

April 25, 2011

**BOARD OF SELECTMEN
MINUTES
APRIL 25, 2011**

Present: Thomas Creamer, Chairman
Mary Dowling
Mary Blanchard
Angeline Ellison
Priscilla Gimas
Shaun Suhoski, Town Administrator

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

T. Creamer mentioned that he had extended an invitation to the Community Preservation Committee to join the Selectmen after they have brought their meeting to order, so that they could have a full understanding of the concerns of the Board of Selectmen regarding Article #5. It was the consensus of the Board to hold action on Article #5 until their arrival.

T. Creamer announced that he and a member of the press were recording the meeting.

Town Meeting Warrant

Peter Levine of the Charter Review Committee appeared before the Board. He noted that some of the language had been reworked.

T. Creamer noted that he had referenced the arguments raised by M. Dowling and A. Ellison regarding the process. He said that this amendment is designed to institute a procedure for appointments made by the Town Administrator with confirmation by the Board of Selectmen. P. Levine said that it would co-design what is needed for an appointment to take place, so there would be a codification to make things work. T. Creamer said that a General Bylaw is best suited to outlining what must be done so as to reduce the likelihood of policy deviation. He asked Dr. Levine if he believed that the bylaw amendment as drafted would be enough in all cases to ensure a fully open process that was best suited. P. Levine said that it would, and the appointment process would be more open and clear. He said that they want a process that works, no matter who makes the appointments. M. Blanchard noted that it will take a year, because it still needs to go to the next town election. T. Creamer pointed out that it was not a Charter Amendment, but rather a General Bylaw, and as such would take effect upon passage at Town Meeting and approved by the Attorney General's Office.

T. Creamer said that policy is dictated by the makeup of the Board, and that as Boards change, so too does policy which can be and often is inconsistent. He

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said that he would support a place holder for it. M. Blanchard said that she had a problem with all of the timelines, and noted that there are bylaws with time limits. P. Levine said that the warrant could be closed by the last Friday of the month (April 29th). He said that they had worked within the timeframes that were set. M. Dowling suggested leaving the warrant open until the next meeting on May 2nd.

M. Dowling felt that it was worthy of review at a couple of meetings of the Selectmen to outline the procedure, and she would welcome input at a regularly scheduled Board of Selectmen meeting.

P. Levine said that the Board had mentioned that it would be another year until it went into effect. M. Blanchard said that a general bylaw could go into effect immediately, but a Charter amendment must go to Town Meeting vote. P. Levine said that he would provide the document to the Board by Monday.

T. Creamer said that a lot of people would like to see the process become more open, and there is nothing to prevent a substitute motion at Town Meeting. P. Levine noted that if it is an article on the Special Town Meeting warrant, it would require 100 signatures of residents on the petition. T. Creamer said that it would, unless the Board of Selectmen sponsored it, and indicated that he as an individual member of the Board was willing to support it.

A. Ellison asked about the difference between the Special Town Meeting and the Annual Town Meeting. T. Creamer explained that the difference is the Charter. The Charter is clear that any petitioned article can go on the Annual Town Meeting warrant with the required number of signatures. On the Special Town Meeting warrant, it must have 100 signatures.

Article 16: Sturbridge Tourist Association

S. Suhoski said that the administration was level funded from last year; all of the other categories are based on the same ratio as last year's allocation. He said that the net sum was taken and divided into the same categories as last year. He noted that the STA needs to complete their report.

T. Creamer said that at some point some of them need to be closed out. He said that must because this money is placed and supported by the Board of Selectmen does not mean that they will be utilized. He noted that this is historically consistent with what they have done. S. Suhoski said that a substitute motion could be made later on.

P. Gimás asked whether there was an article to realign the Sturbridge Tourist Association. T. Creamer said that there is, based upon the general consensus of the Board that significant changes should be made in house. He noted that they have not been meeting the mandate of the Town Meeting vote. P. Gimás said

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that a substantial amount of money went to the Chamber of Commerce, not independent businesses. M. Dowling said that she had been under the impression that the Chamber of Commerce could come before the STA and request money for various events.

MOTION: That the Board place Article 16 on the warrant, with a total amount of \$105,252.67, by M. Blanchard.

2nd: P. Gimas

Vote: All in favor.

Article 17: Betterment Committee

M. Blanchard noted that the Board had requested input from the Tree Warden and the Historical Commission regarding the Town Common picnic table slabs. S. Suhoski said that the Tree Warden is leery of any excavation that might affect trees; the Historical Commission Chairman did not seem favorable to this, but will bring it up at their next meeting. T. Creamer said that Tom Chamberland, Tree Warden, is concerned about anything done near the trees, and suggested putting the slab away from the trees. S. Suhoski said that he thought there might be an area behind the gazebo that would be appropriate. T. Creamer asked whether the \$1,300 could be used for something else. S. Suhoski said that it could be re-designated to a new item, and a decision could be made later.

MOTION: That the Board place and support Article 17, changing the words "Town Common Picnic Table Slab" to "Miscellaneous," by M. Blanchard.

2nd: P. Gimas

Vote: All in favor.

Zoning Amendment Articles 25, 26, 27, 28 and 29

MOTION: That the Board place and support Articles 25-29, by M. Blanchard.

2nd: P. Gimas

Vote: All in favor.

Article 33: General Bylaw Amendment – Finance Committee Membership

MOTION: That the Board place and support Article 33, by M. Blanchard.

2nd: P. Gimas

Vote: All in favor.

Article 41: Charter Amendments – Administrative Items

MOTION: That the Board place and support Article 41, by M. Blanchard.

2nd: P. Gimas

Vote: All in favor.

Article 42: Charter Amendments – Procedural Enhancements

S. Suhoski reviewed the proposed changes with the Board. P. Levine asked about the sponsor of the article, whether it should be the Board of Selectmen or the Charter Review Committee. The consensus of the Board was to leave the sponsor as the Board of Selectmen.

MOTION: That the Board place and support Article 42, by M. Blanchard.

2nd: P. Gimas

Vote: All in favor.

Article 43: Charter Amendment – Finance Committee Appointments

MOTION: That the Board place Article 43, and recommend no action, by M. Blanchard.

2nd: P. Gimas

Vote: Four in favor; P. Gimas opposed.

Article 44: Citizen Petition – Charter Amendment

MOTION: That the Board place but recommend no action on Article 44, by M. Dowling.

2nd: M. Blanchard

Vote: Four in favor; P. Gimas opposed.

Article 45: Charter Amendment – Appointment of Zoning Board of Appeals

MOTION: That the Board support Article 45, by P. Gimas.

2nd: A. Ellison

Vote: Three in favor; M. Blanchard and M. Dowling opposed.

M. Dowling said that she was uncomfortable putting the summary in the article, and preferred that it be deleted for what goes forward to the Finance Committee. She noted that it was not done for other articles, so the Board should not deviate from past practice. T. Creamer said that consistency is critical, and everything else the Board does is based on the Town Charter.

Article 46: Charter Amendment – Appointment of Town Counsel

MOTION: That the Board vote no action on Article 46, by M. Blanchard.

2nd: P. Gimas

Vote: Four in favor; P. Gimas opposed.

Article 47: Charter Amendment – Committee Appointments

MOTION: That the Board support Article 47, by P. Gimas.
2nd: A. Ellison
Vote: Three in favor; M. Dowling and M. Blanchard opposed.

Article 48: Town Charter Formatting and Publication

It was the consensus of the Board to hold action on this article.

Article 49: Citizen Petition – Charter Amendment

MOTION: That the Board vote no action on Article 49, by M. Blanchard.
2nd: P. Gimas
Vote: Four in favor; P. Gimas opposed.

Article 50: General Bylaw Amendment

A. Ellison asked for clarification on this article. M. Dowling said that this just shifts authority to the Board of Selectmen. She said that the Board of Selectmen has tremendous power, in that it determines which articles are put forward to Town Meeting, and is typically the body that sponsors articles.

MOTION: That the Board vote no action on Article 50, by M. Blanchard.
2nd: P. Gimas
Vote: All in favor.

Article 51: Citizen Petition – General Bylaw Amendment

MOTION: That the Board vote no action on Article 51, by M. Blanchard.
2nd: P. Gimas
Vote: All in favor.

Special Town Meeting Warrant

MOTION: To open the Special Town Meeting Warrant for Monday, June 6, 2011, by M. Blanchard.
2nd: P. Gimas
Vote: All in favor.

Article 32: Transfer of Funds – Burgess School Roof Snow Removal

P. Gimas asked whether this had gone out to bid. She said that \$82,975 is excessive for shoveling snow from the roof. She suggested that maintenance staff be paid overtime to do it, as is done in other communities. A. Ellison did not think it had gone out to bid, as it was an emergency situation, since a lot of roofs had been collapsing under the weight of the snow. She noted that Burgess has a

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flat roof. M. Dowling said that the Mass. Dept. of Safety had recommended that immediate action be taken in order to avoid the potential for collapse.

T. Creamer said that it seemed that all of the questions that the Board doesn't ask end up coming back on the taxpayers. He noted that the dance studio had a water problem, and the Senior Center had icicles down to the ground before anything had been done about it.

M. Blanchard said that the custodians do shovel, and did partake in that. She noted that the snow had been removed from the roof at Burgess over the weekend, so the price had been higher.

M. Dowling noted that it had been an emergency situation due to the amount of snowfall at one time, and if shoveling had been done a number of times, the cost would be high.

M. Dowling said that regarding the river lands, the townspeople had voted for it, fully aware that the owner was under an order of non-compliance with MADEP. It was not known the amount of money it would take to clean it up. The people had voted for it in spite of the obstacles.

It was the consensus of the Board to hold action on Article 32.

Article 33: Transfer of Funds – Recreational Trails Master Plan

MOTION: That the Board place and support Article 33 on the Special Town Meeting warrant on June 6, 2011, by M. Blanchard.

2nd: P. Gimás

Vote: All in favor.

Article 34: Transfer of Funds – Landfill/Recycling Center Purchase of Services

MOTION: That the Board place and support Article 34, by M. Blanchard.

2nd: P. Gimás

Vote: All in favor.

Article 35: Transfer of Funds – Purchase of Police Cruiser

MOTION: That the Board place and support Article 35, by M. Blanchard.

2nd: P. Gimás

Vote: All in favor.

Article 36: Transfer of Funds – Repair Police Department Garage Floor

MOTION: That the Board place and support Article 36, by M. Blanchard.

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2nd: P. Gimas
Vote: All in favor.

Articles 37 and 38 were placed and supported as voted by the Board on April 4, 2011.

Article 39: Transfer of Funds – Fire Dept. Overtime

S. Suhoski said that the Fire Chief would provide more information on April 26th, and suggested that the Board take it up with the Finance Committee then. T. Creamer suggested that the Board schedule a time to speak about the Fire Department Report, and suggested it be discussed at the May work session. It was the consensus of the Board to discuss the Fire Department Report at the May work session.

Article 32: Transfer of Funds – Burgess School Roof Snow Removal

T. Creamer said that when the issue of the school roof was first raised, it had to be done. He asked why, if it was being addressed by the school, was it necessary to have a company come in and charge such an excessive amount of money. He said that DPW has been working on this. P. Gimas said that at the time, there were no answers from the school.

Annual Town Meeting Warrant

Article 5: Community Preservation – Sturbridge Trails Committee

T. Creamer said that he had reviewed information from DEP on the river lands going back to 2003. He read excerpts from the letter dated July 7, 2001 from Charles Blanchard, indicating knowledge of hazardous conditions at the property. He said that in September 2009 Tighe and Bond had sent a report to the Acting Town Administrator, indicating that there were outstanding concerns associated with the property including contamination, and Mark Baldi said that Mass. DEP would be willing to work with Tighe & Bond on a remediation plan for the site.

M. Dowling said that the Board does not have the Trails Master Plan yet, which should encompass the river lands. She said that there needs to be a plan in place with DEP to adequately address the contamination issue. She stressed the importance of the townspeople having enough information in order to make an educated decision. She asked how people could be prevented from entering the area of contamination. She said that she was not comfortable having that article go before Town Meeting and risking a vote in favor of a parking lot while the site does not have a clean bill of health from Mass. DEP. She felt that it would increase the Town's liability, and it would be premature to put a parking lot that would invite usage of the site. She suggested to the Board that any money that is spent should be put toward cleaning up the contamination.

T. Creamer said that Mark Baldi of DEP recognizes that the Town purchased property that was supposedly being mitigated prior to purchase, but in fact wasn't, and that Mr. Baldi had expressed a desire to work with the community in resolving this issue. T. Creamer stated that neither he nor Mr. Baldi could find any documentation that suggested in any way that the level of contamination has been reduced to a point where it is no longer a threat.

M. Dowling said that more should be done regarding the easement, and a lot needs to be addressed before moving forward with a parking lot. P. Gimás said that she could not support this now. M. Blanchard said that the contamination is unknown, and could turn out to be less or more. T. Creamer noted that the remediation was not included in this article. He found it difficult to support an article on the Town Meeting warrant that potentially could put residents at risk, since it is a health and safety issue, and as such would not support any trails related work on the Riverlands.

MOTION: That the Board withdraw Article 5 from the warrant, by M. Blanchard.

2nd: P. Gimás

Vote: All in favor.

MOTION: That the Board instruct the Town Administrator to have Tighe & Bond undertake the appropriate assessment of the site and to initiate as expeditiously as possible a site remediation plan, and present the Board of Selectmen with a timeline to get the river lands into compliance with DEP, by T. Creamer.

2nd: M. Blanchard

Vote: All in favor.

Old Business

M. Blanchard asked whether S. Suhoski had heard from Arthur Frost. S. Suhoski said that he had, and Arthur Frost will be meeting with the Planning Board, the Town Planner and himself on April 29th. T. Creamer requested that he send the exact date and time to the Board of Selectmen. S. Suhoski said that it will be held at 1:30 p.m. in Worcester, and will email the Board.

A. Ellison asked whether there would be a way to review the bylaws with regard to conflicts with the Charter, and suggested forming a Bylaw Review Committee. T. Creamer noted that some of the bylaws are not in conflict with the Town Charter, and require remediation as the Town Charter supersedes all other documents. M. Dowling said that the Board could wait and see how the Charter settles after Town Meeting, then review it during the summer. T. Creamer said that at one of the upcoming meetings, certain sections of the general bylaws could be assigned to each Selectman; then the Selectmen could talk to the

department heads, and bring it back to the Board and work on the issues that are inconsistent. M. Dowling said that if the Charter Review Committee had kept a running tab on inconsistencies, the Board could use that. T. Creamer said that he would talk with them and find out if they had a list.

M. Dowling said that she wondered what the status of David Barnicle's suggestion for South Main and West Main Streets. S. Suhoski said that there was one meeting during a snowstorm, and a follow-up meeting with the postmasters, DPW, Assessor and the Police Chief. The consensus was to not pursue renaming the streets for many reasons, including logistics and confusion that could occur.

T. Creamer asked S. Suhoski for a copy of the evaluation on the contracts for the Town Hall and Center Office Building. S. Suhoski said that it was submitted to DCAM. T. Creamer expressed frustration with some of the issues with the HVAC and the doors that don't properly close, etc. He asked that S. Suhoski provide a copy to each member of the Board. He said that he was not convinced that everything is being done that could be done to bring the buildings to a sense of completion. He said that when a committee is assigned to do something, he tends to defer to that committee, since they have put the work into it, but the Board still has an obligation to ask the right questions. S. Suhoski requested that the OPM provide a copy of the report. He noted that Kevin Smith has a copy. T. Creamer said that he had only seen a few sets of minutes from the Town Hall/Center Office Building Committee, and noted that previous minutes were done by the OPM. He asked why the minutes were not posted on the Town's website. He asked whether the Town is required to have the slate roof inspected on a yearly basis. S. Suhoski said that there is no such mandated requirement, and once a year MIIA tours all of the Town facilities that are insured. He said that there is yearly maintenance of the slate roofs. T. Creamer requested that he get a quote on the cost to have someone check on the slate roofs, so that the Board of Selectmen could determine as to whether or not to incorporate that as an annual expense to maintain the buildings. A. Ellison suggested prioritizing the things that need to be addressed. S. Suhoski said that the Board had established a goal for the Town Administrator to conduct a review as to whether or not the Town should maintain Town-owned buildings, or to hire someone else to do it. He said that he had met with Lamoureux-Pagano and they have done inspections of the buildings, but there is no track record of it. He said that he would ask Lamoureux-Pagano to do a compilation of the data on the buildings, and will look at the cost and safety issues. He thought that the cost would be approximately \$25,000.

T. Creamer said that there was a document for construction of an 8' X 16' maintenance vehicle shed on the river lands, as part of the request that the Trails Committee had put forward to the Betterment Committee. S. Suhoski said that it had been approved. T. Creamer said that the Board had voted to put the river lands under the care and custody of the Town Administrator. He requested a

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motion to cease all activities on the river lands until there is DEP compliance. S. Suhoski said that all action will be held pending Tighe & Bond's report.

T. Creamer said that the Board had Town Administrator evaluation forms to do in June. He said that P. Gimás and A. Ellison, as new members of the Board, could opt out.

T. Creamer said that there is an issue at the Recycling Center regarding the parking area. There is a conflict for individuals coming out of the Recycling Center. He asked whether the Town could institute a "no parking" area at the end of Breakneck Road, except for mountain bikes and trail walking. He noted that off road vehicles are not supposed to be there, and the Traffic Safety Committee could weigh in on it.

T. Creamer said that there is a water issue at 88 Cedar Street and on New Boston Road.

T. Creamer said that there needs to be funding for the Economic Development Coordinator.

T. Creamer said that there was a request from the Chairman of the Conservation Commission to go from five to seven members, and asked whether the Board wanted to address it as a Charter change. M. Dowling said that they should come in to talk to the Board.

New Business

T. Creamer said that he would re-send a list of Town Administrator goals to the Board.

M. Blanchard said that there needs to be a joint appointment with the Burgess School Committee for someone to fill A. Ellison's terms.

M. Blanchard said that there needs to be a Board of Selectmen representative on the Building Committee. T. Creamer said that he would send out the liaison list to the Board.

M. Blanchard asked whether any fines had been issued due to violations. S. Suhoski said that he was not aware of any.

M. Blanchard asked how many people from CWT were working at the Wastewater Treatment Plant. S. Suhoski said that they are required to operate out of the trailer, but he would find out.

S. Suhoski said that in years of heavy snow and rainfall, every Wastewater Treatment Plant has water flowing above its rate of capacity.

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M. Dowling said that since the Board's meetings tend to go late into the night, the Board should agree to adjourn by 10:00 p.m. or 10:30 p.m.; if not, Judy Knowles should be allowed to report to work at 9:00 a.m. She said that the current situation goes beyond the boundary of reasonableness. M. Blanchard said that she was not amenable to allowing J. Knowles to come in late the morning following a late meeting, but suggested that J. Knowles be allowed to leave the meeting at a certain time. P. Gimás said that she was fine with 10:30 p.m. A. Ellison said that she would support a meeting time limit of 10:00 p.m., and suggested that the Board meet every Monday. M. Blanchard said that she was not in favor of setting a time limit on meetings, but suggested that the Board move things along quicker. She said that the Board should meet and fulfill its obligations and duties. T. Creamer said that this Town Meeting warrant has been more work than he can ever remember. M. Dowling said that J. Knowles should be permitted to leave meetings at 10:30 p.m., if she has to be in at 8:00 a.m. She felt that the present situation was unfair for people who work full time.

M. Dowling said that in the interest of transparency and objectivity, would there be any support for a bylaw that Selectmen abstain from voting on an appointment if the candidate is a member of their immediate family (spouse, parent, child, siblings). She suggested it be put as part of a bylaw as a potential conflict of interest. T. Creamer said that the Ethics Commission is clear on the subject, but that their position stops solely at financial interests, and he was in favor of Mary Dowling's suggestion.

M. Dowling asked whether there should be a non-binding question before Town Meeting to support an expenditure not to exceed \$10,000 to fund a variance to open the front doors of Town Hall to the public. T. Creamer said that he had no issue with a non-binding question. S. Suhoski said that next Monday the architect for the Town Hall/Center Office Building project will meet with the Board. He noted that a final Change Order must be approved. S. Suhoski said that there are some funds remaining on the project.

T. Creamer said that there is a citizens' petition for Walker Road, where they are asserting that it is not a private road, and requesting that the Town undertake improvements on that road. He noted that it is a dirt road. S. Suhoski said that it is under review, and there are still funds available for road maintenance.

MOTION: To adjourn, by M. Blanchard.
2nd: P. Gimás
Vote: All in favor.

The meeting was adjourned at 11:00 p.m.

Respectfully submitted,

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Judy Knowles

BOS Clerk

Date