



**Board of Selectmen
Minutes
May 25, 2010
Town Hall Meeting Room**

The meeting was called to order at 7:01PM by Chair, Peter Warren in the Town Hall Meeting Room. Peter Warren, Marie Sobalvarro, Ron Ricci, and Tim Clark were all in attendance.

MINUTES – On a Ricci/Sobalvarro motion, the board voted unanimously to approve minutes of 5/5, as presented.

On a Ricci/Sobalvarro motion, the board voted unanimously to approve the minutes of 5/11, as presented.

MUNICIPAL BUILDING TASK FORCE UPDATE– Ron Ostberg came forward to present the suggested charge for the Municipal Buildings Committee along with a list of recommended members to be appointed.

Charge: The Municipal Buildings Committee (MBC) shall develop plans for the reuse and renovation of the Town Hall/Old Fire Station, Old Library and Hildreth House for municipal government offices, senior center, community center and/or such other use(s) as may be appropriate, including lease or sale. The MBC shall submit a report and recommendations to the Board of Selectmen and the 2011 Annual Town Meeting based on public input on potential reuses and professional assessment of renovations and upgrades to the buildings’ systems and structures to accommodate proposed reuses, as well as a proposed timeline and cost for implementing the recommendations.

Proposed Members: Ron Ostberg, Al Combs, Doug Coots, Maggie Green, Peter Jackson, Marie Sobalvarro, Janet Vellante, Lucy Wallace, Peter Warren and Willie Wickman.

Ron Ostberg commented on the work accomplished since October by the Task Force which included workshops with residents and was successful in completing a proposal for the Annual Town Meeting. The support from ATM instructs the Task Force to continue with their efforts. Ostberg stated the importance of establishing a work schedule with BOS, Finance Committee and Capital Committee moving forward. Marie Sobalvarro asked if this committee would be a continuation of the current committee and what the anticipated size of committee may be. Ostberg said the task is not simple and will require research in many areas including possible rental income, grant funding and scheduling techniques for the Town Hall, former Library and Hildreth House. He indicated participation from others outside of the committee will be utilized when necessary and continued input from the community through workshops and open meetings. He said a specific number had not been determined. Ron Ricci said he was under the assumption appointments would not be made until after the Strategic Planning Session. He agreed the suggested group is good but wants to be sure all the BOS members are on board. He also does not want to hold up the group and suggested they continue to work under the task force until official appointments to the new committee are finalized. Tim Clark made a good point by stating technically the task force is essentially working as group of volunteers at this time and not as a formal committee who have to follow all the open meeting laws. He did caution the group on the size of the committee. His concern was the ability to form a quorum if too many formal members.

Bill Johnson entered the meeting at 7:20pm.

Ron Ricci referenced the structure of the Energy Advisory Committee which was formed with a core voting group and then additional associate members to participate. He suggested they model that structure. Ron Ostberg indicated the list provided was the core group. Tim Clark expressed the importance of the charge empowering the committee to control expenditures. Marie Sobalvarro clarified the charge for this committee as well as other new committees will be discussed further at the Strategic Planning Session on June 8th. Peter Warren commended the task force for their efforts to this point and confirmed what Sobalvarro said about further discussion on June 8th. Task force member Lucy Wallace spoke about how the Master Plan Steering Committee organized sub sets for different aspects and said this is how she envisions the task force in moving forward with the Municipal Buildings Committee being the lead group. Wallace said any expenditure must be approved by the BOS as well as contracts to hire. Tim Clark asked if someone should take the lead to develop a charge and work with the task force. Ron Ricci and Marie Sobalvarro volunteered.

HISTORICAL COMMISSION APPOINTMENT – On Clark/Johnson motion, the board voted unanimously to accept resignation from Lynn Horowitz and send letter of thanks.

On a Clark/Johnson motion, the board voted unanimously to appoint Rudy Minar to fill vacancy left by Lynn Horowitz with a term expiring on June 30, 2011.

TRANSFER STATION PAVING – DPW Director Rich Nota was present to recommend use of projected surplus funds available from Transfer Station operations in FY10. He requested the board award paving of the unpaved sections of the Transfer Station with these funds. He explained the surplus is due to recycling improvements. On a Clark/Sobalvarro motion, the board voted unanimously to award purchase of bituminous concrete to PJ Keating according to specifications included.

On a Clark/Ricci motion, the board voted unanimously to award bid for paving upper and lower sections of Transfer Station as discussed to Lazaro Paving.

On a Johnson/Clark motion to accept and sign Chapter 90 reimbursements request.

SELECTMEN REPORTS –

Bill Johnson said the bid on the Bare Hill Pond Stormwater Improvement project will close on Thursday, May 27th. He will ask the Selectmen to act on this at the beginning of the June 8th meeting so the funds can be encumbered appropriately.

Marie Sobalvarro announced the link on the town website for “Bring back the 4th of July” grant opportunity available by Liberty Mutual and encouraged all residents to participate. She also reminded residents of the seventeen current vacancies that exist on several committee/boards.

Tim Clark thanked all the groups that participated in the Volunteer Fair this year. He said the turnout was low but those who did attend were able to make strong commitments. He thanked Betsy Kehoe for her efforts and expressed interest in new ideas to increase the volunteer base in town.

Ron Ricci said he and Marie Sobalvarro participated in the evaluation of senior projects and complimented the students involved.

Peter Warren said he and Ron Ricci met with the new Executive VP of Devens Operations George Ramirez and Meg Delorier Chief of Staff. They discussed the letter sent on April 27th regarding the role of public input on the future redevelopment of Vicksburg Square. They agreed public input is necessary but the path chosen at this time is to select the developer first. They indicated bid selection may happen in June or July. Bill Johnson asked if the criteria for selecting a developer includes considering the type of project they present. Ricci said a number of items will be considered in the selection process. Once developers are chosen they will come before the towns to present their project. They are aware the proposal must be approved by all three towns. Marie Sobalvarro asked if the developer would be responsible for any zoning changes and Ricci confirmed they would. Johnson thought the process was odd to select the developer before determining the actual project. Ricci said August/September time frame seemed appropriate for next steps. Ricci said he also spoke to Ramirez about regional services and other points of importance to the JBOS. Peter Warren said he is hopeful for improved communication with JBOS and MassDevelopment. He felt Ramirez was sincere and looks forward to the working together.

Peter Warren reiterated what Marie Sobalvarro mentioned about the “Bring back the 4th of July” and volunteerism.

PUBLIC COMMUNICATION –

Bill Ashe, 28 Myrick Lane, came to provide his opinion on the mosquito control. He expressed concerned over mosquito control in Harvard due to environment and public health issues. He wanted to know why the BOS voted the way they did?

Brint Ferguson, Still River Road, spoke on behalf of the Community Cable Access Committee to encourage residents to view new channels 12 & 13. Some features are bulletins, schedules, town announcements, weather and local news. He said channel 12 airs all public meetings and channel 13 airs programs of general public interest.

Keith Cheveralls, School Committee Chairman, said they reviewed the data from the survey conducted of Devens residents with children in the Harvard schools. He said the results were encouraging and will be posted on the school website.

WILD AND SECENIC RIVER NOMINATION FOR NASHUA RIVER–

Rick Muehlke from Nashua River Watershed Association came to give a brief presentation on the legislation that Congresswoman Tsongas is proposing. He explained the Partnership Wild & Scenic Rivers Program is dedicated to protecting nationally significant river resources through locally based partnerships. The national Wild & Scenic River Program includes over 200 rivers and river segments throughout the country. Many flow through local communities and are the centerpiece of community life, both past and present. The National Park Service now recognizes 14 partnership rivers and study rivers. While the National Park Service maintains administrative responsibilities for the rivers, they are managed in partnership with local communities and organizations. Each river has a local committee, created by legislation, to work

with and advise NPS on protection of the outstanding resources of the river. This model has been very successful. In 2007, the Ash Institute for Democratic Governance and Innovation named the Partnership Wild & Scenic model one of the top 50 government innovations linking citizens with important public services. At this time, NRWA is asking the BOS to consider sending a letter of support to begin a study of a Wild and Scenic River nomination for the Nashua River. Muehlke said the study will take three years to complete and once the study is finalized a town meeting vote is necessary to accept the designation.

The Selectmen asked the following questions:

- How far back from the bank of the river does the designation go?
- What if one or more towns say "no"?
- Who exactly does the study - NPS staff? Contractor? some other federal agency? NRWA?
- Has anyone put together a "story" of "bumps along the road", so we can see what problems others have encountered?

Muehlke was unsure of the answers but said he would follow up.

Marie Sobalvarro asked what the time frame is for the Selectmen to respond. He said a letter of support sooner than later would be preferable.

TOWN ADMINISTRATOR REPORT – Tim Bragan informed the board he is working with Attorney Ray Lyons, Boxborough Town Administrator Selena Shaw and land owners regarding flooding that occurred on the town line over near the Delaney property.

Bragan said he spoke with Historical Commission Chair, Jonathan Feist about their request to have the eastern boundaries of the Historical district surveyed to confirm if the project on Littleton Road is in the historical district. Bragan explained initially the project was determined to not be in the district but it has come into question if the most current historical district map was referenced as it has been expanded over time. The board instructed Bragan to follow up to see if the contractor has already had a boundary survey done and if not research the cost to have one done.

Bragan confirmed George Ramirez from MassDevelopment was not able to attend this meeting to discuss Mosquito Control. Peter Warren said he understood MassDevelopment may hold a hearing on this issue. Ron Ricci said the Mosquito Control representative he spoke with would be willing to make a presentation at Devens. Bragan confirmed nothing has been set yet but once a date is determined the public will be adequately notified.

Bragan reported he met with Representative Jen Benson during her meeting with town administrators in her district to fill them in on what is happening. He said the dialogue is very helpful and encourages the BOS to bring any issues they may want discussed with her to him.

Bragan updated the board on their discussion from the April 27th meeting regarding the issuance of the liquor license to The Grapevine, Robert Hirsh. At the meeting a list from Selectmen Tim Clark was requested due to his concerns on Board of Health documentation not yet provided by the applicant. Bragan said he has spoken with Sanitarian Ira Grossman and received a letter from the BOH indicating all issues have been resolved and the property in question is in compliance. Bragan said to his

knowledge the only other outstanding issue is the original sign location is not in compliance with the initial site plan. Bragan confirmed the General Store's license has been issued. Tim Clark referenced the conditions which require documents to be received prior to issuance. Bragan read conditions required and confirmed he distributed Clark's letter to the BOH. Clark began to reference specific documents at which time Tim Bragan referenced the letter received from the BOH stating no outstanding issues. Clark continued to request actual documents and Bragan did verify the Title 5 certification was submitted previously. Ron Ricci questioned the necessity for full compliance regarding the sign placement considering the existing sign has been in place for 30 years or more. He made a motion to issue the license and Bill Johnson seconded it for further discussion. Johnson asked if the license comes up for renewal in December. Ron Ricci confirmed the license will be renewed annually. Bragan said the process begins in November and dates are instituted by the state. Marie Sobalvarro strongly encouraged the board to follow the conditions initially voted on. Tim Clark commented on the sign being the jurisdiction of the Zoning Enforcement Officer/Building Inspector Gabe Vellante and he should sign off on this condition. Bragan indicated Vellante has issued a temporary occupancy permit but has not addressed the sign issue. Johnson said it seems the applicant has worked very hard to meet all the conditions and considering the sign has been noncompliant for many years could the board use reasonableness as a guide. Applicant Bob Hirsch and his attorney Roy Pastor were present. Pastor confirmed Mr. Hirsch has been working very hard to comply with all conditions and has gone above and beyond. He indicated Mr. Hirsch is working directly with Vellante on the signage including timetable and types of signs. Pastor said it seems most of the issues with issuing the license are coming from Selectmen Clark and he does not understand why. Ron Ricci agreed with comments made by Bill Johnson to be reasonable in issuing the license. He said it is in the town's best interest for both establishments to succeed. Tim Bragan said the Police Chief did work with the General Store on additional or modified lighting that would work best for both of them. Pastor said his client will continue to work with Vellante and plans to be compliant by August. Marie Sobalvarro sees no need for an exception. Peter Warren said he has toured Mr. Hirsch's property and favorably commented on the lighting, parking and interior improvements. He said the board would be remiss to not issue the license at this time.

On a Ricci/Johnson motion, the board voted to direct the Town Administrator to issue Mr. Hirsch his package store license subject to the condition that the existing "temporary" entrance sign be put into compliance with the approved site plan prior to Mr. Hirsch applying for a renewal of this license.

Tim Clark said the motion as read would create a conflict with condition 5B1. He said there are mechanisms in place and a good outcome is to meet all conditions.

Ron Ricci said reasonableness and flexibility were given to the General Store so why not the Grapevine as well.

Town resident Don Green spoke out from the audience announcing his disgust with the negative way this applicant has been treated.

Marie Sobalvarro said it was unnerving to reach conditions and then to waiver from them even though the applicant has made amazing efforts.

The prior motion was approved as follows:

(Ricci – Aye, Johnson – Aye, Warren – Aye, Clark – Nay, Sobalvarro – Nay)

GINNY THURSTON SCHOLARSHIP – Tim Clark reported three applications were received and he and Bill Johnson have chosen the recipient to be announced at

graduation. On a Clark/Johnson motion, the board voted unanimously to award \$1,000.00 for the Ginny Thurston scholarship to recipient as presented.

STRATEGIC PLANNING SESSION – Tim Bragan said the session will begin at 4:00pm and Chef Paul will prepare dinner. Peter Warren and Tim Bragan will organize the agenda once all submissions from board members have been received. Bragan confirmed liaison assignments will be established that day. Members agreed public could be present but will not participate. Marie Sobalvarro suggested the Planning Board attend to discuss the Devens piece but all members agreed this could happen at a later date not at the Strategic Planning Session. Bill Johnson asked what the goal of the meeting is. Bragan explained major topics to focus on for the upcoming year will be determined but delving into the detail will occur later. Tim Clark suggested reviewing the goals from last year as a starting point. Clark also recommended maybe a first cut in reviewing the agenda and then go back to review items in more detail.

CONGREGATIONAL CHURCH FUNDRAISER REQUEST – On a Ricci/Johnson motion, the board voted unanimously to donate a Transfer Station sticker to church auction.

EAGLE SCOUT PROCLAMATIONS – The board members signed both proclamations.

FRUITLANDS CONDITION APPEAL FROM NEIGHBORS –

Peter Warren read a letter received from concerned citizens Rhonda Sprague, Whit Sprague and Karen Green regarding the recent amendments to the Entertainment & Liquor license conditions. Tim Bragan explained this is an appeal to the conditions not the license itself and is basically asking the board to reconsider. The concerns they listed are lack of a traffic study prior to moving from 10 to 15 concerts a year, lack of a definitive noise policy in Harvard, expansion of the outdoor alcohol use area without appropriate physical boundaries being established as required by Fruitland's alcohol license, no definitive ruling regarding the existing BYOB policy at Fruitland's and lack of an overview or discussion of appropriate size of outdoor concerts and any need for limitation of size and scope of ticket sales to safeguard the neighborhood from increasing crowds with no plans in place for crowd and/or traffic control discussed or implemented prior to approving the expansion of concerts in a residential neighborhood.

Bragan explained a major concern is directly related to the BYOB policy adopted.

Bragan said the Police Chief found out about the BYOB after the license was issued and conditions set. He did have some concern but really said it is ultimately up to the board.

Bragan said at this time the board must decide if they will reconsider.

Ron Ricci said the conditions do consider the concerns addressed in the letter. The board did not take further action.

**** On a Johnson motion, the Board voted unanimously by a roll call vote (Johnson– AYE, Sobalvarro – AYE, Ricci – AYE, Clark – AYE, Warren - Aye) to enter into executive session at 9:50pm, as authorized by Chapter 39, Section 23B of the Massachusetts General Laws, at a meeting for which 48-hours notice has been given, to discuss on-going litigation. Following the executive session, the Board will reconvene into open session only to adjourn. ***

The meeting was adjourned 10:00pm.