

May 22, 2013

**BOARD OF SELECTMEN  
MINUTES  
MAY 22, 2013**

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

The Chairman called the meeting to order at 9:00 a.m. following the Pledge of Allegiance.

T. Creamer said that the Selectmen had decided at the last meeting to invite representatives from Blue Wave Capital to meet with them regarding the Town's initiative with respect to the solar project.

T. Creamer said that the Board had been asked by Leonard Senecal to consider the appointment of a position specifically designed to assist Chief Senecal in performance of his duties. He noted that on December 3, 2012 the Board had supported the creation of a temporary short term non-uniformed administrative aide position to the Fire Chief for a Public Safety Complex employee who had passed the mandatory retirement age and that the position was created solely at the request of Chief Senecal, who cited that such a position would provide him with assistance in the fulfillment of his duties as chief. He said that during an executive session with respect to Fire Chief Leonard Senecal, the Board had supported a motion to place the Chief on paid administrative leave, while all aspects of the Fire Department Study were reviewed. It was decided to eliminate the short term position during that meeting as the Chief's pending absence – due to Administrative Leave – eliminated the need for him to have a personal administrative aide. He cautioned the Board that nothing specific to information with respect to executive session under exemption #1 could be raised, and if there was any discussion by the Board that could potentially threaten the executive session exemption, the Chair would be obligated to determine it to be out of order.

There were two distinct actions recommended to the Board to address this issue: (1) the issue concerning the need for the temporary administrative assistant to the fire chief should be discussed and a ratification vote taken in open session, and (2) the Open Meeting Law complaint filed May 6<sup>th</sup> should be acknowledged and the Board's response thereto voted to resolve this issue.

S. Suhoski informed the Board that the need to take these votes in Open Session is because the underlying vote – whether inadvertent or not – should not have been taken in Executive Session. But, the actions as discussed with Town Counsel and recommended for adoption will afford closure on the Open Meeting Law issues.

**Item 1:** Consider whether there is a continuing need for the position of Temporary Assistant to the Fire Chief and possible elimination of the position.

S. Suhoski suggested that the Board revisit its inadvertent April 22<sup>nd</sup> discussion on this topic. The prime Executive Session purpose, however, should not be discussed. Presumptively, the Board would have the same rationale for eliminating the position and, given recent events, S. Suhoski would concur that at this time the need for the position is moot. The Board should either ratify or rescind its prior vote.

T. Creamer presented a chronology of the meetings regarding the creation of the position of Temporary Assistant to the Fire Chief.

M. Dowling said that she was in favor of letting the position naturally expire. She also noted that the expertise of the person holding the position may be useful to the Police Chief as Temporary Fire Chief in the ensuing weeks. P. Gimmas noted that it was a civilian position. M. Blanchard noted that the position was specific to the Fire Chief, not to Leonard Senecal. She said that with this individual's expertise, he could assist the Acting Fire Chief. She was in favor of leaving the position intact. T. Creamer respectfully disagreed that the temporary position had been created for the Fire Chief for a specific individual to assist him with the performance of his specific duties as Fire Chief.

**MOTION:** That the Board of Selectmen ratify its April 22<sup>nd</sup> vote in Executive Session to rescind the position of on-call Temporary Assistant to the Fire Chief, by M. Redetzke.

**2<sup>nd</sup>:** P. Gimmas

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

**Item 2:** Consider Open Meeting Law complaint filed on May 6, 2013 by Vernon Jackson concerning the Board of Selectmen's April 22, 2013 meeting.

On May 6<sup>th</sup>, an Open Meeting Law Complaint Form concerning the Board's morning meeting of April 22<sup>nd</sup> was filed alleging improper action was taken during the properly voted Executive Session.

Chairman Creamer, at the request of Town Administrator S. Suhoski, had participated in a conference call with Atty. Joel Bard and Atty. Joseph Fair to discuss the complaint and to receive guidance on how to ensure conformance with the Open Meeting Law. Based upon counsel's guidance, the Chairman called a meeting for Wednesday, May 22<sup>nd</sup> at 9:00 a.m. for the Board to consider its response to the complaint which must be tendered to the Attorney General's office by May 24<sup>th</sup>.

S. Suhoski said that the Chairman should indicate that the Board has received the complaint, outline the subject matter (and possible resolve), and then encourage debate.

M. Blanchard said that her interpretation of what had transpired was that it was disciplinary because there were complaints and charges. T. Creamer explained that the charges and allegations were specific to actions/inactions by the Fire Chief and his failures to fulfill his responsibilities as outlined in his personal job description and the agreement between the Fire Chief and the Board with respect to the administrative aide position, and not the individual assigned to that position. As it was created solely at the request of the Chief for assistance with his specific responsibilities and the Fire Chief had been placed on administrative leave, there existed no further need for the temporary position requested specifically by him. He said that at no time during the executive session on April 22<sup>nd</sup> did Selectman Blanchard raise an issue regarding disciplinary action against an individual other than the Chief. M. Dowling said that there was legal representation present at that meeting.

**MOTION: That the Board of Selectmen approve the following formal response to the Open Meeting Law Complaint received on May 6, 2013:**

**“The Board received an Open Meeting Law complaint on May 6, 2013 concerning its April 22, 2013 meeting alleging that, while in Executive Session to discuss charges against another employee, the Board discussed Vernon Jackson’s position with the Town and a motion was made to eliminate the position. The complaint further alleged that the item was not posted on the agenda and Mr. Jackson was not notified that there would be any discussion of him or his position. In response, the Board moves to make certain findings of fact and resolve the complaint as follows:**

- 1. The original agenda for the April 22, 2013 meeting was timely posted in accordance with the Open Meeting Law;**
- 2. A revised meeting notice was posted on April 19, 2013 to clarify the location of the meeting and to add the words “Open Session” immediately prior to the existing reference to the Executive Session;**
- 3. A proper and valid motion to enter Executive Session to consider the discipline or dismissal of, or to hear complaints or charges brought against a public officer, employee or individual was made and approved by the Board at the meeting;**
- 4. The Board believes that it was in compliance with the requirements of the Open Meeting Law because the discussion and vote taken on the position of Temporary Assistant to the Fire Chief (Mr. Jackson’s position) was directly related to the Board’s vote at the meeting to place the Fire Chief on paid administrative leave;**
- 5. However, even if the Board’s actions were not in compliance with the Open Meeting Law, any potential violation has since been remedied where:**

- **The Board included an item on the agenda for its meeting today that clearly indicated that it would be revisiting its prior discussion regarding whether there is a continuing need for the position of Administrative Aide to the Fire Chief and the possible elimination of the position; and**
  - **The Board fully discussed the matter earlier in its meeting today and any votes on the subject that were taken at the April 22, 2013 were either ratified or rescinded by the Board.**
- 6. For these reasons, the complaint fails to allege a violation of the Open Meeting Law and even if it did, any alleged violation has since been remedied by the Board's actions on the matter earlier today;**
  - 7. And further, Town Counsel is hereby directed to prepare a response to the Attorney General, copied to the complainant, consistent with the findings set forth herein."**
  - 8. And direct Town Counsel to review the May 21, 2013 T & G complaint and respond in accord with the Board's findings, by M. Redetzke.**

**2<sup>nd</sup>: P. Gimas**

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

### **Blue Wave Capital**

William Mitchell, Principal Assessor, John DeVillars and Eric Graber Lopez of Blue Wave Capital appeared before the Board.

S. Suhoski said that the Board of Assessors has approved the framework of this agreement, and it has been through Town Counsel.

J. DeVillars explained that Blue Wave Capital is a solar renewable energy development company based in Boston, focused on serving town governments. They will supply solar-generated electricity to Sturbridge, cutting the Town's electricity costs by nearly 40% in the first year of operation, and will save the Town \$3-4 million over the life of a 20-year contract. Over the past year, working with the Town's Energy Advisory Committee and Town Administrator, Blue Wave has carefully evaluated numerous sites within Sturbridge to determine their suitability, including the Sturbridge Municipal Landfill, which was found to be unsuitable due to excessive interconnection costs. Blue Wave has secured a site within the Town which is owned by MassDOT which is suitable from a technical and financing perspective. He noted that the site will provide approximately half of the Town's electricity needs.

M. Dowling left the meeting at 10:15 a.m.

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S. Suhoski noted that 75% of the Town's power consumption comes from a renewable source. T. Creamer said that the document articulates what he is hoping will be the end result.

T. Creamer noted that technology will continue to evolve. He said that there is a moratorium on non-municipal solar projects which had been passed at Town Meeting, and residents had overwhelmingly supported the moratorium and the municipal project being developed by the Town. He said that the Board of Selectmen must address questions at Town Meeting, and it would be advisable for a representative from Blue Wave to be present at the Town Meeting on June 3<sup>rd</sup> at 7:00 p.m. to answer questions. J. DeVillars said that they would be there.

T. Creamer invited the Blue Wave representatives to a Board of Selectmen meeting on Wednesday, May 29, 2013 at 6:30 p.m. for a question and answer discussion regarding the solar project. J. DeVillars confirmed that they would be available on that date.

Eric Graber Lopez outlined the potential savings to the town. He noted that the agreement with DOT will be the same as the contract.

T. Creamer suggested that the Board send any questions to Bill Mitchell, Principal Assessor, or directly to Blue Wave.

James Zavistoski, 127 Mashapaug Road, asked about the commercial value of the proposed site, and wanted to know why the state doesn't sell it to a private developer.

**MOTION: To adjourn, by M. Blanchard.**  
**2<sup>nd</sup>: P. Gimás**  
**Vote: All in favor.**

The meeting was adjourned at 11:15 a.m.

Respectfully submitted,

Judy Knowles

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BOS Clerk

Date