

MINUTES OF THE SELECTMEN'S MEETING FINAL

October 29, 2009 6:00pm

Sanford Hall, Medway Town Hall, Medway, MA

Present: Chairman Andrew Espinosa, Selectmen Richard Dunne, Dennis Crowley, John Foresto and Glenn Trindade; Town Administrator, Suzanne Kennedy and Board Secretary Wendy Harrington

Absent:

The meeting was called to order at 6:05pm

This meeting is for the purpose of reviewing Fall Town Meeting Articles for the November 16, 2009 Fall Town Meeting.

Article 2 Tom Holder, Director of Public Service

Selectman Dunne read article 2.

Initially the rehabilitation of the tank was all that was being considered. It is now understood that it would be much more practical to replace the tank. There are a number of options to replace the tank. Mr. Holder is leaning towards one option because of the limited space on the property and the structural integrity of the ground. Another look will be made but at this time it looks like welded steel, glass lined is the option being considered. The choice will be solidified during the design process. The water commission has baked into their rates the cost of the tank.

Selectman Dunne moved that the board approve article 2; Selectman Foresto second; No discussion; All ayes 4-0 (Selectman Trindade had not yet arrived)

Article 10 Tom Holder, Director of Public Service

Selectman Foresto read article 10

This is to pay a medical examine and was received after the books had been closed.

Selectman Crowley moved that the board approve article 10; Selectman Foresto second; No discussion; All ayes 4-0 (Selectman Trindade had not yet arrived).

Article 11 Tom Holder, Director of Public Service

Selectman Crowley read article 11

This article pertains to the Shaw Street construction. The property owners at #4 and #6 will gift the easement to the Town prior to TM. All necessary documents will be signed by both property owners. The motion will read a gift. This will be a permanent easement

Selectman Foresto moved that the board approve article 11; Selectman Dunne second; No discussion; All ayes 4-0 (Selectman Trindade had not yet arrived).

Article 12 Will Naser, Principle Assessor

Mr. Naser offered that the new growth amount is over 20million, \$316K in tax values, which was previously \$100K because we picked up a lot of personal property. This is a change for one calendar year and the only purpose is for data collection.

Selectman Dunne moved that the board approved article 12 as written; Selectman Foresto second; No discussion; All ayes 4-0 (Selectman Trindade had not yet arrived).

Article 9 Susy Affleck Childs, Planning

This article is the mechanism to put a line item in place, an account for the money to be targeted. The Planning Board has to establish the fee. The fee doesn't have to be approved by the town

Selectman Foresto moved that the board approve article 9; Chairman Espinosa second; No discussion; All ayes 3-1 (Selectman Trindade had not 3-1 (Selectman Trindade had not yet arrived) Selectman Dunne opposed.

Selectman Trindade arrived at 6:25pm

Article 8 Paul Trufant, Fire Chief

\$7k left from other appropriations.

Selectman Dunne moved that the board approve article 8 as written; Selectman Trindade second; No discussion; All ayes 5-0. This has been approved by bond counsel.

Article 15 Paul Trufant, Fire Chief

Selectman Trindade read article 15

Administrator Kennedy found out the Selectmen don't have to put this on the Warrant. It's up to the Selectmen if they want to advance it or not.

Selectman Crowley moved that the board approve article 15, Selectman Dunne second; No discussion; All ayes 5-0.

Article 13 John Emidy, Building Inspector

Article 13 was revised today by Town Counsel.

Selectman Trindade moved that the board approve article 13, Selectman Dunne second; No discussion; All ayes 5-0.

Article 14 John Emidy, Building Inspector/Historical Commission

The demolition by neglect had been added but the nuisance and blight will address this before the demolition by neglect. The historical commission is adding the demolition section and there is a definition for historic as being older than 100 years.

Selectman Crowley moved that the board approve article 14 as written; Selectman Trindade second; No discussion; All ayes 5-0.

Article 6 Suzanne Kennedy, Town Administrator

This article was sent by Mark Cerel, CIPC Chairman. Any answers needed will be clarified when the motions are received. The article is to give CIPC the flexibility for them to go after properties of interest.

Selectman Foresto moved that the board approve article 6 with follow up from Mark Cerel for the actual numbers; Selectman Trindade second; Discussion: Mr. Cerel was unable to attend due to surgery. Selectman Dunne would like to have a discussion on the CPA fund. Do we need to be buying any more land? Selectman Foresto explained that CPC needs this approved to give them what they need to do what we set them up to do. Selectman Dunne is supportive, but unsure of the amount of money. Administrator Kennedy will get the numbers on Monday 4-1 (Selectman Dunne opposed).

Article 7

Selectman Foresto suggested this article be removed from the warrant as he has had discussions with the CPC chairman and the article is not necessary at this time and the funds will come from the administrative fund for a study.

Selectman Crowley moved that the board remove article 7 from the warrant; Selectman Dunne second; No discussion; All ayes 5-0.

Article 1 feasibility study

Selectman Crowley read article 1. This article is an article that was written by MSBA which was approved by the School Building Committee last week when they met. The committee wanted to go back and do due diligence to make sure the \$250K figure is accurate. The source of funding was discussed. We would borrow exactly what the appropriation is. They can not exceed whatever Town Meeting approves. The project won't be bonded until MSBA gives back the reimbursement. The debt service on the \$250K is \$22,500. The School Building Committee should make this presentation at Town Meeting.

Selectman Dunne moved that the board approve article 1; Selectman Trindade second; Discussion: Selectman Crowley asked the name of the committee be clarified and it was agreed "School Building Committee"; All ayes 5-0.

Article 3

Selectman Dunne read the article

Selectman Trindade moved that the board approve article 3 as read; Selectman Crowley second; Discussion: Selectman Dunne asked where the protection for the residents is. It was explained that they can come in and file an abatement and a resolution will be prepared to let the residents know the board's opinion. Town Counsel has agreed. Selectman Trindade believes Chairman Espinosa should read the resolution at Fall Town Meeting. Selectman Crowley believes that questions may be asked at Fall Town Meeting regarding the MORE jobs grant having paid the industrial park business owners fees. Town Counsel will be present to answer any questions; All ayes 5-0.

Article 4

Chairman Espinosa read the article.

Selectman Trindade moved that the board approve article 4 as read; Selectman Crowley second; Discussion: The amount of money in the article was discussed.

It was agreed to only borrow what we need as we don't want to come back for more money. Recommending \$850k at this point, \$425k will be from betterments. Selectman Dunne asked if this was a debt exclusion, this is to get the money to pay for the project. The funding is defined by Ch59 Sect. 21c and the vote to do this treated like a debt exclusion but it's not. If you accept the 21C it behaves like a debt exclusion and will be paid for by the whole of the town. This is an accounting way of making what you want to happen happen.

The question was raised, What if you don't get a positive vote? It was explained that the town would then deal with the legal wrath. One way or another it has to be paid for. It was decided that Selectman Crowley, Administrator Kennedy and Treasurer/Collector Phillips should explain this to the residents in a very clear presentation which includes the reasons for the \$850K. All ayes 5-0

Article 5

Selectman Trindade read article 5

Selectman Trindade moved to approve article 5; Selectman Crowley seconded; Discussion: It was asked if the School Committee has the authority to do this. Chairman Espinosa discussed this with Dr. Evans and Dave Verdolino and they wanted to convey what they were thinking so we could act appropriately. A discussion was had with Beth Greenblatt and she believes it's a license not a lease, but the school wants to move on and not wait two more weeks. They believe they are in a position to sign it. Ms. Greenblatt resurrected a letter to DOR on a similar project, Town Counsel said this is not debt, this is a lease, it's not a license. They are pressed for time or they will lose the grant. They want a notice to proceed to vote on 11/5. Selectman Trindade asked if there is a legal issue. Selectman Trindade believes they checked with the granting authority and so long as they show they have it started they should be ok; All ayes 5-0.

Selectman Crowley explained he would like a second opinion on the propped ConCom rules and regulations. He wonders if they are exceeding their powers and if they are within their boundaries. He has heard rumors that certain groups will take the town to court if they are passed. Town Counsel has given her opinion that they are not exceeding their powers by approving the rules and regulations. Selectman Crowley offered that Town Counsel is not an environmental engineer or an environmental attorney. Selectman Crowley is of the opinion that the town should get the consult of an attorney with environmental protection experience before they get passed.

Selectman Crowley got a name of an appropriate attorney to contract, not to exceed \$5k to review the proposed document. The attorney was given some guidelines and has been asked to act quickly because ConCom is meeting next week. Administrator Kennedy thought the price quote was pricey.

Selectman Trindade suggested to empower Town Counsel to get us another opinion in a sense validating her own opinion. Chairman Trindade suggested a separate individual for the opinion.

Selectman Foresto believes it is important and we should do as much due diligence as we can. Selectman Trindade explained the more we do to clarify is in everyone's favor.

Selectman Crowley asked if we should go forward as the whole process will clarify if ConCom can be more stringent than the state law.

Selectman Trindade moved that the board approve the request for legal services as presented by Selectmen Crowley, Second by Selectman Dunne; No discussion; All ayes 2nd Rich, 5-0.

Selectman Crowley received a call from the Board of Health this evening. Apparently the Board of Health had presented an article to be included in the warrant for this town meeting. The party that called Selectman Crowley says that Administrator Kennedy refused to bring the article before the Board of Selectmen. Administrator Kennedy advised the board that she believes this to be an operations issue, not a warrant article, as the Board of Health request is to pave the road to the dump.

Administrator Kennedy explained that the Warrant closed on 10/23 and it was received on 10/28/09, although Selectman Crowley explained that the Board of Health was told it would be fine if the article was received by Monday.

Selectman Crowley would like the warrant procedure clarified as this appears to be a question of the process. Chairman Espinosa believes a clarification on who has the right to bring forth articles to the Board is needed. It was determined that with regard to town employees requests should go through the Town Administrator but residents and other boards/commissions should go directly to the Selectmen. In this case the Board of Health is an elected board; Chairman Espinosa believes this should have gone directly to the Selectmen.

Administrator Kennedy explained this article was advanced by Carol Brodeur who is not on the Board of Health but a town employee. Chairman Espinosa explained that town employees should not be allowed to advance articles and this should have been communicated by the Town Administrator to the employee.

Selectman Crowley explained he is not talking to the article, he's talking to the process and the Board of Health voted on this article at their last meeting.

Selectman Foresto offered that the dump needs to be capped before paving can take place and there is a process on submission of articles. He believes the BOH should have gone through CIPC and/or the Selectmen and maybe a policy statement should be issued (and explained) to ensure that all employees/board members understand the process of submitting an article as Mass General Law governs this process.

The article received from the Board of Health was dated 10/23/09 and received in the Town Administrator's office on 10/28/09

Selectman Trindade moved that the board received the article to consider paving the town dump. The board voted to dismiss the article and referred the Board of Health to the CIPC for consideration of a long term capital plan request. Selectman Crowley added a friendly amendment that the Board of Health is required to go through the proper channels and should meet with CIPC. The deadline for this Fall Town Meeting warrant submission was 10/23/09; Selectman Foresto second; No discussion; All ayes 5-0.

At 7:45pm Selectman Trindade moved that the board adjourn for the evening; Selectman Foresto second; No discussion All ayes 5-0.

Respectfully submitted,
Wendy Harrington
Board Secretary
*Approved 12/7/09