

**TOWN OF EAST WINDSOR
BOARD OF SELECTMEN
11 RYE STREET
BROAD BROOK, CT 06016
First Selectman's Office – (860) 623-8122**

Regular Meeting Minutes

Tuesday, April 5, 2016 at 7:00 p.m.

Board Members

Bob Maynard – First Selectman
Richard P. Pippin, Jr. – Deputy First Selectman
Jason Bowsza, Selectman
Steve Dearborn – Selectman
Dale A. Nelson – Selectman

These minutes are not official until approved at a subsequent meeting.

1. CALL TO ORDER

First Selectman Bob Maynard called the Regular Meeting to Order at 7:03 p.m. at Town Hall.

2. ATTENDANCE

Present:

Bob Maynard, First Selectman
Richard P. Pippin, Jr. Deputy First Selectman
Jason Bowsza, Selectman
Dale A. Nelson, Selectman

Absent:

Steve Dearborn, Selectman

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

4. ADDED AGENDA ITEMS

MOTION made (Pippin) and **SECONDED** (Nelson) to add Warehouse Point Fire Department tax issues as 10F under New Business.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

5. APPROVAL OF MEETING MINUTES

MOTION made (Pippin) and **SECONDED** (Nelson) to approve the Regular Meeting Minutes of March 15, 2016 as presented.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

MOTION made (Nelson) and **SECONDED** (Pippin) to approve the Special Budget Workshop Meeting Minutes of March 14, 2016 with the following correction on Page 12. Selectman Bowsza did not vote on the discussion for the Youth Center or participate in the discussion. He should be listed as an abstention.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

6. COMMUNICATIONS

Selectman Bowsza read an anonymous letter that was in his Selectmen mailbox. Selectman Pippin feels that the letter is invalid and that the resident should be following procedure whether it is a legitimate concern or not.

First Selectman Maynard read an email from Kristen Formanek indicating what she and the seniors wanted to upgrade at the Senior Center. They decided they would spend it new tables and chairs, new bingo equipment, etc.

7. PUBLIC PARTICIPATION

Denise Menard, 73 Miller Road, informed the Board that East Windsor Rotary Club's Citizen of the Year is Pete Larese. She invited everyone to attend the dinner at The Nutmeg on April 21st. She added that Rotary Club also will have a raffle with the Yankees vs. Red Sox game in September as the first prize.

She also suggested that the Board reconsider approval of Meeting Minutes from Tuesday, March 25th.

MOTION made (Bowsza) and **SECONDED** (Nelson) to amend the March 15, 2016 Meeting Minutes to indicate that the Board will not be moving forward with the Charter Revision Commission for the 2016 presidential ballot.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

Marie DeSousa, 10 Rice Road, asked if the added agenda item regarding Warehouse Point Fire District tax issues was the MOU because there may be some people who wished to be there if that were being discussed. First Selectman Maynard answered that it is not the MOU but it is a legal opinion that has been rendered that needs discussion.

Bill Loos, asked why the executive session does not specify what will be discussed. The Board clarified that it just has to reference the statutory charge.

8. BOARD AND COMMISSIONS RESIGNATIONS AND APPOINTMENTS

MOTION made (Pippin) and **SECONDED** (Nelson) to appoint Peter Larese (U) as a regular member to the Conservation Commission for a term expiring 5/1/2020.

Discussion: Selectman Bowsza said great appointment and thanks for volunteering. First Selectman Maynard agreed.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

MOTION made (Bowsza) and **SECONDED** (Nelson) to appoint Kirk Montstream (U) as a regular member to the Conservation Commission for a term expiring 4/1/2017.

Discussion: Selectman Bowsza said he is a great guy and that he is happy he is stepping forward.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

9. UNFINISHED BUSINESS**A. Barber Hill School Update**

Selectman Bowsza, First Selectman Maynard and John Burnham talked to Attorney Joshua Hawks-Ladds about the transfer of land and he said that we could do it. However, there are some outstanding questions that they are conducting research on, including a title search on the property. A note of caution raised by Attorney Hawks-Ladds was that by not having a security bond not associated with project, the town was assuming risks and we do not have a guarantee that the work would be done to deconstruct it, move it, and reconstruct it. Selectman Bowsza said they did discuss a time line and that would be something for the Board to negotiate with the Historical Society. Selectman Pippin said the building has to be dismantled and brought into dry storage but the risk the town takes is that we do not have any control to require them to ever put it back up. Selectman Pippin added, "at least we've done our part and everything we could to preserve it." The Board agreed to invite the Historical Society for Executive Session at the next meeting.

***B. Parliamentary Procedures**

Not discussed but remain on the agenda pending receipt of additional information.

***C. Discuss purchasing Tables and chairs for Senior Center**

Not discussed but remain on the agenda pending receipt of additional information.

***D. Discuss proposed Tax Abatement Ordinance**

Not discussed but remain on the agenda pending receipt of additional information.

***E. Discussion and Approval of WHPFD MOU**

Not discussed but remain on the agenda pending receipt of additional information.

10. NEW BUSINESS**A. Discussion of PILOT program**

Linda Collins, East Windsor Housing Authority Director and Marie DeSousa, of the East Windsor Housing Authority were present to discuss the PILOT program. They asked the Town to consider allowing them to pay the 7% PILOT instead of increasing to 10% this year. They said that Park Hill operates on rental income only. Between their rental income now and proposed rent income for July 1 this is only a \$792.00 difference. So the income is not going up significantly and they already have to rely on their reserves for operating expenses. The Board of Selectmen asked to see an income statement and revenues and expenses for one year. Ms. Collins agreed to provide the Board with the audit report. The Board of Selectmen agreed to discuss this, have Attorney Hawks-Ladds "bless" the contract and wait for the audit report, and hopefully have it done by the next meeting.

B. Appointment of Social Services Director as Veterans Service Officer

MOTION made (Pippin) and **SECONDED** (Nelson) to appoint Human Services Director, Kristen Formanek as Veterans Service Officer for a period of three years and to authorize First Selectman Maynard to sign any paperwork necessary to make this happen.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

C. Approval of Tax Refunds

MOTION made (Nelson) and **SECONDED** (Pippin) to approve the tax refunds in the amount of \$2,408.56 as of 3/31/2016.

In favor: Bowsza, Nelson, and Pippin. Opposed: None.

***D. Process of donating sick leave**

Not discussed but remain on the agenda pending receipt of additional information.

***E. Discussion of Opioid Tax Force**

Not discussed but remain on the agenda pending receipt of additional information.

F. Discussion of WHPFD tax issues

First Selectman Maynard read Selectman Bowsza's email from Monday. Attorney Hawks-Ladds said there are 3 options the Town could do to move forward. First is establishment of special services district (which we cannot do because the clock is against us). Second is getting a special act of legislature to allow town to reimburse the Warehouse Point Fire District for the cost of fire services (which is not off the table, there could be enough time). Finally, the Town could cease all appropriations to the Broad Brook Fire Department, which would compel its residents to either establish their own district or otherwise develop a system to fund its operations. The email (from Selectman Bowsza) and legal opinion letter from Attorney Joshua Hawks-Ladds is hereto attached as Attachment A.

Selectman Bowsza felt the legislative delegation would try to help us. If that were something that the district and Town were interested in doing, we would have to engage them quickly.

There was a brief discussion about which option to pursue and if we had time for each of the options. Chief Barton said that we should pursue both options that we have. First Selectman Maynard agreed to reach out to the legislative delegation to the get the ball rolling on this.

MOTION made (Nelson) and **SECONDED** (Bowsza) to recommend the Board of Selectmen send this to the Board of Finance and request a Special Meeting to discuss the Warehouse Point Fire District issues as soon as possible.

In Favor: Bowsza and Nelson. Opposed: Pippin.

11. SELECTMEN COMMENTS AND REPORTS**A. Steve Dearborn**

Selectman Dearborn was absent.

B. Jason E. Bowsza

Selectman Bowsza read his report hereto attached as Attachment B. Selectman Bowsza suggested that the Town have a plaque made for Frank Gowdy's many years of service to the Town. He also added that he thinks that this Board of Finance is the best group we have had in years and he is glad they are serving the town.

C. Dale A. Nelson

Selectman Nelson read her report hereto attached as Attachment C.

D. Richard Pippin, Jr.

Selectman Pippin said that the Permanent Building Commission met Monday, March 28. They were having a problem with Cox cable. First Selectman Maynard got Superintendent Kane on this issue and it was fixed immediately. On April 11 the modules will be here. It was also voted to pay off the general contract in full for the nurses' station. Public Works bids came out under appropriation and we are in good shape there. Bill for 170 was approved and some change orders we approved.

12. PUBLIC PARTICIPATION

Jim Richards, 27 Pleasant Street, said that the Chamber of Commerce held an event and are anticipating a \$1,500 donation going to the food pantry. He also added that the new date for Community Day is September 24th. He said they are looking at two different locations. They have \$2,600 to start with, which shows the success of last year. He encourages everyone to attend this year.

Rebecca Talamini, 23 Rice Road, made everyone aware that there is a shoe drive going on, and mentioned the box outside of the meeting room for any new and used shoes. They will be collecting shoes until April 16th.

MOTION made (Pippin) and **SECONDED** (Bowsza) to go into Executive Session at 8:30 p.m.

13. EXECUTIVE SESSION

The Board came out of Executive Session at 8:32 p.m.

14. ADJOURNMENT

The meeting was adjourned at 8:33 p.m.

Respectfully submitted,



Amanda Schroll
Recording Secretary

Robert Maynard

Attachment 9

From: Jason Bowsza
Sent: Monday, April 04, 2016 3:41 PM
To: Hawks-Ladds, Joshua; Richard P.. Pippin, Jr.; Dale Nelson; Steve Dearborn; Robert Maynard
Subject: RE: Town Counsel Legal Opinion Regarding Warehouse Point Fire District Tax Issues

We should discuss this, and possible next step options, at tomorrow's meeting. This is changes the landscape that we all thought to be the case, and time is against us. *verse The bird of time*

From: Hawks-Ladds, Joshua [jhawks-ladds@pullcom.com]
Sent: Monday, April 04, 2016 12:35 PM
To: Jason Bowsza; Richard P.. Pippin, Jr.; Dale Nelson; Steve Dearborn; Robert Maynard
Cc: carl@faheyland.com
Subject: Town Counsel Legal Opinion Regarding Warehouse Point Fire District Tax Issues

All,

Here is my formal Town Counsel Legal Opinion Regarding the Warehouse Point Fire District Tax Issues that were recently raised. Please feel free to contact me with any questions or comments.

Joshua A. Hawks-Ladds
Attorney

PULLMAN
& COMLEY LLC
ATTORNEYS

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BRIDGEPORT HARTFORD STAMFORD WATERBURY WHITE PLAINS

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April 4, 2016

Richard Pippin, Jr. and Jason Bowsza,
Board of Selectmen
Legal Affairs Subcommittee
Town of East Windsor
11 Rye Street
Broad Brook, CT 06016-9553

**Re: Town Counsel Legal Opinion Regarding
Warehouse Point Fire District Tax Issues**

Dear Mr. Pippin and Mr. Bowsza:

I am writing in response to concerns that have been raised regarding the draft Warehouse Point Fire District (the "District") interlocal agreement (referred to as a "Memorandum of Understanding" or "MOU" by the parties) causing an unfair tax burden to the District's residents because the Town's budget includes an annual appropriation to the Broad Brook Fire Department which fire department does not service the District or will not be the District's residents' primary fire service provider.¹ Under the draft MOU,² the Town would collect taxes levied by the District to fund the District's operations, instead of the District receiving an annual appropriation by the Town.

You have requested my opinion as Town Counsel on two ideas proposed in response to these concerns. Specifically, you have asked: (1) whether the Town can lawfully reduce the real estate tax bill for the owners of property located within the boundaries of the Warehouse Point Fire District by the amount of the Town's appropriation to the Broad Brook Fire Department; and (2) whether the owners of property located within the area served by the Broad Brook Fire Department could create their own municipal district and thereby tax themselves for their own fire services in lieu of an appropriation from the Town.

Municipal taxation is governed by state statute. "The authority of the town to tax is absolutely defined by the grant of taxing power from the legislature, and is limited to expressly granted powers or those that exist by necessary implication." *Burwell v. Board of Selectmen of Town of Winchester*, 178 Conn. 509, 517 (1979). Every town must lay an annual tax on each nonexempt item of property on its completed grand list sufficient to pay its anticipated expenses

¹ I assume that the Broad Brook Fire Department will provide mutual aid to the Warehouse Point Fire District residents in the normal course of providing services to East Windsor residents.

² As of the date of this opinion, the terms of the MOU are still being negotiated between the Town and the District.

and deficits for the year. C.G.S. §§ 7-344, 7-382, and 12-122. The tax is based on a uniform percentage of assessed value and a rate bill is calculated for each owner according to that assessment list. C.G.S. §§ 12-64 and 12-130(a); *see also* East Windsor Town Charter at § 8-4. The rate is the multiplier by which each \$1000 of value is payable in dollars by the property's owner, therefore called a "mill rate," such that the aggregate equals the total budget.

Although numerous statutes give towns the obligation or discretion to reduce certain valuation assessments and payment obligations under various circumstances, no statute authorizes towns to decrease an individual tax bill on the basis that the taxpayer either derives no benefit from a budget item or is concurrently taxed by an overlapping municipal entity. The Connecticut Supreme Court has affirmed that a town is "required by law to levy taxes on all of the property within its limits," including property within the Town limits, sufficient to pay its estimated expenditures for services outside the Town limits and within the District. *Moore v. Town of Stamford*, 134 Conn. 65, 67 (1947). The Town has "no power to separate any item from its budget and levy separate taxes for it." *Id.* The *Moore* court specifically rejected the argument "that a smaller municipal unit may not be taxed for services properly performed by a larger unit in which it is included on the ground that the services do not directly benefit the smaller unit." *Id.* at 70. Neither may the owners of property within a taxing district compel the town to stop taxing them for providing services duplicative with those they provide to themselves through their district. *Windham First Taxing Dist. v. Town of Windham*, 208 Conn. 543, 557 (1988).

Thus, Connecticut's statutes require the Town of East Windsor to uniformly assess all nonexempt property within its boundaries, calculate a mill rate proportionate to its total annual budget, and bill every property owner according to that statutory formula, subject only to exceptions not applicable here. Although taxes levied by the Warehouse Point Fire District will be in addition to those levied by the Town for its general budget, a portion of which is appropriated to another fire department serving a different area, state law provides no exception by which the Town could decrease the real estate tax liability of the owners of property within the District by the amount of that appropriation.

I therefore conclude that the Town may not lawfully reduce its tax bills to property owners within the Warehouse Point Fire District to offset the Town's funding of the Broad Brook Fire Department which does not primarily serve them.

You also asked whether the owners of property located within the area served by the Broad Brook Fire Department could create their own municipal district and thereby tax themselves for fire services in lieu of an appropriation from the Town. The answer is yes. Under C.G.S. § 7-324, *et seq.*, residents of a geographically contiguous area may vote to establish a municipal district for the purpose of providing fire protection services. The district would constitute a municipal entity wholly separate from the Town with the independent power to levy taxes on property within its boundaries to fund its own budget. Many fire departments

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across Connecticut are organized this way. Note, however, that the Town cannot force the residents to create their own district. In fact, the residents of Broad Brook specifically considered and rejected a proposal by the Department's board to do so at a well-attended community meeting held in January 2008.

There are at least three alternative approaches by which these concerns could be lawfully addressed. First, the Town could add an additional line item to its annual budget granting an appropriation to the Warehouse Point Fire District in an amount equal to the Town's appropriation to the Broad Brook Fire Department, which would thereby directly offset the duplicative taxation of the District's residents. (It would also presumably reduce the District's own tax levy to the amount by which its budget otherwise exceeds the Department's.) Second, the Town could cease all appropriations to the Broad Brook Fire Department, which would compel its residents to either establish their own district or otherwise develop a system to fund its operations. Finally, the Town could ask the Connecticut General Assembly to enact special legislation authorizing it to reduce or credit its tax bills for owners of property within the Warehouse Point Fire District by an amount equal to its annual appropriation to the Broad Brook Fire Department.

Please contact me if you require clarification of my opinions above or if I can be of further assistance to you.

Very truly yours,


Joshua A. Hawks-Ladds

cc: Robert Maynard, First Selectman

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Selectmen's Report - April 5, 2016

On March 16, the Planning and Zoning Commission held a public hearing about the POCD with a focus on the Warehouse Point Village. More than 60 people attended. One of the more heated aspects discussed that night concerned the potential round-about at the end of the bridge between Warehouse Point and Windsor Locks, which was overwhelmingly opposed.

I attended BOF meeting on March 17 to hear the budget presentations. I look forward to working with the board as they move through the process and hope to be a resource for them, as needed.

That same night, the BOF approved a bond initiative to bond for a roof on EWMS, replacement of the dam at Mill Pond and a road improvements package. This will potentially be a ballot question during the first referendum next month.

At the Planning and Zoning Commission meeting on 3/22, longtime commissioner Frank Gowdy announced that this would be his last meeting after more than twenty years on the commission. Could the Town commemorate this long service with a plaque?

The Board of Finance met on March 23 and held a budget public hearing and workshop. It seems that state revenue is already projecting lower than was budgeted in the BOS budget submission. It was this very concern that was one of the reasons I voted against the budget as presented to us.

The board raised several concerns about the change in fire service as well as changes in local and state revenues.

On March 24, the Conservation and Agriculture Commissions met. The conservation commission is discussing the possibility of supporting an application to the State's Community Farms Program to preserve farmland on the southeast side of town. It would be in conjunction with the Town of South Windsor. The Agriculture commission discussed with representatives from the dog park the need to provide irrigation to the community garden site. They also discussed the Farmers Coffee event on April 2, and the desire of the East Windsor Farmers' Market to be covered by the Town's insurance provider.

On March 30, I attended the Chamber of Commerce fundraiser at Broad Brook Brewery. It was a sold out event, and a portion of the proceeds were donated to the 5 Corner Cupboard.

On March 31, Bob, John Burnham and I met with the Town Attorney to discuss the Barber Hill School preservation project as well as the Memorandum of Understanding between the Town and the Warehouse Point Fire District. Afterwards, I attended the Board of Finance workshop. They had workshops on the 28th, 31st and April 4th. They are making good progress towards a budget to be submitted to the public in May's upcoming referendum. In my opinion, this is the best Board of Finance that we've had in years.

Respectfully submitted,

Jason Bowsza
Selectman

3/16 Warehouse Point revitalization St John's Church 600 PM
Board of Education unable to attend 730 PM

Everyone was given a "hand held devise" that enabled the crowd to vote on each suggestion. Jason, Dick, Bob and I attended the event. The most notable vote was on the "roundabout" in the area – definitely NOT wanted. Great treats!

3/17 Board of Finance meeting immediately following the workshop 700 PM
Board of Education budget workshop unable to attend 730 PM
Jim Richards's appointment was welcomed by the board and Jason was able to swear him in so he was a voting member at the meeting. Minutes are on line for the workshop.

3/19 Park and Recreation with EW Rotary Bunny Breakfast 900 AM
Well attended by young and all, a great breakfast as well

3/21 Warehouse Point Fire District Special Meeting 700 PM
Only 1 person attended the important meeting about setting the district mil rate
Housing Authority 700 PM
I arrived about 720 Dick Pippin took notes before I arrived – thank you. Financial reports find the Authority holding their own (nicely). They are getting a plaque and tree in memory of Carmella Mills. The tenants association is doing a good job with the activities, BP screening, Food Shares at St Catherine's, new chair yoga instructor on Thursday's. Executive director reported they are working on critical need for sidewalks, small cities grant for ADA compliance for the three laundry rooms, CIP request to CHFA for funds to replace exterior front and back doors to the apartments and light fixtures – occupancy is at 100%. South Road delinquent land lease fees directed to the first selectman for a solution. Certified letters are being sent by the town attorney Monday 4/4 for their compliance. The authority is requesting to be put on the next BOS agenda regarding the PILOT

3/24 BOF public hearing** 700 PM
BOF Workshop immediately after public hearing @ 715 PM
BOE meeting immediately following at BBES 8 830 PM

**Comments about the budget increase to high – must get to 2% increase in spending. Comment was made that the BOE budes is done by an out of town firm, might save some money by bring it back in house. Jason, Dick and I were in attendance

@ CCM meeting today – Kim is not confident about \$337,000 – at this time she is cutting the payment in half \$150,000 – ECS revenue will also drop. Discussion with BOE regarding medical and dental insurance cost, Special Ed more in house programs decreased the budget, unemployment comp is down, salaries are way up, nurse station done at BBMS, modular class rooms are in the town budget.

*Set up in the gym at BBES (looks like the set up at the high school). Cox cable had to dig another trench at BBES slight delay in modular units. Alliance grant will be used for parking lot updates, exterior doors to Grade 4, doors and windows in the gym. Crown Victoria donated to the high school automotive class. Focus monitoring at BBES – great strides. Staff will have a catered breakfast tomorrow morning to celebrate. Appreciation Board month – goodie bags given to BOE members from BOE and BBES.

3/30 BOS and WHPFD special meeting

700 PM

MOU discussed – got thru most of the points. Still checking with counsel regarding the 2 different mil rates. Fire District is rate is approved, however not sure if BBFD (not a district) can have a different mill rate.

4/3 EW Youth Center Chili Cook off

4/4 BOF Workshop

530 PM

Warehouse Point Fire District Special meeting

700

23rd - Abby's walk - Reservoir location.

Regards,
Dale Nelson