

August 4, 2003

**BOARD OF SELECTMEN
MINUTES
AUGUST 4, 2003**

Present: Arnold Wilson, Chairman
Charles Blanchard
David Schmida
Hal White
Doris Sosik
James Malloy, Town Administrator

The Chairman called the meeting to order at 6:30 p.m. following the Pledge of Allegiance.

Approval of Minutes

MOTION: To approve the minutes of July 21, 2003 as amended, by D. Sosik.
2nd: C. Blanchard
Vote: All in favor.

Russ Persson – Sewer Connection on McGilpin Road

Russ Persson appeared before the Board. Sewer service stops at Apple Hill Road, so he asked the Board to consider expanding service to include his lot on 7 McGilpin Road.

H. White said that it could set a precedent for other properties, and stated the importance of knowing the capacity of the system before granting the request. He said that the easement issue is between property owners, not between the property owner and the Town.

MOTION: To allow the sewer to be extended through the easement to 7 McGilpin Road and that this be the only tie in allowed on this extension; the entire cost of the line is to be the sole responsibility of the property owner; subject to payment of the sewer privilege fee, by C. Blanchard.
2nd: D. Sosik
Vote: C. Blanchard and D. Sosik in favor; A. Wilson, H. White and D. Schmida opposed.

The motion was defeated.

Police Officer Appointment/Resignation

MOTION: To accept the resignation of Scott Lynch as a full-time police officer, by H. White.

2nd: D. Sosik

Vote: All in favor.

MOTION: To confirm the Town Administrator's appointment of Stephanie Howe as a full-time police officer at a starting salary of \$17.69/hour, starting August 5, 003, by H. White.

2nd: D. Sosik

Vote: All in favor.

Yankee Spirits 1-Day Liquor License

Christine Zecher of Yankee Spirits appeared before the Board. They plan to hold a catered Lobster Festival in their parking lot on August 23, 2003 and would like to serve alcohol on the premises. The one-day liquor license would be under Michael Cimini's name.

MOTION: To grant a one-day liquor license to Michael Cimini for the event to be held on August 23, 2003 between the hours of 2:00 p.m. and 6:00 p.m.; the Police Chief must be contacted to make a determination as to whether a police detail will be required, by C. Blanchard.

2nd: D. Schmida

Vote: All in favor.

J. Malloy suggested that Michael Cimini and Pepper's Fine Food Catering name each other as additional insured on riders on both of their insurance policies for liquor liability.

Big Alum Sewer Project

The Town received the second phase of the funding from the USDA on the Big Alum sewer project, bringing the total grant funds to \$1,887,432 and total low interest loan funds (4.25%) to \$2,324,418. This second phase brings the Town to 45% grant funding. J. Malloy met with Diane King of the USDA and executed most of the forms, but there were some loan documents and acceptance of the grant that required a specific vote of the Board.

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MOTION: To approve the Grant Agreement accepting \$846,360 from the USDA Rural Utility Services and authorize the Town Administrator to execute all necessary documents on behalf of the Town, by D. Sosik.

2nd: H. White

Vote: All in favor.

MOTION: To approve the loan resolution between the Town of Sturbridge and the USDA Rural Utility Services for \$1,034,440 and authorize the Town Administrator to execute all necessary documents on behalf of the Town; the loan resolution worded as follows:

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the

Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

- 5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.**
- 6. Not to sell, transfer, lease or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.**
- 7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.**
- 8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.**
- 9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.**

- 10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.**
- 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.**
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.**
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.**
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.**
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.**
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.**

17. To accept a grant in an amount not to exceed \$846,360.00 under the terms offered by the Government; that the Board of Selectmen is hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee, by D. Sosik.

2nd: H. White

Vote: All in favor.

A. Wilson suggested sending thank-you letters to Diane King and David Tuttle of the USDA, Senator Stephen Brewer, Rep. Reed Hillman and Congressman Richard Neal for their assistance in this matter.

Auctioneer's Permit

MOTION: To approve the Auctioneer's Permit for Robert Glass Associates for the Sturbridge Federated Church Auction on August 9, 2003, by D. Sosik.

2nd: H. White

Vote: All in favor.

Resignation/Appointment

MOTION: To accept the resignation of Cheryl Economos as a part-time dispatcher, by H. White.

2nd: D. Sosik

Vote: All in favor.

MOTION: To confirm the Town Administrator's appointment of Brian Burns to the Sturbridge Historical Commission, by C. Blanchard.

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2nd: D. Sosik
Vote: All in favor.

Early Retirement Incentive (ERI)

The Legislature included an ERI incentive as part of the municipal relief package. The MMA website contains a summary of the ERI.

D. Sosik asked whether school employees (other than teachers) would be included. J. Malloy said that he believed they are included. C. Blanchard suggested sending a letter to the School Committee to let them know that the Board is considering the ERI, and asked Mr. Malloy to get a ballpark idea of the cost to the Town. It was the consensus of the Board to review the matter again in two weeks.

Burgess Fire Alarm

J. Malloy informed the Board that the Fire Chief, Fire Inspector and School Department met with Wayne Moore of Hughes Associates regarding the design, and it is ready to go out to bid. The installation will not be complete until late September to mid-October. The only concern is that the system will require additional sensors and wiring due to the layout of the school, and the current estimate is higher than the appropriation. Mr. Malloy asked Chief Senecal and Deb Boyd, Business Manager to provide justification based on the bids and the changes in the bid specifications if the low bid comes in higher than the appropriation.

Old Business

H. White asked about the status of the Jaredot, Inc. matter. J. Malloy said that Barbara Barry, Finance Director, met with Kerry Walker to set up a payment plan, and the connection fees were paid.

C. Blanchard asked whether improvements to the Stoneybrook pump station and the Farquhar Road pump station would be made. J. Malloy said that Jay O'Reilly of Tighe & Bond said that it would be resolved. They are adding a switch and a new receptacle. C. Blanchard noted that the phase converters are out of service, and suggested that Mr. Malloy talk to G. Morse and Gary Tremblay.

C. Blanchard asked about the status of the Westville Road opening. J. Malloy said that he would contact the new Town Manager in Southbridge.

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C. Blanchard asked for an update on Arnold Road. J. Malloy said that he had informed Tom Moss that the Board is reviewing the matter.

New Business

H. White said that the "Welcome" signs on Rt. 20 need to be refurbished, since they are rusted. J. Malloy will discuss it with Bob Chartier of the Chamber of Commerce.

C. Blanchard noted that the letter from Kopelman and Paige regarding Pioneer Oil could be interpreted that a proposed distribution site at 63 Technology Park Road is not an allowed use, since the proposed use is a retail facility. He said that he was not sure that a restriction regarding retail sales is what the Town had in mind.

A. Wilson announced that the Board of Selectmen will attend the Burgess School Committee meeting on Thursday, September 4th to begin discussion regarding the cost of education in Sturbridge. J. Malloy added that the Finance Committee will also be in attendance.

Ask the Selectmen

C. Blanchard received a call from Penny Dumas of the Community Preservation Committee, requesting permission to attend the Board's executive session.

MOTION: To include Penny Dumas, Chairman of the CPC to executive session regarding the discussion about real property, by H. White.

2nd: D. Schmida

Vote: All in favor.

C. Blanchard received a call from Velma Franz, requesting information about the hours of the Night Out event to be held at Heritage Green.

MOTION: To enter into executive session under MGL Chapter 39, §23B, Paragraph #3: To discuss strategy with respect to collective bargaining, and Paragraph #6: To consider the purchase, exchange, taking, lease or value of real property, not to reconvene in open session, by D. Schmida.

2nd: H. White

Roll call vote: All were in favor.

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Respectfully submitted,

Judy Knowles

BOS Clerk

Date