

Board of Selectmen
March 21, 2011

THESE MINUTES ARE SUBJECT TO APPROVAL BY BOARD OF SELECTMEN

The Board of Selectmen held a regular meeting Monday, March 21, 2011 in the Council Chamber of the Municipal Center, Newtown. First Selectman Llodra called the meeting to order at 7:35pm.

PRESENT: First Selectman E. Patricia Llodra, Selectman William F.L. Rodgers, Selectman William F. Furrier.

ALSO PRESENT: Finance Director Robert Tait, Atty. David Grogins, Atty. Fran Pennarola, one member of the public and two members of the press.

VOTER PARTICIPATION: none.

ACCEPTANCE OF THE MINUTES: Selectman Rodgers moved to accept the minutes of March 7, 2011. Selectman Furrier seconded for discussion. The minutes of March 7, 2011 were unanimously approved with the following corrections: Page 2, item #2 under Old Business, add “and strive to decrease bonding” to Mr. Furrier’s final comment. Page 2, item #1 under New Business, correct the cost of the Animal Control Facility to \$1,000,000; \$750,000 from the Town, \$250,000 from Canine Advocates. Page 2, item #2 under New Business, add “hours” to the fourth sentence after 200. Note to Reader: see section on NYA lease in March 21 minutes for greater clarity. Page 3, item #3 under New Business, fourth sentence, change the word property to “a product”.

COMMUNICATIONS: First Selectman Llodra noted there are currently three people interested in serving on the Employee Benefits Oversight Committee.

FINANCE DIRECTOR REPORT: Mr. Tait shared the Town of Newtown Capital Project Status Report (Att. A). The report was established to help people understand the status of CIP projects and will come out quarterly. The report will be on the website. Mr. Rodgers said the report will be very useful. First Selectman Llodra said the photographs included in the report will show the work in progress and asked the Selectmen to look over the report and let Mr. Tait know if there is anything that needs to be added or taken out.

ADD TO THE AGENDA: Selectman Rodgers moved to add as item #5 under Unfinished Business: Update on the Fairfield Hills Master Plan Review Committee and to add as item #6 under New Business: Driveway Bond Release. Selectman Furrier seconded. All in favor.

OLD BUSINESS:

Discussion and possible action:

1. Implementation Plan – Plan of Conservation and Development: This item will continue to be carried.

2. Modification of Newtown Youth Academy Lease: Atty. Grogins and Atty. Pennarola were present to discuss the modification to the lease (Att. B). Atty. Grogins went over the history of the lease up to this point. The original lease fee was \$1,200,000. The result of negotiations between the Fairfield Hills Authority and Newtown Youth Academy was a \$600,000 credit for NYA for the removal of the building that was at that location. The balance of \$600,000 was calculated as a present value calculation on the sum over the life of the lease. This came out to be \$40,000 a year for forty years. Further, it was also agreed that the Town would purchase 1400 hours with an option to purchase an additional 200 hours at a discount of \$25/hr. off the standard rates.

The original lease has been modified four times previous to this proposed amendment. There were

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scheduling conflicts and Parks & Recreation didn't feel they were getting the needed time. The key elements of this amendment are to establish a procedure to assure the Town received the needed hours and that the rates were published. The 200 hours are now donated to the Town. It is clarified in the proposed lease that the tenant will not receive a credit beyond \$40,000 per year. Atty. Pennarola said going back to 2007 this was envisioned to be a Town/NYA partnership. Discussions between Parks & Recreation and NYA were designed to foster communication. The donated 200 hours, even at a discounted rate, have a value of about \$12,000. Mr. Furrier confirmed that the town is obligated to use 1400 hours now, just as was the case in the original contract. Mr. Furrier said it is clear to him that the power to commit expenditures of tax dollars via contractual obligation or any other means is a legislative power; that power is reserved for the Legislative Council and the people of the town. He said it is unconstitutional for the executive branch to have the power to commit expenditures of tax dollars. He also stated the Board of Selectmen having the power to enter into leases is the fundamental flaw of the State Statute that empowers the Fairfield Hills Authority ordinance; it is an unconstitutional special act. Atty. Pennarola said the lease reflects the thinking of the Selectmen and the Fairfield Hills Authority at the time; that this was a good arrangement for the Town of Newtown and he continues to believe it is a good arrangement today. Mr. Rodgers said that any obligations that lessen the money the town receives are reductions to the net financial effect of the lease. He views this as a cost consciously assumed by the town, not as an ongoing expense as long as the town is not in a net deficit under the lease. It is not the equivalent of an operational expense from year to year. First Selectman Llodra said that the Board of Selectmen that acted in 2007 acted appropriately within the powers that they were granted by the special act. First Selectman Llodra stated that Parks & Recreation is not unhappy having the availability of 1400 hours; they are desperate for space and hours in gyms and want the 1400 hours available at NYA and will likely use the donated 200 hours. There are four changes in the lease: a scheduling obligation of April 1, the advertised rates are in the lease (the town gets \$25/hr. off the advertised rate), 200 donated hours and a clear dispute resolution. Mr. Rodgers complimented Atty. Grogins and Atty. Pennarola on a clearer lease. He said that the fifth amendment should be ratified and there may be further exploration and cause for additional lease amendments at another time. Mr. Rodgers pointed out the attorneys in the room didn't weigh in on the constitutionality of an ordinance and cautioned Mr. Furrier to add "in my opinion" when talking about something being unconstitutional. He spoke of troubling email chains that raised questions of conflicts of interest and appearances of impropriety including phrases that can be very professionally damaging. He stated elected officials have to be responsible about such things and found the emails troubling and very irresponsible. First Selectman Llodra said that the email chain questions her own integrity suggesting she harbors a private agenda. She finds the comments to be a inflammatory, insulting, hurtful and designed to be a political fabrication; it is irresponsible for an elected official to behave in that fashion. She said she is prepared to accept criticism or comment on decisions or actions but all of this is totally unwarranted and asked that it ceases as a whispering campaign. Character assassination is not in the best interest of the town and does not speak well of Mr. Furrier. Mr. Furrier agreed that changes to the NYA contract are needed but in his opinion the Board of Selectmen does not have the power to commit to the purchase of hours. Atty. Grogins said that scheduling will be more difficult for P&R without the amendment. Atty. Pennarola thinks the parties would continue to try to accommodate each other. First Selectman Llodra said that unless there is clarity in the lease she has no confidence that there will not be additional problems in the future. Selectman Rodgers moved to approve the modifications as embodied in the Fifth Amendment to the Newtown Youth Academy lease and authorize the First Selectman to sign on behalf of the town. Selectman Furrier seconded. Motion passed 2-1 (YES: Rodgers, Llodra), (No: Furrier).

3. SweetHart Grant Assignment Certification/Maintenance of Effort Certification: Selectman Rodgers moved the Board of Selectman Resolve that the First Selectman be authorized to execute all necessary Agreement/Contract documentation on behalf of the Town of Newtown with the Department of Transportation of the State of CT and to affix the corporate seal and that the Finance Director be authorized to sign the Maintenance of Effort Certification in connection with the Elderly and Disabled Municipal Grant Program funds as set forth in two certificates dated March 23, 2011. Selectman Furrier seconded. All in favor.

4. Update on Regionalizing Dispatch: (Att. C) Brookfield, Bethel, Ridgefield, Danbury and Newtown are discussing the possibility of regionalizing their dispatch. The point person on the project is Danbury Mayor Mark Boughton. If regionalization does take place it will be housed in Danbury. There are two members from each municipality and two members from North West Public Safety that make up a twelve member transition team. Maureen Will, Director of Communications and Ken Lehrman of the Ambulance Association will represent Newtown. First Selectman Llodra said the letter of intent lacks two concepts: it does not indicate that it is non-binding and it does not state the goals of the feasibility study and what the timelines are

5. Update on the Fairfield Hills Master Plan Review Committee: First Selectman Llodra reported that there was a two day microcosm council. (Att. D) The focus group was followed up by an open community discussion last Wednesday; there will another on this Wednesday. The outreach effort of the Fairfield Hills Master Plan Review Committee is very significant. First Selectman Llodra reported Mike Struna presented a housing proposal to the Fairfield Hills Authority. First Selectman Llodra has been clear that the Board of Selectman will not weigh in on the question of housing as to not contaminate the process of the Review Committee in any way. The Fairfield Hills Authority voted to forward the proposal to the Board of Selectmen. When that is received First Selectman Llodra will put it away to be looked at after the Review Committee finishes their work. Atty. Grogins is in possession of the letter of intent because First Selectman Llodra refused to accept it. First Selectman Llodra clarified that she has spoken to Atty. Grogins regarding his relationship with Claris Construction. He does not represent Claris in any work done in Newtown. Atty. Grogins removed himself from the United Water issue because he is the Town Attorney for both Newtown and Brookfield; we are very cognizant of conflict issues. First Selectman Llodra stated these ancillary issues distract us from the work that needs to be done and from a fair, open minded and honest review of every aspect of this issue without contamination, character assassination, whispers and without any suggestions that the characters in the decision making process are flawed. She finds it is untrue and not in the best interest of the town and asked everyone to cease and desist. The Review Committee process needs to go forward. First Selectman Llodra noted the three major pieces she brought to the board many months ago relating to Fairfield Hills: getting the review process underway by appointing a committee and writing a charge; a commitment to review the Fairfield Hills ordinance. Do we need an authority and if so what will their role be? Lastly, integrate Fairfield Hills into the fabric of the town. Mr. Rodgers feels Mr. Struna exceeded the scope of the authority that he was given. He was told the potential lessee had to be told of the existing strictures and that those strictures were under review. He crossed the line by tendering a letter of intent that purports to have dates for action, in essence pressuring the town to short circuit the review process. Mr. Rodgers said it is common in the legal profession to represent clients that have different interests but do not represent them in the same arena. Atty. Grogins firm has a formal internal body checking conflicts of interest. Words are being thrown around too loosely, quickly and publicly before there is reasonable due diligence regarding the issues. First Selectman Llodra said that Planning and Zoning will discuss housing. The P&Z Chairman said the hearing will not be closed; the issue will likely be discussed for several months. Mr. Furrier stated that Mr. Struna is our agent and when he speaks publicly the perception is that he speaks for the Board of Selectmen; unless the Board counteracts those statements then they are believed to be the Boards views. The housing question is controversial and has people alarmed. People are concerned their views will not be heard and that has led to all the comments on Patch. First Selectman Llodra stated Mr. Furrier's comments have added to the alarm. Mr. Furrier is not comfortable with the arrangement. First Selectman Llodra said she trusts that the people of good will in the decision making positions will be agents of change with us and not make the work difficult by creating character assassination protocol. First Selectman Llodra said that the statement that she has a private agenda that is not in the best interest of the town is an inflammatory statement with no evidence in her record to justify it.

NEW BUSINESS:

Discussion and possible action:

- 1. Transfer:** Selectman Rodgers moved the transfer of \$19,587.63 from Contingency, 01570-2000 to

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- Primaries, 01180-1006. Selectman Furrier seconded. All in favor.
2. **Transfer:** Selectman Furrier moved the transfer of \$9,000 from Contingency, 01570-2000 to Field Service, 01190-4061. Selectman Rodgers seconded. All in favor.
 3. **Tax Refunds:** Selectman Rodgers moved to accept the March Tax Refunds No. 12 in the amount of \$6,819.10. Selectman Furrier seconded. All in favor.
 4. **Fair Housing Resolution:** Selectman Rodgers moved to Resolve that the First Selectman of the Town of Newtown be responsible for responding to and assisting any person who alleges to be the victim of illegal discriminatory housing practice in the Town of Newtown and for advising such person of the right to file a complaint with the State of Connecticut Commission on Human Rights and Opportunities (CHRO) or the US Department of fair housing organizations to protect his or her right to equal housing opportunities. (Att. E) Selectman Furrier seconded. All in favor.
 5. **Maintenance Bond Release:** Selectman Rodgers moved the release of the \$28,600 maintenance bond for Quail Hollow Lane, "Quail Hollow" Subdivision as recommended by Ron Bolmer, Town Engineer. Selectman Furrier seconded. All in favor.
 6. **Driveway Bond Release:** Selectman Furrier moved to release the driveway bond for Gary Platt, LLC, 34 Hoseye Coach Road, M46, B4, L105.102 in the amount of \$1,000.00. Selectman Rodgers seconded. All in favor.

VOTER COMMENTS: none

7. **Executive Session: United Water Litigations Update:** There was no executive session. This will likely be addressed at the April 4th meeting.

ANNOUNCEMENTS: First Selectman Llodra announced openings and vacancies on boards and commissions. (Att. F)

ADJOURNMENT: Having no further business the Board of Selectmen adjourned their regular meeting at 9:10pm.

Respectfully submitted,

Susan Marcinek, Clerk

- Att. A: Capital Projects Status Report
- Att. B: Fifth Amendment to the Lease (NYA)
- Att. C: Draft letter of intent, Regionalization
- Att. D: Input from the Microcosm Council
- Att. E: Fair Housing Resolution
- Att. F: openings/vacancies