey, co-chairman of SCRAM, attorney Edward E. Veara and Richard L. Zisson, representing the town, indicated that

selectmen had requested legal opinion of town counsel, and the attorneys believe under the chapters indicated, the affidavit does not constitute an affidavit within the meeting of the Section 5, subsection 7-5-1 of Chapter 7, as it "fails to contain . . . a complete enumeration of specific grounds for recall."

The letter from the attorneys continues:

"Pursuant to an authorization by said Board of Selectmen as a result of the aforementioned opinion you are hereby put on notice that the Selectmen of the Town of Provincetown as the executive officers of the town do not recognize said affidavit in its present form. Further, that the petitions issued to you by the Town Clerk pursuant to Chapter 7, Section 5, Subsection 7-5-2 on July 19, 1975 were issued in error and any signatures that have been obtained or might be obtained on said petitions shall not be given recognition pursuant to the appropriate provisions of the Charter of the Town of Provincetown."

July 23, 1975

Edward E. Veara, Esquire  
Zisson and Benjoya  
HHH Building, Route 134  
Dennis, Massachusetts 02660

Re: Finance Committee - Moderator

Dear Ed:

In light of the recent activity of certain members of the Finance Committee and their active attempt to unseat the full Board of Selectmen, and activities of the Town Moderator, Mr. Snow, would you kindly research the law and our Charter and inform me and the Board of Selectmen if they are in any way in conflict.

It would seem after a study of the duties and obligations of the Finance Committee, as enumerated in State law and the Finance Committee handbook, that one of the prerequisites is an objective point of view.

Your prompt attention will be sincerely appreciated.

Very truly yours,

Gardner R. Benson  
Town Manager

GRB:mcc

29 Alden Street,  
Provincetown, Mass. 02657

*File*

July 23, 1975

RECEIVED

JUL 23 1975

TOWN OF PROVINCETOWN

*Mc*

To: Mr. Warren G. Alexander, Chairman  
Provincetown Board of Selectmen,  
Provincetown, Mass.

Dear Mr. Alexander:

As a taxpayer I am very concerned with events as they are now occurring in this town. I am also apprehensive regarding your public silence with respect to these events.

You cannot be unaware of the rumors and threats being circulated in this town. These rumors and threats are creating disquiet and unease. It is clear to me that the SCRAM committee is attacking our form of Government - are being disruptive and provocative.

In a letter I sent to the Editor of the Provincetown Advocate I have attempted to answer some of the questions raised about the Town Manager. I know full well that there are those in this town with more knowledge than I have about such matters, with more competence than I have to answer the questions raised, but no one has come forth to do so.

With respect to the questions raised about the Fire Department by the SCRAM committee and some of those whom they are agitating, questions dealing with the experience and competence of our Fire Department Officers - the Department's response to fire calls, etc. - certainly the Board of Selectmen and the Town Manager can address themselves to these questions better than I can. I feel these questions should be answered in a public statement - and before the Town meeting in October.

If you wish to avoid making any statement with respect to the Old Board of Engineers for any legal reason or any other reason, you might at least present the present programs now being instituted by the Fire Department to assure the people of this town that their welfare is your deep concern, and that the programs now in effect with respect to the operation of the Fire Department should reassure everyone that the Fire Department in this town is in good hands and capable of handling any problems that might arise.

I feel you should also make it clear that you are making this public statement in response to questions and threats raised and made within the past few weeks. Such a statement from you would help to boost the morale of those who supported you for office. I find your silence in the face of what is sweeping through this town quite intolerable.

Copies to: Charles A. Mayo, Jr.  
Bernese D. Shears  
William A. White  
Gardner Benson, Town Manager

Sincerely yours,  
*Catherine "Pat" Saffron*  
Catherine C. Saffron

29 Alden Street,  
Provincetown, Mass. 02657

July 26, 1975

To the Board of Selectmen  
Provincetown, Mass.

Att: Mr. Warren Alexander, Chairman

Dear Mr. Alexander:

I have no legal expertise but I am deeply distressed that the Selectmen have not spoken out publicly re the recall issue. From too many sources I am getting comments such as, "There MUST be something wrong because the Selectmen have nothing to say!"

To date ---- Mr. Veera has been the only one to speak bluntly to the issue - and to the point!

I feel your silence has made it possible for the Scram Committee to get over 700 signatures. Some of those who might not have signed have done so in the face of the silence on the part of the Selectmen.

In the face of your continued silence they might get a lot more signatures and those signatures represent a bandwagon. The more signatures, the more there are who want to climb aboard.

Surely by now something could be forthcoming from the Board of Selectmen?

Sincerely,

*Pat Saffron*  
Catherine C. Saffron

RECEIVED

JUL 28 1975

TOWN OF PROVINCETOWN

BY

# Former selectman raps recall affidavit move

By NEIL G. NICKERSON

PROVINCETOWN — Public statements highlighted much of Monday night's meeting of Provincetown selectmen in Town Hall, and a highlight was former selectman Marion Taves' scoring of the selectmen and town counsel relative to action concerning the recall affidavit.

Taves, who resigned from the board of selectmen earlier this summer, said in general he could not go along with the town counsel's opinion relative to the affidavit's legality, and for action of selectmen in meeting after hours and the removal of the affidavit from town hall.

He maintained the meeting was illegal since it was not posted and that counsel had overstepped his ground in removing the affidavit from town hall.

There were several others who joined in the discussion, and at one time the discussion was such that one of the

*Cape Times 7/30/75*  
selectmen brought three members of the police department into the meeting room.

This discussion took up much of the meeting time, but there were other things done, including the naming of William Fields as dog officer, tree warden and animal inspector, and tabling the

show cause hearing against the Boatslip Motel, the hearing to be re-opened in the future if further complaints are registered.

It was announced that a special town meeting is set for Aug. 19, and special election Sept. 9, to fill the vacancy caused by Taves' resignation.

## SCRAM petition in; 753 sign for recall

*Cape Times 7/31/75*  
PROVINCETOWN — Officials of SCRAM (Serious Citizens Revolting Against Mis-Management) presented 25 copies of their recall petition to the town clerk Wednesday. The petitions contain the names of 753 Provincetown voters.

The petitions were filed to recall the four-member board of selectmen and were brought to Town Clerk Paul Cook by SCRAM chairman Herman DeSilva Shortly after 10 a.m.

Cook said the board of registrars of voters will start checking the names immediately. Their work should be completed by the end of the week, when the petitions will be presented to the selectmen.

At the same time, John R. Henrique, who was un-animously endorsed by SCRAM at a meeting Tuesday night, also filed his nomination papers for the Sept. 9 special election for a selectman to fill the vacancy left by the resignation of Marion Taves.

Deadline for filing nomination papers has been set for Aug. 6 and one other candidate, Paul Christo, has filed. Another prospective candidate, Arthur J. Martin, has taken out papers but not yet filed them, Cook said.

Others at the petition filing included Mary Jo Avellar, SCRAM secretary; Wilbur Cook; Heaton Vorse and Henrique.

# Office of the Town Clerk

Provincetown, Massachusetts 02657

*File*



August 6, 1975

The Honorable Board of Selectmen  
Warren G. Alexander, Chairman

Dear Mr. Chairman:

This is to certify that the Town Clerk is in receipt of a recall petition as filed with him under the provisions of Chapter 7-5-4 of the Town Charter.

The Board of Registrars of Voters have certified a total of 753 signatures as being registered voters of the Town of Provincetown. Since that total exceeds the twenty (20) per cent of voters as required by the Town Charter, the petition is sufficient as to numbers of signers, and I so certify.

The actual petition has been bound and sealed and is securely locked in a vault in the office of the Town Clerk. Rather than transferring it physically from the Town Hall building I felt it safer to keep it locked here until either the Chairman or a member of the Board comes into the office to assume physical control of the document.

By this letter I am fulfilling my duties under the Town Charter in transferring this petition from my control and responsibility to that of the Board of Selectmen.

Would you please notify me as soon as possible your wishes relative to the physical transfer of the petition?

Respectfully,

*Paul Cook*  
Paul Cook, Town Clerk

# Office of the Town Clerk

Provincetown, Massachusetts 02657



August 6, 1975

The Honorable Board of Selectmen  
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Dear Mr. Chairman:

This is to certify that the Town Clerk is in receipt of a recall petition as filed with him under the provisions of Chapter 7-5-4 of the Town Charter.

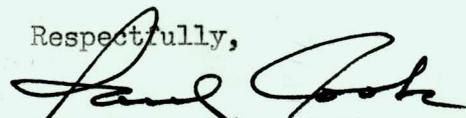
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Would you please notify me as soon as possible your wishes relative to the physical transfer of the petition?

Respectfully,



Paul Cook, Town Clerk

cc. Members of Board of Selectmen



## SCRAM gives clerk last 3 signature lists

PROVINCETOWN — Provincetown's SCRAM committee will present the three final lists of names on the recall petitions for the Board of Selectmen to the town clerk today, bringing the total signatures to 760.

The SCRAM committee — Serious Citizens Revolting Against Mis-Management — made the decision Tuesday night, meeting in Chamber of Commerce Building.

Previously, 25 petitions, containing 753 signatures, were presented, and all but 23 of these were certified. The certified total was 106 more than the 624 needed (20 per cent of the voting list).

After the 30 new signatures are certified, the entire recall petition is scheduled for delivery to the Board of Selectmen. If it is not accepted, the committee will take legal action.

It was also decided Tuesday

*Cape Times 8/16/75*  
night to ascertain the names of those 23 that were not certified.

The need for funds was brought up, and it was decided that each member will contribute \$1 at meetings. Tuesday night \$75 were contributed.

SCRAM's purpose is to see the recall of the present selectmen for resignation or for re-election at a special election. Selectmen have until Aug. 12 to make this decision.

## Recall list is certified

PROVINCETOWN — A petition asking that the Board of Selectmen be recalled has been certified by the town clerk here, Paul Cook, it has been learned.

The petition was filed by SCRAM, Serious Citizens Revolting Against Mismanagement. It carried 753 signatures, 129 more than the required 20 per cent of the registered voters.

The next move on the petition is up to the selectmen. The board meets Monday night.

The selectmen turned down a similar move sometime ago,

*Cape Times 8/8/75*

## All SCRAM petitions filed with town clerk

*Cape Times 8/7/75*  
PROVINCETOWN — The final three petition forms with signatures for recall of the Provincetown selectmen were filed with Town Clerk Paul Cook Wednesday by Herman DeSilva, chairman, and Mary Jo Avellar, secretary-treasurer of SCRAM — Serious Citizens Revolting Against Mis-Management.

This brings the total signatures up to about 760 — 624 were required under the charter as 20 per cent of the total voting list — and the town clerk started checking the signatures for certification. He said this should be completed by Thursday morning and the next step is presenting the petitions to the selectmen.

August 8, 1975

Mr. Marion Taves  
Taves Boat Yard  
Provincetown, Massachusetts

Dear Rocky:

Mr. Warren Alexander, Chairman of the Board of Selectmen, has requested that I write to you extending an invitation to attend Monday night's Selectmen's meeting. Mr. Edward Veara, Town Counsel, has requested to be placed on the agenda. As you know, at the last Selectmen's meeting, where you spoke, Mr. Veara had to be at a Special Town Meeting in Truro, in the capacity of Town Counsel.

Mr. Alexander feels it is only fair to you to be afforded the courtesy of listening, and if you so desire, comment on any statements that Town Counsel may make.

Very truly yours,

Gardner R. Benson ✓  
Town Manager

GRB:mcc

August 11, 1975

Mr. Herman DeSilva  
15 Winthrop Street  
Provincetown, Massachusetts

Dear Mr. DeSilva:

I take this time to comment on your "Letter to the Editor" for the benefit of many citizens who read your letter with interest. I shall respond in the same order in which your comments were made.

1. If I, as a Selectman, am to judge the Manager's ability I must allow him the latitude to make appointments, which by Charter is his. If at a later time it is found that such appointments were ill-advised, then, I, as a Board member can speak out.
2. The Board of Selectmen did grant a public hearing to the signers of the petition. It was not done under duress and mob rule, but rather in orderly and informative manner.
3. The Board of Selectmen, myself included, did hear the reasons for not reappointing certain members of the Board of Fire Engineers, and we also have made public the minutes of all of these meetings.
4. Those Engineers who failed to accept their appointments or resigned are the sole parties responsible for their actions, and to claim that the Board of Selectmen should be held accountable is in fact placing the burden where it does not rightfully belong.
5. With the aid of a "local artist" an expert was found to work on the Bar Relief. The Town Manager attended the meeting of the Bicentennial Committee to inform

8/11/75

them of what he had done to be of assistance, and the Committee failed to have a quorum. This in no way obviates his responsibility in this area. However, as you know, testimony in public session has been given as to the steps under way to correct this situation.

6. Nobody should be insulted by name calling and threats in this day and age. However, all of the insults and threats are not done by members of the Board of Selectmen. It takes two people to have an argument and when irresponsible statements by supposedly responsible people are made, sooner or later tempers flare. At this point in time we should all make a serious attempt to be rational and informed so that any effort to intimidate one will be recognized for exactly what it's worth.

Very truly yours,

William A. White  
Selectman

*File*

August 11, 1975

Mr. Herman DeSilva  
15 Winthrop Street  
Provincetown, Massachusetts 02657

Re: RECALL AFFIDAVIT

Dear Mr. DeSilva:

We are in receipt of the petitions circulated by your committee relative to a request for a recall election pursuant to section 5 of chapter seven of the Charter of the Town of Provincetown. Since these petitions were issued to your committee in error and since your committee was so notified by letter on July 18, 1975, a copy of which letter is attached, we must remind you that in the opinion of our counsel said petitions are of no legal significance since the document purporting to be an affidavit filed pursuant to said section 5 of chapter seven of the Town Charter did not constitute an affidavit within the meaning of section 5 subsection 7-5-1 of chapter seven. We therefore will take no action relative to said petitions.

In order that we might fulfill our duties as executive officers of the Town we must insist upon compliance with the prerequisites required by the Charter which prerequisites in this case were not met. As soon as an affidavit containing "... a complete enumeration of specific grounds for recall." as required by the Charter is filed, the process for instituting a recall election will commence as proscribed in said Charter.

Very truly yours,

*Warren G. Alexander*  
WARREN G. ALEXANDER

*Charles A. Mayo, Jr.*  
CHARLES A. MAYO, JR.

*Berneze D. Shears*  
BERNESE D. SHEARS

*William A. White*  
WILLIAM A. WHITE

Board of Selectmen  
Town of Provincetown

*I Robert K. Russell, POLICE OFFICER OF THE TOWN OF PROVINCETOWN  
HEREBY CERTIFY THAT I HAVE SERVED THE ORIGINAL OF THIS NOTICE  
TO HERMAN DESILVA, OF 15 WINTHROP STREET, PROVINCETOWN,  
MASSACHUSETTS BY DELIVERING SAME TO HIM ~~AT HIS HOME~~ ON  
AUGUST 11, 1975.*

*Robert K. Russell*  
POLICE OFFICER  
TOWN OF PROVINCETOWN

(OVER)

11:58 P.M.

While delivering, Mr DeSilva said, "What are you doing here now". I explained that I just came on duty and was told to serve these papers. He then said "Those are to be sent registered". I then explained to Mr. DeSilva that I did not have to deliver in hand & that if he would not take it I would leave it in his mail box. He then closed the door & the papers were left in his mail box.

Robert K. Russell



Board of Selectmen

Town of Provincetown  
Massachusetts 01977

July 18, 1975

Mr. John W. Downey  
c/o Shamrock Motel  
49 Bradford Street  
Provincetown, Massachusetts 02657

RE: RECALL AFFIDAVIT.

Dear Mr. Downey:

Pursuant to a request for legal opinion of Town Counsel by the Board of Selectmen relative to a determination of the legality of an Affidavit submitted by your committee on July 17th, 1975 purporting to have been filed pursuant to Section five (5) of Chapter Seven of the Charter of the Town of Provincetown, be advised that it is our legal opinion that said Affidavit does not constitute an affidavit within the meaning of section 5, subsection 7-5-1 of Chapter seven in that it fails to contain "... a complete enumeration of specific grounds for recall." Pursuant to an authorization by said Board of Selectmen as a result of the aforementioned opinion, you are hereby put on notice that the Selectmen of the Town of Provincetown as the executive officers of the Town do not recognize said affidavit in its present form. Further, that the petitions issued to you by the Town Clerk pursuant to Chapter seven, section five, subsection 7-5-2 on July 17th 1975 were issued in error and any signatures that have been obtained or might be obtained on said petitions shall not be given recognition pursuant to the appropriate provisions of the Charter of the Town of Provincetown.

Enclosed please find your aforementioned affidavit.

By the Attorneys for the  
Town of Provincetown,

*Edward E. Veaza*

Edward E. Veaza

*Richard L. Zisson*

Richard L. Zisson



OFFICE OF ✓  
 FIRE DEPARTMENT  
 PROVINCETOWN, MASS.

*F. B.*

August 11, 1975

We, the undersigned Engineers of the Provincetown Fire Department, have read and endorse the report prepared for Mr. Gardner Benson, Director of Public Safety as per his request to Mae Van Doreck, Chief, Provincetown Fire Department.

*Frederick W. Shaug - Dist #1*  
*Frank S. Hernandez Dist #2*  
*Adam J. Wolf Dist #5*  
*Frank J. Carneiro*  
*Permeth W. Atkins Dist #4*  
*Wayne D. Perry - Dist #3*

*McG*

Report, August 11, 1975

by

Moe Van Dereck, Fire Chief  
Provincetown Fire Department

to

Mr. Gardner R. Benson, Town Manager  
(as per his request in letter to Chief dated July 21, 1975)

The first and greatest difficulty which faced this present Chief (Moe Van Dereck) was the complete lack of continuity of the Fire Chief's office: I feel that anyone who accepts a position as well defined as the Fire Chief's under the Charter, should be willing to accept the political consequences of that position. The past Chief when not re-appointed to the Board of Engineers provided not the slightest sort of transition for the new Chief taking over the Fire Chief's office. This was compounded by the month or so delay during which time three other engineers who had been re-appointed were merely biding their time during the 30 day grace period to "view" the course of political events at the expense of the Fire Department's functioning. They also provided by the slightest sort of transition for the new Chief taking over the Fire Chief's office. In effect, I found myself operating in a vacuum for one month or so during which time with great energy and tenacity, I found the "shape" of the office; slow step by step. It was an especially difficult time due to the great political upheaval occurring at the time; due to the inter-departmental confusion and due especially to the great number of areas in which the previous Board of Engineers were either operating incorrectly, illegally or as it turned out in many cases, not operating at all.

The Board of Engineers of the Provincetown Fire Department is appointed annually by the Town Manager, according to the provisions of the Town Charter. The seven engineers choose from among themselves a Chief, a Deputy Chief, and five District Engineers. All seven engineers are responsible for the administration of the Fire Department, for providing leadership in extinguishing fires, for the training of the firemen. They, in effect, control and are responsible for the daily functioning of all aspects of the Fire Department.

Training is the most important function of the Board of Engineers. You can have the best possible equipment and it means nothing if the men do not know what to do with it.

The old Board never provided any kind of consistent training. They never assumed responsibility for training the men in the fundamentals, nor training the officers in leadership. What we have today is a disaster area where we have far too many men who do not have any idea of the basics.

If the minutes of the meetings of the old Board of Engineers are examined, there is never any mention of any training, training program or any effort to upgrade procedures. The minutes of February 7, 1974: "A long discussion followed on how to fight fires. There have been no new procedures for firefighting in the last 15 years." Need more be said? No

discussion followed on how to change this situation, nor was any action suggested as how to correct it. (This reference is clearly intended to mean within our own department--because most assuredly there have been tremendous changes in fire fighting procedures in firefighting practice during the last 15 years.)

The monthly drills are supposed to include all the pumps and men in a department-wide drill, to teach standard operating procedure for everyone, to include demonstrations for everyone of each pumper's capabilities, or specialized equipment, especially to work out the many problems of trucks working together in attacking and relaying. For years, the Department has had no more than one such drill a year, a routine drill approach at the Manor, with consequent poor performance and procedures at fires. (The new Board holds regular monthly mass drills. It has one meeting a month, specifically to deal with training and planning the monthly mass drills. It is working on the problem of quickly disseminating basic fire fighting fundamentals to every man in the Department. One of the Engineers has been designated Training Officer and is working with a trained man from each house to provide an additional training program for the Department. Training materials are being sought and prepared for all the men in the form of manuals and handouts. These programs are all documented in our minutes, which are attached to this report.)

Immediately upon becoming (acting) Chief, I discovered a multitude of administrative errors. For example: the new Fire Inspector was incorrectly assigned in his duties by the old Board. Specifically he was instructed to conduct his inspections using an inspection form requiring a dual inspection team, where both a Fire Inspector and Building Inspector make the inspection together. As a consequence, the Fire Inspector was making recommendations which were outside his jurisdiction; which in fact fell under the jurisdiction of the Building Inspector. In fact, the Fire Inspector was instructed to make recommendations which were neither required by the Fire Prevention laws or the Building Code in many instances. Thus, the old Board was putting the Town in the position of being liable to whatever monetary expenditure the Fire Department was requesting.

(The new Chief, prior to having a Board to work with, when Acting Chief, discovered the discrepancy through conferring with the State Building Inspector, Tom Carr, and the Town Building Inspector. He immediately halted the incorrect inspection procedures. He established a corrected inspection procedure and established a program of direction for the Fire Inspector to prevent any further incorrect inspections. In addition, working with another Fire Chief up the Cape

and the Town Building Inspector, as well as the Commissioner of Public Safety (Town Manager), a program was instituted to apologize to each affected commercial business incorrectly inspected. This was done. A list of all such business is included. See separate listing, attached to this report.)

Now inspections are proceeding smoothly and correctly. Everything from the seasonal rush of new businesses and renewals, to the year-round workload of quarterlies and permits of all sorts is being handled efficiently and in the best interests of the Town.

Some years ago, an application was filed with the F.C.C. to have an emergency transmitter, other than the one at Town Hall. It was granted. It specifically stated that this emergency transmitter, located at Johnson Street, was to be used only in the event the base station at Town Hall was disabled or there was a power shortage. The old Board allowed the emergency transmitter to be operated on an eight hour a day operation, 5 days a week. The fine for the illegal use of such a transmitter in this manner is up to \$500.00 a day for each day of illegal operation. The old Board must have known about this situation or should have known.

They were the ones who filed for the emergency transmitter in the first place, and knew full well the restrictions. And yet they allowed its operation on a regular basis for weeks and weeks.

(The new Board of Engineers immediately corrected the situation at their first meeting. The full-time Fire Department Dispatcher (CETA) who had been instructed by the old Board to operate daily at Johnson Street was resituated at the Town Hall base station where he continues to operate effectively.)

The old Board of Engineers never instituted any sort of program updating the Department's hose requirements. New hose has been sparsely purchased over the years (except for what came in the beds of the new pumpers as they were purchased).

	1½"	2½"
1957	500'	500'
1958	550'	350'
1959	1000'	
1961 9/8		800'
1962 7/9	1200'	
1963 6/10	500'	500'
1964 8/7	500'	500'
1965 5/6	900'	350'
1967 11/1	1000'	
June, 1975		1050'

In 1962 Pumper #2 was purchased with	500'	1½" hose
	1500'	2½" hose
In 1967 Pumper #3 was purchased with	500'	1½" hose
	1000'	2½" hose
	500'	3" hose
In 1971 Pumper #1 was purchased with	800'	1½" hose
	1200'	2½" hose

Consider that hose is guaranteed for 10 years, those older than 10 years should be considered in terms of eventual replacement, especially 1½" hose. If you scan these figures closely, you will see that we are critically short of hose.

Reference to the minutes of the January 16, 1975 meeting of the Board of Engineers and the Fire Study Committee: "The subject of hose came up. In previous years the Department used to buy some hose every year, which they have not been doing." Much discussion follows along the same lines. "The discussion continued on hose life expectancy and the desperate need of new hose."

Page 2 of the Recommendations for Improvement of Fire Protection in Provincetown, Mass., February, 1975, prepared by the Insurance Services Office: "A program should be established to replace hose each year so that: No 2½ inch or larger hose will be over 10 years old, no 1½ inch hose will be over 5 years old. Does this speak for itself?"

A pumper must have a complete change of hose available so that should the hose bed be emptied, it can be refilled with dry hose in order to allow the wet hose to dry to prevent deterioration.

Only this year, considering the pressure of the Insurance Service's Report, the questioning of the Fire Study Committee and the endless need for hose for each pumper exemplified by the Board of Engineer's special meeting of February 21, 1974, where a drawn up list of hose needs was established with no action taken to purchase any, was any effort made to purchase some new hose. And with what? .... Money left over in the budget. A total of 1050' of 2½" hose was purchased, which is not enough to provide one pumper with a change of 2½" hose. For this small amount of hose it cost \$2,000.00. The old Board of Engineers budgeted \$11,000.00 for the coming year for hose, nozzles and all other equipment. Whatever amount can be set aside for hose this year will be, and it is very clear we won't be able to bring our hose needs up to par this year on this budget. What's left of \$11,000.00 after all other equipment needed from a day to day basis will only be a bare beginning of meeting our hose needs.

(The new Board of Engineers has a committee conducting a complete survey of our hose situation, our requirements, our replacement needs, where we stand now to date. To also include replacement needs for all our equipment. To make a report which is to include recommendation of future purchases.)

The old Board of Engineers negelected a multitude of situations which required their attention. I. All air tanks used in the Fire Department self-contained breathing apparatus must be hydrostatically tested every five years. Clearly this needs to be done for the safety of our fire fighters. This was never done in any sort of regular program by the old Board. Many tanks in the Department are long overdue for this testing.

(The present Board of Engineers is correcting this, and a program is now set up for regular yearly checks on the tanks.)

II. Our base station radio equipment is 18 years old. All our emergency communications depend on this aging transmitter. The Radio Officer's report in the Town of Provincetown Annual Reports, 1974, by the Fire Department on page 17 is very clear on the matter. "Our base station transceiver presented us with many maintenance problems and therefore demanded much attention this year. Since this unit's age exceeds ten years and since it operates on a 100 per cent duty cycle, I expect increased future failures in this unit." This report, or any reference to this problem, never appeared in the Engineer's minutes. Nothing was ever done about replacing this base station transceiver or even discussed.

(The present Board is planning for a new base station transceiver as soon as possible.)

III. In the event that the dispatcher sets off the home instaalert receivers and something is malfunctioning, which does not set the home receivers off, the dispatcher doesn't know that none of the Fire Department has been alerted to the fire.

(The new Board has provided a system to alert the dispatcher of any failure.)

IV. The whole system of alerting the Fire Department to a fire or rescue alarm depends on a tone encoder. We have depended on the operation of one solitary encoder for years and years. When the emergency transmitter was installed at Johnson Street a second tone encoder was purchased for the Department, still leaving us without a spare.

(The new Board promptly purchased a standby encoder.)

V. The economics of purchasing a new fire engine for the Department requires the best fiscal approach from the point of view of the taxpayer. The old Board decided to put an annual article in the Warrant requesting \$15,000 a year toward the future purchase of a new pumper. I question if this is the best fiscal approach to such a purchase and whether or not it is defeated by inflation. Would it not be better to purchase the pumper when needed, borrowing the money at the present ~~rate of inflation is not in the best interests of the taxpayers.~~ \*

Reference again should be made to the minutes of the meetings of the Board of Fire Engineers and the Fire Study Committee: "Elmer Silva wants to know the needs of equipment in the near future. The Chief replied that we need a new truck now, in fact we need two new trucks. He said that \$15,000 a year had already been allocated for three years. Carreiro questioned if this \$45,000 would be enough to purchase a new truck. The Chief said that we would have to start meeting with dealers now and he said that he had already figured at least \$6,000 more with inflation." Further reference may be found in the minutes of the Special Meeting of the Board of Engineers of February 21, 1974.

(The new Board is working as a whole to have a complete survey completed of what we should do come this Spring Town Meeting, in the best interests of the Town financially and equipment-wise for the Department and the Town, taking into account the need for two new trucks and the \$30,000 already raised by Town Meetings toward this end.)

Other areas which I feel the Old Board paid small attention to, but which I will not elaborate on, include: Public Relations, the needs of the Underwater Diving Team, the needs of the Forestry Squad, dissemination of training school information and other such information to the firemen in the Department, and in addition, providing by example knowledgeability and leadership to the firemen.

The new Board has corrected these areas which have been given small attention in the past.

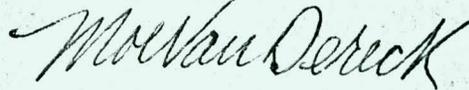
The old Board of Engineers in the midst of all these pressing equipment needs in July of 1973, chose to spend \$830.45 on dress uniform suits for all seven engineers. \$830.45 will purchase many important pieces of equipment in a department hungry for updated equipment. (J. B. Simons, Inc. invoice attached.)

A Fire Department must plan for the worst possible disaster and make plans accordingly. It must train its men; it must keep its equipment updated and in good working order. It must provide for the safety of the firemen through good leadership. It must provide protection for the Town by good

\* INTEREST RATE IF NECESSARY SO THAT THE PRICE AND/OR INTEREST RATES ARE SET, TO SET ASIDE \$15,000 ANNUALLY AND HAVE IT ERRODE AT THE PRESENT RATE OF INFLATION IS NOT IN THE BEST INTERESTS OF THE TAXPAYERS

fire prevention procedures. Good judgment is by far the most important single contribution a good Board of Fire Engineers can provide. And I submit that the new Board of Fire Engineers is providing the citizens of Provincetown with good judgment.

Respectfully submitted,



Moe Van Dereck  
Fire Chief

MVD:cpm

# Cape-tip panel says petitions have 'no legal significance'

*Cape Times 8/12/75*

By NEIL G. NICKERSON

PROVINCETOWN — Provincetown selectmen Monday night took no action on the recall petitions filed by SCRAM with the town clerk last week because in the opinion of counsel, the petitions had no legal significance.

The four-member board signed the notice presented to them by town counsel Edward Veara indicating they would take no action on the petitions because the original recall affidavit, which under the charter starts the recall proceedings, "did not constitute an affidavit within the meaning. . ." of the charter.

The action took place following a report by Veara on the steps to be taken and in answer to some of the reported charges.

He said the only way the matter should be handled is within state law and the town charter and advised the board not to make any comment at this time. "At the proper time this will be done," he said.

The original affidavit "wasn't specific," he said of the SCRAM charges, "and there are lots of charges being circulated that were not in the affidavit." The original recall affidavit didn't meet the requirements of the charter, he said, because all the issued and alleged charges were not included.

Veara said that on receipt of the July 18 decision that on advice of counsel the selectmen didn't accept the affidavit, another "could have been written," and all charges could have been listed "and put all the cards on the table."

Monday night was the final date to make a decision. Based on prior research, Veara advised the selectmen to sign the statement and notify Herman DeSilva, head of SCRAM — "Serious Citizens Revolting Against Mis-Management" — of the action taken.

A meeting of SCRAM is scheduled for 7:30 p.m. today at the Chamber of Commerce building. Previously, SCRAM had indicated if the recall petitions — which contain 753 names, considerably more than the 624 required — were not accepted, there would be court action.

DeSilva was present at the meeting and was asked for comment outside the meeting room. He said that because it is a "legal question," he reserved the right for any comment to be made in a proper forum.

Text of the statement the four-member board voted unanimously to sign (they did so immediately), addressed to DeSilva, follows:

"We are in receipt of the petitions circulated by your committee relative to a re-

quest for a recall election pursuant to section 5 of Chapter 7 of the Charter of the Town of Provincetown. Since these petitions were issued to your committee in error and since your committee was so notified by letter on July 18, 1975, a copy of which letter is attached, we must remind you that in the opinion of our counsel said petitions are of no legal significance since the document purporting to be an affidavit filed pursuant to said Section 5 of Chapter 7 of the Town Charter did not constitute an affidavit within the meaning of Section 5, subsection 7-5-1 of Chapter 7. We therefore will take no action relative to said petitions.

"In order that we might fulfill our duties as executive officers of the town, we must insist upon compliance with the prerequisites required by the charter which prerequisites in this case were not met. As soon as an affidavit containing '... a complete enumeration of specific grounds for recall,' as required by the charter is filed, the process for instituting a recall election will commence as prescribed in said charter."

The motion that passed unanimously to sign the statement also carried with it that it should be sent to DeSilva by registered mail.

# SCRAM to take legal action against Cape-tip selectmen

By NEIL G. NICKERSON

PROVINCETOWN — Legal action will be instituted against Provincetown selectmen because of their failure to take action on recall petitions signed by some 753 town residents, SCRAM membership voted unanimously Tuesday night.

Attorney John C. Snow, representing SCRAM, was authorized to take the action.

He said he plans to file a complaint in Barnstable County Superior Court as soon as possible, "to require selectmen to fulfill their duties under the charter with respect to recall provisions."

The recall petitions had been filed with Town Clerk Paul Cook last week and custody was accepted by the selectmen, pending their Monday night meeting.

On advice of town counsel Edward Veara, each of the four selectmen signed a letter Monday night to Berman DeSilva, president of SCRAM, saying that because the original recall affidavit didn't constitute an affidavit within the meaning of the charter, the recall petitions were of no

legal significance.

SCRAM means Serious Citizens Revolting against Mis-Management, and Snow said at the SCRAM meeting it was SCRAM vs. "STALL," explaining that STALL meant Selectmen Testing All Legal Loopholes. He said that in his opinion, the selectmen, by their action Monday night, were stalling and that it now "is up to SCRAM to take action."

Chairman DeSilva at the outset of the meeting read the selectmen's letter stating they would take no action on the recall petitions. This set off considerable discussion among the members, with Snow saying that a sad era had been reached in town when officials receive such petitions and take no action.

He said if the selectmen followed through with the recall petitions, and, if they didn't want to resign, called the recall election, it would be a vote of confidence if they were re-elected. He said he emphatically disagrees with the opinion of town counsel and would recommend suit to require the selectmen to per-

form their duties under the charter.

The attorney also said he was disturbed by "threats" having been made to members of town committees who might be members of SCRAM and said that there is nothing to stop a further recall affidavit getting under way.

He said he felt there was a good chance of winning legal action. DeSilva said it was better to use "ballots and not bullets."

Others speaking during the discussion included Marion Taves, former selectman who resigned, who said he felt legal counsel had no right to remove the recall affidavit from town hall and that his proper procedure was to advise. The original affidavit, signed by 25 voters, did not constitute an affidavit within the meaning of the charter, the town counsel had advised last July 18. The affidavit was then returned to the SCRAM chairman.

SCRAM will hold its next meeting Monday night, as the usual meeting night is the night of the special town meeting, Aug. 19.

August 19, 1975

Mr. William McNulty  
Co-Chairman, SCRAM  
586 Commercial Street  
Provincetown, Massachusetts

Dear Mr. McNulty:

Concerning your recent "Letter to the Editor", I, as a member of the Board of Selectmen, feel that a response is not only necessary, but also imperative. I have been a member of this community all of my life, spanning some seventy years. Never before have I witnessed such a concerted attack against the Board in which I serve, without the participants taking the time to read and learn all of the issues involved before they embark on such a drastic action. But then again, maybe the facts of this matter are of no concern to you or others, but rather the spreading of totally irresponsible statements. This in my way of thinking is a completely wrong approach.

Concerning your comments "to get a Board of Selectmen which is responsible to the needs and desires of the people" connotes that this Board, which I proudly serve, in your opinion has not met this requirement. This Board has repeatedly been very responsible to all of the needs of all the people, but let me state unequivocally that to small well organized individual pressure groups we have not responded, and the quicker all of the Town's people recognize these organizations for what they are, individuals seeking self-interest, the quicker we can all get back to the needs of our Town.

Mr. McNulty

-2-

8/19/75

Concerning your comments about a Town Manager who can be counted on to work with municipal employees, I would add that being a former employer of between twenty and thirty men, I found that not all of them were perfect, and that is true of any Town government or business.

William A. White  
Selectman



OFFICE OF  
**FIRE DEPARTMENT**  
PROVINCETOWN, MASS.

*neg-25-75*

*File*

AUGUST 20, 1975

TO RUSSELL J. PERRY, JAMES F. MEADS, JOSEPH ANDREWS, JOHN ALEXANDER,  
JOSEPH TRAVATO AND FRANKLIN OLIVER:

GENTLEMEN,

IN REGARD THE REPORT SUBMITTED TO THE TOWN MANAGER BY THE BOARD OF ENGINEERS ON AUGUST 11, 1975, IN RESPONSE TO A REQUEST BY THE TOWN MANAGER OF JULY 21, 1975, TO ELABORATE IN SOME DETAIL ON THE CONDITIONS UNDER WHICH WE HAVE FOUND THE DEPARTMENT FROM THE ADMINISTRATIVE POINT OF VIEW, IT WAS INTENDED TO SERVE ONLY AS A STATEMENT OF CONDITIONS AS WE FOUND THEM AND A SUBSEQUENT INDICATION OF OUR INTENTIONS FOR THE COMING YEAR.

HOWEVER, WE FEEL THAT THE METHOD OF PRESENTATION WAS OUT OF CONTEXT AND WE APPOLOGIZE FOR THIS.

BOARD OF FIRE ENGINEERS:

- COPIES TO:
- TOWN MANAGER
- SELECTMEN
- FINANCE COMMITTEE
- FIRE STUDY COMMITTEE
- NEWS MEDIA

*Mo'Va Direct chief*  
*Frank J. Canario*  
*Wayne Perry, District 3*  
*Frederick W. Shaug, Dist #1*  
*Frank S. Henriquez Dist #2*  
*Kenneth W. Atkins Dist #4*  
*Adam J. Wolf Dist #5*

Reads Chief's Critique**Benson Bares Fire Fault Report**

By Peter Warren

Provincetown officials began a defense of their administration Monday night by presenting a specific and detailed report on the deficiencies of the fire department under the former board of engineers.

The report, prepared by Moe Van Dereck, fire chief, was read by Town Manager Gardner Benson at a meeting of the selectmen, engineers and finance committee. Save a brief introduction by Selectmen Chairman Warren Alexander, all 75 minutes of the meeting were taken by Benson's reading and commenting on the report.

The selectmen, who face a recall (see story this page), and Benson have drawn serious criticism since May, when Benson failed to reappoint two longtime engineers, one of them the then fire chief. Van Dereck's report formed the first explanation of apparent deficiencies in the fire department that precipitated Benson's decision to put new blood on the board of engineers.

Included among specific criticism of the previous board in Van Dereck's report were:

- failure to help the new engineers during the transition period;
- failure to provide "any kind of consistent training";
- "a multitude of administrative errors";
- failure to replace outdated hose;
- neglecting "a multitude of situations which required their attention."

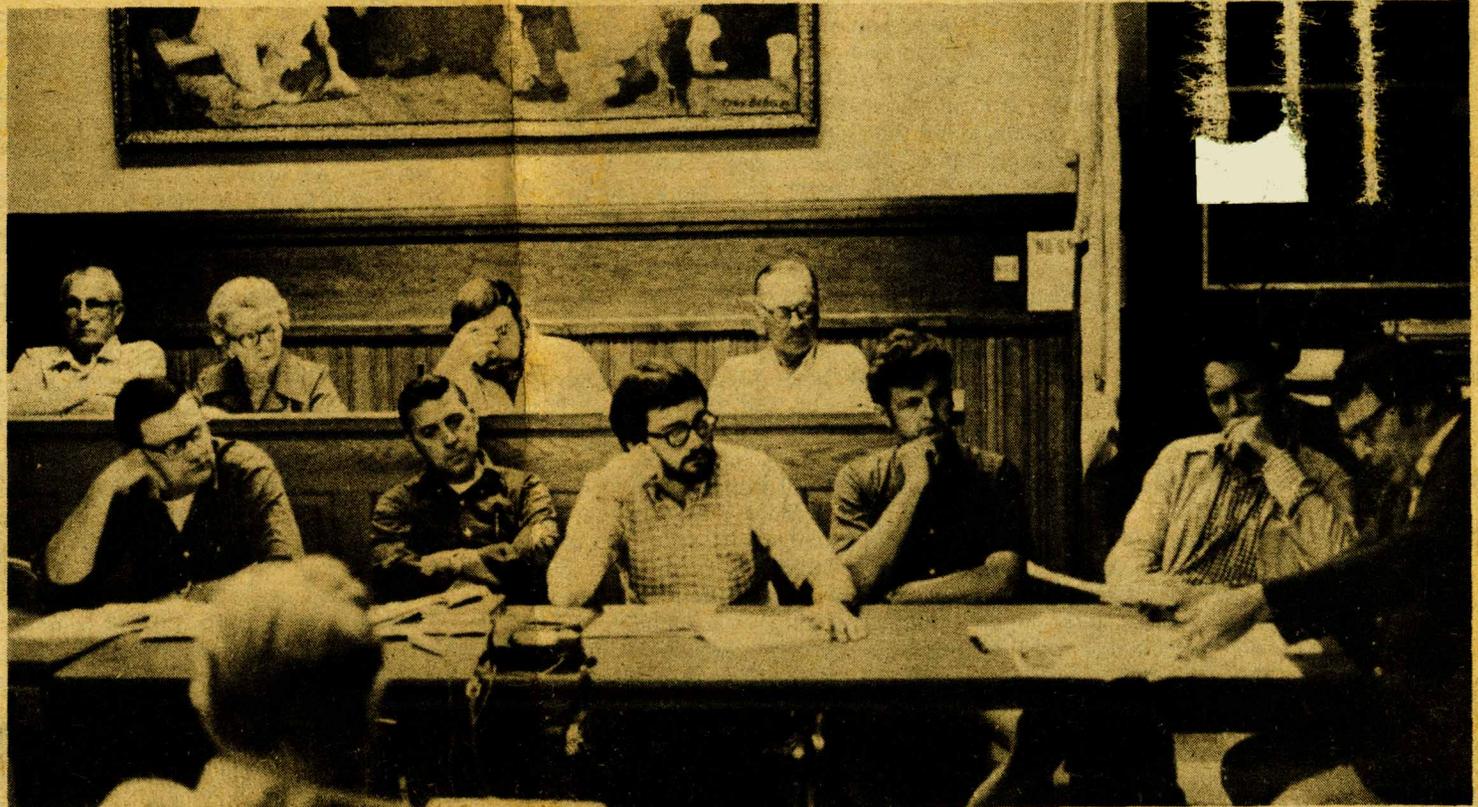
Van Dereck's report characterized the previous board as "operating incorrectly, illegally or as it turned out in many cases, not operating at all."

Prior to reading the report and commenting, Benson read a letter signed by the six current engineers endorsing the report.

While none of the SCRAM members (Serious Citizens Revolting Against Mis-management, who have lead the recall) commented at the meeting, they did at a meeting of their own immediately afterwards.

The report was attacked roundly. Members called it a "kangaroo hearing" and a "grave disservice" to the community. Four of the former engineers, who were criticized in the report, called it full of errors and said they would make a detailed statement responding to the charges sometime next week.

(Continued to Page 11)



Selectmen William White (top, l-r), Bernese Shears, Warren Alexander, Charles Mayo, and (bottom, l-r), Engineers Kenneth Atkins, Frank Henrique, Wayne Perry, Adam Wolfe and Fire Chief Moe Van Dereck listen to Town Manager Gardner Benson.

**SCRAM Suit In Hearing Monday**

The citizens group seeking the Provincetown selectmen's recall will get a Suffolk Superior Court hearing Monday on a preliminary injunction ordering a recall election.

At the hearing, scheduled in Boston because the Barnstable Superior Court is not in session, the selectmen will be asked to explain what reasons "they have for failing to order a recall election."

The hearing was set by Barnstable Superior Court officials Tuesday, the day John Snow, attorney for SCRAM (Serious Citizens Revolting Against Mis-Management), filed the group's suit. It seeks to force the selectmen to undertake their responsibilities under the town Charter, according to the brief.

SCRAM has filed a 753-signature recall petition and an affidavit with four charges against the selectmen. Despite the necessary signatures, the selectmen

refused to order a recall election saying the affidavit's four charges failed the Charter's requirement for "a complete enumeration of specific grounds for recall."

The four charges in the affidavit involve Town Manager Gardner Benson's May decision not to reappoint two longstanding fire engineers, one of them the fire chief.

The charges cite the selectmen for failing to hold a hearing on the appointments despite a petition, failing to exercise the executive powers of the town in the public interest, failing to make and declare policy for the department of public safety, and failing to require all appointments be made by merit as demonstrated by competitive exam or other evidence.

According to an official in the clerk's office at Barnstable Superior Court, the Monday hearing could result in a temporary injunction ordering the election

within the next month, a dismissal of the suit, or referral of the case for further hearing.

Snow, interviewed yesterday, said if no ruling were issued Monday he would ask that it be considered on the advance case list. He said that could mean it would be heard within a few days.

**Lawyers Predict Victory**

Both Town Counsel Edward Veara, who advised the selectmen to demand specificity in the affidavit, and Snow predicted victory for their respective sides.

The case is officially titled *Joseph Andrews et. al. v. Warren G. Alexander et. al.*, individually and as members of the Provincetown selectmen. Andrews was one of the three engineers that resigned from the board to protest the town manager's decision not to reappoint Russell Perry, fire chief, to the engineers.

# Fire Report

(Continued from Page 1)

SCRAM itself voted to place an advertisement in the Advocate (page 4) containing the numerous laudatory letters written about the fire department in May when Russell Perry, former fire chief, was not reappointed to the board by Benson.

Marion Taves, former selectman, called the Benson reading of the report the "greatest puppet show I ever saw. He read and the selectmen, engineers and chief turned pages and nodded their heads."

During the presentation Benson asked the engineers to submit a report in early September on the hose needs of the department so he could get a funding request into the October Town Meeting warrant. He also asked a complete plan by November 15 for correcting departmental deficiencies so he could include it in plans for the next fiscal year.

Benson's reading began by giving the qualifications of the current engineers: Van Dereck, six years a fireman with service on the rescue and forestry squads; Frank Carreiro, 30 years a fireman with service in every capacity from a fireman to deputy chief; Wayne Perry, six years a fireman; Kenneth Atkins, 16 years a fireman with service on the rescue squad and as a house captain for four years; Fred Shaw, four years a fireman with two years as captain of the forestry squad; Frank Henrique, 20 years a fireman with three years service as radio officer; Adam Wolf, ten years a fireman.

Van Dereck's report, which Benson requested July 21 after a permanent chief was elected by the new engineers, criticized the former engineers, saying they offered "not the slightest sort of transition." As a result Van Dereck said he was "operating in a vacuum" as he attempted to find the "shape" of the department.

Benson, in reading the report, digressed at various points. He read from minutes of several of the old engineers' meetings (between August 1974 and March 1975) in which Perry reportedly said he was thinking of resigning because of strain on his home and business. According to the minutes as read, Perry said he would not "leave the fire department in an awkward position."

Discussing the lack of training, Van Dereck wrote: "the old board never provided any kind of consistent training." He described the current situation as "a disaster area where we have far too many men who do not have any idea of the basics."

## Drilling Deficient

The report says drilling was deficient for years and adds the new board has created monthly drills to rectify the training deficiencies.

## Describing the administrative errors,

Van Dereck lists as most serious an incorrect fire inspection procedure that had the department's inspector using a dual form for building and fire inspections. As a result the fire inspector made recommendations outside his jurisdiction.

According to Van Dereck, the procedure made the town liable for reimbursement for whatever recommendations were made. He said 38 commercial establishments were incorrectly inspected; all were apologized to in a June 3 letter and the inspection procedure was corrected.

The hose situation is described in detail in the report and relies on a February, 1975, insurance rating report on the department for a determination that all two-and-one-half-inch hose should be replaced at least every ten years and all one-and-one-half-inch every five.

According to Van Dereck's report the old board "never instituted" any sort of program updating the hose requirements. Later, the report says, a list of hose needs was made, subsequent to receipt of the insurance rating report, but an insufficient purchase—not enough to provide one pumper with a change of two-and-one-half-inch hose"—was made.

## Listed Neglects

Van Dereck's list of a "multitude" of neglected problems includes: failure to have a regular testing program for air tanks, failure to seek replacement of the 18-year-old base transmitter, no provision for the dispatcher to perceive a malfunction in the alarm system that notifies fire personnel of fires, no backup for the tone encoder used to alert personnel of fires, poor procedures for providing funds for fire truck purchases, and not enough attention to public relations, the needs of the diving team, the needs of the forestry squad, and disseminating training information.

According to Van Dereck, the new board has taken steps to rectify the shortcomings in all these areas.

Benson, in an interview Tuesday, said he had a pretty good idea of the fire department's problems when he decided to get "some new blood" on the engineers in May. He said he did not feel Perry was "solely responsible" for the problems, but that it should "be spread through the whole group [engineers]."

In his original appointments, Benson named Van Dereck, Henrique, Stuart Land, Ronald White, (new engineers) to join reappointees James Meads, Joseph Andrews and John Alexander. The three reappointees refused their appointments (as did White and Land) and became prominent in the group that later melded into SCRAM.

Benson denied that the chief's report was related to SCRAM which drew up its affidavit four days before the report was ordered. He said he had the right to ask any public safety department head for a report.

# New chief cites 'deficiencies' in Provincetown Fire Dept.

PROVINCETOWN — A lengthy report on the existing condition of the Provincetown Fire Department, and a listing of many so-called deficiencies, was presented the board of selectmen at a work session Monday night in town hall by Fire Chief Moe VanDereck.

The report was made by Chief VanDereck, but read by Town Manager Gardner R. Benson, who had requested such a report from the chief in a letter dated July 21. A high spot was the lack of transition between the old and new chiefs and members of the Board of Fire Engineers.

The manager, as commissioner of public safety, interspersed his comments on various parts of the report as read, and indicated much of

the reasons for various reports rested on the previous fire engineers and chief. There was an investigation by an insurance underwriter but, though the work had been done early this year, the report came to Benson's desk less than two weeks ago. Many of these short-comings were listed in this report, he indicated.

The work session got under way shortly before 8 p.m., and Chairman of Selectmen Warren Alexander said the meeting had been called for selectmen, fire engineers, the manager and finance committee, and as it was not an open meeting, there would be no comment from the floor.

However, there were many members of SCRAM — Serious Citizens Revolting

Against Mis-Management — in the audience. After the report had been read, and the meeting virtually over, they left to convene at the Chamber of Commerce building and proceeded to discuss what action could be taken to refute what they said were untruths.

In Chief VanDereck's report, he said that upon his appointment as chief, just a couple of months ago, he discovered "a multitude of administrative errors". He said that the new fire inspector was incorrectly assigned in his duties "by the old board." With the fire inspector and building inspector making inspections together, he said the fire inspector was "making recommendations which were outside his jurisdiction; which in fact fell under the

jurisdiction of the building inspector."

Some 38 establishments were inspected incorrectly, Town Manager Benson said, and apologies had to be written. Other deficiencies included a critical shortage of hose, and a report of what hose is needed is due in the town manager's office by Sept. 6. By Nov. 1 there must be a complete plan for rectifying deficiencies in the base station, and a quarterly report on activities is to go to the town manager.

Chief VanDereck's report said other areas in which the old board paid small attention to were public relations, needs of the underwater diving team, needs of the forestry squad, dissemination of training school information

and other such information to the firemen in the departments. In addition, providing by example knowledge and leadership of the firemen.

"The old board of engineers, in the midst of all these pressing equipment needs in July of 1973, chose to spend \$803.45 on dress uniform suits for all seven engineers," the report states. This amount "will purchase many important pieces of equipment in a department hungry for updated equipment" the report stated.

At the start of the session there was read a signed statement by the Board of Fire Engineers, Frederick D. Shaw Jr., Frank Henrique, Adam Wolf, Frank J. Carreiro, Kenneth Atkins and Wayne Perry that they had read and

endorsed the report prepared for the town manager, director of public safety, on his request to the chief. However, it was later learned by SCRAM members that some of them had admitted signing without reading the seven-page single spaced report in its entirety.

Selectmen indicated they thought it was an excellent report, and well done, as it went into depth. Chairman Alexander said he felt more secure that things had come to light and something was being done about them.

Shortly thereafter, the SCRAM membership began their discussion of the report at their session. Former Chairman of Selectmen Marion Taves, who resigned from the board, said the "work session" as "the best puppet show there was."

The SCRAM membership felt that there should be something done to refute the many false charges, and a motion was set up for "equal time" before the selectmen by SCRAM to refute the charges and let the public know. However, former Fire Chief Russell Perry said he felt that would be "exactly what the selectmen want," and didn't want to see fighting back and forth.

James F. Meads said he felt if nothing was said, people would believe the charges if no answers were given. This particular motion was withdrawn, and it was decided that the eight letters from other Cape fire chiefs, lauding the former chief and the department as one of the best, should be publicized.

Members were adamant

that something must be done to rectify what had been said in the report, that not to tell the side of the former board members, many of whom were at the SCRAM meeting, including Joseph Andrews, Meads, John Alexander, and the former fire chief Perry, who was not reappointed.

SCRAM will sponsor the publication of the letters from the other Cape chiefs, and two other letters. The former engineers' plan to meet with the SCRAM publicity committee, to answer publically all alleged complaints and to make a statement refuting all charges of the present fire chief.

Former Chief Perry said "we've got to make answers, but not at a selectmen's meeting. That's not the place to do it."

# 10 file against Cape-tip selectmen

By NEIL G. NICKERSON

PROVINCETOWN — A complaint against the Provincetown selectmen, for reasons including their failure to accept recall petitions and ordering a recall election, was filed with the Barnstable Superior Court clerk Tuesday,

according to Atty. John C. Snow, who represents the 10 plaintiffs.

In addition, he said a hearing on a request for an injunction ordering a recall election will be held at 10 a.m. Monday, in Suffolk Superior Court, in the old courthouse at Pemberton Square, Boston.

The legal papers have been placed in the hands of a deputy sheriff for service on the defendants as soon as possible, he added.

Plaintiffs listed in the complaint include Joseph Andrews, Mary Jo Avellar, Josephine G. Cook, Wilbur M. Cook, Robert J. Martin, William A. McNulty, Russell J. Perry, Marion Taves, Nicholas Wells and Heaton Vorse. Defendants are the present four members of the board of selectmen: Warren G. Alexander, Charles A. Mayo Jr., Bernese D. Shears and William A. White.

Grievances listed against the selectmen begin with the non-reappointment of members of the board of fire engineers and specifically include the alleged failure of the selectmen to call a hearing on the matter, despite petitions with more than 400 signatures requesting it.

Other grievances include the rejection by selectmen of the recall petitions, signed by 753 voters. The complaint specifically states that at a meeting of selectmen Aug. 11, the board "arbitrarily, capriciously and without legal right, decided to reject said petitions and to take no action thereon. . . ."

Another grievance is the meeting of selectmen about July 18, "in clandestine manner at the town hall of Provincetown, without posted advance notice to the public as required by law, and discussed the aforesaid affidavit and petitions. . . ." The original recall affidavit "was removed by them or their agents acting on their behalf. . ." and "wrongfully removed the original affidavit

from the files of the town clerk. . . ."

In the complaint the plaintiffs, whose signatures on the complaint were notarized by Atty. Snow, "demand that short order of notice issue commanding said defendants to show what cause, if any, they have for failing to order a recall election . . . and to otherwise perform their duties required of them by the Town of Provincetown Charter."

The complaint also demands that following the hearing, a mandatory injunction be issued ordering the selectmen to call a recall election "to be held on a date fixed by them not less than 25 days nor more than 35 days after the date of the town clerk's certificate, and to otherwise perform their duties required of them by the Town of Provincetown Charter."

The original paper in the recall program was an affidavit which was signed by 26 voters and their names were notarized. This was rejected as not meeting legal requirements.

However, recall petitions circulated had many more than the 20 per cent of the voting list required. The required number was 624 and 753 signed. This also was rejected and the next step was action in courts.

The complaint also states that after the Aug. 11 meeting, in which the selectmen decided to reject the petitions, a letter addressed to Herman DeSilva, one of the signers of the original affidavit, stating that "we therefore will take no action relative to said petitions," was delivered to DeSilva by a Provincetown police officer at 11:45 p.m. that date.

The complaint also says the defendants, as members of the board of selectmen, "have acted and are acting arbitrarily, capriciously and without legal right in failing to fulfill their obligations with respect to a recall election," as provided by the charter, and unless ordered otherwise by the court, continue to reject or cause to be rejected the affidavit and recall petitions, "and otherwise deny a substantial number of registered voters of the Town of Provincetown their right to a recall election."

## Provincetown sets date for board vacancy vote

*Cape Times 8/22/75*

PROVINCETOWN — Provincetown will hold a special election Sept. 9 in town hall to elect a member of the board of selectmen to fill the vacancy caused by the resignation of Marion Taves, whose term had until next April to run.

Listed on the ballot posted in town hall are the names of Paul A. Christo of 80 Bradford St., and John R. Henrique of 42 Pearl St.

Provincetown now has a list of 3,157 registered voters, Town Clerk Paul Cook said. Polls are expected to be open from 11 a.m. to 7 p.m.

Dear Voter,

I am Mary-Jo Avellar, a candidate for selectman.

When I signed the recall affidavit more than a year ago, it was with the firm conviction that our town government, particularly the selectmen, was not functioning as the charter and the by-laws had provided. It was my belief then, as it is now, that the selectmen lost sight of their responsibility to act as the executive officers of the town, that they were hasty in their decision-making, unresponsive to the people and erratic in reacting to the letter and the spirit of the charter.

As a diligent worker for recall, my only concern has been to see that the government of the town act in a responsible and responsive manner. With the announcement of the selectmen's intention to honor the recall petitions, SCRAM and other interested citizens asked me to run for selectman.

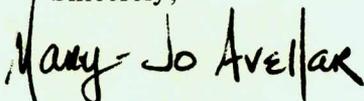
My roots in Provincetown are deep. My parents are Justin and Mary Avellar. My sister Susan is a teacher at Provincetown High School. I am a graduate of Provincetown High School and the University of Massachusetts. After graduating from college, I lived and worked in Hawaii and California. I returned to Provincetown almost four years ago because I never found a place I loved as much.

Since returning, I have taken an active interest in the community. As chairman of the By-Law Revision Committee, I have first-hand knowledge of the town's laws. My employment at The Inn at the Mews and with City Spirit (a Bicentennial community program of the National Endowment for the Arts whose goal is to bring people together through arts and crafts) brings me into daily contact with various segments of the town.

I believe I represent the feelings and beliefs of a broad spectrum of the people of Provincetown. I will work with the same diligence and dedication for the good of the town as I did to effect the recall election. It is important to the future of Provincetown that the charter and the by-laws are strictly adhered to and that the spirit of those laws is applied to all.

Please vote August 30. Every vote is important. If you need a ride to the polls, please call 487-9123.

Sincerely,

A handwritten signature in black ink that reads "Mary-Jo Avellar". The signature is written in a cursive, slightly slanted style.

Mary-Jo Avellar

TO THE CITIZENS OF PROVINCETOWN:

S.C.R.A.M. poses a serious threat to the Town of Provincetown. It has introduced the dirty politics of Joseph McCarthy and Richard Nixon into a town that has always deplored such tactics. S.C.R.A.M.'s leaders are exploiting the present situation for their own economic and political advantage, and it is time that people are made aware of it. Certain of the leaders are seeking--through a campaign of rumor, innuendo, hearsay and lies--to gain the political power that they could not win on the issues in an honest election last Spring. Others are seeking a return to the days when a telephone call to Town Hall resulted in a variance granted, an easement released, or a tax abatement issued. It seems that these individuals want the Board of Selectmen to cave in whenever they want a favor.

Let's look at some of these "Serious Citizens":

MARION TAVES: Ex-chairman of the Selectmen, who quit without notice, leaving behind him a mountain of unfinished and neglected business for which he was responsible, as chairman. It was Rocky Taves who impounded the letters which appeared in the S.C.R.A.M. ad in last week's ADVOCATE, under the false and malicious headline, "LETTERS TO THE BOARD OF SELECTMEN AND TOWN MANAGER SUPPRESSED BY THE PROVINCETOWN BOARD OF SELECTMEN."

RICHARD HENRIQUE: He couldn't make it on his own as a candidate for Selectman in the last election, and is trying again on the coattails of those who would destroy our Town. As a member of the Finance Committee, he displayed such a lack of understanding of the budgetary process at the Spring Town Meeting, that he should blush when criticizing other town officials.

NICHOLAS WELLS: A local land developer, who has complained loudly and often because the Town has not immediately acceded to his demand for compensation for what he claims to be encroachment by the Town on property he claims to own.

ROBERT MARTIN: He is upset that the Selectmen refused to become involved in a property dispute he is having with his in-laws.

RUSSELL PERRY: Former fire chief and engineer. He was ~~not~~ not reappointed because, among other reasons, he complained constantly that the Chief's job interfered with his business and private life. However, the main reason for not reappointing this man was his method of operating the Fire Department.

JOSEPH ANDREWS, JOHN ALEXANDER AND JAMES F. MEADS: These are the former engineers who refused reappointment because the sanctity of their "private club" (into which the Board of Engineers had degenerated) had been disturbed.

JOHN BELL: A former selectman, who sought re-election and was defeated. His tenure as temporary Town Manager several years ago illustrated, in our opinio, the true meaning of mismanagement.

JOHN SNOW: S.C.R.A.M.'s spokesman. His judgment in matters of management led him to accept the local chairmanship of "Democrats <sup>are</sup> for Nixon" in the last Presidential election. And there ~~is~~ now serious questions as to whether he is violating the conduct of public employees conflict of interest statute and abusing his position as Town Moderator, by acting as attorney against the Town Government.

These are our accusers. Examine their accusations.

We are politicians because we were elected through the political process. We are not ashamed to call ourselves

politicians. It is our opinion that S.C.R.A.M.'s lies and dirty tactics have besmirched Provincetown's proud democratic tradition. We feel obliged to respond frankly and define the real political issues as we see them.

We have the assurance of our able Town Counsel that the Courts will help clarify the situation. But, as persons who hold Provincetown's highest political offices, we must be honest; we must consider the political situation facing us. Some 700 voters signed a petition seeking our recall. If and when an election is called, whether it results from this petition or from a subsequent petition, we will fight our opponents on the merits of the charges. We stand by our decisions. They have been made in the best interests of the citizens of the Town. We are confident the voters will recognize the real issues, see the falsity of the accusations, and not be "Snowed" under by S.C.R.A.M.

Provincetown Board of Selectmen

It has come to our attention that many concerned citizens in the Town are seeking direction from the Board of Selectmen relative to a clarification of our position concerning the attempts being made by a certain small segment of the community to initiate the recall process. It has further come to our attention that many citizens are concerned with our lack of comment and rebuttal to certain statements which the members of the SCRAM committee organization alleged to be the issues formulating the basis for a recall election. We have taken the position of non-comment upon the specific advice of Counsel because the alleged issues as framed by the SCRAM Committee members to date have been nothing more than rumors and innuendos directed towards the moral character, honesty, integrity, and professional competence of the Town Manager. We will not dignify these tactics and vicious personal attacks by publicly responding to the same. We further state that until such time that the accusations directed towards the Town Manager are voiced in an open manner we will consider them nothing more than the irresponsible acts and statements of individuals who lack the courage to publicly voice their opinions. We further state that until such time that the public accusations involving the Town Manager have been brought to our attention, we ardently support him in his professional capacity and the competence and quality that he brings to the position. We would like to point out to the citizens that when those people seeking to recall the Board of Selectmen chose to publicly voice their position on an issue, for example, the present state of the Board of Fire Engineers, we have responded with documented evidence refuting the allegations as was most recently done at a work session at which we considered a statement of conditions and report on the department made by our present chief and Board of Engineers.

We again, re-emphasize our position that if these individuals seeking to remove this Board from office will comply with the Town Charter and specify the grounds and charges for which we are to be recalled, then we will at that time institute the recall procedure and campaign on the issues as specified.

File

29 Alden Street,  
Provincetown, Mass. 02657

AUG. 26, 1975

To the Board of Selectmen,  
Provincetown, Mass. 02657

Dear Mr. Alexander, Mr. White, Mrs. Shears and Mr. Mayo:

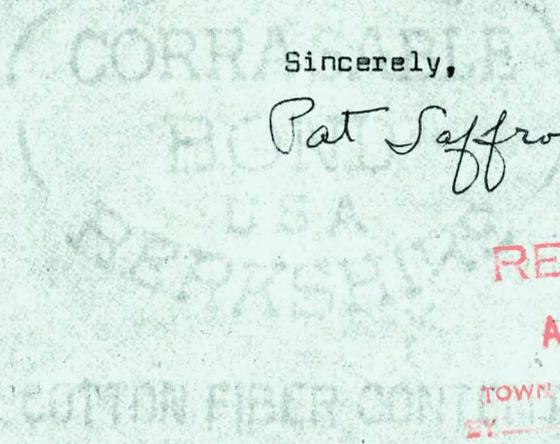
I realize you have been silent before, on advice of counsel. However, I want to write this to tell you I was appreciative of your comments made at the Selectmen's meeting last evening. A refreshing rain after drought. In my first letter to the Advocate, long since forgotten, I stated then that unlike Bert Perry I thought the present Board of Selectmen was one of the best this town ever had. I still think that.

I also want to let you know that I welcome your support of Mr. Benson with respect to the newsletter. As you know not too many of our citizens attend the Selectmen's meetings. Very few get to hear the Town Manager's report. Too much is taken for granted, and the press in this town does not do a thorough or even half-way coverage of the affairs of local government. Too often your work is not recognized. I think the newsletter is the only answer to this lack. I know from my own letters (ads - which had to go in as "political") to the Advocate, that people DO respond to constructive efforts, and there is interest in what is being done in this town for the town!

My real involvement in the political strife in this town began - not with the fire department - but with remarks Mr. Benson made at one of your meetings with respect to the investment of town funds. I am glad I became involved. I am convinced that because of this unwarranted attack on our government this town will be better for it. I can't help but think we will have a better fire department, a more informed citizenry, and even more respect for our local Government. I know I plan to keep working toward that end. I also appreciated your support - public - of Mr. Benson. All of us know by now of the unprecedented attacks, whispering, rumors, harassment that were directed against him, his wife and his children. I admire his staying power, and I admire you as a group of thoughtful citizens upholding our Charter and serving our town under the kind of pressures you have experienced in your positions.

Sincerely,

Pat Saffron



RECEIVED

AUG 28 1975

TOWN OF PROVINCETOWN  
BY

# Cape-tip tax rate cut \$1.90;

## bills likely to arrive this week

By NEIL G. NICKERSON

*Cape Times*  
8/24/75

PROVINCETOWN — Provincetown taxpayers got some welcome news Monday night when Town Manager Gardner R. Benson announced at the selectmen's meeting that the tax rate was dropped \$1.90, from a rate of \$38.90 to \$37 on each \$1,000 valuation.

The news was part of the town manager's report to the selectmen, and he said that he and Assessor John Roderick had been in Boston earlier in the day to talk with the tax department to make the rate, and said that the state department commended the town for the lower rate.

In speaking briefly on the action, Town Manager Benson said that the "administrative facts speak for themselves."

In times like these, he said, the executive authority of

the selectmen made such possible, and commended the personnel at Town Hall, Treasurer Paul Cook in particular, as well as the assessing department and the finance committee.

He credited the selectmen for allowing the actions that resulted in the lower tax rate, and said he felt sad that the community can't work as a team.

"I hope we can do this another year, but can't promise," he said, and continued with "and now the bad news — the tax bills are likely to be in the mail within a week." He said this was accomplished by controlled budget, aggressive investment program of town funds, an aggressive tax collecting policy and a good administration speaks for itself."

There was applause from the audience at the announced lower rate, and selectmen had favorable comments, with

Chairman Warren Alexander having the best, that the lowering of the tax rate "is the best job of mis-management I've ever seen."

Benson also spoke on possible state and federal funds aiding the town, being in a chronic unemployment area, and said work is going forward to take advantage of these funds, with EDA requesting funds for a new police station. The amount available is in the vicinity of \$400,000, he said.

The new structure, which would put many people to work during the off season, would be on town owned property, and the aid would be on an 80-20 basis percentage-wise, with the state and federal funds providing the most.

The town manager also went into detail about the recent problem with the water pumping in the newest of the well fields. It had been determined that the well fields must be

redeveloped.

He explained that voters had provided \$9,000 for such purposes at the April annual town meeting, and work was to start in September. However, it was found that it must start early.

It was determined that redeveloping the fields would increase the capacity, and once the newer site, now over 20 years old, the workers would move to the older one, at the south end of Beach Point — both fields are in Truro.

There wasn't time to advertise for bids. The firm did the job, at a cost of \$5,760. The town manager had asked selectmen for authority. The board voted unanimously in favor of approving the action he had taken because of the emergency.

(Continued on Page 2)

(Continued from Page 1)

Selectmen also approved a go-ahead program of public relations to put out a weekly news letter, mimeographed, relative to town activities, with these letters to be picked up at various spots, and not placed in the mail.

Several other matters came up before the selectmen, including Atty. Edward Veara's report of the hearing in Suffolk Superior Court earlier in the day, to which he and a member of his firm attended, representing the town, in an action brought by SCRAM, for an immediate call for a recall election, and this was denied.

Also denied was the motion for speedy completion, the attorney said, and when the court was asked to authorize advancing the requests for speedy hearing, it was brought out it probably would be heard in Barnstable in January.

The attorneys for the town also presented a motion to strike the appearance of Atty. John C. Snow as attorney for the plaintiffs, as it was felt he was in conflict of interest, because of his elective position in the town as moderator.

In other matters coming before the selectmen, the board unanimously turned down a proposal to allow shopsto remain open until midnight, whereas now they are allowed to remain open to 11 p.m. This brought discussions by may in opposition. The board also granted a seasonal liquor license to L'Otél Hibou restaurant by a 2-1 vote, with one abstention.

Mrs. Josephine DelDeo, in charge of the Ross Moffett

Retrospective exhibition, set to start Friday night at the Provincetown Art Association for a month's duration, requested of the board that this week be named as Ross Moffett Week in honor of the memory of the late famed artist. This was unanimously approved, and it was announced that Mrs. Dorothy Moffett, the late artist's widow, will present one of her late husband's paintings, "Shankpainter Road," to the town, at brief ceremonies Wednesday morning at Town Hall.

Selectmen also voted to hold a work session Sept. 4 at 8 p.m., to start preliminary discussions on adopting a liquor license policy for the town. This vote was also unanimous.

It also was brought out by Selectman William White that someone was deliberately sabotaging the drainage opening recently constructed at the bulkhead of the MacMillan Wharf parking area. Two stones in front of the opening.

This drainage project had been completed for some time, since February, and the town manager said that someone is continually trying to sabotage this system, one of the best, he said. He added that the police have been notified of these attempts and investigation is being done.

In the discussion of shops remaining open to midnight, there was a petition signed by 20 nearby residents to the area just east of the center of town who opposed; letters were read in opposition, that it would be a great disservice to residents, and the motion passed unanimously to let the hours remain at 11 p.m. closing.

# Cape-tip selectmen reply: SCRAM 'serious threat to town'

By NEIL G. NICKERSON

PROVINCETOWN — SCRAM (Serious Citizens Revolting against Mis-management) "poses a serious threat to the Town of Provincetown and has introduced the dirty politics of Joseph McCarthy and Richard Nixon into a town that has always deplored such tactics."

This was in the lead paragraph to a three-page statement issued Tuesday by the four-member board of selectmen "to the citizens of Provincetown."

It charges "certain of the leaders" as seeking — "through a campaign of rumor, innuendo, hearsay and lies" — to gain the political power that "they could not win on the issues in an honest election last spring."

SCRAM'S leaders "are exploiting the present situation for their own economic and political advantage and it is time that people are made aware of it," the statement continues.

The statement was released at a press conference at 4 p.m. Tuesday by chairman of selectman Warren Alexander, who was accompanied by Mrs. Bernese Shears, also a member of the board.

The statement itself bears the signature of the chairman, but both he and Mrs. Shears said the statement was agreed to them and by the other members, William White and Charles Mayo Jr.

Selectmen also charge others with "seeking a return to

the days when a telephone call to town hall resulted in a variance granted, and easement released or a tax abatement issued.

"It seems that these individuals want the board of selectmen to cave in whenever they want a favor," the statement continued.

Listed among the "Serious Citizens," who are taken to task in the statement are Marion Taves, former chairman of Selectmen, who resigned several months ago; Richard Henrique, who is presently one of two running for selectmen to fill the vacancy caused by the resignation; Robert Martin, Nicholas Wells, Russell Perry, Joseph Andrews, James F. Meads and John Alexander, the father of the chairman of selectmen; John Bell and Atty John C. Snow, listed as "SCRAM's spokesman."

Selectmen charge former selectman Taves as one who quit "without notice, leaving behind him a mountain of unfinished and neglected business for which he was responsible, as chairman," . . . and further charges he impounded the letters from Cape fire chiefs; Henrique "couldn't make it on his own as a candidate for selectmen in the last election and is trying again on the coattails of those who would destroy our town."

Wells is described as a "local land developer, who has complained . . . because the town has not immediately acceded to his demand for compensation for what he claims to be

encroachment by the town on property he claims to own."

Martin was described as upset that the selectmen refused to become involved in a property dispute he is having with his in-laws, and Perry, former fire chief and engineer, "was not re-appointed because, among other reasons, he complained constantly that the chief's job interfered with his business and private life.

"However, the main reason," the selectmen say, "was his method of operating the fire department."

Andrews, Alexander and Meads "are the former engineers who refused re-appointment because the sanctity of their 'private club' (into which the board of engineers had degenerated) had been disturbed."

Bell was a former selectman who sought re-election and was defeated, the statement continues.

Speaking about Atty Snow, the selectmen's statement indicates "there are now serious questions as to whether he is violating the conduct of public employes' conflict of interest statute and abusing his position as town moderator, by acting as attorney against the town government.

"We are politicians because we were elected through the political process," the selectmen maintain. "We are not ashamed to call ourselves politicians. It is our opinion that SCRAM's lies and dirty tactics have besmirched Provincetown's proud democratic tradition. We feel obliged to respond frankly and define the real political issues as we see them."

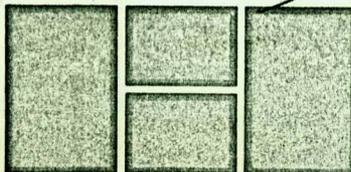
The selectmen, in conclusion, said they have been assured by town counsel that the courts will help clarify the situation.

"But," the statement concludes, "as persons who hold Provincetown's highest political offices, we must be honest; we must consider the political situation facing us.

"Some 700 voters signed a petition seeking our recall. If and when an election is called, whether it results from this petition or from a subsequent petition, we will fight our opponents on the merits of the charges. We stand by our decisions. They have been made in the best interests of the citizens of the town.

"We are confident the voters will recognize the real issues, see the falsity of the accusations, and not be 'Snowed' under by SCRAM."

# press release



HARGOOD ASSOCIATES, INC.

for release IMMEDIATE

PCC

for further information

HAROLD S. GOODSTEIN  
(617) 487-9133

Reports that the Provincetown Chamber of Commerce is supporting SCRAM have been denied by John Grace, President, today.

Grace explained that the matter was discussed at last Monday's Board of Directors meeting after it was pointed out that because SCRAM holds meetings in the Chamber's headquarters there is some impression that the group has the endorsement of the Chamber of Commerce.

"Nothing could be further from the truth," Grace said. "The directors have asked me to explain that as an organization of business people we are, of course, interested in anything that affects the community. Some individual members of the Chamber support SCRAM, some do not. We all agree that local issues should have a forum for free discussion. That's why we make space available for SCRAM meetings and why we sponsor an annual candidates' night before each election. In no case does this imply endorsement of a group, or of an individual running for office, by the Chamber."

"From time to time the Chamber may support a specific proposal or seek what we consider improvements in the business community and, consequently, to the Town as a whole. Politics are not our concern as a group, whatever individual members' opinions may be."

Grace added that the Chamber of Commerce directors agreed that any similar politically oriented organization might obtain the use of the Chamber building with the approval of the Board of Directors.

# # #

# Apology given ex fire board

*Cape Times 8/28/75*

PROVINCETOWN — An apology for the method of presenting the fire chief's report to the public, at an open meeting here recently, has been sent to the old members of the board of fire engineers.

The apology, sent to Russell J. Perry, James F. Meads, Joseph Andrews, John Alexander, Joseph Trovato and Franklin Oliver, is signed by Chief Moe VanDereck, and engineers Frank J. Correiro, Wayne Perry, Frederick W.

Shaw Jr., Frank S. Henrique, Kenneth W. Atkins and Adam J. Wolf.

The text of the apology follows:

"In regard the report submitted to the Town Manager by the Board of Engineers on Aug. 11, 1975, in response to a request by the town manager of July 21, 1975, to elaborate in some detail on the conditions under which we have found the department from the administrative point of view, it was intended to serve

only as a statement of conditions as we found them and a subsequent indication of our intentions for the coming year.

"However, we feel that the method of presentation was out of context and we apologize for this." The report was presented that night and was read by Town Manager Gardner R. Benson. There was no discussion following the presentation. Selectmen, the fire engineers and the public were present.

# Provincetown elects Henrique selectman

PROVINCETOWN — Provincetown now has a full five-member board of selectmen, with John R. Henrique winning out over Paul A. Christo by a 57-vote margin in Tuesday's special election.

Selectman Henrique — he was sworn in shortly after the vote was announced, with Town Clerk Paul Cook doing the honors — received 620 of the total of 1,192 votes cast, while Christo received 563 votes. There were eight blanks and one write-in vote. Forty of the total were absentee votes by mail.

The new selectman, a member of SCRAM who was backed by the SCRAM membership, serves until next April. He fills the vacancy

caused by the resignation of former Selectman Marion Taves who resigned several months ago.

Town Clerk Cook said the entire count, which represents only 37.8 per cent of the total voting list of 3,152, was easy to count, with just the two names listed, and took only 40 minutes to find out the results.

Henrique, who had been a member of the finance committee, submitted his resignation from that post immediately, handing the resignation to the town clerk. In a statement, the new selectman said he intends to represent the people, "all the people, and not one faction."

He said rumor has it that "a couple of present selectmen

will resign if I'm elected." He said he hoped they would "keep their word," and keep up with their convictions.



JOHN R. HENRIQUE

## *Tuesday nights selected*

# SCRAM to meet weekly

PROVINCETOWN — Membership of SCRAM, meeting Tuesday night in the Chamber of Commerce building, decided to meet weekly on Tuesday nights at the chamber building, except for those nights when the chamber has its own meetings, scheduled for next Tuesday.

During weeks the chamber has its meeting, the SCRAM meetings will be held the following night, and next meeting is slated for Sept. 17 at 7:30 p.m., with other meetings during the month on Tuesday nights each week.

SCRAM — Serious Citizens Revolting Against Mismanagement — was in session when the telephone rang, and the caller notified the organization that John R. Henrique, backed by the membership, had been elected selectman to fill a vacancy. At this news, the membership gave rousing applause to the new selectman.

During the meeting much discussion was made on several subjects, and plans were discussed as to future action, but no final actions were

taken. Membership which had attended the previous night's Selectmen's meeting also brought up many facets of this, particularly on the tax rate/water rate matters, with Herman DeSilva, SCRAM chairman, still standing by his beliefs, reiterating his stand as outlined on several occasions.

Attorney John C. Snow also updated the membership on action taken by Suffolk Superior Court, Boston, last Thursday, when the court denied a preliminary injunction brought against him by counsel for the selectmen.

## In our opinion

Cape Times 9/11/75

# Weatherwane election

If the four Provincetown selectmen who are targets of a recall drive didn't know it before, they know it now — they're in real trouble.

The special election for selectman to replace Marion Taves, who recently resigned, resulted in a close but definite victory for John R. Henrique, who was backed by SCRAM, the group spearheading the recall movement. The candidate supported by the four selectmen met defeat by 57 votes.

SCRAM — Serious Citizens Revolting Against Mis-management — is interpreting the results as a vindication of its position for a recall election to either vote the four selectmen back in or vote them out.

The four selectmen are using legal means to stave off the ouster effort, claiming the recall affidavit was not specific enough in its charges to justify recall. They have the support of the town counsel in tossing up legal

roadblocks rather than taking their case to the people for a decision.

A safe assumption to be drawn from the special election of the SCRAM-backed candidate is that SCRAM has a considerable support among the voting population. And it becomes obvious why the selectmen targeted for recall are using every legal twist and turn to avoid a recall petition.

With such a large percentage of the town's population dissatisfied with the present board, one must wonder if it can function properly and efficiently in the best interests of the town.

Until the court rules on the validity of the recall affidavit, Provincetown can only hope the now-five-man board will submerge its differences and work together for the good of the town. That is what it was elected to do.

## Court denies Snow case injunction

Cape Times 9/10/75

PROVINCETOWN — Suffolk Superior Court Judge Robert Prince denied the application of selectmen for a preliminary injunction, on the basis of alleged conflict of interest, against Atty. John C. Snow in Boston last week.

The preliminary injunction was to restrain Snow from acting as attorney for plain-

tiffs against the selectmen, Andrews et al, vs. Alexander et al, for reasons of alleged conflict of interest, as he is moderator of the town.

Attorneys Edward Vears and Richard Zisson, representing the selectmen, presented the case against Snow.

# Ex engineers poll

## Cape-tip firemen

*CapeTimes 9/14/75*

PROVINCETOWN — A letter to each of the five fire houses in the Provincetown Fire Department, from the former fire engineers who resigned or were not re-appointed, requests the opinion of the house members on the former board and the condition of the department.

The letter was presented the houses at a department meeting this week and was signed by former chief Russell Perry, who was not re-appointed, and the other four in the older board of engineers.

“By this time you have read the report of the present fire chief and board of engineers, stating that the former board of engineers had not done a good job and that the fire department is in a bad con-

dition,” the letter states.

“You have also read the comment of Selectmen, the charge that the resigned engineers regarded the board as ‘a private club,’” the letter continues.

“Since you are vitally concerned with this matter, we would appreciate a written statement from this house, giving your opinion of the former board of fire engineers and the condition of the fire department under them,” the letter concludes.

Most of the fire houses indicated they will respond or have written; one tabled it, and another will take it up the following month. Perry, contacted today, said “we just want to know how the membership feels.”

# Snow withdraws SCRAM link but contends 'no conflict'

By CHARLES R. KOEHLER

*Cape Times*  
9/19/75

PROVINCETOWN — SCRAM (Serious Citizens Revolting Against Mismanagement) has accepted the withdrawal of John C. Snow as its legal counsel and retained Maurice M. Goldman, it was announced following a Wednesday night meeting here.

Snow, who had been accused of conflict of interest as an elected town official in representing SCRAM's charges that selectmen refused to order a recall election, maintained his position there was no conflict.

"I have withdrawn my appearance in that case in order to avoid the diversionary tactic of saying there is a conflict of interest when there is none," Snow said.

The conflict of interest issue was raised by Richard L. Zisson, attorney representing the selectmen, in Boston at Suffolk Superior Court Aug. 25. The court denied a preliminary injunction sought by Zisson at that time.

SCRAM, at that court session, was seeking to have the selectmen state why they had refused their request for the recall election.

Zisson said Thursday that the court, in denying his injunction, nevertheless left the clear hint that, while there might be a conflict of interest, it was not the issue before it.

However, Zisson said he is unchanged in his view that Snow, the town moderator, is in conflict of interest. Snow's voluntary withdrawal, Zisson said, is a tacit admission.

"But, that is not the chief issue today," Zisson said. "Right now we are taking dispositions from persons who sought the recall.

"The problem simply was that SCRAM did not specifically state valid reasons for the recall request. This they must do according to the town charter.

"If SCRAM can provide valid charges, as required by the town charger, then a recall election is the process that will follow.

"This would be ordered by the selectmen and is their way, under the charter, of defending themselves. They can go before the voters and campaign for re-election. Others may enter the race, also."

There are specific legal processes that are to be complied with in order to set up the recall election. These include sufficient signatures on the charges as well as the election request.

Mary Jo Avellar reported the decision to retain Goldman. She is SCRAM's secretary. She said Thursday she expected to contact Goldman's offices in Brewster regarding action.

Goldman was reported by his office to be in New York City. His office confirmed the phone call and said Goldman would be told of the SCRAM decision.

Zisson viewed his entry into the case as a completely unbiased one since he did not personally know persons in Provincetown and could handle the matter clearly on the point of law — the procedures under the charter which he feels were not met and may be if the depositions are forthcoming that will clearly state charges.

"We are now taking these," he said. It may take two or three weeks. But, the court case in Boston has not been settled. That may take a much longer time."

That issue is on SCRAM's charge the selectmen refused to order the recall when requested.

He also pointed out that the recent election of a SCRAM candidate, John R. Henrique, to replace resigned Selectmen Marion Taves, was independent of the main SCRAM action. "That was simply an election to replace a selectman who resigned," Zisson said.

Zisson also said that developments might show some petitioners had, at the time of their initial recall request, "unclean hands" — that is had personal grievances with town officials.

If that could be shown, the pending case in Boston might be dismissed, he intimated.

Cape Times 9/29/75

## SCRAM clarifies stand

It's about time the people of Provincetown discovered that SCRAM is not political party or a mob of revolutionaries who want to tip everything over just to hear it crash or an organization contrived by power-seeking persons who wish to establish a base from which they may launch their ambitions. It is a group of individuals widely diverse in character, profession and background whose common cause is a sincere concern with how the Town is being run or mis-run.

Because the group is taking an active part in certain Town affairs, it has had attributed to it certain actions in which, as an organization, it has actually taken no part.

As an example, it has been reported elsewhere that SCRAM had submitted six articles for the forthcoming warrant of the October session of the Town Meeting. This is not fact. SCRAM has submitted no articles whatsoever. Individuals have submitted a number of petitioned articles completely on their own. Some of the petitioners happen to be Serious Citizens Revolting Against Mismanagement. However, unlike decisions made by SCRAM which are voted upon by the entire membership, the articles in question were reviewed and passed upon only by individuals submitting them and those who signed the various petitions.

HERMAN DeSILVA  
WILLIAM A. McNULTY  
Co-Chairman of SCRAM

## SCRAM cake sale location changed

PROVINCETOWN — SCRAM will have its cake sale and boutique on Nov. 8, despite the fact the original site, Fire House No. 3 has had to be changed.

Mrs. Ruth Cook, in charge, said the plans had been for the fire house, next to the town hall, but a letter from the fire department changed that. The department noted the fire house is available for charitable organizations, but enlivened SCRAM — Serious Citizens Revolting Against Mismanagement — to a special interest group.

Mrs. Cook said the Cafe Blase, in the center of Commercial Street, near the public library, will be site of the all day sale, and will feature a travelling sale of foods, with boutique, featuring handcrafts and the like at the cafe site.

The previous sale, when a problem arose from a permit request, netted SCRAM \$211.

Cape Times 10/30/75

# SCRAM members hear from lawyer

*Cape Times - 11/20/75*

PROVINCETOWN — A meeting of SCRAM — Serious Citizens Revolting Against Mismanagement — and a talk by the attorney for the group highlighted this week's meeting of the organization in the Chamber of Commerce building.

No definite plans were announced, but the purpose was to bring SCRAM members up to date on the legal situation, involving a petition for recall of four members of the present board of selectmen.

The group is continuing its activities toward ultimate recall election, but actual procedures to be taken will be announced within a few days,

William McNulty, co-chairman of SCRAM, who chaired the meeting, said.

The organization met with Atty. Elmer Johnson of Goldman and Johnson, Brewster, who represent the Cape-tip organization. There

also was a discussion of possible candidates should the recall election materialize, but no specific endorsements were made.

Next meeting of the organization is Nov. 25, at the chamber headquarters, and

by then it is expected that procedures to be taken will be affirmed.

Mrs. Ruth Cook, who headed the cake and other items sale held Nov. 8, announced that more than \$500 was netted, and more is expected.

Dec. 1, 1975

File

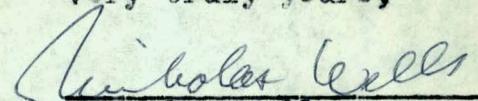
Board of Selectmen, Provincetown, Mass.

Gentlemen: I send you by the mail, a Public Letter which I have written, since I want it to be received by the Town as an official communication.

A N O P E N L E T T E R

Very truly yours,

TO THE BOARD OF SELECTMEN

  
Nicholas Wells

THE DEMOCRATIC PROCESS:

A precious possession; it allows for dissent, and for the expression of views which do not necessarily conform to the views of others. Since I cherish such a treasure I naturally recognize it to be a parallel right residing with those not sharing my views. Stated classically as Voltaire did: " I MAY DISAGREE WITH WHAT YOU HAVE TO SAY BUT I WILL DEFEND TO THE DEATH YOUR RIGHT TO SAY IT."

THE TOWN CHARTER:

As part of the democratic process, the Town Charter clearly affords to the citizens of the Town the machinery for dissent which is expressed in the provisions relating to a recall. Since I want my right of dissent to remain alive and unquenched, I have allied myself with a group of citizens who share these objectives.

THE SELECTMEN:

I recognize special attributes which attach individually to each member of the Board, without which they would not have earned election in the first instance. In fact some of these attributes in certain Board members have my genuine esteem. But, I am not presently concerned with any degree of personal respect or regard, which I feel is mine to bestow while still being in policy disagreement.

COLLECTIVISM:

It is in the collective action of the Board that my own critical sense becomes awakened. Where I am critical, other citizens may be commendatory. That right is obviously theirs, just as I expect the preservation of my own right to disagree. As for myself, I am of the opinion that the collective action of the Board has been confused and disorganized, and govern-

ment has been a patchwork. A clear policy is not recognizable. Rather, there exists a policy of convenient delegation of authority on the one hand which too often is not adequately fulfilled, coupled with an arrogation of authority on the other, which should not be readily condoned. It is not my purpose to assess these grievances in this letter. There is a different time and place for this. I am only trying to explain why I, as one citizen, have chosen to ally myself with the S C R A M movement.

THE CHARTER - POWERS & OBLIGATIONS:

Implicit and expressed in the Charter provisions are rights and obligations which fall upon the Selectmen and also upon the Town Manager. But, the Selectmen are the masters of "policy" and in any instances of excesses, whether of judgement or of rights, the Selectmen have the legal right as well as the duty to assess such dereliction and to demand a reckoning. This, it seems to me, would be the most direct way of guarding against an increase of excesses of power and authority wielded by ~~the~~ Town Manager. In fact, the form in which the new Charter was ratified by the citizens, provides for no term of office for the Town Manager. The tenure is at the will of the Selectmen. This renders such office acutely responsive to the supervision of the Selectmen if they but choose to exercise their own powers. The Town Manager is clearly the alter ego of the Board of Selectmen and the policies of the Town Manager implicitly become the policies of the Selectmen. Since the current administrative policies of the Town Manager's office appear to me detrimental to the overall interests of the Town, I have decided for myself to find an avenue of dissent and that is why I am a supporter of the S C R A M movement.

CLIMATE OF ACTION:

In this climate of activity, I do not feel that there is any room for heated, warped, scurrilous or untruthful statements, or personal defamation. We should and must be able to express ourselves responsibly, especially where

matters of government are concerned. I do not feel that this is the case in the recently published statement attributed to the Board of Selectmen, but apparently not signed by them. Nor does it appear to have been part of any official meeting or action. I allude to this because my own motives were characterized and implicitly impugned. I would like to be charitable and view the writing as the work of someone other than a member of the Board of Selectmen. Perhaps this actually was the case, for the Selectmen knew very well, that in the documented correspondence relating to my land there was not one word relating to a demand for compensation, but rather for a meeting where the facts could be discussed, (one fact being my deep concern over unauthorized acts upon my property by the Town which imperil me by creating an "attractive nuisance".) To state otherwise is to state an untruth and the trouble with such a reckless statement is the danger of magnification and distortion. Truth can suffer no distortion. But this is not the place for me to try this out. I merely want to say that I deplore such reckless tampering with the truth and I hope it actually did not originate with the Board of Selectmen.

CONCLUSION:

Give me my right to disagree, as I recognize your right to do likewise. Let us air whatever differences exist. Let us reasonably explore whether any or all claims are valid; whether there is a long overdue reckoning which should take place. Don't underestimate the wisdom of the people. Let them speak. I for one feel that the office of the Town Manager requires a tighter check-rein held firmly by a responsive Board of Selectmen. There is an old adage: "If the horse mis-behaves, look to the driver!"

Very truly yours,

*Nicholas Wells*  
NICHOLAS WELLS  
Miller Hill Road.

Paid for by Nicholas Wells

RECEIVED

SEP 4 1975

TOWN OF PROVINCETOWN  
BY *Mc*

12/3/75

# Top court to hear SCRAM

By NEIL G. NICKERSON

PROVINCETOWN — The one member of the Provincetown Board of Selectmen who attended a public hearing here Tuesday night was served a summons directing him to appear in Supreme Judicial Court, Boston at 9:30 a.m. Dec. 10.

The summons, served by Deputy Sheriff Robert Morea of Truro, is for four of the selectmen to show cause why they did not call a recall election when so petitioned by more than 750 of the town's voters several months ago.

Only Selectman Charles Mayo Jr. was at the hearing, and he was served by Morea, who then left the building to seek out the remaining selectmen to be served: Chairman Warren Alexander, William A. White and Mrs. Bernese Shears. Mrs. Shears was in Boston, and the summons was left at her residence with her husband, William.

In a release from SCRAM, the attorney, Maurice Goldman, announced his firm filed a new complaint in Supreme Judicial Court, Boston, last Friday against the four selectmen SCRAM is seeking to recall. Chief Justice

Wilkins will hear the complaint.

Members of SCRAM — Serious Citizens Revolting Against Mismanagement — had indicated that such action was "in the works" after lengthy discussions with their new attorneys. Selectman Mayo said, when presented the summons, "it was not unexpected." The next step, he said, would be to consult town counsel.

Atty. Goldman, in the release, said the action, initially filed in Superior Court, Barnstable, was shifted to the Supreme Judicial Court in the hope that a decision would be handed down sooner because the Supreme Judicial Court's docket is far less crowded than that of Superior Court.

At the brief hearing on applications for discretionary funding from HUD — brief because attendance was limited to only four — it was explained the hearing, along with one held last week, was a pre-application hearing so selectmen could be apprised of what the townspeople wanted.

At last week's hearing, the possibility of rehabilitation of sub-standard homes was listed as one reason for application, but the hearings were for input from the public.

Gale McMahon, secretary, explained the program and said that Provincetown would be competing for funds totalling \$1,600,000. The application would be for only \$100,000 and the pre-application must be submitted to the state clearing house by Dec. 15, where they make comment and send the application to HUD by Jan. 15.

## SCRAM Asking SJC Ruling

# Selectmen Get Recall Suit Summons

The recall move on the Provincetown selectmen may get another judicial forum—the Massachusetts Supreme Judicial Court.

Summonses were served Tuesday evening on the three of the four selectmen who were sitting when the recall petitions were originally filed in July. The summonses ask their appearance before a justice of the SJC 9:30 a.m. Wednesday to show cause why they failed to honor the recall petitions and order an election.

Richard Zisson, who along with town counsel Edward Veara is defending the selectmen in the recall case, said yesterday he would move to stay the SJC proceedings.

The latest action, which like the earlier ones, is sought by SCRAM—Serious Citizens Revolting Against Mis-management—seeks to move the case from the more crowded Superior Court docket. Maurice Goldman, attorney for SCRAM, in a statement released Tuesday said the attempt to shift the forum for the dispute is being made “in the hope that a decision would be handed down sooner.”

William McNulty, SCRAM co-chairman, said yesterday the purpose of the refile was “to get the matter off dead-center. What we really want is an answer for us and the 750 other signers of the petition.”

### Short-Circuiting Appeal

According to McNulty, SCRAM is

hoping “for a final resolution of the case” and favored the SJC for its shorter docket and because, as the state’s highest court, there could be no appeal. “Our impression is the selectmen are determined to prevent a recall and would use the appellate process for further delay,” he said.

The case has been before the Superior Court in Barnstable and Suffolk Counties since its filing in late August. A request for an immediate decision by SCRAM was denied this fall and the selectmen initiated a lengthy discovery proceeding which included deposing many of the original signers of the SCRAM recall affidavit.

The issue began in July following a two-month dispute over Town Manager Gardner Benson’s appointments to the board of fire engineers when SCRAM filed its 753-signature recall petition and an affidavit with four charges against the selectmen. Despite the necessary signatures, the selectmen refused to order a recall election, saying the affidavit’s four charges failed the Charters requirement for “a complete enumeration of specific grounds for recall.”

The four charges in the affidavit involve Town Manager Gardner Benson’s May decision not to reappoint two longstanding fire engineers, one of them the fire chief.

The charges cite the selectmen for failing to hold a hearing on the appointments despite a petition, failing to



**JULY AFFIDAVIT SIGNING.** Former Selectmen Marion Taves takes oath from Moderator John Snow as SCRAM began its recall drive.

exercise the executive powers of the town in the public interest, failing to make and declare policy for the department of public safety, and failing to require all appointments be made by merit as demonstrated by competitive exam or

other evidence.

Zisson, in a telephone interview, said a Superior Court hearing on a SCRAM motion to discontinue the proceedings is set for December 12. Zisson said he would

(Continued to Page 9)

# *Recall Suit*

(Continued from Page 1)

ask the SJC to stay the summonses for the selectmen until after the Superior Court has ruled.

## **Timetable Dissatisfaction**

Zisson attributed the SCRAM moves to dissatisfaction with the "Timetable of the Superior Court" and with the deposition proceedings.

The SJC, which is primarily an appellate court, could have jurisdiction in a suit which seeks a directive to a government official to carry out his duties. That is the nature of the SCRAM filing, which asks the court to direct the selectmen to order a recall election.

Summonses were issued for all four selectmen but were personally served on only three. Charles Mayo was served at a Town Hall hearing; Warren Alexander and William White were served either at their homes or elsewhere in town; and selectwoman Bernese Shears' summons was left with her husband, Bill. Shears was out of town.

# Selectmen file move to keep SCRAM case in lower court

PROVINCETOWN — Attorneys representing the four Provincetown selectmen named in a petition for recall election said today they have filed a motion in Barnstable Superior Court against any legal action being dismissed in the Barnstable court and shifted to the Supreme Judicial Court in Boston.

Earlier this week, selectmen had been served summonses to appear in Supreme Judicial Court, Boston, Wednesday to showing cause why they did not call a recall election when so petitioned because, attorneys for SCRAM said, a decision would be handed down sooner than could be expected from Barnstable Superior Court.

Attorneys for the defendants in this matter, the four members of the board of selectmen, Chairman Warren Alexander, William A. White, Charles Mayo Jr. and Mrs. Bernese Shears, report they served a copy of the motion to strike the plaintiffs' voluntary dismissal from Superior Court, and that they have re-

quested the motion be placed on the hearing list at the Superior Court House, Boston, in the first session without jury on Dec. 12.

This would determine whether the dismissal from Barnstable County Superior Court is justified, as the attorneys for the defendants over that the plaintiffs have filed a new action, "raising the same issues" in another court of the Commonwealth in an attempt "to circumvent the defendant's discovery proceedings, the Order of Court to file a more definite statement to their complaint, and the filing of an answer by the defendants raising as specific and affirmative defenses certain factual matters obtained . . ."

The defense attorneys, Edward Veara and Edward Zisson, South Dennis, said "the plaintiffs are not entitled to seek a voluntary dismissal without prejudice" . . . but "must seek an order of court allowing the same" . . . and further that the court should impose as a term and condi-

tion of any dismissal without prejudice . . . that the plaintiffs pay the defendants the sums incurred as expenses as set forth hereinabove, "or in the alternative, any such dismissal allowed be with prejudice . . ."

The attorneys also say, "the defendants have incurred substantial expenses with respect to the commencement and subsequent discovery proceedings regarding the above captioned matter, including, but not limited to, attorneys fees, stenographic services and sheriff's services."

Attorney Veara said they are asking Superior Court in Barnstable not to allow such dismissal, without prejudice, — from the Barnstable Court to Supreme Judicial Court — unless they are ordered to reimburse the town for all funds the town has spent to date in defense of that suit.

Attorneys for the plaintiffs are Maurice Goldman and Elmer Johnson of the law firm of Goldman and Johnson, Brewster.

# Cape-tip board OKs \$5,000 for town's legal expenses

By NEIL G. NICKERSON

PROVINCETOWN — The Provincetown Finance Committee Tuesday night approved the transfer of money from the reserve fund to carry three budgets on for the rest of the fiscal year. The transfers include the controversial \$5,000 requested for legal services.

The \$5,000 transfer was accompanied by considerable discussion. The public attending the session was allowed to speak, including some members of SCRAM who said they felt the transfer should go before voters at a town meeting.

The transfer was not unanimous, passing by a vote of four in favor with one abstention.

Five members of the nine-member committee were on hand to make a quorum and one of them, Walter Pages, abstained from voting, although he said letting voters act at a town meeting might be the best solution.

The other two requests for transfers, including \$2,316 to election and town meeting budgets and \$1,000 for the board of health, were passed unanimously. However, the elections and town meetings request was trimmed from \$3,811.

At the outset of the meeting, chairman Ellen Cook read

comments from committee member Herman DeSilva who couldn't attend because of his job. He approved the board of health transfer, but definitely opposed the \$5,000 for legal fees and said he would rather have this come up in an article at the April town meeting. DeSilva is also chairman of SCRAM.

John R. Henrique, the only selectman not named in a recall petition, said there were 750 who signed the petition, which the selectmen didn't honor, and asked why should the citizens pay for the selectmen's defense without having a chance to take action at a town meeting.

Atty. Edward Veara of South Dennis, town counsel, explained the need for the request, saying nearly half the sum requested was for expenses in suits before the state Appellate Tax Board relative to major motels asking for abatements.

These suits numbered more than a dozen, he said, and if the \$5,000 was passed, with the breakdown of expenses as presented, the legal expense budget would have about \$1,220 to last the balance of the fiscal year. The expense budget voted at the start of the year was \$1,500, he said. As town counsel, he draws a retainer of \$5,000 annually.

Atty. Veara listed representing selectmen in the various suits pending as a major expense, between \$2,500 and \$3,000, and listed some of the other expenses, including tax abatements.

Board member Robert Hendrickson said in his opinion the selectmen comprise a town board and citizens should stand behind them. Mrs. Cook said the \$5,000 transfer is the only thing before the finance committee and asked if members felt against it, to vote it down, but if in favor vote for.

Selectman Charles Mayo Jr., one of the four named in the recall petition, said he felt it was the responsibility of the committee to back the board in terms of continuing as a substantial governing body. Selectman Henrique thought the transfer of \$2,000 would be all right, but said the board should put the rest in an article in the April town meeting and let the people be responsible.

Others speaking included Robert Martin and Joel O'Brien, both members of SCRAM. The five members of the finance committee attending included Mrs. Cook, Hendrickson, Pages, the Rev. John Upton and Mrs. Mildred Felton.

# SCRAM denied top court nod

Ottaway News Service

*Cape Codder 12/11/75*  
BOSTON — A Supreme Judicial Court judge has declined, for the time being, to consider a Provincetown citizens group's effort to hold a recall election in that Lower Cape Cod community.

Justice Paul C. Reardon told attorneys in a court case brought by members of SCRAM — Serious Citizens Revolting Against Mismanagement — he first wanted a lower court to decide if the case should be shifted from Barnstable County Superior Court to a Superior Court in Boston.

SCRAM brought members of the Provincetown Board of Selectmen into Reardon's court Wednesday under a show cause order because of the selectmen's refusal to hold a recall election. SCRAM organized a petition drive for the election several months ago.

SCRAM attorney Maurice Goldman told Reardon the case might drag on for too long due to the appeals process if it was allowed to remain in the Barnstable court. A hearing on a withdrawal motion — which, if granted, would move the case to Boston — is scheduled to be held in Suffolk County Superior Court here Friday.

The selectmen were represented in court by Attorney Harvey Rowe.

## Cites Tomorrow's Superior Court Hearing

# SJC Declines Recall Suit Ruling

State Supreme Judicial Court Justice Paul Reardon refused to rule on the SCRAM recall suit yesterday in Boston, saying he would wait until the Superior Court rules tomorrow on dismissal of an identical suit.

Reardon's action follows state court procedures which require a suit to be discontinued or dismissed in one court before it can be heard in another.

The plaintiffs—Serious Citizens Revolting Against Mismanagement—are seeking a court-ordered recall election for four of the five Provincetown Selectmen. They originally filed their suit in August in Superior Court, but then filed in Supreme Judicial Court last month.

At yesterday's SJC hearing, which was attended by a number of SCRAM members but not by the selectmen, Reardon was asked to dismiss the case by attorneys for the selectmen. SCRAM asked a hearing on the merits.

The issue began in July following a two-month dispute over Town Manager Gardner Benson's appointments to the board of fire engineers when SCRAM filed its 753-signature recall petition and an affidavit with four charges against the selectmen. Despite the necessary signatures, the selectmen refused to order a recall election, saying the affidavit's four charges failed the Charter's requirement for "a complete enumeration of specific grounds for recall."

The four charges in the affidavit involve Town Manager Gardner Benson's May decision not to reappoint two longstanding fire engineers, one of them the fire chief.

The charges cite the selectmen for failing to hold a hearing on the appointments despite a petition, failing to exercise the executive powers of the town in the public interest, failing to make and "declare policy for the department of public safety, and failing to require all appointments be made by merit as demonstrated by competitive exam or other evidence.

### Tomorrow's Superior Court Hearing

At tomorrow's Suffolk Superior Court hearing SCRAM's attorney will ask for a dismissal so the case can be heard by the

SJC. Richard Zisson, who along with Town Counsel Edward Veara is representing the selectmen, said yesterday they would ask tomorrow for a dismissal with prejudice. Such a dismissal would prevent the case from being heard in another court.

Failing that, Zisson said the selectmen's side would ask for dismissal, but with costs incurred during the Superior Court battle assessed to SCRAM. Their final preference would be to have the dismissal refused, thus continuing the case in the Superior Court.

SCRAM members said last week they

were seeking the SJC forum change to get a "final resolution of the case" and to get off the crowded Superior Court docket.

But at this week's selectmen's meeting, Veara said the case had been delayed because attorneys for SCRAM had failed to file a more definitive statement of its complaint within 30 days as ordered by the Superior Court October 25. Veara said the selectmen, who had initiated a lengthy discovery process (taking of depositions from SCRAM members), had suspended that pending the filing of the more

(Continued to Page 4)

## SJC Declines

(Continued from Page 1)

definitive statement.

Veara also charged SCRAM with "court shopping." He said much effort and expense had been expended on the case in the Superior Court before SCRAM decided "at this late date" to file elsewhere.

Under court rules, a plaintiff may seek dismissal of a complaint and file in another court as long as no response has been filed to the complaint. Zisson said the selectmen had been unable to file a response to the complaint because the SCRAM attorneys have not yet filed their more definitive complaint.

# SCRAM suit

## hits delay

*C.C. Times 5/28/76*  
BARNSTABLE — Action in Mass. Supreme Judicial Court in the prolonged legal tussle between four Provincetown selectmen and "Serious Citizens Revolting Against Mismanagement" (SCRAM) has been deferred to June 9.

Provincetown town counsel Edward Veara, acting for the beleaguered town fathers who have been ordered to call a special recall election with their own seats at stake, have taken the case to the state's highest court. Their aim is to overturn Judge Henry H.

Chmielinski's ruling in Barnstable Superior Court 10 days ago upholding the recall election order.

Veara said Thursday his appeal could not be heard by the SJC Wednesday as scheduled because he had been able to notify only seven of the 10 principals involved that the appeal was to be heard.

"It is not necessary for these people to attend the appeal session," Veara explained, "but it is necessary that they be informed of the procedure and when it is taking place."

He said proper notification would be made prior to the June 9 hearing

The matter also is scheduled to come before Judge Chmielinski again June 9 and Veara said he will ask a continuance until the Supreme Judicial Court matter is resolved.

# SCRAM case comes back

PROVINCETOWN — A show cause hearing before the State Supreme Judicial Court, heard Wednesday in Boston before Justice Francis Quirico, saw SCRAM's case returned to the Barnstable County Superior Court.

SCRAM — Serious Citizens Revolting Against Mismanagement — had requested the show cause hearing before the state court, against the Provincetown Board of Selectmen, on the question as to why a recall election hadn't been called at the request of 753 petitioners.

According to one SCRAM member who attended the hearing, Justice Quirico said he thought it a proper case for Barnstable County Superior Court, where it originally started.

*Cape Times 2/5/76*

—William McNulty, leader of SCRAM

town manager because they don't like him'

—Charles Mayo, selectman

*Boston Globe 2/4/76 p. 3*

*File*

# Court to rule on Provincetown revolt

By Samuel Allis  
Special to the Globe

PROVINCETOWN—Many Provincetown residents like to refer to their community as a wooden town in a windy neighborhood. They take their Fire Department seriously here.

For more than 100 years they have depended on a volunteer department to put out the fires which could reduce the town's many clustered wooden structures to ashes in minutes.

So it is fitting that it was a Fire Department controversy which sparked a bitter political battle last spring for control of the town—a battle that the Massachusetts Supreme Judicial Court may decide today.

A group of about 30 citizens calling themselves SCRAM (Serious Citizens Revolting Against Mismanagement) are spearheading a recall election to oust four of the five selectmen for their alleged failure to explain the removal of the town fire chief.

"People are annoyed at the lack of visibility of local government," SCRAM leader William McNulty said last week. "When people ask what's going on, they don't get answers."

The Provincetown case centers on a controversial town manager named Gardner Benson who arrived in the summer of 1972 with 10 years of experience as a town manager in three other New England communities.

SCRAM wants to know why Benson (who is empowered to make appointments to municipal jobs) did not reappoint Russell Perry as fire chief last April. While the town manager need not explain his appointments under the town charter, many citizens wondered why Perry, a very popular man with 23 years experience as a fireman, was virtually fired,

The selectmen initially refused to grant a public hearing on Benson's action, even though more than 400

people had signed a petition demanding an explanation. A hearing eventually was held late in May, but it did not satisfy SCRAM; and in August, SCRAM members circulated petitions calling for the recall election of the four selectmen who supported Benson.

By then, SCRAM's polls were swollen with people who had any number of old grievances with either Benson or the selectmen. "Russell Perry was only the straw that broke the camel's back," McNulty said.

Although SCRAM obtained over one weekend 753 certified names, well above the 624 minimum for a recall election, no such vote has taken place.

The selectmen, advised by Town Counsel Edward Veara, refused to call the election, claiming that SCRAM's charges were not specific enough.

Today the state Supreme Court is

expected to decide if the election is to be held.

"They can always say it's not specific enough. If that happens, the recall provision isn't worth the paper it's printed on," SCRAM Attorney Elmer Johnson said last week.

"From the beginning, the charges have never been clearly stated," Selectmen Charles Mayo countered. "They're close to conspiracy charges. This has been aimed at removing the town manager, because they don't like him. But the board has been accessible from the beginning."

Benson, a huge New Hampshire native, concedes he has rubbed some people the wrong way since assuming office in 1972. But he maintains he has followed the charter.

"I'm absolutely accountable; but to the selectmen, not directly to the people. If I'm accountable to the people, then I must be mayor, and I'm not mayor."

# Recall election for Provincetown set for Aug. 30

*Ch. Trainer 7/28/36*

PROVINCETOWN — Provincetown's recall election, voted by selectmen at Monday night's meeting, will be held in Town Hall here Aug. 30. The polls will be open from 11 a.m. to 7 p.m., Town Clerk Paul Cook said today.

Cook said the recall election date was set after a discussion with Town Counsel Edward Veara, and that 5 p.m. Aug. 10 will be the final date for persons other than the four listed for recall to file nomination papers.

The four members, Bernese Shears, chairman; William A. White, Warren Alexander and Charles Mayo Jr. will automatically be on the ballot, unless the town clerk is notified otherwise by the Aug. 10 filing deadline.

Voter registration deadline is also Aug. 10, Cook said.

At the same time, Atty. John C. Snow, town moderator and original counsel for SCRAM, (Serious Citizens Revolting Against Mismanagement) which submitted the petition for recall a year ago, said in a statement issued Tuesday the "voters should be made aware before the election of what it has cost the town for legal fees and expenses to oppose and delay a court decision on the merits of the recall petition, as well as the unnecessary cost of an ill-timed special recall election at one of the busiest times of the year, when it will be difficult or impossible for many citizens to vote."

Atty. Snow said that "as I have said from the beginning one way or another we will overcome and justice will ultimately prevail.

"It is indeed an unfortunate reflection on the four members of the board of selectmen, whose recall is being sought, that it took one year of persistent action by SCRAM and the expenditure of thousands of the taxpayers dollar in legal fees by the selectmen to avoid a court decision, which would inevitably uphold the recall provisions of the charter and the recall petition signed by an overwhelming number of citizens.

"Unfortunately, more thousands of the people's hard earned tax dollars could have been saved if the recall election had been combined with last fall's special election, or the annual election last April . . .

"After the unnecessary litigation and bitterness of the past year, I hope this community will unite to elect a board of selectmen which will be obedient to the provisions of the town charter, and responsive to the will of the people."

# RECALL ELECTION

## INSTRUCTIONS FOR VOTING

**RECALL BALLOT**

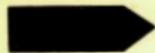
FOR  
THE  
RECALL

**YOU MUST  
VOTE X  
IN ALL THESE  
BOXES FOR  
THE RECALL.**

FOR RECALL OF WARREN G. ALEXANDER	X
FOR RECALL OF CHARLES A. MAYO JR.	X
FOR RECALL OF BERNESE SHEARS	X

### THEN DO THE FOLLOWING

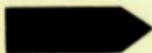
CANDIDATES FOR TERM  
EXPIRING APRIL 1977



**VOTE X FOR  
GEORGE  
BRYANT  
and  
ONE OTHER PERSON**

GEORGE BRYANT	X

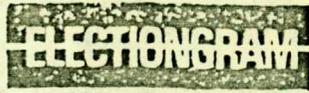
CANDIDATES FOR TERM  
EXPIRING APRIL 1978



**VOTE X FOR  
MARY JO  
AVELLAR  
and  
ONE OTHER PERSON**

MARY JO AVELLAR	X

**TAKE THIS TO THE POLLS**



Dear Concerned Citizen:

One year ago, you joined with us in the effort to obtain the recall of your present selectmen and the election of responsible selectpersons. On that occasion, you stood up to be counted against the mismanagement, waste and increasing erosion of our local government.

During the past twelve months, we met with resistance, defiance, subterfuge and overslick maneuvers (not necessarily in that order). Time, energy and money, both in and out of the courts, has been expended by SCRAM in its fight to secure our constitutional right to that recall election.

The selectmens' opposition collapsed when "their patsies" could not think up any more tricks for delay. SCRAM effectively rattled their teeth.

The selectmen made every effort they could to put off the evil hour to surrender to the citizen's demand for recall election. This, no doubt, is in part SCRAM'S persistent action both in and out of the courts.

The preliminary battle is now over. All the considerable effort that has gone before is meaningless unless we get out and vote for recall this coming Monday, August 30, between 11:00 a.m. and 7:00 p.m.

Let's right the disrespect and contempt to the 783 citizen signers of this recall petition. A victory for the people's rights to good, sound government can only be achieved at the voting booth. You stood up for good government! Don't sit down now. One is judged by what he finishes, not by what he starts.

Please get hold of your friends, neighbors and relatives, telephone and remind them how important it is for them to vote in this important election.

A specimen ballot (as we would like to see it marked) is contained on the reverse side of this letter, which you may take with you to the election booth.

Yours, *Herman De Silva*

SCRAM Signed By *Wm. A. McHulley*  
Provincetown, Massachusetts



COPY  
06

COMMONWEALTH OF MASSACHUSETTS  
List of Candidates nominated to be voted for in the  
TOWN OF PROVINCETOWN, MASS.  
MONDAY, AUGUST 30, 1976  
SPECIMEN BALLOT

Penalty for wilfully defacing, tearing down, removing, or  
destroying a List of Candidates or Specimen Ballot:  
Five to One Hundred Dollars Fine.

*Paul Cook*  
Town Clerk

Town Clerk

TO VOTE EITHER FOR OR AGAINST THE RECALL OF AN  
INDIVIDUAL OFFICIAL MARK A CROSS (X) IN THE  
APPROPRIATE SQUARE AT RIGHT OF NAME

RECALL BALLOT

For the Recall of WARREN G. ALEXANDER	<input checked="" type="checkbox"/>
Against the Recall of WARREN G. ALEXANDER	<input type="checkbox"/>
For the Recall of CHARLES A. MAYO, JR.	<input checked="" type="checkbox"/>
Against the Recall of CHARLES A. MAYO, JR.	<input type="checkbox"/>
For the Recall of BERNESE SHEARS	<input checked="" type="checkbox"/>
Against the Recall of BERNESE SHEARS	<input type="checkbox"/>

SCRAM recommends voting this  
ballot.  
(Not a political organization)

TO VOTE FOR A PERSON MARK A CROSS (X) IN THE  
SQUARE AT THE RIGHT OF THE NAME X

CANDIDATES

FOR TERM EXPIRING IN APRIL, 1977  
VOTE FOR NOT MORE THAN TWO (2)

WARREN G. ALEXANDER, 199 Bradford St. CANDIDATE FOR RE-ELECTION	<input type="checkbox"/>
GEORGE BRYANT, 457 Commercial St.	<input checked="" type="checkbox"/>
MICHAEL CASSELANO, 97 Commercial St.	<input type="checkbox"/>
PAUL A. CHRISTO, 80 Bradford St.	<input type="checkbox"/>
ARLENE A. REMINGTON, 12 West Vine St.	<input type="checkbox"/>
HEATON VORSE, 466 Commercial St.	<input type="checkbox"/>

FOR TERM EXPIRING IN APRIL, 1978  
VOTE FOR NOT MORE THAN TWO (2)

CHARLES A. MAYO, JR., 1 Duncan Lane CANDIDATE FOR RE-ELECTION	<input type="checkbox"/>
BERNESE SHEARS, 351 Commercial St. CANDIDATE FOR RE-ELECTION	<input type="checkbox"/>
MARY J. AVELLAR, 114 Commercial St.	<input checked="" type="checkbox"/>
JAMES T. DOWNEY, 230 Bradford St.	<input type="checkbox"/>

SCRAM recommends voting this  
ballot.  
(Not a political organization)

List of Candidates nominated to be voted for in the

TOWN OF PROVINCETOWN, MASS.

MONDAY, AUGUST 30, 1976

SPECIMEN BALLOT

Penalty for wilfully defacing, tearing down, removing, or destroying a List of Candidates or Specimen Ballot: Five to One Hundred Dollars Fine.

*Paul [Signature]*

Town of

TE EITHER FOR OR AGAINST THE RECALL OF AN  
INDIVIDUAL OFFICIAL MARK A CROSS (X) IN THE  
APPROPRIATE SQUARE AT RIGHT OF NAME

TO VOTE FOR A PERSON MARK A CROSS (X)  
IN THE SQUARE AT THE RIGHT OF THE NAME X

RECALL BALLOT

Recall of WARREN G. ALEXANDER	1081	✓
the Recall of WARREN G. ALEXANDER	504	
<i>NK</i>	127	
Recall of CHARLES A. MAYO, JR.	1113	<del>1256</del>
the Recall of CHARLES A. MAYO, JR.	467	<del>327</del>
<i>NK</i>	132	<del>129</del>
Recall of BERNESE SHEARS	1256	<del>1113</del>
the Recall of BERNESE SHEARS	327	<del>467</del>
<i>NK</i>	129	<del>132</del>

CANDIDATES

FOR TERM EXPIRING IN APRIL, 1977  
VOTE FOR NOT MORE THAN TWO (2)

WARREN G. ALEXANDER, 199 Bradford St. CANDIDATE FOR RE-ELECTION	861
GEORGE BRYANT, 457 Commercial St.	1015
MICHAEL CASSELANO, 97 Commercial St.	447
PAUL A. CHRISTO, 80 Bradford St.	289
ARLENE A. REMINGTON, 12 West Vine St.	29
HEATON VORSE, 466 Commercial St.	247
Blank	533
other	3

FOR TERM EXPIRING IN APRIL, 1978  
VOTE FOR NOT MORE THAN TWO (2)

CHARLES A. MAYO, JR., 1 Duncan Lane CANDIDATE FOR RE-ELECTION	861
BERNESE SHEARS, 351 Commercial St. CANDIDATE FOR RE-ELECTION	382
MARY J. AVELLAR, 114 Commercial St.	1187
JAMES T. DOWNEY, 280 Bradford St.	394
Blank	594
other	6

Total 1712  
Absentee 57  
Regular 1655

# Time for unity

*Cape Times 8/11/76*

The "rebels" who had demanded the recall of the four Provincetown selectmen received a partial vindication by the voters in Monday's election.

SCRAM (Serious Citizens Revolting Against Mismanagement) now has a majority on the board of three to two. Of the four selectmen challenged by SCRAM, one recently resigned before the election, one was badly defeated, and two were re-elected.

The long bitter fight for the recall election has ended with neither side able to claim unconditional victory. It is time to halt for good the bitter feud that split the town into warring camps.

The firing of the highly controver-

sial town manager Gardner Benson some weeks ago and the defeat of the selectmen's chairman, Bernese Shears, a prime target of SCRAM forces, removes from office two of the major factors in the battle.

With a new town manager and a board with a different group in the majority, the town must seize the opportunity to put past differences aside, heal the wounds from the bitter struggle, and channel its energies in a spirit of cooperation and good will toward finding solutions to its many problems.

Monday's election strongly suggests the town wants compromise and harmony rather than more political bloodletting. The new board must pursue that path in all sincerity.

## Provincetown voters recall Shears, re-elect Mayo, Alexander, elect Avellar, Bryant

*Oracle 9/2/76*

Chairman of the Provincetown Board of Selectmen, Bernice Shears, was removed from office in a recall election which recalled three, then re-elected two of the five member board.

In the election which required one quarter of the 3468 registered voters to participate to be valid a majority of 1,712 voters turned out and voted for the recall of Shears, Warren G. Alexander and Charles A. Mayo Jr.

But Alexander and Mayo were re-elected and will join newly elected Mary Jo Avellar and George Bryant on the board which includes Selectman John R. Henrique who was not part of the recall action.

The recall election was the culmination of efforts by Serious Citizens Revolting Against Mismanagement [SCRAM] who had charged Shears, Alexander, Mayo and recently resigned Selectman

William A. White with inadequate performance in office.

Shears was recalled by a total of 1,256 votes. Votes for Mayo's recall totalled 1,113 and Alexander received 1,081 for recall.

To fill two vacancies on the board for terms ending in April of next year, Bryant received 1,015 votes and Alexander was re-elected by 861 votes. Bryant will fill White's unexpired term.

Avellar, one of four running for two terms which will expire in April, 1978, was seated on the board with 1,187 votes while Mayo was returned with 861 votes, Avellar will replace Shears as a selectman.

Others seeking positions for terms expiring in 1977 were Michael Casselano, 447 votes; Paul A. Christo, 289 votes; Heaton Vorse, 247 votes; and Arlene A. Remington, 29 votes.

## Build a bridge

*Cape Times 9/15/76*

We hope the firing of Provincetown counsel Edward Veara doesn't signal a general bloodletting by the majority now in command on the Cape-tip board of selectmen.

Veara may or may not have been engaged in the longtime political feuds in Provincetown that led to the recent recall election with the "outs" grabbing the reins on the board. But the majority of selectmen clearly thought so

and fired him forthwith at the reorganization meeting.

Veara is another of several controversial figures felled in the power struggle. We suggest he be the last. It's time for the town to quit rubbing salt in the open wounds. Rather it should apply the healing salve as quickly as possible. The maxim that it is better to build bridges than widen chasms is sound advice.

# South Wind

HEATON VORSE

Grade 9/9/76

There is a small table next to the entrance of the Kibbee Cook House wherein I live that is a catch-all for missives and packages and mail. I came home the other day in a generally pleasant frame of mind to discover that an envelope addressed to myself was sitting on this same table. Since it bore no stamps I knew that it had not been left there by the postman. A quick look further informed me I recognized the handwriting, that it was none other than the world's worst poet, Sir Oliver Cwnbaughl, who had left me his latest effort. I opened the envelope with my merry spirits dampened, fully expecting that what I would find inside would be bad. It was.

By the shining big sea water at the tip end of the Cod Cape On the 30th of August in the State of Massachusetts, Commonwealth of Massachusetts, in the hot mid-summer sunshine

Did the people of the village wend their way unto the Town Hall.

In the height of busy season when they gathered in their dollars

From the tourists who had come there searching revelry and surcease

From their labors in the city did the people of the village Take time out from their own labors to express their own opinions

In the only way they best could.

With the power of the ballot they would show their own true feelings

In the matter of a recall. Recall of elected persons About whom they had a feeling that they'd failed in their endeavors.

Failed to represent the people, not lived up to expectations. It was thought that the election being held thus in mid-summer

Would become a dismal failure, gesture that would have no meaning.

That the voters of the hamlet nestled close against its harbor

Would remain behind their counters of their shops and of their boutiques

And not venture forth to ballot. No conception could be wronger.

Parents, children, uncles, cousins, came they to the polls in dozens

Swiftly strode the young and sturdy, slowly hobbled on their elders

All bound in the same direction with a singleness of purpose,

From the east and from the westward one and all they headed unto

The huge building in the center gleaming whitely in the sunshine,

In the torrid summer sunshine it was not a mustard color.

I stopped reading for a moment remembering the selectmen's meeting last Spring at which the public was casually informed that once Town Hall was scraped down to the bare wood, it would be painted Federal Gold. And that was that. When asked wherefore, howcome and by whom we were primly told that the then Town Manager, the contractor who was doing the work and the speaker telling us about it had gotten together and made the decision. A hearing on the matter was demanded. It was granted but not too graciously. After the afore mentioned hearing the cans of paint labled

Federal Gold already stored in the basement of Town Hall were shipped back to the manufacturer and cans of white paint were brought in, in spite of the fact that the north side of the building had been already painted with the first shade in the vain hope that the fait accompli would alter people's minds. It didn't.

I looked at the remaining portion of the manuscript in my hand. I supposed that someone simply has to be the world's worst poet. So it might just as well be Sir Oliver. But this stuff was such awful cornball. I could hear his voice correcting me - awful Cwnbaughl. Just the same the work had a sort of horrid fascination. So I kept on reading.

As their numbers swiftly mounted each identified and counted

It was clear that this election would quite surely set a record

By mid afternoon a thousand had come in and marked their X's,

Made their X's on the ballot, thus expressing how their thoughts ran.

And before the voting ended seven hundred more would enter

Plus, again, another dozen. Thus democracy in action Won the day and proved its value.

When the ballots all were counted they set forth another message

Sent a message from the people saying to the town's selectmen

Saying they had not forgotten. For a year the folks had battled

To have voting for a recall. But the four had dodged and scurried

Hiding in a legal thicket like a bunch of harried rabbits. Fin'ly all recourse was ended. They came out into the open

And they granted an election. One retired from his office. Three remaining faced the public. When the tally of the ballots,

One by one they'd all been counted, were recorded they did show that

Those who stood for re-election had been recalled without question

By a good substantial number. Two who won had been among the

Van of those who forced the issue. Brought about the situation

Where no choice was left but voting on the subject of a recall.

These two won with monstrous numbers of the ballots that were counted.

While two others that were recalled were returned again to office.

Given back their badge of office. It was by a lesser number Than the votes that had recalled them. Thus 'twas clearly indicated

That admonishment was tended. Acting as a vote of censure.

Now the vast charade is over and the people they have spoken

In unprecedented numbers leaving doubts far far behind them.

This we wished and this we wanted they have said without a question.

Let us now in peace be happy and to Provincetown, Good Sailing.

# Bryant heads board; town counsel fired

By NEIL G. NICKERSON

9/9/76

*Cape Times*

PROVINCETOWN — George Bryant, one of two new members of the Provincetown Board of Selectmen, was named chairman of the board at a reorganization meeting Wednesday night at which the present town counsel was dismissed from his post.

The other new member of the board, Mary Jo Avellar, was named clerk of the board. Both were elected to the board at the Aug. 30 recall election. They were elected to their leadership posts unanimously Wednesday night.

Following the reorganization of the board, Selectman John R. Henrique, the only member of the board not to face recall at the recent election, said the town has been split for a long time and many persons have stopped speaking to each other because of mismanagement and poor legal advice.

Because of these problems, he offered a motion that Town Counsel Edward Vears be dismissed from his post effective Oct. 1. This immediately brought discussion from Selectman Warren Alexander, who said the action was not on the meeting agenda and shouldn't be brought up.

Chairman Bryant said he believed it was a part of the reorganization and Ms. Avellar seconded Henrique's motion. Selectman Charles Mayo Jr. said he believed such an action, not being on the agenda, should not be

brought up now, but should be placed on the agenda for the next regular meeting, Monday night. he suggested the motion be rescinded and moved that it be placed on the agenda for Monday's meeting.

Alexander agreed with Mayo and said such action as was being taken violated the open meeting law because it was not on the agenda and said it should be delayed until the next regular meeting. Henrique deferred saying it was not a violation of the open meeting law and it was "time to get on the ball."

Mayo said he felt it wise for new members to consider carefully what they were doing, and suggested it be deferred to the next regular meeting next Monday, to "allow counsel to be here."

However, the motion was called and the dismissal was approved by a 3-2 vote, Henrique, Bryant and Ms. Avellar for, and Alexander and Mayo against.

At this point, as nothing else was called for, the meeting adjourned until next Monday's regular meeting in town hall and ended one of the shortest selectmen's meetings for some time, little more than a half hour.

Prior to the start of the meeting, new Selectman Avellar presented to Town Manager Killoran her resignation from the Bylaw Revision Committee, "due to election as selectman in accordance with provisions of the charter . . ."

## Johnson named; Mayo, Alexander protest

# SCRAM lawyer new town counsel

By MARY KLEIN

**PROVINCETOWN** — Amidst protest voiced by two members of the Provincetown Board of Selectmen — Warren Alexander and Charles Mayo — the other three members Monday night appointed Elmer Johnson as new town counsel.

On Oct. 1 Johnson will replace Edward Veara who was fired soon after the recall election for allegedly giving poor legal advice to the selectmen. Johnson is a member of the law firm Goldman and Johnson which represented SCRAM, the group which organized the election.

Johnson's close association with SCRAM upset Alexander. "I'm terribly disappointed in you people," he said, referring to selectmen and SCRAM members Mary-Jo Avellar, John R. Henrique and chairman George Bryant. "I didn't think you'd go so far as to put your man in office. It would have been an appointment that would have cleansed the situation a little more," Alexander said.

Selectman Charles Mayo agreed saying "This is an indication of a power move. We need someone with no political connections in Provincetown. You made a serious mistake in not going beyond the boundary here to a new face."

However, Bryant appeared puzzled and said, "I don't understand the remarks that have been made."

The other nominations for town counsel were Lawson and Wayne, John Snow of Provincetown and Richard O. Staff who is presently town counsel for Mashpee.

In business concerning

fiscal matters, the selectmen had two unanimous votes. With the first one they agreed to pay the auditing firm of Levanthol and Horwath up to \$3,000 from funds provided by Article 6 of the annual town meeting to conduct an audit of the town treasurer's books.

The selectmen next voted not to pay the same auditors \$3,000 for "extra services" they have performed while conducting the audit of the town's books.

Town Manager Robert W. Killoran explained that the auditors requested the additional funds because of several trips they made to Provincetown necessitated by the town's lack of a general ledger. "They've not been able to get the information they usually expect to get," Killoran said.

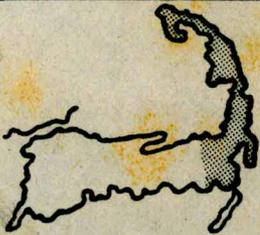
Chairman Bryant did not view the auditor's inability to attain information as a totally unexpected and costly hardship, however. "They should have done some preliminary checking on a job like this," he said.

After the additional funds were voted down Killoran warned that "in the future they (the auditors) might be much more wary of any services they give us."

The selectmen also approved a conservation committee appointment and voted a new member to the planning board.

In a lengthy discussion, Killoran explained why he appointed Joseph Notaro to fill the term of Sister Marie Ahern on the conservation commission. Notaro is well qualified, Killoran said, and "has the same objectives as Sister Marie" who was a well-known environmentalist.

When asked by Avellar and



## Lower Cape

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Henrique, who opposed Notaro's appointment, why he did not follow the recommendation of the personnel board, Killoran said that although the board is an "advisory board, the responsibility for appointments is mine and solely mine.

"I hope to eventually get a board that's balanced," he continued, "Made up of people who are strict conservationists and people opposed to them."

The other appointment occurred when the selectmen voted 3 to 2 to seat Charles Rogers on the planning board. Mayo and Alexander opposed the appointment.

An even lengthier discussion was held about the Cee-Jay Corporation's 50,000 gallon-a-day sewage treatment plan for its proposed solid fill marina to be constructed on Provincetown Harbor. According to Cee-Jay president Robert Cabral, the plan was requested by the Department of Environmental Quality Engineering. However, Willard Pope, general counsel for the DEQE said last July that his department never requested such a plan.

What upset the selectmen was not the proposed sewage

facility, but the various buildings listed in the plan which include: U.S. Coast Guard Station, warehouse, marine socialy shop, harbor-master, hotel, shops, restaurant, theatre, public rest rooms and laundromat.

Cabral adamantly denied any intentions of building such facilities on his proposed marina. Moreover, another Provincetown resident noted that it is "a known fact that Cee-Jay would have to come before the board of selectmen before building anything on the pier."

Cabral also emphasized that he is willing to "compromise" and "sit down and talk with the selectmen" about his project. Henrique was the only selectman who expressed interest in feasibility of this idea.

The Cee-Jay discussion concluded with a unanimous vote to table Bryant's motion for a referendum "to shed light on the feelings of the people in this town," about the solid fill marina.

In other business, the selectmen voted 4 to 1, with Mayo in opposition, to table a motion to reconsider the 11 p.m. closing time restriction the selectmen placed two weeks ago on Back Street

bar's entertainment license.

Jean Frottier, who owns the bar, said that none of the complaints about the noise filed with the police department were verified. Also, "when I bought the business I knew that I had certain neighbors who would harass me," he said, referring to Mrs. Joan Snow and Duane Steele who have lodged several complaints concerning the late-night noise coming from the bar.

When Frottier asked the selectmen why his license was restricted, Avellar responded, "You're running a disco bar in a residential neighborhood. An entertainment license doesn't mean you're there to entertain that neighborhood."

Another major discussion of the evening centered around a hearing on possible town ownership of the now privately owned Baker Avenue. Several residents who live on that avenue complained that parked vehicles periodically block the road, especially gas trucks which sometimes park there while filling the Shell gas station's storage tanks.

In other business conducted during the four and one-half hour meeting, the selectmen decided with six unanimous votes to soon designate a "clean up" day when the town will haul large items to the town dump, to allow picking in the wood and metal areas of the dump, to allow pumpkins to be sold at 346 Commercial St., to investigate the possibility of combining telephone and electric poles along Bradford Street and to discuss during the next traffic hearing the possibility of providing free parking space in town-owned lots during town meetings and hearings.

# Office of the Town Clerk

Provincetown, Massachusetts 06257

NOV 3 1977



November 1, 1977

Mr. Robert Bianchi  
712 Main Street  
Hyannis, Massachusetts

Dear Mr. Bianchi:

In reference to the recall affidavit requesting the recall of  
Selectman John R. Henrique:

The affidavit was handed to me by the petitioners on October 12, 1977.  
Consistent with my action on the first affidavit I handed you a copy of  
the document on the evening of the 13th during the Town Meeting, requesting  
your opinion as to its validity.

On October 17 you called me and sent a letter, same date, indicating  
that the affidavit was proper.

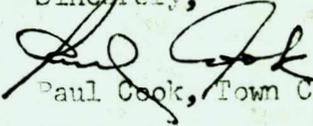
I so noted that on the face of the affidavit (copy enclosed) and issued  
the recall petitions.

Mr. Henrique contends that the 20 day period should have commenced on  
October 12. Acting on your advise I considered the 20 days to commence from  
October 17, 1977.

I am requesting that you forward a written opinion concerning the above.

Thank you for your cooperation.

Sincerely,

  
Paul Cook, Town Clerk



First Landing Place of the Pilgrims



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November 8, 1977

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Mr. Paul Cook, Town Clerk  
Town of Provincetown  
Town Hall  
Provincetown, Massachusetts 02657

Re: Recall-John R. Henrique

Dear Mr. Cook:

On November 3, 1977, this office received from you a written request for my opinion as to the timeliness of the return and filing of certain petitions for the recall of John R. Henrique as Selectman of the Town of Provincetown. A copy of said request is attached hereto and marked "A". On November 3, 1977, I wrote you informing you that I would refrain from rendering my opinion until such time as the petitions had actually been returned and filed with your office.

It is my understanding that the petitions have now been returned and bear on their face what appear to be a number of signatures exceeding in total the number equal to twenty per cent of the registered voters of the town. The determination of the number of registered voters of the town and the certification of the signatures appearing on the petitions are the province of the Town Clerk and Registrars of Voters, respectively.

The single issue on which my opinion is sought concerns the "filing date" of the recall affidavit. According to the letter attached hereto as "A", the affidavit was received by you on October 12, 1977. A handwritten notation appears in the upper right corner of the affidavit reading: "Received October 12, 1977 Paul Cook Town Clerk." You presented a copy of the affidavit to me on October 13, 1977, and

requested my opinion as to the sufficiency of its form and substance. I rendered a written opinion of same on October 17, 1977. A handwritten notation appears at the bottom of the first page of the affidavit reading: "Approved by Town Counsel 10/17/77 Accepted as per Charter requirements, 10/17/77."

In my opinion, the issue as to the filing date of the affidavit is determined by the validity, under both the Charter of the Town of Provincetown as well as under analogous rules or laws of the Commonwealth, of a distinction between a public official's receipt of a document and acceptance for filing of a document. One need look no further than the section of the Charter concerning recall of elective officers to see that such a distinction does, in fact, exist. Section 7-5-1 provides that "(a)ny 25 registered voters of the town may file with the town clerk an affidavit..." (emphasis supplied). Section 7-5-2 provides that "(t)he recall petition shall be returned and filed with the town clerk..." (emphasis supplied). Section 7-5-3 provides that "(t)he town clerk shall within twenty-four (24) hours of receipt submit the petition to the registrars..." (emphasis supplied).

These distinctions are not, in my judgment, without meaning. A document required to be filed with the Town Clerk will not, on the whole, be accepted for filing and filed unless of sufficient legal form. For example, an individual seeking to do business within a town using a business name other than his own is required to disclose his legal name and address. Without this information, an application to do business will not be accepted for filing even though received by the Town Clerk.

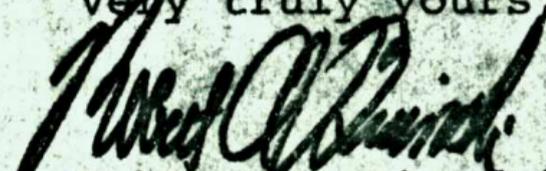
An analogous situation arises in the courts of the Commonwealth under the Massachusetts Rules of Civil Procedure, wherein certain papers may be offered for filing but will be accepted for filing only upon the fulfillment of any prerequisites such as to form and filing fee.

For the foregoing reasons, it is my opinion that the date on which the affidavit was filed was October 17, 1977, the date on which you accepted the

3.

affidavit for filing after having satisfied yourself  
as to the sufficiency of its form and substance.

Very truly yours



Robert A. Bianchi

cc: Town Manager