

Town of Upton



Massachusetts

Meeting Minutes of May 15, 2007

Present: Chairman Marsha A. Paul, Selectman Robert J. Fleming, Selectman Kenneth E. Picard and Administrative Clerk Karen L. Varney,

Location: Upton Town Hall, main floor, 1 Main Street

The meeting was audio taped by the Board. Videotaping was not available.

The meeting was called to order at 7:31pm. The Pledge of Allegiance was recited.

Appropriation Treasury Warrant No. 46e in the amount of \$40,501.75 was signed. Payroll Treasury Warrant No. 46P in the amount of \$58,103.53 was signed.

In reviewing the expenses, Selectman Fleming requested a hold on expense #5482, a \$250.00 fee for Fire Department Vehicle Maintenance until he has a discussion with Chief Bradford.

Chairman Paul reviewed the travel log sheets recently submitted from the Code enforcement Department for payment. It was decided that a standardized spreadsheet be created.

Motion # 1

Selectman Fleming motioned to approve the meeting minutes of May 8, 2007, seconded by Selectman Picard, unanimous by Chairman Paul.

Motion # 2

Selectman Fleming motioned to open a Warrant for a Special Town meeting to be conducted on Tuesday June 19, 2007 at Nipmuc Regional Middle/High School Auditorium at 7:30pm and to close the Warrant on Friday, May 25, 2007. The Warrant to be approved and signed by the Board of Selectmen on Tuesday, May 29, 2007 and to be posted on Friday June 1, 2007.

Motion # 3

Selectman Fleming Motioned to appoint, as requested by Chief Stockwell, the Annual Police Department Appointments as submitted and dated May 9, 2007. Seconded by Chairman Paul, unanimous by Selectman Picard.

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Motion # 4

Selectman Fleming Motioned to appoint Ken E. Picard as Police Commissioner (to a three-year term to expire 2010), seconded by Chairman Paul, unanimous by Selectman Picard.

Motion # 5

Selectman Fleming Motioned to appoint for a one-year term, James R. Bates, Administrative Assistant, Karen L. Varney, Administrative Clerk, Town Counsel Kopelman and Paige, P.C., Robert A. Perkins, Town Accountant and Ann L. Perkins, Clerk to the Town Accountant. Seconded by Selectman Picard, unanimous by Chairman Paul.

The Board spoke of the Town Counsel appointment and the fact that Kopelman and Paige currently charges \$125.00 an hour for their legal services, which is a reasonable amount. However, the Board has asked that the Administrative Assistant to make phone calls to area towns (4 or 5) inquiring of their Town Counsel fees charged for legal services.

It was noted that the Board would continue with the Annual Appointments at their May 22nd meeting. The Board asked the Administrative Clerk to contact Dick Henderson and ask if he would like an appointment to the BOFE for FY08.

The Board reviewed the Liaison Assignments, and the only change is an addition of the Recreation Commission who will report to Selectman Picard.

DPW Director Steven Soma came before the Board to discuss his Water and Cemetery Departments budget problems. Director Soma told the Board that he needs additional funds for his (O&M) operational and maintenance budget. Three Articles were passed over at the recent Town Meeting. He noted only \$3,000 left in his budget and stated that an electric bill could come in for \$3,000. An Article for the Special (Town Meeting) clean up meeting would be a suggestion noted Chairman Paul. Selectman Fleming added a transfer from stabilization to the respective accounts. Detailed documentation submitted to the Finance Committee in a spreadsheet format, will help the process along.

Director Soma commented that he has asked for last years budget documentation from the Finance Committee, namely Paul Flaherty and Steven Bern and has received nothing.

This morning, Director Soma met with the Cemetery Commissioners who told him they are short \$9,440.00. The Commissions had to lay off a 20 hour per week worker this week. Steve told them to bring back the employee and doing the numbers, he figures he will request \$13,300.00. It was noted that 34 funerals took place last year vs. 50 so far this year. Selectman Fleming suggested submitting a request to the Finance Committee for at least half the amount. Chairman Paul adding, to make sure all detailed information is in writing. Submit all documentation for the Special Town Meeting

90 Article to be drafted, to the Board. Selectman Picard will communicate with the
91 Cemetery Commissioners.

92 The Board thanked Director Soma for coming.

93
94 Brief discussion relative to the dedication of the Veterans Memorial Playground
95 took place. The plaque will be placed outside the fenced in playground area.

96
97 Regarding the open Laborer position within the DPW Department, Director Soma
98 has requested that interviews be set up with the two internal applicants. The
99 Administrative Clerk will notify the Personnel Coordinator.

100
101 The Board of Selectmen welcomed Conservation Commission member and Land
102 Stewardship Committee Member Mike Penko and Conservation Commission
103 Chairperson Chris Scott. Mr. Penko began by saying he was contacted by resident Bob
104 Henderson who offered to donate gravel. This gravel would be used to fill ruts, improve
105 cart path and to construct a parking lot at the former Stefan's property. The gravel is now
106 available and could be stockpiled on site. Transportation cost (about \$500-600 or \$65
107 per hour) would need to be absorbed by the Town. He noted available funds in the
108 Conservation Commission budget. The Board agreed it was a great idea.

109 Director Soma was asked to join in on the conversation and agreed with storing
110 the gavel.

111 Mr. Penko also discussed reports of people driving into the property and
112 suggested installing a locked cable along the cart path to deter vehicular entry. A key
113 would be provided to the Board of Selectmen, Fire, and Police Departments. The Board
114 agreed it would be a good idea to have a cable installed to deny access.

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116 **Motion # 6**

117 Selectman Fleming Motioned to approve Debt Exclusions with Ballot questions
118 for a future Special Town Election on Article 47 and 48 of the Adjourned Annual Town
119 Meeting as quoted. Seconded by Selectman Picard, unanimous by Chairman Paul.

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121 The Board stated they also made a Motion at the Adjourned Annual Town
122 Meeting on May 14th in reference to Article 46 as well.

123

124 Confidential material reviewed:

125 ⇒ Letter dated 5/2/07 (Ella Whitney Risteen Trust Fund Clause B) (*Selectman Picard*
126 *asked that this be put on hold until he can research other options. The Board approved*).

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128 **Motion # 7** Selectman Fleming motioned to enter into Executive Session under M.G.L.
129 Chapter 39, Section 23B, exception # 3 (to discuss litigation). Seconded by Chairman
130 Paul, unanimous by Selectman Picard.

131 Poll taken: Ken E. Picard "1". Robert J. Fleming "1", Marsha A. Paul "1"

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133 The Board will reconvene their regular session at the conclusion of the Executive
134 Session.

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136 At 10:30pm the Board came back into regular session.

137 Marsha Paul "I", Robert Fleming "I", Ken Picard "I".

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139 FYI:

- 140 ⇒ Police Report: barking dog complaint on 57 South St.
- 141 ⇒ Letter dated May 9th from Brendan J. Perry & Associates.
- 142 ⇒ RBC Dain Rauscher confirmation notices (complete packet in BOS office).
- 143 ⇒ RBC Dain Rauscher Account Statements (*Selectman Picard a former Trust*
- 144 *Commissioner, the Commission is trying to change the asset allocation. Diversify accounts –*
- 145 *assessments*)

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147 In response to a letter dated May 9, 2007 from Brendan J. Perry & Associates
148 saying he would like to meet with Town Counsel in reference to an appeal of the
149 Selectmen's order for banishment of dogs dated April 11, 2007. In the May 9, 2007
150 letter Attorney Perry stated that from this point forward, no Town Official should have
151 the right to travel upon the 57 South Street property.

152 Basically the owner violated the Order of the Board and at this point, stated
153 Selectman Fleming I do not wish to meet with this individual. The Board agreed that this
154 correspondence from Attorney Perry be forward to Town Counsel. Chairman Paul will
155 contact Town Counsel on Thursday.

156 Selectman Fleming briefed Selectman Picard on the past years problems with
157 these dogs. Selectman Fleming made it clear there was no room for negotiation on his
158 part. Selectman Paul agreed. The Board however is not in favor of spending a large
159 amount of money on this matter. Chairman Paul added that she has asked Dog Officer
160 Kate Hawkins for a definition of excessive barking.

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162 Mail:

- 163 1. Copies of zoning violation letters from the code enforcement Department.
- 164 2. Letter from Verizon Re: Comcast's inaccurate claims – Mass cable franchise
165 legislation.
- 166 3. Street Sign request: Deer Crossing. (Chief Stockwell recommends, DPW is not
167 recommending). (*DPW Director will speak with Chief Stockwell*)
- 168 4. Copy of a Petition for Appeal of Decision from the ZBA Chairman.
- 169 5. CCC Day at Upton State Forest May 26th.

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171 **Motion # 8**

172 Selectman Fleming Motioned to instruct Town Counsel to proceed as instructed
173 during Executive Session. Seconded by Selectman Picard, unanimous by Chairman
174 Paul.

175 In reference to a letter (dated May 14, 2007) the Board received yesterday,
176 from the Law Offices of Jeffrey D. Williams, representing the Pleasant Street residents.
177 Attorney Williams is requesting to meet with Selectmen for discussion of their property.
178 It was agreed that the Administrative Assistant drafts a letter to Attorney Williams inviting
179 him to attend a meeting with the Board. It was stressed that this meeting is only open to
180 discussion with the spokesperson and not a free exchange. The Board will recognize
181 citizens if needed, however they will not entertain people interrupting or speaking out
182 loud. Selectman Fleming briefed new member Ken Picard on this matter.

184 Lastly, earlier today the DPW Director gave a confidential envelope to
185 Chairman Paul in reference to an employee. At 11:00pm, it is too late to review and
186 asked that both Selectman Fleming and Selectman Picard have copies for their review,
187 and have discussion next week.
188

189 In matters concerning the 3rd water source for the Town, Selectman Fleming
190 noted he spoke with Ms. Richards in reference to an extension of the Purchase and
191 Sale Agreement confirming that it would be 18 more months for all the final permitting.
192 The Board would like to go forward however in fairness the Richard's should be advised
193 of this time frame. Selectman Fleming suggested forgoing the extensions and signing
194 the Purchase and Sale Agreement for an 18-month period.
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196 **Motion # 9**

197 Selectman Fleming Motioned to sign a new Purchase and Sale Agreement on
198 the Richard's West River Street property for 18 months and subject to the final State
199 permitting approvals to be completed. Seconded by Chairman Paul, unanimous by
200 Selectman Picard.
201

202 Selectman Fleming will contact Jane Richards regarding the above.
203

204 Relative to the Town Manager position, Selectman Picard stated he contacted
205 different individuals that complained or made comments at the Town Meeting last week
206 to ask if they would like to serve on the Town Manager position committee.
207 Selectman Fleming stated he has some concerns of some Elected Officials being on a
208 Committee to determine the function and responsibilities of the Town Manager.
209 Selectman Picard agreed as he noted of the individuals he called, some were in favor
210 some were not. And added it is still at the discretion of the Board who they appoint to
211 the Committee. The Board would like to see more people volunteer their services, as
212 there are a number of Committees that need members, i.e., Enterprise Account, Capital
213 Debt Exclusion Committee. The Board also mentioned former Selectmen would also be
214 good candidates for this Committee.
215

216 **Motion # 10**

217 Selectman Fleming Motioned to expend from the William Knowlton Trust Fund,
218 the amount of \$810,000 to be used for Blackstone Valley Survey and Engineering, Inc.,
219 to set lot line (lot 3) Orchard St and office and drafting services. Seconded by Selectman
220 Picard, unanimous by Chairman Paul.
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222 **Motion # 11**

223 Selectman Fleming Motioned to approve payment to Kopelman & Paige, P.C., for
224 legal services (Merriam Way dispute of easement, review of Town Administrator, 18 Elm
225 St, to be paid by CPC funds) in the amount of \$5,788.29. Seconded by Selectman
226 Picard, unanimous by Chairman Paul.

227 It is the understanding of the Board that any legal bills that come in to the
228 Selectmen's office for payment, is forwarded to the specific departments for review and
229 approval.

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The 3rd grade students will be having a mock Town Meeting at the Town Hall on Wednesday, May 23rd. Selectman Fleming has offered his assistance and looks forward to participating.

Motion # 12

Selectman Fleming motioned to adjourn the meeting at 11:04pm. Seconded by Selectman Picard, unanimous by Chairman Paul.

Respectfully submitted,
Karen L. Varney, Administrative Clerk