



**Board of Selectmen  
Minutes  
Tuesday, September 21, 2010, 7:00pm  
Town Hall Meeting Room**

The meeting was called to order at 7:00PM by Chair, Peter Warren in the Town Hall Meeting Room. Selectmen Peter Warren, Marie Sobalvarro, Ron Ricci, Tim Clark and Bill Johnson were all in attendance as well as the Town Administrator Tim Bragan and Executive Assistant Julie Doucet.

**MINUTES** – On a Ricci/Sobalvarro motion, the board voted unanimously to approve regular minutes of 9/7 as amended and executive session as presented.

**SELECTMEN REPORTS –**

**Municipal Buildings Committee** – Marie Sobalvarro reported the committee will hold their next workshop on October 2<sup>nd</sup>.

**Municipal Affordable Housing Trust** – Ron Ricci said the trust was investigating land on Cross Street but is not moving forward with it. They are reviewing the accessory apartment bylaw for opportunities toward affordable housing numbers.

**Energy Advisory Committee** – Tim Clark reported the committee is moving forward toward qualifying as a Green Community. He said it will be necessary for a special town meeting to be held the first week of November in order to meet the requirements. He said the committee will attend the October 5<sup>th</sup> meeting and have met with the Building Inspector as well as other committee members for their input on the subject.

**Community Cable Access Committee** – Peter Warren announced the need for more volunteers.

**Ambulance Squad** – Peter Warren confirmed the Department of Public Health approved the request for Doctor Alan Kuong to provide advanced life support on the Ambulance.

**Long-range school planning committee** – Peter Warren said the sub-committee has begun to meet and is working toward a five year financial plan.

**Monthly liaison reports – Bill Johnson**

**Community Preservation Committee**

- Working toward 5 year planning to identify specific initiative
- Investigate Poor Farm property
- Work with Municipal Buildings Committee

**Planning Board**

- Commercial development EDC top of list
- Master Plan update
- Affordable Housing strategic site identification
- Wind turbine bylaw investigation
- Investigate Poor Farm property

### **Economic Development Committee**

- Charge developed formally approved by Planning Board, recruit volunteers once BOS approves.

### **Zoning Board of Appeals**

- Last met in April
- Possible engagement in town-wide issues:  
Municipal Buildings Committee  
Future 40B initiatives

### **Bare Hill Pond Management Committee**

- FY2011 goals set
- Gravity drawdown begins 9/20 until 3' reached, stops at 3.5' until 10/29 to accommodate crew team, desired level is 6.5' by 11/30, refill will commence after satisfactory freeze or by 2/15
- Stormwater Project is on schedule and under budget. Committee will explore with consultants Horsley Whitten three other watershed areas for stormwater collection/treatment.
- Excavation project in swimming area: proposal to Con Com in October

### **Conservation Commission**

- Conservation land usage – timber stand improvement/harvesting & agricultural usage.
- Stormwater management initiatives – BHP & Transfer Station
- Swimming area excavation
- Ruben Reed Conservation land restoration & investigate Poor Farm

### **Department of Public Works**

- Roadway Plans: FY10 Littleton County Road \$225K  
FY11 \$675K: pave Schoolhouse Road & Park Lane
- Stormwater & drainage management
- Roadside clearing
- Conservation land mowing
- Transfer Station upgrade
- Workforce development

### **TOWN ADMINISTRATOR REPORT** – Tim Bragan reported on the following:

1. Resident Christian Bilodeau asked for permission to sell pumpkins on the town common as a fundraiser for soccer. Bragan said Bilodeau was told to contact the Park & Recreation Committee.
2. Due to the 2010 census a redistricting may be required. Tim Bragan offered himself and the Town Clerk to work on this with assistance from the state.
3. The Healing Garden will hold their Perennial and Homecoming event on October 16<sup>th</sup>. They are working with the Police Department on the details.
4. Westward Orchards sold 78 acres on Prospect Hill Road. The land will stay in Chapter 61A so the town does not have the option to exercise first right of refusal.

## **PUBLIC COMMUNICATION**

Bonnie Sweeney, 15 Babbitt Lane, Ambulance Squad member asked if she could review the squads FY2011 goals and answer any questions the board may have.

### GOALS

- To better coordinate and oversee the handling of HAS finances including insurance billing, purchases, capital planning, and other expenditures, a volunteer Finance Coordinator will be appointed from the HAS membership.
- To increase the long term stability of the HAS Roster, the service will increase the number of adult cadets for the Fall 2010 class by 50%.
- To support the timeframe of highest demand for ambulance services in Harvard (8am-4pm), drivers for the ambulance will be scheduled during those hours on weekdays which allows for fully trained EMT's to focus on patient care.
- HAS will strive to lower the number of calls in FY 2010-2011 that require mutual aid from other communities by 30%, compared to the first six months of 2010.

The board thanked Sweeney for presenting the goals and commended the squad for their efforts.

Stu Sklar, 39 Scott Road, asked if the meetings Bill Johnson had with other committee members were in violation of the Open Meeting Law. Tim Bragan said the group that met was a working group which does not constitute abiding by the Open Meeting Law. Sklar questioned the ability for elected officials to meet with out posting a meeting. Bragan said if the group was formed as a sub-committee then yes they would have to post but because it was just a working group posting is not necessary or required.

Joe Hutchinson (Harvard Press), 25 Westcott Road, asked if Bill Johnson met with more than two people. Johnson said yes but there was never a quorum from any one group.

Bob Fico, Devens Recycling Center, provided a copy of their inspection record and offered to answer any questions the board may have. Peter Warren confirmed the topic would be discussed later in the meeting.

(Devens Recycling Center Inspection Report – dated September 20, 2010)

**ECONOMIC DEVELOPMENT CHARGE (EDC)** – Bill Johnson explained after several meetings including himself, Tim Clark and Planning Board members Kara Minar and Joe Sudol a final draft was completed. He indicated at the Planning Board meeting on September 13<sup>th</sup> they voted to approve the charge. He anticipates once the charge is approved by the BOS recruitment of volunteers will begin. Marie Sobalvarro suggested paralleling the charge with the Town Meeting Warrant by adding the following:  
*Creation and maintenance of a development plan for the commercial district that is consistent with the overall Town Master Plan, incorporating the findings and recommendations of the Economic Development Analysis Team.*

Bill Johnson considered the amendment to be unnecessary and overly restrictive. He feels it is important to allow the ability for the committee to evolve as things change. He also commented on the committee having no authority and totally serving under the BOS and

Planning Boards. Peter Warren expressed concern for this to come up now when ample time was given for members to review. Sobalvarro said she did contact Bill Johnson and Kara Minar regarding her suggestion and felt because this item was on the agenda it was the appropriate time for the BOS members to discuss it. Tim Clark agreed and supported the notion of linkage to the Town Master Plan. Johnson said he strongly suspects EDC's work to drive the Master Plan rather the other way around. Ron Ricci agreed with Johnson and said considering BOS and Planning have the ultimate control why place unnecessary restrictions. Sobalvarro did not understand the harm in dovetailing the warrant article as this is what the town voted for. Johnson reiterated his belief that the charter as written captures the consensus of the warrant article. After some more discussion, Tim Clark suggested amending Sobalvarro's first suggestion by removing: *incorporating the findings and recommendations of the Economic Development Analysis Team.*

On a Sobalvarro/Clark motion, the board voted to approve EDC charter as amended. (Sobalvarro – Aye, Clark – Aye, Warren – Aye, Ricci – Nay, Johnson – Nay)  
Tim Clark volunteered to present the amended version at the next Planning Board meeting.

**PLANNING BOARD RESIGNATION** – The board recognized the resignation of Planning Board member Joe Sudol. Tim Bragan said he will be working in conjunction with the Planning Board on filling the slot until the next election.

On a Sobalvarro/Ricci motion, the board voted unanimously to accept the resignation and send letter of thanks to Joe Sudol.

**NORTH MIDDLESEX AREA EMERGENCY PLANNING COMMITTEE** –

Tim Bragan explained the town has been a member of the committee for several years and provided a letter submitted by Fire Chief Robert Mignard in support of continuing the town's membership. In his letter the Chief said belonging to the committee allows the town to remain eligible for grant funds.

On a Ricci/Sobalvarro motion, the board directed the Town Administrator to come up with two appointments and an alternate.

**HARVARD UNIVERSITY CYCLING ASSOCIATION** – Tim Bragan provided a letter from the association detailing their event to be held on October 3<sup>rd</sup> and requesting use of the Library restrooms as well as setting up a food/water stop on the front lawn. Library Director Mary Wilson had informed the Selectmen's office the Library is not open on Sundays so the restrooms would not be available but use of the front lawn area is fine.

**OPEN MEETING LAW COMPLAINT** – Tim Bragan informed the board of an Open Meeting Law complaint filed by resident Deborah Skauen-Hinchliffe. In her complaint she stated the use of a "Blackberry" device during the September 7<sup>th</sup> meeting to access town bylaws was a violation. Bragan said after reviewing her complaint and carefully combing through the Commonwealth's changes to the Open Meeting Law (Chapter 28 of the Acts of 2009) and the subsequent Code of Massachusetts Regulation (CMR) promulgated by the Attorney General's Office it has been determined that there was no

violation of the Open Meeting Law. Bragan said Mr. Clark's use of his "Blackberry" device does not constitute a violation of the law and a copy of the section of the Town's bylaw (§ 141-25) that he referenced is part of the official record of the meeting. He informed the board that in compliance with the law he will send a copy of our response and a copy of her complaint to the Attorney General's Office for their review. He also confirmed the section Clark referenced will be included in the minutes as a permanent record. On a Johnson/Ricci motion, the board voted unanimously to send letter to complainant.

**POOR FARM PROPERTY** – Peter Warren asked if any definitive comments have been made by any committees. He understood the Community Preservation Committee will be brainstorming possible funding sources in addition to investigating the opportunity further. Ron Ricci said the Municipal Affordable Housing Trust will discuss at their next meeting in October. Tim Clark said it would make sense to look toward the Conservation Commission and Conservation Trust as they are the two major land acquisition entities. Clark also wondered how the parcel may fit into the Open Space Plan. He suggests the BOS defer to those committees for their recommendations. Marie Sobalvarro said she spoke with Deb Thompson from the CPC and they discussed the idea of creating a committee such as the committee that was instituted to review the Getty land. Sobalvarro indicated Deb Thompson said in speaking with the property owner Virginia McCurdy she confirmed the property to be 28 acres with 26 in Chapter 61A, has wetlands and a house with 21 rooms. It is also believed the property has Shaker history. Property owner's son Alex McCurdy was present and said his mother is interested in finding a way to preserve the land if possible. The board members decided to form a committee with a representative from the CPC, Con Com, Conservation Trust, Planning Board and Capital Committees. They will be appointed as a sub-committee and must follow the open meeting law. Clark suggested a target for a report in mid November. Bill Johnson pointed out it makes sense for the committee to provide response to this property but should consider future needs.

On a Clark/Johnson motion, the board nominated Peter Warren to move forward.

#### **EXEMPT FROM BEING LOOKED AT FOR PROVIDING SERVICES**

**THROUGH A COLLABORATIVE EFFORT** – Tim Bragan asked the board members if there is any area of government they wish him not to explore relating to collaborative efforts. Board members did not seem to have any reservations. Tim Clark wondered how the board can effectively communicate during the investigation phase as opposed to the commitment phase. Bill Johnson recommends allowing Bragan full rain to investigate all possible options worth pursuing. Peter Warren said options should include benefits beyond cost.

**DEVENS RECYCLING CENTER** – Marie Sobalvarro began the discussion by asking if the board was interested in drafting a new letter regarding the request to extend their hours to include Saturdays. Peter Warren commented on the improvements regarding trash truck traffic on Ayer Road and a positive inspection report from Nashoba Board of Health. Bob Fico from the Devens Recycling Center was present to provide a copy of their inspection records dated September 20, 2010. Fico apologized for not providing the

report sooner and said he would provide copies for each member. He reported DEC will recommend approval of Saturday hours due to no issues with odor or pest controls, satisfactory Nashoba Board of Health inspection report and ongoing truck traffic control including letters sent to all customers and vendors reiterating designated routes as well as providing maps. Bill Johnson said considering the most compelling evidence was given from nearby residents it is important to have their feedback moving forward. He also asked about the opportunity to fund traffic analysis. Environmental Planner from DEC Neil Angus was present to confirm traffic studies are completed every two years with the last one being completed in 2008. He expects the 2010 study shortly. He explained the study includes analysis from all access points and separates truck from pedestrian and bike traffic. Marie Sobalvarro asked if a copy of the MOU between MassDevelopment and Mass Highway was available. The board decided to further discuss the issue at their October 5<sup>th</sup> meeting.

**SENIOR TRANSFER STATION STICKERS** – Ron Ricci revisits the recent request from a long term resident to allow his daughter to purchase a senior sticker for him at the senior discounted rate. Ricci proposed the following motion:

On a Ricci/Johnson motion, the board voted to modify transfer station rules to allow provision for seniors who are otherwise eligible but no longer have a valid vehicle registration may request a waiver for issuance of one permit for a relative or caregiver as described below and the senior waiver basically says: A waiver may be granted for a senior citizen who is otherwise eligible for a permit but does not have a vehicle registered in their name. Application for the waiver must be made in writing to the Town Administrator. The request must be signed by both the eligible senior and their relative or care giver. In order to be eligible for a waiver the application must attest that:

- Both signers understand the use of the Transfer Station facility is solely for materials (trash) from the residence of the eligible senior.
- The eligible senior does not have a vehicle registered in their name.

Ricci said he did attempt to work with the Council on Aging (COA) on this but the issue seemed to get very involved so he decided to present a simple waiver as a solution. Tim Clark applauded Ricci's efforts but reminded the board this is not an entirely tax based program and said he does not support giving stickers to out of town residents. He did however support this process because it is an administrative function which encourages good behavior. He does suggest it be done annually. Tim Bragan asked to amend the language to allow the Town Administrator the ability to deny or approve the request. Bragan also stated a permanent solution to this concern would be to visit again the "pay as you throw" system. Bill Johnson agreed this must be a subject the Selectmen commit to discussing in the future. The board amended the motion to include:

*Application for the waiver must be made in writing to the Town Administrator who must approve or deny the request prior to the issuance of the permit.*

On a Johnson/Ricci motion, the board voted unanimously to approve prior motion as amended.

The meeting was adjourned at 9:44pm.

Documents referenced:

**ECONOMIC DEVELOPMENT CHARGE (EDC)** – dated 9.16.2010

**PLANNING BOARD RESIGNATION** – dated 9.13.201

**NORTH MIDDLESEX AREA EMERGENCY PLANNING COMMITTEE AREA**

Letter dated 4.18.2010

**HARVARD UNIVERSITY CYCLING ASSOCIATION** – letter dated 9.5.2010

**OPEN MEETING LAW COMPLAINT** – complaint dated 9.14.2010 & response letter dated 9.21.2010

**DEVENS RECYCLING CENTER** – Inspection report dated 9.20.2010

**SENIOR TRANSFER STATION STICKERS** – amended Transfer Station Rules & Regulations provided by Ron Ricci