

Minutes: Selectmen's Meeting – Monday, August 9, 2010

Present: Kevin W. Welch, Chairman, Kenneth J. Leva, Clerk and Walter F. Alterisio, Procurement Officer and Member

The meeting was called to order at 6:40PM with all members present. The Board met with Police Chief James G. Downes III relative to the appointment of a replacement officer to fill the vacancy being created by the resignation of Officer Benjamin Sargent who vacates his DPD post on Thursday August 14th.

Chief provided copy of letter requesting appointment of candidate to replace Officer Sargent. He noted we'd advertised for the position. He advised they did get some candidates with full time police experience out of the 25 candidates who responded. He referred to the vast difference in the experience and research noting they'd narrowed down to 3-4 candidates with MA police academy training. Did background checks, offered them a written test on verbal, mathematical and assessment reasoning – narrowed down to 3 candidates. He reported candidates then went to assessment center - for competencies, 4 exercises with assessment by Chief, Lieutenant and Sergeant to thoroughly assess competencies in different situations. Chief Downes thoroughly explained the assessment measures used and process to insure they had a thorough evaluation of the final candidates including oral board, agility, background checks.

Finalist is an officer who served down the cape. The Lieutenant visited the municipality and conducted background check. They have advised the candidate that any appointment would be contingent upon a medical and psychological test – 1st scheduled for Thursday. His recommendation would be to appoint for one year probational appointment contingent upon passing the medical & psychological evaluations. Worked at Aquinet for four years and then in a small county in South Carolina – Lieutenant conducted background checks in both those locations.

He has indicated he's made arrangements to live up here now if the Board decides to appoint. Chief thinks he's a good candidate with experience working in a small community, did well on his assessment. His preference would be to assign him to Officer Lynn for training. Need to make sure he's put into training ASAP to get him working ASAP. Chief noted the packet which goes to all the candidates which asks multiple questions which are double checked. He's been very truthful in all.

Minutes: Selectmen's Meeting – Monday, August 9, 2010

South Carolina research – Jim Dow felt there were some things but he felt it was mostly because it is so different from Massachusetts. While he worked in South Carolina, he went to a job fair which he was advised was against their rules. In South Carolina, they have no unions, or protective organizations. He is available at Town Hall if the board wants to meet him.

Chief indicated he thinks that the applicant has the competencies for the position and felt that the one year probational position will provide sufficient opportunity to evaluate. Lieutenant Dow advised that he'd visited a number of the small shops.

Selectman Alterisio provided motion to accept recommendation of Chief Downes and appoint Charles A. Chaprales as Full Time Patrol Officer, appointment contingent upon outcome of medical evaluations, 2nd by Selectman Leva and voted with all in favor.

Chief Rich addressed the board with update – talked with Tim Regan today with Greater Lowell Paramedics – contract should be faxed before end of week. Pepperell saga – unfortunately one of the Selectmen had a death in the family so they're not meeting until Wednesday. Agreement with Nashoba hospital has expired – renewed for the last 10 years or so. Chief rich advised he thinks that it would be good fit with Pepperell but needs more time to work through all the particulars – the ambulance contract presented was more of a proclamation than an agreement – needs more work.

Selectman Alterisio advised that now that we're down to a one year agreement, to bring Trinity in and can continue to look at Pepperell for future. Chief Rich indicated that when do sign agreement need to leave time for Chief to make sure protocol is in place. Charlie indicated this might be a good thing giving Pepperell a year to pull something together.

Selectman Alterisio provided motion to execute contract with Trinity for one year, 2nd Selectman Leva and voted with all in favor. Chief Rich advised he's not done with it, thinks that Pepperell will make an excellent fit – it's worked out very well in the interim and was very hopeful that it will work out in the future. Selectman Alterisio advised that if there's a financial commitment involved, we need to know about it up front. Chief Rich advised that he'd made sure that Pepperell knew from the beginning that there wasn't any funding available for the service at this time. Selectman Alterisio advised that wasn't

Minutes: Selectmen's Meeting – Monday, August 9, 2010

necessarily the case, if the service was so much better with Pepperell, then the funding might become available.

Kim Fales, Town Accountant provided update on FEMA contract, from flooding in April, total of 7 project work sheets coming through, 3 are protective measures for 764 Main Street and other locations and work that Highway did to shore up road and others for work that Fire Department \$3,924.25 and require signatures on a variety of pages. Indicates that contracts can be signed as Chief Fiscal Officer – here to see if the Board wants to authorize her to sign the contract, since she's familiar and done the majority of the preparatory paperwork for the projects. Selectman Alterisio to authorize, 2nd by Selectman Leva and voted with all in favor.

Selectman Alterisio questioned whether the wall on Swallow Lane had been included – Chairman Welch indicated the highway department has addressed the repairs on the Mill Street bridge.

Mechanics contract – Chairman Welch was looking for more information on how it's handled. Kim can give background – they have a town-wide contract for plumbing, electrical, heating. Contract allows each department to use as long as doesn't exceed \$2000 per contract at which time they'd need to go thru appropriate procurement procedures. Kim will look and see how much we've been spending on these type of services – solicit proposals. Townsend has had it in place since chapter 149 came into it – so that didn't need to get 3 written quotes for small projects. Other thing is that departments may be putting off particular jobs because of complications of bidding.

The board opened the bids at 7:30PM with Selectman Leva reading announcement, noting that legal notice ran in Lowell Sun 7/26 and 8/2/2010 editions. The following chart reflects the results:

Name	2006 Ford C.V.	2003 Ford C.V.	1992 F350	1989 F450
Brian Gagnon Dracut, MA	\$852.00	\$361.00	\$311.00	\$311.00
R & M Demolition & Excavating Nashua NH 03060	\$408.00	\$308.00	\$513.00	\$318.00
Michele A. Silva Pepperell, MA	No Bid	No Bid	\$611.57	\$322.77
Andrew Blatus Dracut, MA	\$1,350.00	No Bid	\$600.00	No Bid
Yousef Dabbagh Island Lake, IL	\$1,789.00	\$408.00	No Bid	No Bid
Corkery Tractor Trailer Canton, MA	\$387.00	\$237.00	\$315.00	\$315.00

Minutes: Selectmen's Meeting – Monday, August 9, 2010

Chuckran Auto Parts Inc. Bridgewater, MA	\$1,529.00	\$429.00	\$479.00	\$459.00*
Grace Quality Used Cars, Inc. Morrisville, PA 19067	\$3,564.00*	\$1,324.00	No Bid	No Bid
Bay Ridge Motors Inc. Staten Island, NY 10310	\$2,699.00	\$1,355.00*	No Bid	No Bid
Robert Hillman Littleton, MA	\$625.00	\$475.00	\$627.00*	\$425.00
Chicago Motors, Inc.	\$1807.00	No Bid	No Bid	No Bid

Selectman Alterisio provided motion to award to Grace Quality Used Cars for the 2006 C.V. @\$3,564.00, Bay Ridge Motors of S.I. NY for the 2003 C.V. @\$1,355.00, Robert Hillman of Littleton MA for the 1992 F350 for \$627.00 and Chuckrun Auto Parts of Bridgewater, MA for the 1989 F450 for \$459.00. Motion was seconded and voted with all in favor.

The board then met with Town Counsel relative to agricultural use and zoning. 40A Section 3 – 1st paragraph pertains to agricultural, rest is other items which have become more complex. Only need to concern themselves with 1st paragraph. Rich advised statute has changed a few times over the years, thrust is this section of state zoning act, and section 3 describes certain uses that may not be reasonably regulated by zoning. No zoning bylaw shall regulate or restrict, or require use of land for commercial agriculture, nor prohibit, regulate or restrict construction of buildings, with primary use for commercial agriculture.

Formula for determining primary operation – can pick certain months. Problem is defining annual volume – 25% of volume or sales for that 4 month span must be produced on premises during that term and other 75% must be from other farms in the Commonwealth. Parcel must be a minimum of 5 acres to be protected by agricultural exemption – now specifically define agriculture exemption.

Rich read from the chapter noting some of the uses defined. Rich advised that back before the 80s it was pretty obscure but then things started coming down the line that although seemed agricultural, agricultural definition was overruled by towns and the cases were taken to court, the state needed to further clarify to protect agricultural operations. Rich provided the background on some of the extensive changes that have come about in the agricultural world.

Rich advised that lately he's seen cases where the restrictions are getting tighter – noting that courts have recently found some uses as not agriculture. Idea is primary purpose of the land has to be agricultural but some uses which might not be agricultural by

Minutes: Selectmen's Meeting – Monday, August 9, 2010

themselves, if the basis is agriculture, it's covered. Rich advised on some recent cases, such as in Natick for slaughter house as long as part of their overall operation. Rich advised that if you have someone who has an agricultural operation but now sticking in things that aren't really agriculture, does it take away from the agricultural use. Rich advised those things have to be raised in context – wouldn't be enough to say we have a farm and this is what we need to do to supplement, that wouldn't do – must substantiate the direct connection to the agricultural use. If taking on activities that are supplemental to primary use. If you had a farm stand which was primarily products raised on premises and a couple of incidental products brought in would stay.

Rich provided background on a former reported agricultural case which involved mining, finally upheld for Dunstable at Supreme Judicial Court even though lost in Superior court and appeals court. Rich reported on horse farm who wanted to build an exercise track and huge mound of gravel was in the way indicating how cases come out in a legal setting has a lot to do with how proponents demonstrate the uses. The board briefly reviewed previous experience with gravel operations.

Rich emphasized that it must be rated to the primary agricultural purpose. He again related to the Harvard horse farm who raised horses for sale – their product is more saleable when they have been cultivated for riding stables so horse rentals was agricultural. He noted that if that case were to go thru appellate court now, uncertain it would hold.

Selectman Alterisio noted the issue of mining, if there's no place left for it to go and you want to prepare an area for agriculture, you probably have a case. Rich advised that between now and 15 years ago, the courts would be much more lenient now than then.

Chairman Welch related back to the law and what about the guy that has bought 15 acres and hasn't started the agricultural use yet. Rich advised that part of the reason that the town won the case was that a lot of non-agricultural use had to take place before agricultural use could take place. At what point does the 25% come in.

Selectman Leva made motion to enter executive session in order to consider the town's position in litigation, namely the case of Desjardin vs. Town of Dunstable, under provisions of C30A §21 and to reconvene in open session. Selectman Alterisio seconded the motion and vote

Minutes: Selectmen's Meeting – Monday, August 9, 2010

was taken with Selectman Alterisio aye, Selectman Leva aye & Chairman Welch aye.

Upon return from executive session, the board conducted mail review noting Town Clerk's communication re: hunting & fishing licenses – Chairman Welch suggested trying for one year and see how it works out. He indicated if we set up separate account with an overdraft in it should be covered. Additional cost for printing requirements, etc. can only be answered by Fishing & Wildlife.

He further noted that Town Accountant has also come up with some issues that have to be addressed, which is the final page. Board agreed will try for a year and if it doesn't work out, we're done. They noted it made sense to only accept guaranteed funds such as cash or money order. Add to second paragraph overdraft protection for the F&W account. 3rd is a little trickier especially in the summer – see what other towns are doing. 4th issue is cost to town for service – if gets ridiculous will all shake out in 1st year – all agreed best approach is to try it for a year and see what happens.

The Treasurer's warrants were reviewed and signed. Minutes of 7/26 were approved as amended.

NMCOG has stepped up and putting pressure on MA Highway Transportation to support 113 retaining wall reconstruction; Selectman Alterisio has prepared letter from BOS – thinks precedence of spending federal monies on wall doesn't fit- precedent should be on public safety. Board supported – need to copy Hargraves and Panagiotakos. Have to get it out tomorrow – decision on 12th – Secretary to make sure it gets faxed and e-mailed wherever possible.

Selectman Leva reported he'd met with Chief Downes and Dave Tully relative to the water problems at the police station. He advised they're going to get prices on gutters 1st that will eliminate that runoff.

Chairman Welch provided background on bids for the Union Building windows and the board voted to accept recommendation of GDRSD for award to GVW for the Union Building Windows.

The Board also voted to support continuing health coverage for Ben Sargent thru 8-31-2010.

The board discussed appointment for Town Engineer, Chairman Welch provided motion to appoint Jeff Rider, Selectman Alterisio 2nd but

Minutes: Selectmen's Meeting – Monday, August 9, 2010

indicated we need to have him in one for oversight on projects, vote was taken and appointment made.

Selectman Alterisio indicated every major thing that this town takes on comes back to bite the board – all falls back on the Selectmen. Chairman Welch noted that decisions are made excluding BOS but it comes back to the Selectmen.

Meeting adjourned at 9:25PM after appropriate motions and vote.

Respectfully submitted,

Danice N. Palumbo,
Board Secretary

