

Saugus Board of Selectmen  
November 19, 2013

\*\*\*\*\*MEETING MINUTES\*\*\*\*\*

AGENDA

Saugus Board of Selectmen  
November 19, 2013 at 7:30 PM  
Town Hall Auditorium  
298 Central Street

Public Hearings:

7:30 PM public hearing for the purpose of determining the percentage of local tax levy FY 2014 to be borne by each class of taxable property within the Town of Saugus.

Other Business:

- 1.) Town of Saugus ambulance service.
- 2.) Mr. Cataldo re: emergency ambulance contract; evaluation / selection process; and lease located at 180 Walnut St.

Saugus Board of Selectmen  
November 19, 2013

The Saugus Board of Selectmen met on November 19, 2013 at 7:30 PM in the Town Hall Auditorium, 298 Central Street. Present: Selectmen Paul Allan, Stephen Castinetti, Maureen Dever, Debra Panetta and the Chairman Ellen Faiella. The Town Manager Scott Crabtree was also present.

Public Hearings:

7:30 PM public hearing for the purpose of determining the percentage of local tax levy FY 2014 to be borne by each class of taxable property within the Town of Saugus.

Deputy Assessor Ronald Keohan was present and explained historically the Town has shifted the tax burden to the maximum to allow the lowest possible residential rate. Ms. Dever asked if this is an evaluation year. Mr. Keohan said the Assessors evaluate every year, but the next State evaluation is scheduled in 2015. Ms. Dever asked the percentage of commercial property. Mr. Keohan said 37%. Ms. Dever asked if that is an increase. Mr. Keohan said it varies slightly each year and this year it is up (less than a percent). Ms. Panetta said Saugus is lucky having a strong business community so it allows us to shift the burden to help residents and questioned the percentage of residential values listed on page 3 of the report submitted. Mr. Keohan explained the number reflects the percentage of total value.

Any that wish to be heard? None.

Mr. Castinetti moved to close the public hearing. Ms. Dever seconds. Vote: 5-0.

Mr. Castinetti moved the Board vote to shift to the maximum of 175% and adopt a residential factor of 62.1576 and a CIP (Commercial/Industrial/Personal Property) factor of 37.8427 with a residential tax rate set at \$11.61 per \$1,000 evaluation and a CIP tax rate of \$25.62 per \$1,000 evaluation as recommended by the Saugus Board of Assessors. Ms. Dever seconds. Vote: 5-0.

Ms. Dever requested a recess. The Chair called recess at 7:45 PM.

The Chair called the meeting back to order at 7:47 PM.

Other Business:

- 1.) Town of Saugus ambulance service.
- 2.) Mr. Cataldo re: emergency ambulance contract; evaluation / selection process; and lease located at 180 Walnut St.

The Chair said there are 2 other items on the agenda, the second will not be heard this evening and said since the agenda was posted there have been several communications starting with an e-mail received on Thursday from the Town Manager and read: *"I received the Board of Selectmen agenda you posted today for the November, 19, 2013 meeting. After reviewing the agenda items listed as 'Other Business': 1 and 2 it is my responsibility and obligation as your Town Manager to communicate concerns I have regarding the Board, the Town, and your risk of potential liability as well as other issues concerning the above said agenda items. Therefore, I have referred this to Town Counsel John Vasapolli for his attention and I am strongly suggesting that you speak with him regarding this matter."*

The Chair said she did get in touch with Town Counsel and asked he advise on best procedure and received a written opinion and read: *"Town Manager has raised concerns in his e-mail of the risk of potential liability of the Board of Selectmen and the Town as it relates to the agenda items scheduled to be discussed regarding the ambulance contract and Mr. Cataldo addressing the Board on the ambulance contract, the evaluation/selection process and lease of 180 Walnut Street. You have asked me to review and advise how to proceed. Under the provisions of Article 2 Section 13(i) of the Town Charter the Town Manager shall award all contracts for all departments of the Town. The Board of Selectmen have no authority under the Town Charter or the laws of the Commonwealth of Massachusetts to award, approve, execute or rescind any contract that the Town Manager is authorized to enter into on behalf of the Town. In August of this year the Town Manager requested and received proposals (Requests for Information) from four ambulance companies for the provision of emergency ambulance service for the Town of Saugus. Contracts for emergency ambulance services are exempt from the bidding requirements of Massachusetts General Laws 30B, the Uniform Procurement Act. After reviewing the proposals with a committee the Town Manager awarded the ambulance services contract to American Ambulance New England by letter dated October 3, 2013. The agenda of the Board of Selectmen scheduled for November 19, 2013 lists two items under Other Business: 1.) Town of Saugus ambulance service 2) Mr. Cataldo re: emergency ambulance contract; evaluation/selection process; and lease located at 180 Walnut St. Mr. Cataldo is the Vice President of Cataldo Ambulance Service which company was one of four companies that submitted proposal to the Town for ambulance service. Mr. Cataldo, as stated on the agenda is scheduled to appear before the Board to discuss the evaluation and selection process for the ambulance service which contract he was unsuccessful in obtaining."*

Saugus Board of Selectmen  
November 19, 2013

*If Mr. Cataldo is aggrieved by the decision of the Town Manager in awarding the contract to American, he may have a remedy in a court of law but his remedy is not before the Board. The Board of Selectmen has no authority rescind the award of the ambulance services contract by the Town Manager. I am concerned that any discussion and or deliberation by the Board of Selectmen on the selection process of which they have no authority, or the company that was legally awarded the contract by the Town Manager may expose the Town to a risk of potential liability. Such action by the Board may give American Ambulance a claim against the town for interference with contractual relations and a possible claim for additional damages as it may affect the company's potential contracts with other municipalities. It is for the above reasons that I recommend that the above listed items be removed from the agenda and there be no discussion of the previously awarded ambulance service contract by members of the Board of Selectmen, Town Manager or Mr. Cataldo."*

The Chair further explained there are questions out there and she felt it should be addressed so the public understands and she did receive another e-mail from the Town Manager on Saturday from the Town Manager and read: *"I have recently been approached by two members of the Board with questions and concerns regarding the emergency ambulance services. I write to the entire Board so that all members have the same information at the same time. As part of my regular duties as Town Manager I have been reviewing existing contracts with vendors providing services to the Town of Saugus. During the course of my review, it came to my attention that the contract for Emergency Ambulance Services had expired years earlier. In light of the expiration of the agreement, the Town, back in the Summer of this year, requested proposals/Request for Information (RFI) from a number of companies seeking the highest possible level of service at the best value for the citizens of the Town. A Committee, consisting of the Fire Chief, Police Chief, Purchasing Assistant, and myself, was created to review proposals submitted and to hear presentations. The current vendor has provided emergency ambulance services to Saugus for approximately 14 years and the contract appears to have expired back in 2005, nearly 8 years ago. There has been no competitive process for emergency ambulance services in the Town of Saugus in 14 years. M.G.L. Ch. 30B "The Uniform Procurement Act" specifically does not apply to a contract for emergency ambulance services by a governmental body. However, creating a Committee which included the two Chiefs' of public safety and creating a competitive process (has never been done in 14 years) RFI/proposals, resulted in what the Fire Chief, Police Chief, Purchasing Assistant, and Committee sought after and unanimously recommend - the highest possible level of services at the best value for the citizens of the Town with the selection of American Ambulance. As previously communicated to the Board, American Ambulance was recently awarded the emergency ambulance services (a non-budgetary service) for the Town of Saugus based on its proposal. The Town and American Ambulance are currently reducing the terms to a written agreement. Once the Fire and Police Chiefs review and confer with the agreement it will be executed and this office will provide a copy to the Board. American Ambulance will begin emergency ambulance services for the Town of Saugus on [December 1, 2013](#). American Ambulance will occupy the old central fire station garage (centrally located in Saugus Center) temporarily. The Town is preparing an RFP to be published for the lease and use of the old central fire station. As you may be aware, that building is in much need of repair and work (estimated at more than \$120K at a first glance). According to the Town's inspectional services, the building has many safety and code needs that the Town has not addressed since back in early 2000s. The RFP includes a monthly lease as well as major leaseholder improvements. Upon completion of the RFP and the process, a lease will be prepared and presented to the Board for its consideration and approval. If you have any further question please feel free to contact me."*

And said another e-mail from the Town Manager to Town Counsel was received today and read: *"In the past week, in separate conversations with two members of the Board of Selectmen concerns were raised with me regarding the Town Manager and the Board of Selectmen's authority and process pursuant to the Saugus Town Charter Article 2. One of these Board members requested that I read and follow Article 2 concerning rental, lease, and use of town property. Therefore, based on the concerns raised by the Board I am writing to you and requesting a legal opinion so that you may help clarify for all parties regarding the jurisdiction, authority, and process of the Town Manager and Board of Selectmen over the rental, lease, use, and maintenance and repair of all Town property. (See Saugus Town Charter, Article 2, Sec. 13(h)). The questions posed are: 1) Whether the Town Manager has the authority based on the Town Charter and/or other authority to negotiate and execute a lease, rental, or other agreement for the use of the town building known as the 'old central fire station' located on Hamilton Street, or any other town property, which may include improvements and repairs with American Ambulance not to exceed 180 days without any other involvement or approval from the Board of Selectmen. 2) Whether the Town Manager has the authority based on the Town Charter, and/or other authority, and by a vote previously taken of the Board of Selectmen at a regularly scheduled meeting held on September 24, 2013 – in which you have viewed the meeting and reviewed the minutes – to enter into negotiations, execute a lease, rental, or other agreement subject to the Board's final vote of approval and being provided the final documents containing such lease, rental or other agreement at least 7 days before a public meeting, to authorize the use of town property through an RFP and/or other process for the town building known as the 'old central fire station' located on Hamilton Street which may include improvements and repairs or any other town property. If you have any questions or need clarification please feel free to contact me."*

The Chair said the purpose of stating all this is to give information to the public and to explain why the Board is limited in discussing this matter. The Chair asked the Manager if he had any comment. The Manager said no. Ms. Dever said during this election she heard questions and concerns and in the interest of transparency people should be provided the information noting areas being negotiated for lease about residential areas, but understands the restraints under the Charter. Mr. Castinetti asked if it was the Manager's intention to include the central fire station at the time he was authorized to negotiate leases.

Saugus Board of Selectmen  
November 19, 2013

The Manager said he doesn't recall. Mr. Castinetti said if the vote taken by the previous Board gave the Manager the authority to negotiate leases on other properties not mentioned at that meeting, then he would like to make a motion to rescind that vote and have the Manager request approval from the Board for each location. The Chair said she does not disagree, but the Town Charter says the Manager can enter into negotiations and enter into a lease of town building or properties if less than for 180 days. Mr. Castinetti said he feels the Manager intentionally mislead the Board. Town Counsel John Vasapolli was present and explained the authority under the Charter that allows the Town Manager to enter into negotiations and lease of town property for 180 days, anything more than that would need prior approval of the Board and would need the Board's approval after 7 days notice of the lease. The Chair said this could have been avoided if information requested was more forthcoming. Mr. Castinetti asked if the vote gives the Manager to negotiate leases. The Manager said for clarification that the vote was to authorize him to engage in discussions / negotiations, but the Board has the final approval of the lease. Ms. Dever said generally the action of one Board does not bind another and asked Town Counsel if that vote could be rescinded. Town Counsel said it could, but added that the Manager's negotiations he is in under that authority would not be affected. Mr. Castinetti asked if there are any other leases he is negotiating other than Kasabuski and DPW. The Manager said yes and listed: central fire station; cell towers; school buildings; and the power line proposal. Mr. Castinetti asked why it was not mentioned at the 9/24 meeting. The Manager said DPW has been ongoing and he was asked for update on Kasabuski and said the fire station was not in the works yet. Ms. Panetta said the 180 day lease doesn't need approval of the Board, any lease more than that needs a 3/5 vote of the Board and needs to be brought back to the Board for final approval of the lease and asked if the vote was rescinded what would change. Town Counsel said the Manager would need to come to the Board for authority on each, but it would not affect negotiations already started. Mr. Castinetti asked about RFP. The Manager said it's not out yet, but it's for the use of the building.

Mr. Castinetti moved the Board vote to rescind the 9/24/13 vote of the Board to ensure the Town Manager receives approval to negotiate each separate lease. Ms. Dever seconds.

Ms. Panetta speaking on the motion asked if it would include cell towers. Town Counsel said yes. Ms. Panetta said she doesn't want to micromanage the manager but it is important to be informed. Ms. Dever speaking on the motion said transparency is a big part of why she ran and open government, and said the Charter is clear on each of their roles and hope they can take a team approach to matters and said leases all impact neighborhoods.

(Someone requested to speak.)

The Chair explained the former Chair of this Board requested to speak and she has denied the request because this is not a public hearing and there are no citizen comments this evening and the Board is in deliberations. The Chair requested a roll call vote.

Roll call vote: Mr. Allan, yes; Mr. Castinetti, yes; Ms. Dever, yes; Ms. Panetta, yes; Ms. Faiella, yes.

Ms. Dever moved to adjourn. Chair seconds Vote: 5-0.

Meeting adjourned at 8:33 PM.

Respectfully submitted,  
Wendy Reed, Clerk