



**BOARD OF SELECTMEN
AGENDA**

May 23, 2011

**6:15 P.M - Call meeting to order
All stand for Pledge of Allegiance**

AGENDA APPOINTMENTS

6:20 P.M. - Lisa Dube-Carpenter to introduce interim Health Agent Deborah Ketchen, of Merrimac, MA and approve her serving as interim Health Agent for up to 15 hours per week at an hourly rate of \$23.00 per hour

6:30 P.M. – Fire Chief John Clement, Attorney John Christopher and Town Counsel Brian Maser – Fire Chief’s job description

7:?? P.M. or following conclusion of 6:30 PM appt- Building Committee member Kim Jackson regarding item #2 below

NEEDS ATTENTION

- 1) Bruce Adams, Chairman of Storm Water Management Committee requests appointment of David Polcari, 46 Wood Street. Mr. Polcari is a civil engineer.**
- 2) See attached “Request for Management Services” (RFS) prepared by John Osborne-Bagnall School addition - Osborne requests you approve RFS & Chairman sign.**
- 3) Chief Kirmelewicz requests appointment of Reserve Dispatcher/Lock-up Keeper Joshua A. Sindoni, of Haverhill, MA**
- 4) Review correspondence a) Letter from Town Counsel re performance bonuses- Opinion may affect your approval of Payroll Warrant**
- 5) Need to call a Special Election for an Override for Pentucket Assessment OR a Special Town Meeting to make cuts of approx. \$70,000 (see Greg for actual figure) to appropriate the full school assessment. (Groveland has 45 days from the date on which the amended assessment was adopted by the PRDSC to hold a meeting otherwise it shall be deemed to have voted to appropriate the new amount.**

Approve Minutes: May 9, 2011

Approve Warrants:

PW # 11-46	\$ 114,406.91 or \$ 109,536.91
DW #11-44A	\$ 21,138.58
BW #11-47	\$ 75,993.03

Next Meeting: Monday, June 6, 2011 @ 6:15 P.M.

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Meeting called to order at 6:16 P.M. at Town Hall.

Present William H. Darke, Donald N. Greaney and Chairman Elizabeth A. Gorski.

Bonuses Library Director & Staff on Payroll Warrant

Chairman Gorski asked for a motion to approve the weekly Warrants. Selectman Greaney informed her he believed there was an issue on the Payroll Warrant due to the Library Trustees putting in for some bonuses for Library Staff and that our bylaws don't allow for that. Chairman Gorski asked if the Selectmen had known about this and Greaney stated no; that the only reason he knew was because he had been in the Finance Director's office last week when Lisa Dube' Carpenter came in with some bonuses for the current payroll warrant. Lisa entered the meeting room at this time and Selectman Greaney told her that Town Counsel has given an opinion that the Trustees do not have the authority to establish employment benefits beyond those established by statute, Town Meeting vote, or policy of the Town; that the Town's Personnel Policy does not provide authorization for bonuses.

Lisa responded that the person who actually recommended it was Town Counsel; that she had spoken with town counsel, a Brian Maser, and he had told her the Trustees can award performance bonuses to the library employees; that they had wanted to give the Director an increase and wanted to put it in her contract but were told they couldn't do that because it would come out of town funds so we contacted State Aid and was told we could use state aid for bonuses. Attorney Maser was present in the meeting room for another matter, introduced himself to Ms. Dube'-Carpenter and told her he was not 100% recalling the discussion occurred

Darke asked what State Aid can be used for and Lisa responded that it is used to fund the library. Darke asked if it is held over from year to year and Lisa responded that it is. Lisa asked if the personnel bylaw pertains to monies that come from the town and the Board's Assistant responded it pertains to employees' rights and benefits as town employees. Lisa stated she would like to have some time to review counsel's opinion and agreed that the bonuses be removed from the Warrant this week.

Warrants

Moved Darke, seconded Greaney, and it was

VOTED: To approve Payroll Warrant #11-46 in the sum of \$109,536.91.

Darke, Greaney – "Aye"; Gorski – "Abstain"

Moved Darke, seconded Gorski, and it was unanimously

VOTED: To approve Bill Warrant #11-47 and Deduction Warrant #11-44A.

Minutes

Moved Darke, seconded Greaney, and it was

VOTED: To accept the Minutes of May 9, 2011, as presented.

Lisa asked that the issue of bonuses be placed on a future agenda for further discussion; that there is a concern about consistency and whether the bylaws are being consistently applied to all employees and not just some. Lisa told the Selectmen that the Library Director and her staff are not being paid consistent with other towns in the region; that they are underpaid and that the bonus was to recognize their hard work and was not meant to be recurring. She suggested that she had concerns whether all employees are treated the same under the Personnel Plan, suggesting that they may not be and if that were the case, she would not agree with this opinion. Maser told the Board that he would not retract from Attorney Randazzo's opinion in any way, shape or form. Dube-Carpenter said the Trustees were trying to give recognition of the hard work of the staff where they are not paid as well as the rest of the region. Selectman Darke responded that they understood but need to be sure it is legal to do so. Attorney Maser addressed Lisa and told her his recollection was that they discussed a problem with an employee in the Board of Health nothing regarding performance bonuses. Lisa said she may have extrapolated from their conversation that it would be permitted; that it may have not been a direct statement and apologized.

Selectman Darke stated the Board would need to find out whether bonuses are permissible and if so, how to appropriately allow same. Attorney Maser responded that the Personnel Policy would need to be amended allowing bonuses across the board and made available to all employees not just something that can only be awarded in individual's contracts. Lisa then asked the Selectmen whether the by-law is being followed consistently for all employees in regards to compensation and benefits. Selectmen Darke responded he does not know that it hasn't been and if it has, the Board would want to know so it can be cleaned up. Lisa stated if that is the case she does not agree with the legal opinion.

Interim Health Agent

Board of Health Chairman Lisa Dube' Carpenter introduced Deborah Ketchen to the Board. Deborah works as Health Agent for the Town of Merrimac and has been hired by the Groveland Board of Health to serve as interim Health Agent while the Board posts the position and conducts interviews; that Deborah will be considered for the part-time position but in the meantime has agreed to help out with septic issues that require immediate attention. When asked if Ketchen will be available set times, Dube' Carpenter responded that Deborah will have a non-emergency time where she will be available every two weeks and her cell phone number will be provided. Lisa told the Selectmen Ms. Ketchen has been very helpful and will help the Board determine the needs of that position (weekly hours).

Moved Greaney, seconded Darke, and it was unanimously

VOTED: To approve the hiring of Deborah Ketchen to serve as Interim Health Agent for up to 15 hours per week at an hourly rate of \$23.00 per hour.

Fire Chief Clement

Fire Chief Clement and his attorney John Christopher met with the Selectmen and Town Counsel Maser again to continue their discussion on the Fire Chief's job description. Chief Clement had emailed his draft of duties (old and new) shortly before the meeting began and he and his attorney were given a copy of the town's draft of a job description for comparison. Town Counsel recapped the previous meeting, noting that the duties listed by the Chief and in the town's draft were relatively the same except the town had included office hours. Selectman Darke stated that the hours are obviously what needs to be determined and agreed to. Attorney Christopher stated he had figured out other Fire Chief's hours based on the duties they perform and their salary and even those that receive large salaries would be earning \$14 or \$16 an hour; that the Chief can't devote less than 20 hours to the job; that the Chief is always available unless he is out of State. Christopher told the Board they need to factor in the hours of availability of the Chief.

Attorney Maser responded that there is a big difference between someone "on call" and someone "on standby"; that when an employee is on call they do not have to report to a figure of authority their whereabouts on a daily basis; that a person on standby does.

Attorney Christopher suggested Clement is in a different situation because he is the department head; that he is paid a retainer to run the department. Chief Clement spoke about a call he received on Saturday at 4:30 a.m.; that the radio system had gone down and he was needed to get the call system up and running three hours later. What would you call that, stand-by? on call? How do I get compensated for those hours? Selectman Greaney asked if there was a contract with a company for radio repairs? Clement stated there is. Clement stated that he has offered that type of additional service since he became Chief. Selectman Darke responded that no one is arguing that the Chief should be compensated if something like that happens; that the question becomes what the compensation should be to be available and take the call at any time. Clement stated that the idea of back calculating a salary to come up with a number seems ludicrous. Clement stated he will give the town 24 hour coverage, 365 days a year for the salary town meeting has approved. He said let's get down to what the issue is and read from the town's draft that the position is for 14 hours a week and to see the Personnel Policy for benefits, if any, the asked the Board "isn't that the issue?" Selectman Darke responded that yes, he would say the hours and insurance are the issue, they go hand in hand. Clement told the Board that they don't mind getting the 365 day and 24 hour per day coverage; that they only want to authorize 14 hours coverage so they can cut him out of the health plan and asked, is that what you're doing? Darke responded that it really doesn't apply to Clement because if the change was made he could retire and remain on the health insurance and continue to have the benefits for the rest of his life; that it has to do with moving forward when Clement is retired and someone new fills the position. Darke told Clement the Board has to look at these things; that they don't like it; that it's not a pleasant issue, but needs to be looked at and whatever the decision is needs to be spelled out clearly so these conversations don't have to happen again. Clement responded that he understands that but asked if this were adopted this evening how long would it take before he was dropped from the health plan? Clement told the Board he was dropped immediately last year; that they had a meeting, he thought it was resolved and now it's being brought up again.

Christopher told the Selectmen that the insurance is a benefit for the small salary the Chief receives. Selectman Darke responded that although it is an unpleasant discussion, in these tough economic times it needs to be discussed and a decision made as to whether the Call Fire

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Chief position is a benefit eligible position because not only are the benefits allowed while employed, but continue once the employee retires. Darke mentioned how the town has to pay for a former Finance Director who worked for 6 months then retired and because he had enough time in the system the town will pay for his insurance and his wife's for the rest of their life after only having worked 6 months for the town.

Christopher told the Board that he feels they need to consider offering the health insurance benefit for the Fire Chief position due to it's small salary of \$17,000+; that with a family plan worth \$18,000-\$20,000, \$35,000 is short money for the coverage the town receives.

Attorney Maser told the Board the question becomes how many hours they feel is needed for the Chief to oversee the fire department and its personnel; that the position is a call chief of a call department. Is the position something that can be done in 15 hours a week or would it need more hours and that is what would determine whether the position is benefit eligible. Attorney Christopher asked if the Board determines the position needs 18 hours per week and the Chief has put in the 18 hours by Thursday of that week and a fire breaks out on Saturday what then? He stated he feels a Fire or Police Chief is more on standby then on-call. Chief Clement stated that the job is time consuming now compared to 10-15 years ago when he first started; that there are 650 calls a year, about 2 calls a day. Clement also remarked on the hours of emails he deals with every day. Clement asked if the Board wants to establish an hourly rate for him and pay him by the call.

Christopher told the Board that if the Selectmen put him on the health plan when he first became Chief, then it had to have been established that the job was 20 hours a week or more. Selectman Darke stated the Selectmen in 1994 were Barbara Sheehan and himself and he did not approve the Fire Chief position for health insurance. Christopher argued that despite who it was that approved it, Clement has been on the health plan for 17 years and under 32B he had to be recognized as a 20 hour a week worker. Attorney Maser told the Board that the Board has the ability to take a 20 hour a week employee and reduce those hours as you see fit.

Selectman Darke asked if there is a mandatory retirement age and Clement replied there are two thoughts on the matter but an extension can be granted via Special Legislation. The parties agreed to review the two drafts of the job description and discuss the matter again on June 20th at 6:30 p.m.

Storm Water Management Committee

Bruce Adams requested the Board appoint David Polcari to the Storm Water Management Committee. Moved Darke, seconded Greaney, and it was unanimously

VOTED: To appoint David Polcari, of Wood Street, to the Storm Water Management Committee, said appointment effective immediately through June 30, 2011.

Reserve Dispatcher

Police Chief Robert Kirmelewicz presented a written request for approval to hire a Reserve Dispatcher to fill an existing vacancy. Moved Darke, seconded Greaney, and it was

VOTED: To approve the hiring of Joshua A. Sindoni, of Haverhill, MA as part-time Reserve Dispatcher, said approval effective immediately.

Pentucket Revised Budget

The Board briefly discussed Pentucket's submittal of a revised budget and the need to raise another \$70,000+. Selectmen were in agreement at this time that they would not call for a Special Election for an over-ride stating that they felt the voters had spoken at the Town Election last month. The Board will wait to see what Merrimac voters do. Finance Director Labrecque stated the school may receive another \$94,000 from the State.

Bagnall Building Committee Request for Management Services

Just prior to the meeting's start, Building Committee member John Osborne had emailed the "Final" copy of a Request for Management Services and asked that the Board vote to approve and authorize the Chairman to sign said RMS. Moved Darke,

seconded Greaney, and it was unanimously

VOTED: To authorize the Chairman of the Board to sign the Request For Management Services for the Bagnall School Building Project, said RMS having been presented by the Bagnall Building Committee.

Building Committee members Kim Jackson and Kevin Cunniff arrived at the meeting. Jackson informed the Board that he had met earlier with Pentucket's Business Manager; that there is a difference of opinion where the proposals should be sent; that the Business Manager feels where the school is the borrowing entity it needs to have the full file on hand in case of an audit. Jackson told the Board he had agreed to give the school the entire package once bids are all in. Jackson also informed the Board that he would like to prepare a form that has a building committee member, a Selectman and the Finance Director sign off on bills before they go to the School's Treasurer for payment. Jackson stated the Business Manager was in agreement with that suggestion and the Selectmen agreed such a form be drawn up by Jackson and used throughout the project. Jackson told the Board that the Final copy Osborne sent earlier was not the Final and he would bring the Board's Assistant the final copy the next day.

Property Use Permit

Selectmen signed Property Use Permits submitted by COA Director and Dirt to Skirt Softball League.

2012 Budget

Selectman Darke stated that the Board will make cuts to staff if they feel they need to. He asked whether they need to meet with the Finance Board to do so and was told by Labrecque that they did not. Labrecque told the Board that the shortfall would be \$70,000-\$80,000 of which \$55,965 is the school, \$16,000+ the increase voted for library hours. He reminded the Board that if they cut salaries they will need to increase unemployment; that currently the town would owe up to 30 weeks at half the salary cut.

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Adjournment

There being no further business to come before the Board, moved Darke, seconded Gorski, and it was

VOTED: To adjourn.
Adjourned at 8:48 P.M.

Respectfully submitted,

Nancy Lewandowski, Administrative Assistant