

**Town of Hull
Building Committee Meeting
Thursday, June 18, 2009**

In attendance:

Cathy Bowes/Committee Member
Paul Dunphy/Committee Member
Bill Dwyer/Committee Member
Patrick Finn/Committee Member
Phil Lemnios/Committee Member
Charlie Ryder/Committee Member

Kathleen Tyrell/Committee Member
Dave Walsh/Committee Member
Debbe Bennett/Support Staff
David Twombly/Support Staff
Jim Lampke/Support Staff
Peter Lombardo/Support Staff

Absent:

Jay Meschino/Committee Member
John Reilly/Committee Member
Kevin Richardson/Committee Member
Dr. John Silva/Committee Member
Jim Tobin/Committee Member

The Building Committee meeting was held at Town Hall on the second floor and the meeting was called to order by Dr. Tyrell at 7:08pm.

1. **Approval of Today's Agenda:** *Charlie Ryder made a motion to approve the agenda. Cathy Bowes seconded the motion. All approved.*

2. **Approval of Minutes:**

- **Wednesday, April 29, 2009, Open Session**
- **Wednesday, April 29, 2009, Executive Session**

Paul Dunphy made a motion to approve the Wednesday, April 29, 2009, Open Session and Executive Session minutes. Charlie Ryder seconded the motion. Pat Finn noted a correction on page 3 of the open session minutes. He said it should be the sewer treatment plant rather than water treatment plant. The minutes were approved as amended. Dr. Tyrell abstained

3. **Architect's Report:**

- **TLT Payment Requisition #29**
- **Punchlist Update**
- **Sitework Remediation Update**

Dr. Tyrell noted Jim Lampke was going to advise us about how much to hold back from TLT's pay req. but he is not here right now. Paul Dunphy suggested the Committee get a

feeling of if we want to do that or not. Paul Dunphy said he has some input about that. Pat Finn expressed concern that we are supposed to follow an agenda and the architect is not here.

4. Fiscal Report:

- Warrant #578 was presented to the Committee containing seven invoices totaling \$48,027.83 for the Jacobs School. Scott Libby has reviewed all of these invoices.
 - One invoice from David Reinks in the amount of \$50.00, which is for videotaping/cablecast services during the April 29 SBC meeting. This invoice will be charged to the Owner Administrative account.
 - One invoice from Gopher in the amount of \$429.68 for physical education equipment that was ordered as part of SBC authorization on October 23, 2008 to use the remaining FF&E budget amount of \$38,862.64. This invoice brings the total spent to \$38,314.58 and it will be charged to the Furnishings account.
 - One invoice from Lee Mann & Sons in the amount of \$1,012.00 for the remaining abutter landscaping work that was approved (\$9,850 total) by the SBC on February 12, 2009. This will be charged to Contingency.
 - One invoice from Hull Public Schools in the amount of \$5,000 for the annual recording secretary stipend. This invoice will be charged to Owner Administrative account.
 - Two invoices from PMA totaling \$831.15 for professional services performed during April (\$664.92) and May (\$166.23).
 - Payment Requisition #29 from TLT Construction in the amount of \$40,705.000 for punch list completion.

Paul Dunphy made a motion to approve Warrant #578 in the amount of \$48,027.83. Charlie Ryder seconded the motion. David Twombly noted this warrant includes TLT's req. Paul Dunphy said they did the work and we owe them the money and any warranty issues are aside from what we owe them and it needs to be voted tonight. He said he is not inclined to hold back any money from them because they have shown good faith all along. David Walsh noted the sidewalk is still an issue because it all heaved and they dug it up and the day he went up there he noted a massive section they haven't touched that was never done correctly. He said Briggs, John G. Crowe and PMA were all there. There was supposed to be a compaction test but we now have a problem with the sidewalks that could cost \$100,000 to fix and the contractor will be long gone. Paul Dunphy said that discussion has nothing to do with paying this bill. David Twombly

noted Troy said it would have to be practically be an act of God to get them to do that work. Paul Dunphy said we will head to court if we don't pay this money. David Walsh said if they walk away, they have no intention of doing that work. David Twombly asked what area he is talking about. David Walsh said the left hand side of the ramp by the gym, there is several hundred square feet that underneath was not done correctly and it was phase 1 work. David Twombly said didn't Troy say they were in discussions to get it done even though they did not have a commitment from TLT yet -- they were negotiating with them. David Walsh said if they were going to do it, they would have done so already, and if they do, it will interfere with the new work. They put the new stuff in and left that area there. Now they would have to put machinery on top of the new work which tells him they have no intention of doing it. He said down the road we will have to go to the taxpayers to pay for it. Paul Dunphy that is your perception, not reality. The reality is we have an invoice for work they did and they have done a tremendous amount in good faith working with the architect and David Twombly. He does not think we need to cut them off and go down a legal road. Peter Lombardo said Troy Randall did talk about negotiating and the biggest question is an extended warranty for the new pour. He asked what will happen with those to make sure they are valid. David Walsh said Troy told us the town has to submit something in writing to extend the warranty or a continuation. We still don't know what that will be and conceivably it could run out in August. Paul Dunphy said this is a good discussion to have but in the meantime we need to pay them for the work they did. Peter Lombardo said there is still money to pay them. Paul Dunphy said this invoice, by law, needs to be paid or we are in default of our agreement. David Walsh said it's the old adage, what you don't know won't hurt you but he calls it negligence. He added, we paid them for the first sidewalk and we found out it was not what we paid for - it was done negligently.

Pat Finn said the problem is we have not been getting the answers from our support staff regarding what agreements were reached and the terms of the repairs. He said in previous minutes he read they were going to regrade the parking lot and he saw some curbing was damaged. He is not so upset with TLT; he is more concerned with PMA and Ai3 for not informing the board. Pat said Jim Lampke had asked if we could get it in writing about what sidewalk work would be done. The response was that Crowe was hired to do that and nothing was brought back to this committee about what repairs were going to be done and any warranty. Pat Finn said if the \$40,000 is for work unrelated to the sidewalks we have to pay it. David Twombly said if we don't pay it, we will be penalized. Pat Finn said we cannot be in default of the contract.

Paul Dunphy said the question going forward is, what is our recourse. Peter Lombardo said there was a plan in place a while ago about the areas to be replaced, there was a site plan, etc. The question remains what is the plan going forward. There are a few curbs to be replaced and he does not think that will work very well but there was a plan in place. He still questions why we have to pay Crowe for that work. David Twombly noted TLT is going to have someone there tomorrow and Del Laluk will be on site to go over some more punch list. They are trying to work with us. David Walsh said we could possibly

send a letter to TLT to request a warranty into next year on the sidewalks. David Walsh said he drove by the entire site while the work was going on and he thinks they rushed through the sitework at the end and we need to know what our warranties are. It was noted the brickwork out front is settling. David Walsh said that front entrance warranty expires in August and we have only a couple months before they can walk away. His opinion is it will be harder to get them back to fix things.

Pat Finn said a year or two ago the subject came up about making payments to the bonding company and Town Counsel said we had to make the payment and the checks were held. He said we can vote to approve this subject to Town Counsel approval. Pat Finn amended the motion to approve subject to review and approval by Town Counsel. The amendment was not seconded. *The motion to approved Warrant #578 in the amount of \$48,027.83 passed 6 to 1 (David Walsh).*

- Warrant #579 was presented to the Committee containing one invoice in the amount of \$5,580.71 from Garrity and Knisely for legal services between March 2 and April 23, 2009 regarding the Dumas Roofing litigation for the high school.

Pat Finn made a motion to approve Warrant #579 in the amount of \$5,580.71. Cathy Bowes seconded the motion. All approved payment of Warrant #579 in the amount of \$5,580.71.

- Warrant #580 was presented to the Committee containing one invoice in the amount of \$2,426.50 from Architecture Involution for additional services provided by JGCA relating to the concrete work performed during April. Since Ai3's contract is with the Town of Hull, the invoice is being presented to the Building Committee for approval. The Committee could then back charge TLT this amount as a deduct amount on the final change order.

Pat Finn made a motion to hold this warrant and wait to get some answers to questions. Charlie Ryder seconded the motion. Pat Finn said the reason he wanted to hold is because there are questions about the additional services on remedial concrete work. The memo says we could back charge TLT this as a deduct amount on the final change order but he questioned what final Change Order. Pat Finn said John G. Crowe, PMA and Ai3 were responsible for the original oversight and it was done wrong so he does not understand why we are getting billed to inspect the work that needed to be redone because it was not done right the first time. Charlie Ryder agreed, saying they did not do their job and Crowe did not properly supervise the work. David Walsh said Phil Lemnios made reference to us agreeing to have someone on site to follow that second pour but he does not remember authorizing hiring anyone. David Twombly said we hired UTI and Crowe worked through Ai3. David Walsh asked why we are getting the bill. Charlie Ryder said it goes back to the original contract that said John G. Crowe reviews all site work. Paul Dunphy asked if they are culpable to the other issue. David Twombly said they are culpable to all of the site work. We have paid a bunch of people to do stuff

that was not done correctly. Cathy Bowes asked how long the back charge list is. It was noted that there are no other back charges on this project. Pat Finn said there is a list of error and omissions that we could have gone after but decided it was not fruitful and that information has not been presented. Pat Finn said John Reilly asked Troy Randall to e-mail the committee when the work would be done and we never got that. The communication has dropped off as far as what is presented to this committee. ***All approved the motion to put a hold on Warrant #580.*** Charlie Ryder added it seems to be the industry standard that 95% complete is ok.

7. **Town Manager Report:** Please see page 10.

8. **Superintendent's Report:** None this evening.

9. **Old Business:**

Picnic Tables: David Walsh noted the picnic tables are well under way and he wants to give the slip which contains the list of material donated by Hingham Lumber to Dr. Tyrell. He said the he has cut all the materials and it is ready to assemble. Dr. Tyrell asked who at Hingham Lumber is responsible for this donation to send a thank you note. David Walsh told her Thomas McNulty made the donation and he (David) would be assembling them soon. Dr. Tyrell asked the value of the material. David Walsh responded over \$500. Dr. Tyrell thanked David Walsh and asked if she could make an announcement at Monday's School Committee meeting.

Pat Finn said he thought we were going to have a close out celebration in the high school courtyard with Jonathan Ford but he's leaving. Dr. Tyrell said she was not aware of that. Dr. Tyrell said there was a barbeque with administration and graduating seniors and today there was a luncheon for administrators who are leaving.

Maintenance Position: Dr. Tyrell informed the Committee that we are at the point where we have to either continue in a less desirable fashion with maintenance or hire a more qualified individual. She said earlier this year Tom Gould filled in because we did not want to appoint someone permanently until the budget was resolved. His term ends June 30 and if there is no action he can go back to his old position or continue in that position. David Twombly said the best choice is to hire a facilities director. Dr. Tyrell said we talked to Jim Lampke about the School Building Committee matching the salary up to \$35,000 a year for up to 5 years and she asked if the committee is agreeable to the idea. She added that she would ask some members of the committee to help with interviewing since she does not have the skill set. She first was hoping to find out if it is still the sentiment of the Committee to go in that direction, subject to Jim Lampke's final approval and, if so, to make a motion and vote to move forward and she would ask for Committee assistance. Pat Finn made a motion to put it on the agenda for the next meeting and have the joint meeting with the School Committee that we requested. Dr. Tyrell said Stephanie Peters said she would be happy to put it on the agenda for whatever School Committee meeting the School Building Committee wants to

attend. Pat Finn said we took a formal vote to have a joint meeting, it is in the minutes. David Walsh said it has been a while since we had this discussion. Paul Dunphy said he doesn't think it is up to us to decide. He said if you feel you need to have a more qualified building person he, personally, supports that. Pat Finn said he would be willing to help interview. Dr. Tyrell said they are looking for the School Building Committee to match the \$35,000 annual amount. Dr. Tyrell said we can agree to put it on the next agenda. Pat Finn said he is not against it, he just wants it on an agenda and it would be more appropriate for the joint meeting. Dr. Tyrell asked if it is the sentiment on the committee to support the School Department and pay up to \$35,000 or half the annual salary if it is less than \$60,000. David Walsh said personally he would lean towards helping and Jim Lampke was going to look into using contingency funds. He would have felt more comfortable if the committee voted to fund it for 1-5 years that the committee should have a say. Charlie Ryder said he would be willing to support funding it but only as long as the School Building Committee is in existence. He doesn't think we should be able to put School Building Committee funds aside for future years. David Walsh asked how Tom Gould is doing and are all problems being taken care of. Dr. Tyrell said he is doing a pretty good job but everything is still brand new. David Walsh said with all due respect, he is not what is needed there.

David Walsh said he mentioned in the past that he has driven by the high school on weekends and the corridor lights were on. Dr. Tyrell stated that has been corrected. She said as soon as it was brought to her attention we had it corrected. David Twombly noted that was part of the original high school punch list. David Twombly noted at Jacobs all the lights go off at once except the gang bathrooms and Ai3 is researching that to get them to turn off as well. Paul Dunphy said if you had a skilled person in that position they would understand energy usage and efficiencies. A lot of these skills are obtained at the Peterson School. Dr. Tyrell said we don't have anyone with those skills. Paul Dunphy said you don't know where you are wasting energy until you have someone who understands it. Pat Finn said this has to be put on an open meeting agenda due to the number of layoffs happening in the School Department. Dr. Tyrell said we have 40 less positions over the last three years. Pat Finn said if you hire a new employee it has to be discussed in an open meeting and we don't have the chairman or vice chairman here tonight. Pat Finn said then the process can begin. Dr. Tyrell she would rather run the ad in June. *Jim Lampke entered the meeting.* Pat Finn said if you are laying off people but hiring someone new it needs to be discussed publicly. Charlie Ryder noted this is not a new position. Jim Lampke added this subject was discussed in 2000. Pat Finn said if we need the position it can be discussed at the July School Committee meeting. Paul Dunphy asked why a joint meeting is needed. Dr. Tyrell said they need the Building Committee to help fund the position. Paul Dunphy said he would be glad to attend the School Committee meeting. Pat Finn said the vote was taken and nothing was done about it and now it is brought up under old business. Cathy Bowes said it was the sense of the School Committee to wait until they knew where we stood financially. Cathy Bowes said she brought it back to the School Committee and they wanted to wait until they knew where the budget stood. David Walsh said the subject was brought up long before budget A and budget B were on the radar. Paul Dunphy asked if we need a meeting with the School Committee. Dr. Tyrell said if the School Building Committee wants to come to the meeting,

they can put it on their agenda. Dr. Tyrell asked if there is a motion to do so. Pat Finn said sounds like it is up the School Committee and now we know where you are. Dr. Tyrell said the sentiment seems to be to postpone a vote until it appears on a separate agenda of the School Building Committee supporting a facilities manager. She asked that the next meeting agenda have the facilities manager position on it. Dr. Tyrell said we are not going to recreate the past and we don't have to assess if the School Committee should have put it on the agenda. She apologized and said let's move on. She asked if anyone wants the School Committee to put this on a future agenda. **David Walsh made the motion. Bill Dwyer seconded the motion.** Paul Dunphy asked what the discussion items are. Cathy Bowes said we could discuss the physical plant assessment in order to properly maintain the buildings and have it during an open meeting with faculty and staff present so everyone can see the importance. Pat Finn said the clear priority is to maintain the buildings. Dr. Tyrell noted the motion was to ask the chair to put it on the agenda. Charlie Ryder noted it seems we will have to have a quorum of seven for the meeting. He would hate to have a posted meeting and not have a quorum when we get there. Dr. Tyrell said there is a meeting scheduled for September 14 and two tentative meetings, one in July. **All approved.** Cathy Bowes added the physical plant assessment was sent to all School Committee members.

Jim Lampke said he has been informed that School Building Committee voted on the TLT req. He said he thought that was a point we were meeting on. **Pat Finn made a motion to reconsider warrant #578. David Walsh seconded motion. All approved.** Jim Lampke said the School Building Committee asked about some issues that have come up and whether or not if approving a requisition under phase 2 money could be withheld for work done in phase 1 but has now found to be defective. He said the simple answer is yes. He said that is his legal opinion and the town's position. He spoke to Troy Randall today and he was planning to be here tonight but a family emergency came up. They left it that the Committee could vote to approve an amount, deducting the estimated value of the phase 1 work and the punch list items as approved by the Town Manager. The plan is he will speak to Troy and Phil Lemnios tomorrow to go over those figures and to ensure it would be processed. Jim Lampke said Troy Randall did send him an e-mail tonight but he doesn't have a dollar value yet and Troy Randall is working on that and the punch list additions have not been monetized yet. Jim Lampke said the only practical way to deal with it is for the committee to approve the requisition subject to a sum being deducted which represents the value of the phase 1 work in question and the punch list items identified, plus any other appropriate deductions determined by Town Manager. Jim Lampke said there is a \$40,000 req for work they did but we don't know the value of the phase 1 work yet. David Walsh said the value is more than \$40,000. **Pat Finn made a motion to approve the requisition #29 as presented with a deduction in a sum to be approved by the Town Manager, the Superintendent and Chairman based on the value of work in question in phase 1, the punch list items, and any other back charges there should be. David Walsh seconded the motion.** Paul Dunphy said this is the complete opposite from what we heard last week from Troy and he had a sense that was the best way rather than withhold money. Paul Dunphy added it is probably going to be a parting of ways. They could take this to court and this is a bridge we are going to cross and he feels this is work they did and we owe the money for it. Paul Dunphy asked if you are

telling us there is no other recourse with them. Paul Dunphy said he knows there is contract language that says things have to be brought up in a timely fashion but this stuff is coming up two years later and it is past the point of punch list and warranty. We are in a bad position with this and asked if this is the only way to do it. Jim Lampke said he is not saying that there are no other ways. He has reviewed the contract, and as he understands it, it comes down to two basic points. Under the contract there is a time period to approve requisitions and that is what is driving the vote now -- we have to approve, disapprove or modify. What he is recommending to be done is to approve the requisition with modifications if the deducts are not in excess of req. As a fundamental point, we hired TLT for a completed total project and now it has come to our attention that there is this deficient work that we were not aware of at the time. Although some was noted and even TLT acknowledges it was not done according to contract, there is now a problem and we want to hold back funds to cover that. We don't have enough to totally cover it but under the terms of the contract, we can withhold funds. He talked to Bob Garrity and he told him that if there is a problem we should hold back money. It is true they have been very good and we hope to work this out. We should schedule a meeting with TLT and all players to determine how we are going to resolve it. Under the contract, they are obligated to correct this but we are not obligated to pay out more money if that value of work will exceed that. Maybe we can get an assurance from them to satisfy us. The bonding company would ask later why we released the money to them when it should have been held. We have to have more assurances rather than expectations that they will do these repairs. David Walsh said that is his point. We did not pay for granite that is patched with epoxy and he wants all phase 1 sidewalks done to spec and that will exceed \$40,000. We should get what we paid for. Jim Lampke asked if the architect's punch list include all the items. David Twombly said there is a School Department punch list but he was told those are warranty items. Jim Lampke added there is a clause dealing with the guaranty, which essentially provides that we have a two-year guaranty during which we can notify them to correct problems or we can correct it and chase them for the money. The warranty is for equipment. If a light fixture is coming down that is a guarantee item not warranty work. David Walsh said Troy Randall mentioned that the town would have to submit that in writing regarding the new sidewalk work. That sidewalk had a one-year warranty that was due to expire, now that it is all new, do we have a new warranty from the date of the new work. David Walsh said Peter Lombardo has been talking for two years about the puddling on the sidewalk. Jim Lampke said he discussed it with Bob Garrity and it is not clear that a guaranty would extend for the additional time, our view is that logically there is a strong argument that we are entitled to two years from the properly complete project. If there is a two-year guarantee period after closed out, this needs to be addressed. Jim Lampke said there is a good argument that can be made that the guaranty period would extend. Warranty generally refers to specific equipment.

Paul Dunphy informed Jim Lampke that another earlier vote decided to hold back money from Ai3 for work done by John G. Crowe. We are holding a \$2,500 payment relative to sidewalk work. David Walsh said the sentiment was because John G Crowe was supposed to be overseeing the work originally but TLT did not follow specs, why are we paying Crowe twice for a job they did not do right the first time. The motion was to hold the warrant.

David Twombly added we had some problems with the freeze stat a while ago and the sub contractor came out and made some repairs. Ai3 recommended to him that he send out a letter to TLT to extend the warranty on this item. Paul Dunphy noted it was an installation defect. David Twombly said they fixed it in April but we will not be heating the rooms again until next winter. David Twombly said Daren Sawyer recommended that he work with Steve DiGiacomo which, he did and he sent it to Del at TLT and Daren. Jim Lampke said that sounds like a guaranty relative to their work based on the limited information he has. That is still defective and they are responsible to complete it. David Twombly noted that this work does appear on the School Department punch list.

Dr. Tyrell noted Pat Finn has made a motion to approve the TLT requisition subject withholdings. *All approved the motion. Phil Lemnios entered meeting.*

Jim Lampke said Troy Randall suggested that if anyone is available to meet with them to determine what needs to be done and when, that would help to get this done. Phil Lemnios asked if we have a dollar value. Jim Lampke said that is still to be determined and we don't have a value of the School Department punch list. David Walsh added we need to talk about making sure the front entrance is correct. Phil Lemnios said the recommendation from Town Counsel is to hold the payment and the architect agrees. Jim Lampke said they would deduct from the requisition the value of the punch list work and defective phase 1 work. Jim Lampke said the committee has voted and he, Troy Randall and Phil Lemnios will speak by phone tomorrow to determine what should be withheld as determined by Town Manager.

Phil Lemnios said his recommendation is to approve the full value of the warrant but only release it upon satisfaction of the Town Manager, Superintendent and John Reilly as committee chairman. Jim Lampke said the motion should be to approve the requisition as presented with a deduction in a sum to be approved by the Town Manager, Superintendent and Chairman based on the value of work in question in phase 1, the punch list items, and any other back charged there should be.

Town Manager Report: Phil Lemnios informed the Committee that Bill Tramontana stopped by this afternoon and asked that his letter be given to the School Building Committee, June 14, 2009. The letter was distributed to the committee

10. New Business/Submission of Agenda Items

- **Upcoming Meeting Schedule:** Dr. Tyrell said the School Building Committee facilities manager position does not have to be subject of School Committee. The motion was to hold a joint meeting. Phil Lemnios asked why the physical plant assessment needs to be discussed then. He said the most pressing thing is whether the committee wants to put in place a \$35,000 annual endowment to cover the cost of budgeting a maintenance manager to manage the investment. Pat Finn said it was not on the agenda. Phil Lemnios said the other piece is that does not necessarily have to be discussed at a regular meeting. Paul

Dunphy asked for an explanation of endowment. Phil Lemnios said the concept, in essence, is an expenditure to help subsidize the cost to hire an individual who has the requisite skill set to manage the buildings. Phil said we talked about someone who has a certification and that a sub committee of this committee would be included in the selection process. Jim Lampke said his impression is a program that the committee would develop with the town to develop the proper maintenance of the \$60 million investment which logically includes the hiring of a professional to oversee the implementation. Phil Lemnios said the logical sequence is for this committee to have the discussion and in the event that it makes sense, to put together a detailed job description to verify with the superintendent and create an agreement of understanding and then go forward and try to hire the individual. As for the physical plant assessment meeting, he would rather have the individual hired and have the benefit of their expertise before making any decisions and that is when you have the joint meeting. Pat Finn agreed. Paul Dunphy said it is not our call. Phil Lemnios said you do not want to post the position until the funding is in place. Pat Finn asked about the motion to have a joint meeting. Phil Lemnios said the joint meeting was to talk about how the schools were to be taken care of going forward. If we are going to hire someone do it before the joint meeting. Pat Finn said this committee is not going to tell anyone how to maintain their buildings but we need to have an open meeting to discuss the position due to the layoffs. Jim Lampke said it seems to him that the meeting with the School Committee was not going to be the one and only discussion about it. We have to decide if the town moving forward and the School Building Committee can develop a plan to maintain the \$60 million investment, and the School Department wants to know if the School Building Committee is on board. Then the plan itself would be developed. Phil Lemnios said the original concept was to have a discussion about that document and we can utilize the person's expertise to move forward. Phil Lemnios said we don't need to have the School Committee present to determine if we want to move forward. Pat Finn said it was not on this meeting agenda.

The next School Building Committee meeting will be scheduled for Thursday, July 30 at 5:00pm.

Paul Dunphy made a motion to adjourn the meeting. Charlie Ryder seconded the motion. All approved. The meeting adjourned at 8:41pm.

Respectfully submitted,

Debbe Bennett
Recording Secretary