

Minutes: Selectmen's Meeting – Monday, May 24, 2010

Present: Selectmen Walter F. Alterisio, Kevin W. Welch and Kenneth J. Leva

Meeting was called to order at 7:00PM with all members present. Mark Archambault, Smart Growth Circuit Rider with NRWA presented information attached relative to a request for the Town's support for study re: Nashua River's classification as a wild & scenic river. They're seeking a letter of support from BOS for study to see if Nashua River will qualify for designation. Letter of support – wild & scenic river designation would provide further protection. He referred to handout attached referencing others in the area. He noted map which shows the areas that would be designated for the study. Judy Larter from Conservation Commission was also present to provide support – Mr. Archambault references all the recreational uses of the river. Would be done by a study committee consisting of local stake holders as well as designees for area towns; would focus on natural, ecological, scenic interest and would develop a river management plan. He indicated it might also provide assistance with commonwealth capital applications. Should designation occur would provide protection and develop river stewardship plan. He indicated federal funds might also become available for environmental protection efforts.

Mr. Archambault further advised during the 3 year period protection would be in place; most importantly town meeting would get to vote whether or not to require designation. If it were to pass all the hurdles, he indicated study designation would not change any land usage but is essentially a planning tool that will allow the towns to manage protection of the river. Judy advised this was initiated by an act of congress. This is simply the 1st step to get hopefully protection. Selectman Welch asked whether other towns had issued letters of support and was advised that Lancaster has submitted their letter of support as has Shirley – just starting the process of requesting support – this is only the 2nd week.

Selectman Alterisio indicated probably the biggest concern moving forward would be how this would affect development along the river. During this study period, there would be no requirement for regulations from the Town but if the town determined they wanted to institute some regulations, this would provide supporting documentation for it. Judy noted it's very much like ACEC, doesn't require the towns to adopt any additional regulations. Study would be undertaken at no cost to the town- parks service will be basically in charge, part of the requirement is for local study committee so each town will be required to have a member on the committee. Town's letter of support will help initiate the study's movement forward. Selectman Welch referenced Mr. Archambault's reference to other studies in the past, but not on this area. Selectman Alterisio provided motion for BOS to provide letter in support, 2nd Selectman Welch and voted with all in favor.



Partnership Wild and Scenic Rivers – US National Park Service



Proposed for Segments of the Nashua,
Nissitissit & Squannacook Rivers
in the towns of:
Ayer, Devens, Dunstable, Groton, Harvard,
Lancaster, Shirley, Townsend, & Pepperell, MA
& Brookline, NH

**Presentation requesting support for initial Study
Spring 2010**

Next item – minutes of 4/12, 5/3 and 5/10 – moved by Selectman Welch and voted with both Selectmen Welch and Selectman Alterisio in favor; 4/19 & 4/26 still to be approved.

Selectman Alterisio suggested vote to re-organize noting the last year was more than noteworthy and without Selectman Welch's work and cooperation it wouldn't have happened in as successful manner as it did. Selectman Alterisio extended congratulations to Selectman Leva, advising the campaign he ran was something Dunstable hadn't seen before. He noted a large part of why the same names are seen all the time is because many don't realized to work involved. Selectman Alterisio moved for re-organization and move nominations open, put in nominations Selectman Welch as Chair and Selectman Leva as clerk, Selectman Welch to appoint Selectman Alterisio as procurement officer. Votes cast accordingly for Selectman Kevin Welch as Chairman, Selectman Ken Leva as Clerk and Selectman Walter Alterisio as Procurement Officer.

Selectman Welch drew attention to the grant application for small recreational projects and noted about 3 weeks ago, Mr. Goldthwaite was indicating interest in selling what he believed to be a buildable lot. Chairman Welch noted that this grant might provide funds for the appraisal. He referenced the YMCA and noted the \$58K might provide some funding toward that. Selectman Alterisio noted that most of the property is in Groton and Groton has taken the lead on that and is working with both Lowell & Cambridge YMCAs. All agreed that it would be a disaster to see that property developed. He noted that this grant information should be forwarded onto Conservation for research. He also referenced communication from NMCOC relative to regionalization of animal control. Selectman Alterisio advised that at one time we'd been part of an agreement with Westford and Tyngsboro with Westford providing animal control to Dunstable. Selectman Alterisio noted it would be worthwhile taking a look at it and dependent on what they come back with check with Mr. Ready who's been doing an excellent job and see if it made any sense to consider joint coverage. Chairman Welch noted \$7K has been set aside, also setting aside a \$2K grant....but indicated apparently Dunstable did not submit proposals for inclusion in the process. Chairman Welch referenced enclosed one page application – needs to be in by 28th; but we hadn't seen it before this. Selectman Alterisio advised in order to submit request for funding should probably have a good idea of what we're looking for and not applying for grant just because it's there with no idea of what it would be used for. Chairman Welch noted that municipal partnerships can be a tricky business. Chairman Welch continued to read the purposes it could be used for – noting a lot of it's right out of CPA, and that we have nothing to support affordable housing and noted possible uses of accessible parcels for gardens, etc. noting we could possibly trade off the open space use for the affordable housing covered by the larger cities. He indicated the only thing that came to his mind recreation wise is the Massapoag parcel, but John Callahan suggested the work of the new safe pathways group might fall into it. Selectman Alterisio will talk to Beverly Woods to advise of our interest and see what we can do to pull something together. Selectman Alterisio has taken it on.

Chairman Welch noted letter and calls from various residents regarding the town meeting activity surrounding Articles 32 & 33. He noted that it's been pretty much acknowledged that it was quite the circus – primarily related to Article 33; disagreement made vote very close which turned into the counting charade. He noted he's heard from both sides with both sides indicating they're not as interested in seeing it pass or fail as to it being done fairly and not create a precedent for future town meetings. He noted that he'd run out and got a copy of the Town Meeting Time; all comes down to Town Clerk's report and how it's written and action is reflected. John Callahan advised that was why he came, he wanted to know what citizens should do and to hear what the town intended to do about it. Chairman Welch advised any citizen can register complaint with the attorney general. John Callahan indicated his concern was with the procedure, but unsure how to properly reference the concerns. It was noted that the Selectmen prepare the warrant and call the meeting, then it's

turned over to the Moderator and Town Clerk. He noted that in reviewing what happened at the last meeting, there doesn't seem to be consistency with how it's handled. Selectman Alterisio noted, the town meeting has been held, votes taken and will be submitted to attorney general's office. He noted his confidence that the Attorney General would review information submitted and further indicated that if someone has an argument with the process and it's been submitted to the Attorney General, it would become part of the review. Gail Brown advised that if there was one person in town who didn't think there was an irregularity in what happened at that town meeting, they weren't there. She indicated for the first time in her life, she was embarrassed to live here. It's not about whether you win or lose it's about walking away knowing it was done fairly. We're all adults, accustomed to winning or losing in our homes, government, business but the name of the game is that it's done fairly. She indicated you can't have a vested interest in something and then vote on it. To pretend that town meeting was conducted fairly is wrong. We need to know when we elect people to represent us that they'll treat everyone fairly. She has no vested interest only that the voters are treated fairly. If the Attorney General had been there, or our town meeting was televised, as many town meetings are, this would not fly. Selectman Alterisio advised again that reporting those things he's sure would mean they would be followed up on and suggested any letters be submitted along with Town Clerk's report on the town meeting. At least for people's piece of mind, if they feel something was wrong, feels they would be taken into account. Joan Simmons advised she'd spoken to Carol who indicates at this point until she's made her submittal, there's nothing that could be done. She suggested waiting and submitting comments after attorney general has received all the information.

Joan indicated she didn't understand reference to how the report was written – Chairman Welch indicated one item from Town Meeting Time is you can only reconsider once, recount can't be done over and over. Chairman Welch noted that it appeared we have. John Callahan noted this is broken and it needs to be fixed. We can't have town meetings continue like this. He noted that voters trust was broken and the only way to make amends and follow along is to challenge what happened. Chairman Welch stated he would be meeting with our newly elected town moderator, Ted Gaudette and would go over several changes that are used by most towns in the commonwealth that would have averted this debacle. Town Counsel present for another item, advised that these procedures need to be clear – he noted a motion to reconsider is part of parliamentary procedure, noting Chairman Welch's reference to town meeting times written by 3 astute and experienced moderators. Rich agreed with Chairman Welch Town Meeting Time is admissible, he'd recently referenced a case which cites this book as reference; it's very authoritative but not the law. He further advised a motion to reconsider is not the same as 7 or more people questioning the vote, moderator shall divide the meeting or separate the meeting. He referenced recounts at previous meeting on the same parcel; can divide or poll the meeting; should be more accurate than simply count of hands. He advised anticipating another issue of recount, met with Moderator to review expectation and plans to keep under control. Motions to reconsider – key is

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whether there's something additional that wasn't presented before – questioning the vote, a so-called recount, seems to call for a more exact procedure. The case he read from the Town of Canton which was brought before the court, the court needed to determine whether actions were appropriate. He would say that he doesn't think that holding hands up one more time isn't what's called for in statute. Holding hands up once more, could have been successful. What got lost was control and it got increasingly worse; John indicated he doesn't think any of us wanted to see that happen and noted many people left very upset and want to know how the town is going to fix this thing before we turn it over to another moderator to be sure this never happens again. Chairman Welch referenced the information in Town Meeting Time; there seemed to be general agreement that something needs to be done with the procedure to make sure that it's done properly. For people to go to Town Meeting, and expect it to be handled fairly, has never seen a process handled like a carnival – like this one was; doesn't matter which side you're voting on, have to all have faith in the process. Gail stated a lot of people don't go to town meeting because they feel laws are applied differently dependent on who you are or know, etc. She indicated if it was televised, people would be laughing at us. Joan Simmons indicated that one thing led to another, things got out of hand, doesn't think we need to worry about procedure but feels it's important that the new moderator take control of the meeting, and if things get out of hand.

Town Clerk Carol Skerrett advised that town meeting certification has to be completed, awaiting budget. Then procedure starts to submit to Attorney General, 7 forms for each bylaw submitted, once submitted they have 90 days to respond, either approve, disapprove or modify. Must be posted in five public places – can always write a letter to the attorney general but the procedure for appeal is through the court.

Joan Simmons questioned whether it might be helpful for voters to write letters to the Attorney General. Carol noted they could write letters but they're going to take the report of the Town Clerk. Selectman Alterisio noted specifically there are some number of people who feel the process was unfair and should be reviewed and/or fixed; question is whether there is a process that might provide some assistance in this. Section 32; writing a letter would be part of the public record and that's not a bad thing. Statute does require that you poll the room or divide the room; needed to do something that would help to clarify the vote. Selectman Alterisio noted the problem was what was done could have done what it was supposed to, if it was controlled but it was not controlled. Selectman Alterisio noted we seldom learn from something we've done right than when we've done it wrong. John Callahan noted he doesn't think there should be any reference to appeasing – this was wrong, it's not good for the town. Many people went home so upset that they were uncomfortable living here – noting he too was embarrassed that he lives in this town.

Gail Brown noted many town meetings are televised, and if it had been, that wouldn't have happened. John Callahan agreed that if that had been the case,

it most likely wouldn't have happened because it would have been documented. Joan Simmons inquired into what was involved in an appeal and Town Counsel stated the steps indicating he didn't feel it could be proven; Rich noted that a number of people requested recount, Moderator determined minimum of 7 had done so; divided the meeting by separating people in the room; no reason it couldn't proceed but requires management and control of the assembly. People were separated, two tellers on affirmative side brought back same vote but negative tellers had different vote; then repeated tally of the vote comes up different amongst 4 counters. He noted so far after two unsuccessful attempts to count, Moderator required voters to march before her took a count which came up one short of majority, and then 2 counters noted they'd forgotten to count themselves and it would have passed. Confusion about the vote – is there confusion about the vote or the results questionable. Rich continued to explain that the moderator indicated that she wasn't sure about the vote and wanted to reopen the vote to allow those who had forgotten to vote, brought the vote up.

He advised can you vote one way, and then another, couldn't figure out the count, walked a number of people in front of her; moderator is entitled to achieve a count. He doesn't think that it would be found incorrect but maybe a court would say that when you re-tally one side you also need to re-tally the other. Chairman Welch stated for the record, 'dividing the room' is figurative and not literal. In this case dividing the room means after two or three recounts, the moderator should have ruled to go with a ballot vote not physically split the room into two sections. Attorney Larkin concurred. John Callahan noted that the point is that the process was flawed because the meeting was not controlled and some people voted twice. Rich advised if he were in law school he'd refer to bylaw which required the cards and many votes were cast. John Callahan noted that if it happened again and it certainly could, if we don't do something to question the proceedings, where are we – definitely not the way to run a town meeting, or build voters confidence in the proceedings.

Chairman Welch noted in the modern days, counters go to the microphone and announce their count. Rich continued to defend the actions of the moderator. Rich stated there was no reason to have the counters state their count. Chairman Welch asked for one good reason why they should not. Rich did not have a response. Selectman Alterisio noted that the concerns brought forward are clearly supported by a number of residents and voters. Alan Chaney indicated that had George Tully or Paul Dinneen been conducting that meeting, there wouldn't have been anyone here tonight with complaints – reiterating the meeting was totally out of control. Selectman Alterisio felt to some degree it was by design. Joan asked at this point are the Selectmen prepared to write a letter to Attorney General. Chairman Welch indicated he felt it best to await town clerk's report (but Town Clerk advised that her report to Attorney General will only include series of events; limited details). Board must deal with the situation handed – make sure process is in place to insure that this type of travesty never happens again. Chairman Welch stated the board is in

agreement with the majority of the citizen's observations on this issue and he will address this with the BOS and draft a letter to the AG, noting the AG will take the easy way out and go with the Town Clerk's report; nonetheless felt this should be for the record. He noted that clearly he gives the townspeople credit for trying to ensure that there will not be any more of this behavior allowed. John Callahan inquired when the next town meeting was and was advised the next annual of course won't be until next May but another special may be required to deal with the school budget. Chairman Welch noted that budgets need to be put on hold until we know where we stand, noting new budget items that should clearly be put on hold such as police records management, additional personnel and pay for firefighters. Chairman Welch explained it would make no sense to spend this additional money and then have to lay off employees or cut salaries if the schools decided to ask for more money later this fall.

Fire Chief Rich advised issue with ambulance contract; Selectman Alterisio noted he'd received phone call from Tyngsboro who advised that Dracut had gone out on their own and entered into their own contract. Tyngsboro then took in bids, and have decided to go with Trinity. He advised that the thing that Dunstable had brought to the table was that with Dunstable in the mix, Patriot would keep an ambulance on this side of the river. Chief Rich advised he'd heard differently that Patriot was trying to charge Dracut and that's why they'd pulled out of it. His opinion was that as long as we can maintain what we have, he got an e-mail from Dracut that assured we'd be kept in the loop. He advised that Trinity already supplies Chelmsford and Lowell – what's going to happen. Chief Rich advised that Dracut is staying with Patriot. Selectman Alterisio indicated it seems that Tyngsboro is leaning toward Trinity and Chief Rich felt that if that happened, Patriot would not have a Dracut, Dunstable connection – it wouldn't make any sense – we had 125 calls two years in a row and about 85 trips. If Trinity would be interested in servicing Dunstable, we'd need to know where the equipment is going to be. Chief Rich indicated if Tyngsboro was going to go with Trinity, and we're being cut out, they need to let us know ASAP. He indicated that Pepperell is interested in taking it on under the same conditions, if he could be assured 24 hour coverage.

Chief Rich reported on the coverage arrangements with Pepperell right now and even with Dunstable's Fire Department. He added he's also concerned with where we are with the volunteer firefighters. He said he has spent an enormous amount of energy bringing the department up to par and he still has trouble with the guys showing up for fires – they wanted good insurance and the town got it for them. They wanted better protective clothing – got it. Wanted better equipment in the station, and we're 2nd to none with equipment. Chairman Welch cautioned, if they asked for all this and got it and still don't show up what makes you think paying them will change this? Chief Rich stated, it may not make a difference in whether or not they show up. Selectman Alterisio will check with Tyngsboro and Chief Rich will check with Dracut – would like to stay with Patriot. Chairman Welch & Selectman Leva voted to support as long as

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Chief Rich's' good with it, they're good – noting he's got to work with whichever ambulance service is selected.

The Board acted on a vote to enter into executive session to discuss pending litigation. Motion to enter into executive session, under Chapter 39 §23b section 3 for the purpose of discussing pending litigation and to reconvene in open session, seconded & voted with the following votes cast: Selectman Alterisio: aye, Selectman Leva aye and Chairman Welch aye.

Upon their return from executive session the board noted some items from the mail, etc. Chairman Welch suggested throwing a copy of the most recent Beacon into Fincom's box & highlighting information on the municipal relief act; Also noted was communication from Chief Downes noting he doesn't want us to sell the excess police cruiser, instead wants it held for a driver training vehicle; Selectman Alterisio questioned why are we getting rid of it at 90K miles. Board was concerned with the whole issue – need to talk with Chief – why are we getting another cruiser. Chairman Welch advised it may be lease related, that he's spoken with the Chief about this whole process, would like to see them work with other towns; if we supply the training vehicle, they repair and insure it.

The board voted on the FY11 appointments, appointing officers as requested by Chief Downes. Chairman Welch provided motion to appoint James G. Downes III as Chief of Police, Police Lieutenant James W. Dow, Sergeant Darrell Gilmore, Master Patrolmen Michael Lynn, Benjamin Sargent and Erik Hoar, Patrolman Nicholas Papageorgiou and Reserve Police Officers (Part-Time Officers) George Aggott, Sean Ready, Daniel Kowalski, John Koyutis, James G. Downes, Jr., Michael A. Tedesco and Gregg Sanborn. Selectman Leva seconded the motion and vote was taken with all in favor.

The Board discussed letter of interest for appointment on the Council on Aging, will be forwarded to COA and acknowledgement letter sent to Mrs. Moeller, noting there aren't any current openings, but letter will be kept on file.

Chairman Welch addressed issue with water protection bylaw which needs to be updated, Rich confirms it's not done, Water thinks it's done. Chairman Welch explained the process for the bylaw – DEP just came out with these regulations within the last 6 months and the only town he's aware that's addressed is City of Gardner. He noted that with the new provisions of the bylaw for the B2 operation, it's essential that the town has the required regulations in place. Selectman Alterisio indicated that was something he was eluding to, that we need to be sure the town's protected. The board continued to discuss the bylaw and the implications and affect it can have on the town if the appropriate controls aren't in place. Need to make sure that conservation, water, planning pay attention to these things; whole area has to be looked at to insure there's protection in place.

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Selectman Alterisio indicated the issue is there are certain restrictions within zone 1 and zone 2, etc. which need to be kept in compliance and we have to take a look at to make sure protection is in place. EPA revisions to regulations for test procedures, etc. must now be included in the bylaw. Selectman Alterisio would prefer to present to the Water Commissioners for their immediate attention. Selectman Alterisio would like to make sure they take the initiative to get it taken care of for the protection of the community. Chairman Welch noted we know what can be included within a B2. Selectman Alterisio will bring to the attention of the Water Commission.

Transfer request from Veteran's Officer was approved. Selectman Alterisio advised on his conversations with Jim Frey relative to the override; and was somewhat concerned that approach was taken to determine a high water mark, and then reduce it to see if it would go through. Chairman Welch noted that the foundation formula established by the state has already been paid; we paid that, basically now we're dealing with is the tip. Selectman Alterisio noted it seems apparent that voters said no, yet now they can live with a lesser amount. He noted there were some comments in the late hours of numbers that could be cut back. He'd like to see us start working on the budget now, to see if there's someplace for amendment within the GDRSD budget to lessen amendment. Selectman Alterisio will contact Jim – follow-up to see if can't get some action.

The Treasurer's warrants were reviewed and signed and the board determined since next Monday is holiday, and there was no pressing issues they won't be meeting next week. Meeting adjourned at 10PM after proper motions and vote.

Respectfully submitted,

Danice N. Palumbo,
Board Secretary