

1 Board of Selectmen

2 **Town of Upton**



3 **Massachusetts**

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6
7 Meeting Minutes of November 1, 2011

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9 Location: Nipmuc High School, Auditorium, 90 Pleasant Street, 6pm

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11 Present: Chairman Robert J. Fleming, Selectman Kenneth E. Picard, Selectman James A.
12 Brochu, Town Manager, Blythe C. Robinson, and Department Coordinator Terry
13 Palmer.

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15 Approved: November 15, 2011

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17 The meeting was called to order at 6:10pm.

18
19 The Board recited the Pledge of Allegiance

20
21 Chairman Fleming gave instructions on how the meeting will run. He also addressed the
22 public by reading a statement on the request for Rosary prayer on the Town Common. He
23 announced; "as you have no doubt heard, the Board denied an application earlier in the month
24 for use of the Town Common. The Board apparently misapplied the relevant law in this area,
25 believing it could not allow the Town Common to be used for the requested purpose. Since that
26 time, the Board has learned that the property may be used for the requested purpose. As a result,
27 the Board has sought more information concerning the applicable law, and is considering
28 adopting a policy concerning use of Town-owned property and facilities that will allow the
29 Board to make decisions on requests for private use of such property and buildings in a timely
30 and even-handed manner, taking into account any public safety concerns that need to be
31 addressed".

32
33 Chairman Fleming opened the meeting by requesting any resident who sends in emails or
34 letters to the Selectmen's office to please sign them as they can't reply to any concerns or
35 questions without this information.

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37 A. Presentation – Federal Railroad Administration

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39 Chairman Fleming started the meeting by saying that when the Railroad property was up
40 for sale, prior to Mr. Delli Priscoll's purchasing it, the Town was asked if they wanted to buy
41 it. The request went to all Boards and Departments to see if it was something the Town
42 would be interested in. Town meeting voted not to do so. Having said that he stated that the
43 concerns from the public came after the Railroad property was being redeveloped to Trans
44 load materials. Mr. Fleming also stated that the questions being asked about the railroad

45 will be answered by a, “fact based” document that will be posted on the Town’s website. He
46 also reminded the audience of the Open Meeting Law saying he would like to clear up the
47 accusations that the Board of Selectmen has met with other Boards and are making decisions
48 without the proper posting of a meeting.

49 Chairman Fleming read a biography on Mr. Schoonover of the Federal Railroad
50 Administration and also a biography on Ms. Lee Dillard-Adams the Deputy Director of
51 Massachusetts D.E.P.

52
53 Mr. Schoonover gave a power point presentation on the Federal Regulations defining
54 Railroad Transportation.

55 Chairman Fleming asked the residents for questions. Some questions and replies were;

- 56 • What is the 48 hour rule – Mr. Schoonover replied that the railroad is in compliance
57 with the Federal requirements, but this is the end yard and the 48 hour rule does not
58 apply to end yards. Materials can stay on site until they are shipped to their end
59 destination.
- 60 • There is concern with the water in the back yards of abutting residents – freezing and
61 the potential of rail cars falling off the track – Mr. Schoonover replied there is a low
62 probability ice can build up and railcars being affected.
- 63 • Who are the agencies that are connected to the safety of the railroads – Mr.
64 Schoonover answered; the Federal Railroad Administration, Pipeline & Hazardous
65 Material Safety Administration and the Department of Transportation write all the
66 regulations.
- 67 • Can the residents be notified when the railroad is blasting – Chief Goodale responded
68 saying state law requires notification for structures within 250 feet from the area
69 being blasted
- 70 • How can the residents know what kind of hazmat is being shipped thru town – Mr.
71 Schoonover answered that people can refer to the Emergency Response Guidebook,
72 copies of which can be obtained from the Fire Department free of charge.
- 73 • Is there an evacuation plan in place for the schools – Chief Goodale responded there
74 is an emergency response in place
- 75 • Are the materials too dangerous for the site – Mr. Schoonover replied that railroads
76 cannot turn any material away and the town has no jurisdiction either
- 77 • What measures for safety are in place – Chief Goodale enumerated some of the
78 safety measures installed to date.
- 79 • Are the Planning Board and Board of Selectmen working together as there are
80 concerns that they are not on the same page of this issue – Chairman Fleming replied
81 there is just a difference of opinion between the two boards regarding access to Town
82 Counsel and whether or not to pursue a declaratory ruling from the Surface
83 Transportation Board.

84 Chairman Fleming stated the Board of Selectmen is not ignoring the problem and
85 encourages the residents to go to the website once the frequently asked questions are
86 posted for more information.

87 Chairman Fleming thanked all the residents who attended this meeting and closed that
88 portion of the meeting @ 8:05pm, after which the board took a 15 minute recess.

89

90 The meeting continued at 8:20pm. Ms. Robinson asked the Selectmen to provide some
91 direction regarding the motions for the Special Town Meeting warrant. She told the
92 Board that the Town's levy capacity will be higher than projected for this year's budget,
93 thus we have the ability to raise and appropriate the two STM articles that require funds.
94 She asked the Board whether they would prefer to do this rather than use free cash which
95 could be kept for items that come up later in the year. The Board agreed this is a good
96 strategy and asked her to finalize the motions this way.

97
98 MURSD Secession Committee

99 Ms. Robinson told the Board that we have received an email from Chris Russo who is
100 interested in serving on this Committee.

101
102 Motion # 1: Selectmen Picard motioned to appoint Chris Russo to the MURSD Secession
103 Committee, Selectmen Brochu second. Unanimous: Chairman Fleming.

104
105 Guardrail Installation Project

106 Ms. Robinson handed out a recommendation to the Board to award a contract for the
107 installation of guard rails on portions of Orchard Street, North Street and Chestnut Street.
108 Her recommendation is that this be awarded to the low bidder, Commonwealth Guardrail
109 for their bid price of \$26,838.50.

110
111 Motion # 2: Selectmen Picard motioned to award contract number #11-6 for the
112 installation of guardrails at various locations to Commonwealth Guardrail in the amount
113 of \$26,838.50, Selectmen Brochu second. Unanimous: Chairman Fleming.

114
115 Selectmen Brochu brought up the fact that each of the Selectmen had received a letter
116 from an Eagle Scout who had completed a project at the Veteran's Memorial at Lakeview
117 Cemetery. The Scout asked that the Board assist him in organizing a dedication
118 ceremony with the VFW on Veteran's Day. The Board asked Ms. Robinson to contact the
119 VFW Commander and see if this could be arranged.

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121 Motion by Selectmen Brochu to adjourn, Selectmen Picard second. Unanimous:
122 Chairman Fleming.

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124 Meeting adjourned @ 8:30pm.

125
126 Respectfully submitted

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129 Terry Palmer
130 Department Coordinator