

January 17, 2006

**BOARD OF SELECTMEN
MINUTES
JANUARY 17, 2006**

Present: Arnold Wilson, Chairman
 Hal White
 Doris Sosik
 David Schmida
 William Emrich
 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 December 19, 2005 as submitted, by
 D. Sosik.**

2nd: W. Emrich

Vote: Four in favor; D. Schmida abstained.

**MOTION: To approve the executive session minutes of December 19,
 2005 as submitted, to remain confidential, by D. Sosik.**

2nd: W. Emrich

Vote: Four in favor; D. Schmida abstained.

Harold Nichols, Building Inspector – Monthly Report

H. Nichols submitted a year in review report to the Board (copy on file). A. Wilson noted that there is a sign on the Building Inspector's door indicating that Certificates of Occupancy will not be issued without an as-built plan. H. Nichols said that he has attached that notice to applications to ensure that he will get plans for every job when they are required.

H. White asked about the status of the Cease and Desist order issued by the Conservation Commission for the property on Wallace Road. H. Nichols said that when one department takes action, there is a reaction by other departments to back up the primary agency. He noted that the matter is in litigation. Three of the houses were constructed before the mistake was discovered. The builder is working with the Conservation Commission to correct the problem.

Pole Hearing – Holland Road

Bob Strand from Verizon and Linda Pytko from National Grid appeared before the Board. The petition was to place one jointly owned pole at a point on the

southerly side of Holland Road about 1,897 feet east from the Holland town line to provide service to a new home.

MOTION: To approve the pole location on Holland Road as submitted, subject to the comment of the DPW Director that the pole be placed as far off the paved portion of the road as possible, by H. White.

2nd: D. Schmida

Vote: All in favor.

MOTION: To close the public hearing on Holland Road, by H. White.

2nd: D. Schmida

Vote: All in favor.

Pole Hearing – Arnold Road

The petition was to place two new jointly owned poles at staked points on the westerly side of Arnold Road beginning at a point about 405 feet north of the centerline of Hunter Lane (new pole #26) and continuing north about 126 feet (new pole #27); place one new jointly owned support pole at staked point on the easterly side of Arnold Road at a staked point about 431 feet north of the intersecting centerline of Hunter Lane (new pole #27s); remove existing poles #26, #27 and #27s; all to provide access to a new subdivision on the west side of Arnold Road.

MOTION: To approve the pole location on Arnold Road as submitted, subject to the comment of the DPW Director that the poles be placed as far off the paved portion of the road as possible, by H. White.

2nd: D. Schmida

Vote: Four in favor; D. Sosik abstained.

MOTION: To close the public hearing on Arnold Road, by H. White.

2nd: D. Schmida

Vote: All in favor.

Pole Hearing – Haynes Street

The petition was to install one pole on Haynes Street beginning at a point approximately 2,240 feet west of the centerline of the intersection of Mashapaug Road.

MOTION: To approve the pole location on Haynes Street as submitted, subject to the comment of the DPW Director that the pole be placed as far off the paved portion of the road as possible, by H. White.

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

MOTION: To close the public hearing on Haynes Street, by H. White.
2nd: D. Schmida
Vote: All in favor.

Resignation

MOTION: To accept the letter of resignation from Carol Goodwin from the Charter Review Committee, by W. Emrich.
2nd: H. White
Vote: All in favor.

Town Common Parking

The Board had received a letter from residents of Chamberlain Street, requesting that they be exempt from the snowstorm parking ban, since they have no other place to park other than the street. Warren Blair, Donald L'Ecuyer and Marianne McGlone-Alberini spoke in favor of the suggestion. They also felt that it was unfair to be issued tickets at 8:00 a.m. on January 1, 2006.

MOTION: To exempt the north side of Chamberlain Street from the parking ban during snowstorms, by H. White.
2nd: W. Emrich
Vote: All in favor.

A. Wilson said that he was not sure that the Board has the authority to rescind tickets. J. Malloy said that he would check with the Police Chief, Town Counsel and Barbara Barry, who also serves as Parking Clerk. H. White asked J. Malloy whether he had asked Greg Morse, DPW Director for his input on the parking issue. J. Malloy said that the residents would receive a notice from Barbara Barry regarding the appeal.

Lorraine Murawski, Town Clerk – Discussion re. the Charter Review Committee

L. Murawski appeared before the Board. She had sent the Board a memo on January 3, 2006 (copy on file) indicating that the Charter Review Committee is premature, since the last changes to the Charter were voted on at the Annual Town Election in April 2002, which is the effective date of the Charter. Under Section 8-5 Charter Revision, it states: "The Board of Selectmen shall every five years from the effective date of this charter, form a committee to study the working of town government. The committee shall recommend procedures to revise the charter, if that is deemed advisable." According to Lorraine Murawski, Harry Petrucci, Home Rule Charter expert in the Elections Division of the

January 17, 2006

Secretary of the Commonwealth indicated that this committee should not be formed until 2007.

A.Wilson said that the wording of the Charter does not state "from the latest revision of the Charter;" just the date of the Charter. He noted that the Board had received an opinion from Town Counsel relative to this issue (copy on file). J. Malloy said that Lauren Goldberg of Kopelman and Paige had indicated that the Charter's verbiage should be construed as directory, rather than mandatory. In her opinion, the Charter Review Committee appointed in 2005 was legally constituted, and the work performed by the Committee is valid for purposes of the Charter.

A.Wilson said that the Board of Selectmen could take whatever action it chooses. He said that anyone can have an article placed on the Annual Town Meeting warrant with 10 signatures; the Board of Selectmen can place articles on the Town Meeting itself, or a Charter Study Committee could do the same. D. Sosik asked whether there was a written response from Harry Petrucci. L. Murawski said that H. Petrucci had not given her anything in writing, and that it was not his position to give legal advice. She noted that before the articles in question can be placed on the ballot at the Annual Town Election, they must first be approved by the Attorney General. It was the consensus of the Board to review and consider the information before taking any action.

Lakes/Ponds

J. Malloy submitted to the Board a letter from Dave Mitchell of the Conservation Commission regarding establishing a committee to develop draft guidelines for lake management. He suggested to the Conservation Commission that this be considered a task force to develop these policies, which will then be forwarded to the Conservation Commission for public discussion and input prior to the development of policies. The lake associations have sent emails requesting the development of standardized policies.

Police Union

The Sturbridge Police MassCop Local 170 has decided to leave MassCop and form their own association. Town Counsel has been working with the Labor Relations Commission on the recognition and forwarded a motion for the Board of Selectmen to voluntarily recognize the new Sturbridge Police Association.

MOTION: To notify the Labor Relations Commission that the Board of Selectmen and Town of Sturbridge, acting in good faith believes that the Sturbridge Police Association, Units A & B have been designated as the freely chosen representative of a majority of the full-time officers of the Sturbridge Police Department. As a result, it is the Town's intent to voluntarily

January 17, 2006

grant exclusive recognition to the Sturbridge Police Association, Units A & B as the exclusive representative for all full-time officers of the Town's Police Department. If any other employee organization claims to represent any of the Town's full-time officers, the Town must be notified within the next twenty (20) days and file an appropriate petition for certification with the Labor Relations Commission. If the Town does not receive any such claim within this period, the Town intends on entering into a written voluntary recognition agreement with Sturbridge Police Association, Units A & B on January 17, 2006. The following persons are covered in this petition: Unit A: All of the full-time Detectives, Patrolmen & Dispatchers; Unit B: All of the full-time Sergeants, by W. Emrich.

2nd: D. Sosik

Vote: All in favor.

Request for Reduced Sewer Connection Fee

Mr. and Mrs. Kurr submitted a response (copy on file) following their previous request for a reduced sewer connection fee (from \$1200 to \$200 as allowed during the first 90 days after sewer projects are completed). J. Malloy had spoken with Mr. Kurr, and believed it to be an unusual circumstance, where it wasn't a business decision that he made several years ago, but their decision to connect was related to Mr. Kurr being indisposed due to health reasons. H. White noted discrepancies in the two letters sent by Mr. and Mrs. Kurr, and felt that the Board should not grant the request.

MOTION: To allow a reduced sewer connection fee for Mr. and Mrs. Kurr from the \$1200 fee to the \$200 fee (available during the first 90 days after completion of the Phase III Sewer Project), with the condition that they tie in within one year, by D. Sosik.

2nd: D. Schmida

Vote: Three in favor; A. Wilson and H. White opposed.

Wastewater Treatment Plant

J. Malloy and Greg Morse, DPW Director met with Dave Healey of Tighe & Bond during the week. J. Malloy submitted to the Board an email from D. Healey (copy on file) regarding Tighe & Bond's discussions with the MADEP. In the past when communities were looking to expand or build wastewater treatment facilities, the MADEP and USEPA required a "Facilities Plan" to review the community's existing infrastructure and the demand for services for the future to ensure that there was a need before a permit was issued that allowed a new or increased discharge. "Facilities Plans" are now called "Comprehensive Wastewater Management Plans" or CWMP. J. Malloy noted that although this is an

expensive first step in the process, it does provide very useful insight into the condition of the town's existing infrastructure, pump stations, wastewater treatment plant, inflow/infiltration, future needs, potential growth areas, etc. It will also provide an updated set of sewer line maps. J. Malloy asked Dave Healey to provide a cost estimate for the CWMP for the Annual Town Meeting.

Sale of Land Under Chapter 61

J. Malloy submitted to the Board a letter from Ed Neal (copy on file) regarding a 2.3 acre parcel that is part of a larger parcel under Chapter 61. In the past the Board has reviewed parcels such as these and made a determination whether they had any interest in the land, and if so, have it reviewed by the Conservation Commission and/or Community Preservation Committee.

H. White said that he had been unable to find the property. He suggested that the CPC take a look at it. A. Wilson suggested having the Conservation Commission review it also. J. Malloy noted that the Board has 120 days to make a decision. It was the consensus of the Board to schedule Ed Neal to meet with the Board to discuss the matter.

Snow/Ice Removal Deficit

MOTION: To authorize the DPW Director to deficit spend in the Snow and Ice Control Accounts 14231-51300 Overtime; 14232-52000 Purchase of Services; and 14232-54000 Supplies and for the DPW Director to include the total amount expended for Snow and Ice Removal as part of his regular monthly report to the Selectmen, by H. White.

2nd: W. Emrich

Vote: All in favor.

Alcohol Violations

J. Malloy informed the Board that the Police Department recently conducted alcohol compliance checks on licensed establishments in town, and there were several that had violations. The administrative hearings will be scheduled for the second Selectmen's meeting in February.

Public Safety Complex Architectural Agreement

J. Malloy informed the Board that a copy of the agreement between the Town and Reinhardt Associates was in his office for their review (copy on file). The form was provided by Town Counsel and signed by John MacMillan for the Architect. Since the agreement was set up for one signature, J. Malloy asked the Board to authorize him to execute the agreement on behalf of the Town so that the project could get started.

MOTION: To authorize the Town Administrator to execute the agreement between the Town of Sturbridge and Reinhardt Associates for \$24,200 for the repair and replacement of the HVAC System and Roof at the Public Safety Complex, by H. White.

2nd: D. Schmida

Vote: All in favor.

Town Election

There were two items that the Board needed to formally request that the Town Clerk place on the Annual Town Election for this year. The Town Clerk indicated that the deadline is 35 days before the election (early March), but since the items have already been discussed, J. Malloy recommended that the Board authorize the Chair to send a memorandum to the Town Clerk (copy on file).

MOTION: To authorize the Chair to send a memorandum to the Town Clerk requesting that two items be placed on the Annual Town Election as ballot questions: (1) Confirming the 2004 Annual Town Meeting vote approving Article 8, which asked to amend the Town Charter, Section 4-2(C) "Powers and Duties of the Board of Selectmen" by adding a sentence at the end of the paragraph to read: "The Board of Selectmen shall act as the Water and Sewer Commissioners and have all the power and authority of Water and Sewer Commissioners as provided by Mass. General Law." and (2) For a Proposition 2 ½ debt exclusion which would read: "Shall the Town of Sturbridge be allowed to exempt from the limitations of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to pay costs of remodeling, reconstructing and making extraordinary repairs to the Town Hall and Center School Building, including the payment of all costs incidental and related thereto," by H. White.

2nd: W. Emrich

Vote: All in favor.

Resignation

MOTION: To accept the resignation of David Williams as a full-time police officer, by D. Sosik.

2nd: H. White.

Vote: All in favor.

Budget Meeting

January 17, 2006

It was the consensus of the Board to hold a Saturday Budget Meeting with the Finance Committee and Department Heads on January 28, 2006.

Old Business

H. White asked about the status of Town Counsel's review of the Kelly Road gravel permit bond. J. Malloy said that Town Counsel has not filed a claim against them yet, but will do so shortly.

H. White commented that department heads should submit their reports on a timely basis so that the Board could have time to review them before the meeting.

H. White asked about the status of the Class 2 license plans. J. Malloy said that the plans were available for review in his office.

H. White brought up the issue of closing Town Hall because of a snowstorm, and noted that the Employee Handbook does not address closings for snow. H. White felt that it was wrong for Town Hall to be closed while retail establishments remained open, and suggested that when local businesses and manufacturing businesses close for a snowstorm, that should serve as a benchmark for closing Town Hall. J. Malloy pointed out that he has to make the decision at 6:00 a.m., when no retail establishments are open for business. H. White said that employees have the option of deciding whether to come to work during a snowstorm, and suggested that Town Hall be closed only when the governor declares a state of emergency, or when local retail businesses are closed due to an emergency. W. Emrich felt that closing Town Hall was a judgment call to be made by the Town Administrator when it is in the best interest of employee safety. A. Wilson agreed that it is up to the Town Administrator to make a judgment call after discussing the condition of the roads with the DPW Director. He noted that J. Malloy had called him early in the morning on January 3rd for his opinion on the matter, and he told Mr. Malloy that closing Town Hall and canceling the Board of Selectmen meeting was the right thing to do under the circumstances. Lorraine Murawski, Town Clerk, also agreed that J. Malloy's decision to close Town Hall on January 3rd was correct and justified. D. Schmida and D. Sosik agreed that the decision of whether to close Town Hall during a snowstorm should be J. Malloy's judgment call.

H. White noted that a member of the Planning Board has sold his house and moved out of town, but continues to serve on the Planning Board. He felt that it was a bad practice to allow a non-resident to serve on an appointed position, and suggested that the Board rescind that appointment. J. Malloy said that he has the authority to remove board and committee members, subject to confirmation by the Selectmen. He said that he would ask the Planning Board Chairman for their preference. A. Wilson suggested that J. Malloy do more research as to the status of the subdivision that is currently under review by the Planning Board,

since the member in question felt that he had an obligation to stay on the Planning Board until that matter is finished. A.Wilson suggested sending him a note indicating that it was discussed by the Selectmen, and asking for his intentions. It was the consensus of the Board to take action on the meeting of February 4th.

H. White asked whether Special Counsel had issued an opinion regarding the Wachusett Regional School System. J. Malloy said that he would contact Attorney Pat Costello about it.

A.Wilson reminded the Board that he needs their input within a week regarding goals and objectives for the Town Administrator for the coming year.

New Business

A.Wilson noted that J. Malloy had attended the MMA meeting in Boston. J. Malloy gave a synopsis to the Board, including that Governor Romney promised additional local revenues; a session on school building; and a session on running public meetings.

H. White noted that the Board has not received a report from Burgess regarding enrollment by grade.

A.Wilson had received from J. Malloy the Open Space Plan review and a request to send a letter to the Open Space Committee endorsing it. It was the consensus of the Board to take action at the next meeting in February.

A.Wilson said that he had received a petition with 15 certified signatures for a warrant article for the Annual Town Meeting to change the Town Administrator's salary to \$88,843. H. White did not think that the Town Meeting has the right to change the salary, and felt that it was trying to take power away from the Board of Selectmen. A.Wilson said that the December Special Town Meeting approved a transfer of \$9,322 to the salary account for the Town Administrator; the previous Annual Town Meeting had approved \$88,835; and the Board of Selectmen had proposed a salary of about \$95,000. H. White said that there was not a vote to set the Town Administrator's salary to the current rate at the Annual Town Meeting, nor was there a vote by the Board of Selectmen to set the salary at that rate. Jeff Bonja asked for confirmation that the Town Administrator's salary had been adjusted without a vote by the Board of Selectmen. A.Wilson said that was correct, and it was the consensus of the Board to discuss the matter at the next meeting.

A.Wilson noted that he had served as Chairman of the Charter Commission when the Charter was done in 1987. At that time, the discussion was that the Town Clerk position should remain an elected position; the subject did not come up the last time the charter was reviewed and revised. He said that changing the

January 17, 2006

title of Town Administrator to Town Manager would require approval by the Charter Review Committee, the Board of Selectmen to vote to put the article on the warrant, then 2/3 vote at the Annual Town Meeting; then it would be voted on at the following election.

Ask the Selectmen

W. Emrich received a call from a town employee, who asked how the Board would handle the health insurance situation. He said that since at the present time there are three people on the Board with a conflict of interest, so the Board is unable to vote on this at this time.

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

2nd: H. White

Roll call vote: All were in favor.

Respectfully submitted,

Judy Knowles

BOS Clerk

Date