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Board of Selectmen

Town of Upton



Massachusetts

Meeting Minutes of July 13, 2010

Location: Fire & EMS Headquarters, 20 Church Street – 2nd floor training room.

Present: Chairman Michael E. Goodwin, Selectman Robert J. Fleming, Selectman Kenneth E. Picard, and Town Manager, Blythe C. Robinson. (Department Coordinator Karen L. Varney did not attend).

The meeting was called to order at 6:00pm.

Motion # 1: Selectman Picard motioned to approve the meeting minutes of May 11, 2010. Second: Selectman Fleming, unanimous: Chairman Goodwin.

Motion # 2: Selectman Picard motioned to approve the meeting minutes of May 20, 2010 at the Tata & Howard facility. Second: Selectman Fleming, unanimous: Chairman Goodwin.

Motion # 3: Selectman Picard motioned to approve the executive session meeting minutes of May 20, 2010. Second: Selectman Fleming, unanimous: Chairman Goodwin.

Motion # 4: Selectman Picard motioned to approve the executive session meeting minutes of May 25, 2010 with an amendment on line 14. Second: Selectman Fleming, unanimous: Chairman Goodwin.

Motion # 5: Selectman Picard motioned to approve the meeting minutes of May 25, 2010 with amendments on line 174 and 176. Second: Selectman Fleming, unanimous: Chairman Goodwin.

Motion # 6: Selectman Picard motioned to approve the meeting minutes of June 15, 2010. Second: Selectman Fleming, unanimous: Chairman Goodwin.

Motion # 7: Selectman Picard motioned to approve the meeting minutes of June 22, 2010 with amendments on line 62, 155 and 205. Majority: Chairman Goodwin.

Discussion items:

A: Budget Transfers

Motion # 8: Selectman Picard motioned to approve the request for three, year end budget transfer requests: #1 Toxicity testing, transfer from account 61-440-5200-5300 to vehicle fuel account #61-440-5400-5481 in the amount of \$1,000. Second: Selectman Fleming, unanimous: Chairman Goodwin.

45
46 Motion # 9: Selectman Picard motioned to approve transfer requests: #2 to transfer from the
47 COA wages account 01-541-5100-5100 to various payroll accounts in the amount of \$2431.87.
48 Second: Selectman Fleming, unanimous: Chairman Goodwin.

49
50 Motion # 10: Selectman Picard motioned to approve transfer request #3 from account 01-113-
51 5400-5421 to the Town Clerk's expense account #01-161-5400-5421 in the amount of \$250.00.
52 Second: Selectman Fleming, unanimous: Chairman Goodwin.

53
54 Chairman Goodwin requested that the Board discuss the Finance Committee
55 appointments and review the two letters of interest they have received. Of the three open
56 appointments, one is appointed by the Selectmen and one is an annual appointment as a result of
57 the position not being filled at the Annual Election. One of the applicants, John O'Sullivan was
58 in attendance and asked to come before the Board. Both Selectman Picard and Selectman
59 Fleming personally know Mr. O'Sullivan and are supportive in his appointment.

60
61 Motion # 11: Selectman Picard motioned to appoint John T. O'Sullivan to a three-year position
62 as a member of the Finance Committee. Second: Selectman Fleming, unanimous: Chairman
63 Goodwin.

64
65 Resident Jennifer Malin who is also interested in serving on the Finance Committee came
66 before the Board. Selectman Picard commented that he was impressed after reading her resume.

67 Selectman Fleming noted that the Board is prepared to fill a vacancy on the Finance
68 Committee and had asked for letters of interest. Only one was received from Jennifer Malin. The
69 Chairman asked if there were any other nominations, hearing none, Jennifer Malin was
70 nominated.

71
72 Motion # 12: Selectman Picard motioned to elect Jennifer Malin as a member of the Finance
73 Committee until the annual elections in May 2011. Second: Selectman Fleming, unanimous:
74 Chairman Goodwin. Town Manager Blythe Robinson polled the members. Selectman Picard aye,
75 Selectman Fleming aye, unanimous: Chairman Goodwin aye. It was a unanimous decision to
76 elect Jennifer Malin as a member of the Finance Committee.

77
78 Discussion items continued

- 79 B: Noble Vista – deferred at this time and to be reviewed later on in the meeting.
80 C: Review of drainage issues.

81 Town Manager Blythe Robinson gave a report and submitted a spread
82 sheet to the Board noting priority areas in Town that came to light during the March 2010
83 storms. Pearl and Church Street are projects that are no cost items and can be handled by the
84 DPW staff during their normal work load this summer. The other eight areas range from \$1,000
85 to \$144,000.00. Ms. Robinson voiced public safety concerns about the impact to the road
86 infrastructure and impact on private property concerns if these drainage issues are not addressed.
87 The priority is the School Street area which effects most of the homes. Her goal is to try and
88 address some of these drainage issues for the upcoming budget cycle for FY11-12 and prepare a
89 Warrant Article each year. Resident Kenneth Vankleeck of 41 School Street came before the
90 Board to ask the Selectmen for assistance. Selectman Fleming said in his opinion, this issue

91 should go before the Town at the Special Town Meeting in the fall. Chairman Goodwin said the
92 Town will be back in touch with Mr. Vankleeck and was sorry he needed to cut his time short
93 but the Board is scheduled to open a Public Hearing at 6:20pm. (Full report and
94 recommendations are available for review).

95
96 At 6:20pm Chairman Goodwin opened the Public Hearing to review for possible
97 approval the application of Russ and Sherry Berger, 218 Mechanic Street Upton for the transfer
98 an all Alcohol License. The Legal Notice was read aloud:
99 Notice is hereby given, under Chapter 138, Section 15A, of MGL that a Public Hearing will be
100 held on July 13, 2010 at 6:20 PM at the Fire and EMS Headquarters, 20 Church St, 2nd floor
101 training room, Upton, MA to review the application of Russ & Sherry Berger, 218 Mechanic St,
102 Upton, MA for an All Alcohol License transfer from the Wildwood Lounge, Inc, owner Sandra
103 Smith, on the premises at 64A West Main Street Upton, MA. The description of the premises is
104 as follows: One story wood frame bldg, with bar area, two restrooms off rear next to exit. Front
105 entrance opens to lounge and billiard area, kitchen, 3 rooms. Closet storage area along with a
106 cellar, attached garage and outside patio.

107 Russ Berger addressed the Board and gave an overview stating it is his intention to
108 renovate the facility and turning it into more of a full service restaurant. He plans to install new
109 siding, windows, and a new septic system. Selectman Fleming asked about an estimated time for
110 completion. Mr. Berger replied, about two months. Selectman Fleming said he welcomed the
111 change and is in favor of this transfer. Selectman Picard asked if he was going to raise the
112 building. Mr. Berger stated no, but is planning on considerable inside and outside renovations.
113 Hours of operation for Monday-Friday somewhere around 9am and opening for brunch Saturday
114 and Sunday, and closing at 11:00pm. At first their plan is to serve dinner and then expand to
115 lunch as well. He would like to open at 10:00am on Sunday.

116 Chairman Goodwin asked if there were any abutters who wished to be heard. Hearing
117 none, he then asked if there were any residents wishing to be heard. Hearing none the Hearing
118 continued.

119 The description of the licensed property listed on form 43 and the description listed on
120 the draft of the License had a slight difference in room sizes and also listed an outside patio area
121 which will be part of the licensed premises. Those changes will be made when the final license is
122 drafted for the Board's signature.

123 At 6:31pm Chairman Goodwin closed the Public Hearing.

124 The Board reviewed the application.

125 *Motion # 13:* Selectman Fleming motioned to approve the transfer of an all Alcohol Pouring
126 License at the 64A W. Main Street location (Sandra Smith, Wildwood Lounge) under Chapter
127 138 as complied with form 43 and submitted by Russ and Sherry Berger of Mechanic Street.
128 Sherry Berger will serve as the Licensing Manager. Description: 30 X 30 dining room, 20 X 34
129 adjoining room with bar / counter area, 31 X 30 garage / function room and a 10 X 20 outside
130 patio area. Hours of operation will be weekdays from 11:00am – 11:00pm, Saturday and Sunday
131 hours are *10:00am – 11:00pm and subject to the ABCC regulations. License will be contingent
132 on the completion of the renovation of the facility and in compliance with plans submitted.

133 Second: Selectman Picard, unanimous: Chairman Goodwin

134 Ken Picard, aye, Robert Fleming, aye, Michael Goodwin, aye. (*Subject to verification
135 by the Town Clerk that the Town has previously acceptance the provisions of M.G.L. c. 138,

136 §33B. Otherwise a 10:00am opening cannot be authorized until a Town Meeting process takes
137 place).

138 The new name of the restaurant is the Red Rock Grill and Bar.

139

140 Next on the Agenda, the Class 2 License follow up for David McQuilkin of 13 Williams
141 Street. Selectman Fleming stated that he was not present at the formal hearing that took place on
142 June 22nd but noted he reviewed the meeting minutes and did some research and has enough
143 information on the request. Selectman Picard stated he is ready to make a motion on this request
144 unless the Board members have questions. Selectman Fleming asked if the language on the
145 (draft) License is correct. Both Selectmen Picard and Chairman Goodwin stated yes. Mr.
146 McQuilkin was present.

147

148 Motion # 14: Selectman Picard motioned to grant a Class 2 License to David McQuilkin
149 (McQuilkin Sales) located at 13 Williams Street, Upton subject to the following restrictions: No
150 more than five cars repaired to a saleable and drivable condition may be parked outside of the
151 building. No spare or junk parts are to be stored outside and no repair work may be done outside
152 of the building. No banners, balloons, or flags shall be placed outside. Any signage, advertising
153 or additional lighting outside of the facility will be minimal and will require prior approval from
154 the Board of Selectmen, Town Manager and the Planning Board. This License approval is
155 subject to the applicant obtaining a Special Permit from the Zoning Board of Appeals and site
156 plan approval from the Planning Board. A ZBA public hearing is scheduled for July 28th at
157 7:40pm. Second: Selectman Fleming, unanimous Chairman Goodwin.

158

159 Another Class 2 follow up of applicant Ralph John Dixon, owner of Lakeside Machine. A
160 public hearing also took place on June 22nd with the Board tabling their decision until this
161 meeting. Selectman Picard stated he is ready to make a motion on this request. Mr. Dixon was
162 present.

163

164 Motion # 15: Selectman Picard motioned to grant a Class 2 License to Ralph John Dixon,
165 Lakeside Machine, 37 Williams Street, Upton subject to the following restrictions:
166 No more than three cars / motorcycles repaired to a saleable and drivable condition may be
167 parked outside of the building. No spare or junk parts are to be stored outside and no repair work
168 may be done outside of the building. No banners, balloons, or flags shall be placed outside. Any
169 signage, advertising or additional lighting outside of the facility will be minimal and will require
170 prior approval from the Board of Selectmen, Town Manager and the Planning Board.
171 This License approval is subject to the applicant obtaining a Special Permit from the Zoning
172 Board of Appeals and site plan approval from the Planning Board. A ZBA hearing is scheduled
173 for July 28th at 7:30pm. Second: Selectman Fleming, unanimous, Chairman Goodwin.

174

175 Gravel Permit follow up of the June 22nd hearing of South Street Realty Trust was next
176 on the Agenda. Selectman Picard noted the list of conditions. The established route will be as
177 follows: while traveling to the pits, the empty vehicles will use South Street only. When leaving
178 the pits they vehicles will use Chestnut Street or Oak Drive only. The exception being that the
179 Town Manager has the discretion to temporarily alter the route as necessary. The Board approves
180 this language. Line 4, language added: remain posted, line 5: shall not exceed posted limits.
181 Selectman Picard noted the addition of a severability clause. Also the applicant shall provide

182 street sweeping/cleaning as necessary or as determined by the DPW Highway Division or Police
183 Department. They also confirmed number 8, the number of trips. Also number 10 was clarified.
184 Mr. Poirier was present.

185 Motion # 16: Chairman Goodwin motioned to approve the Earth Removal Permit to South Street
186 Realty Trust as submitted and amended with thirty-one conditions. Second: Selectman Fleming,
187 unanimous: Selectman Picard. Poll taken:

188 Ken Picard, aye, Robert Fleming, aye, Michael Goodwin, aye.

189 This Removal Permit will be for a three year period, July 14, 2010 – July 13, 2013 with a
190 \$500 annual assessed fee.

191

192 Discussion item's continued:

193 D: Department estimates Re: capital needs. Town Manager Blythe Robinson has
194 drafted a list (estimate) of Capital needs to be submitted to the Capital Budget
195 Committee. They include: Town Hall renovation, COA additional space, Town Center
196 renovation, 3rd water source, Water & Wastewater System expansion and the Highway
197 Division which was submitted directly by the Superintendent and DPW Consultant.
198 Selectman Picard stated that he believes there is a piece of property that the Town may be
199 able to purchase (to help alleviate the space problems) which will be discussed at a later
200 date. The Board requested adding the drainage issues to this report. Ms. Robinson will
201 update the report and forward to the Capital Budget Committee. She is planning on
202 attending their meeting next week.

203

204 E: Tata & Howard Pilot Test & Engineering Report / Richard Wellfield the Board
205 reviewed the Agreement for Pilot Testing and Engineering. Chairman Goodwin stated
206 that at the June 15th Special Town Meeting the voters approved \$75,000 for Pilot testing
207 at the Richard Well for the 3rd water source. In section 3.5 it was agreed by the Board to
208 add: Town Manager and DPW Consultant. Selectman Fleming had a concern with
209 Section 6.2.1 and requested the Town Manager to research further. Selectman Picard in
210 reference to section 5. 5.1, requested a payment schedule for the \$75,000.00. The Board
211 has tabled this Agreement until the July 27th meeting and all concerns have been
212 addressed.

213

214 The Board welcomed Representative George Peterson. Representative Peterson
215 gave a report on the State budget and informed the Board that the budget's of \$700
216 million dollars short in Federal Medicaid reimbursement. The revenues have been strong
217 this past month and he anticipates a \$60 million dollar surplus above what was projected
218 for a target number at the end of the year. However the supplemental budgets are being
219 filed for the snow and ice. Representative Peterson said there will be two questions on the
220 ballot this year: 1) to repeal the alcohol exemption for sales tax. 2) Rolling back the sales
221 tax from 6.25 to 3%.

222

223 H: Realignment of the Town common & surrounding streets. (Selectman Fleming
224 supports forming a Committee moving forward on this project. Mass Highway will be
225 involved in this long term process. Chairman Goodwin talked about the 1st step.
226 Selectman Picard's opinion is that a Committee be formed to do a general scope and

227 perhaps get the communities involvement. The Board agreed to actively solicit members
228 for this Committee. A Mission Statement is to be drafted.

229
230 I: Knowlton Carriage House (Selectman Fleming said it has come to his attention
231 that this property is in foreclosure and held by a New York Bank. He is recommending
232 that the Town Manager inquire about this property. Selectman Fleming feels this would
233 be a good avenue for the Town. Selectman Picard spoke of using CPC Funding for
234 historical preservation. This property could house multiple Town Offices).

235
236 J: Veterans Agent Assistant (Selectman Fleming asked that this be on the Agenda
237 because he does not believe the Clerical position is needed anymore. The Board agreed
238 not to fill the position).

239
240 Upon Selectman Picard's recommendation, the Board took a short recess until 7:30pm.

241
242 The Board reconvened.

243
244 Correspondence:

245 1. Request from Upton Men's Club for a defibrillator for Nipmuc High School.

246 2 Letter of interest from resident Richard Desjardins for appointment to the CPC.

247 Motion # 17: Selectman Fleming motioned to appoint Richard Desjardins to the Community
248 Preservation Committee for a term to expire May 2011. Second: Selectman Picard, unanimous:
249 Chairman Goodwin.

250 1. Letter of resignation from the Town Hall Renovation Committee from Don Arthur.

251 Motion # 18: Selectman Picard motioned to accept, with regret, the resignation of Don Arthur
252 from the Town Hall Renovation Committee. Second: Selectman Fleming, unanimous: Chairman
253 Goodwin.

254
255 The Board welcomed the Mendon Board of Selectmen. This meeting was scheduled so
256 all parties could have an open discussion regarding the school district finances. Michael
257 Ammendolia, Mendon Selectmen thanked the Upton Board of Selectmen for agreeing to meet
258 and also thanked the Mendon and Upton Finance Committee for their participation. The
259 discussion focused on the financing of the shared School District. Mr. Ammendolia feels the
260 taxpayer's lack of understanding of the Budget process and that fiscal pressures have been a
261 factor for 25 years and will continue for the foreseeable future. State Mandates, and accounts
262 structure of Public education makes the understanding of education financing a daunting task.
263 Mr. Ammendolia's recommendation is for the Towns to draft a long range plan. He is asking the
264 Upton Board of Selectmen to join the Mendon Selectmen to ask the School Committee to allow a
265 comprehensive professional third-party study of the School District and Commissioned by the
266 joint Board of Selectmen. He outlined a starting structure process. 1 – Joint Selectmen's meeting
267 to hear citizens input and establish criteria.

268 2 –Create a small joint Committee appointed by each Board of Selectmen to choose candidates
269 for an RFP. 3- Time line.

270 Mendon Chairman Lawney Tinio said this study would focus on the functions and
271 management of the School District. Selectman Fleming asked if the MURSD has been asked to
272 conduct a study? The Upton Board of Selectmen agrees that they should meet with the School

273 Committee, Mendon Selectmen and the Upton Finance Committee to discuss how to approach
274 the issues that have been raised. Selectman Picard raised the question of whether funds are
275 available if it is decided that a management study should be conducted. Don Morin replied that
276 since the School Committee began discussing this possibility, qualified residents who have
277 experience in different types of business audits have come forward willing to volunteer their
278 time. Selectmen Picard confirmed the Upton Board of Selectmen is willing to work with Mendon
279 and feels that the School Committee should take lead and get the message to the voters.

280 After a lengthy discussion, Chairman Goodwin said he will give the needed support to
281 Mendon and thanked them and the Finance Committees for their input.
282 (The audio tape of this meeting is available at the Board of Selectmen's Office).

283
284 The Board recessed until 8:20pm.

285
286 The Board reconvened at 8:22pm.

287
288 The Town Manager stated that she met with Jay Talerman the Attorney who has been
289 working on the Noble Vista project for some time and said that since the Conservation
290 Commission has resolved their issues, the Town is close to resolution. The developer would like
291 to finalize plans for the project so he can move forward. It was Attorney Talerman's
292 recommendation that the Board revisit the changes since the original certification of 2001 for
293 clarification purposes. This Stipulation on Remand and conditions was reviewed by the Board.

294
295 *Town Manager's Report*

296 Town Manager Blythe Robinson outlined the Town's water restriction saying only hand
297 watering is acceptable. Also she met with the Recreation Commission relative to Leland Field
298 and advised them that if they plan on spending over \$25,000.00 they need to have an actual plan
299 drafted by an Engineer or an Architect to go out to bid.

300 In closing Ms. Robinson stated that she will be taking a look at all the technology needs
301 for the Town.

302
303 Motion # 19: Selectman Picard motioned to adjourn the meeting at 8:50pm. Second: Selectman
304 Fleming, unanimous: Chairman Goodwin.

305
306 Respectfully submitted,

307
308 Karen L. Varney, Department Coordinator

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310
311
312