

Town of Upton



Massachusetts

**Meeting Minutes of July 17, 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 called to order at 6:00pm.

**Motion # 1**

At 6:01pm Selectman Fleming motioned to enter into Executive Session under M.G.L. Chapter 39, section 23B, exception # 3 (with respect to collective bargaining). Seconded by Selectmen Picard, unanimous by Chairman Paul.

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

The Board will reconvene their regular meeting upon completion of Executive Session.

The Board reconvened their regular meeting at 7:15pm.

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

The Pledge of Allegiance was recited. Videotaping provided by Jonathan Miguel, Cable TV Access Provider. The Boards meeting was also audio taped.

Regarding the numerous double electrical poles located throughout the Town, that Selectmen have been annoyed with, Upton Resident Dick Desjardins came before the Board with an outline, noting the pole number, Street name, and the electrical transfers required for the pole removal. He stated that some of these double poles have been in place for three years. Double poles are the result of setting new utility poles in place contiguous with a pole already in place and leaving the pair together until all utility wires and parts are transferred to the new pole, the old pole then may be subsequently removed. There are currently 20 double poles and 13 sections (of poles). Mr. Desjardins stated that according to M.G.L. Chapter 164, Section 34B, gives the utility and telecommunications companies ninety (90) days to remove an existing pole after a new pole is installed. Approved commercial or industrial construction projects take longer than one year, and said companies shall be required to remove such poles within six months from the date of installation of a new pole.

44 The Town has the option of applying a \$100 per day fine for violations by  
45 amending the by-laws.

46 Chairman Paul feels this situation should be addressed as soon as possible. The  
47 Board thanked Mr. Desjardins for his coming and presenting the information.

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49 **Motion # 2**

50 Selectman Picard motioned to recess the meeting for five-minutes. Seconded by  
51 Selectman Fleming, unanimous by Chairman Paul.

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53 The Board reconvened.

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55 Payroll Treasury Warrant No. 55P in the amount of \$12,494.12 was signed.  
56 Payroll Treasury Warrant No. 3P in the amount of \$70,542.20 was signed.  
57 Appropriation Treasury Warrant No. 55e in the amount of \$66,334.47 was signed.  
58 Appropriation Treasury Warrant No. 3e in the amount of \$41,407.85 was signed.  
59

60 Attorney Jason Talerman and ZBA Chairman John Lebrun came before the  
61 Board to discuss the July 12, 2007 letter from Fred Ruland, Manager Noble Vista, LLC  
62 in reference to a final agreement for the Noble Vista project. Seated in the audience  
63 were ZBA member, Ted Briggs, Associate Members James R. Bates, Jr and Dick  
64 Desjardins.

65 In an overview, Attorney Talerman began by stating that there has been no  
66 intention to block this project, and it is his feeling that both parties are getting close to a  
67 final settlement. However, according to Conservation Commission Chairperson Chris  
68 Scott, progress has been made, but further completion and follow through is needed. In  
69 Mr. Ruland's letter he asked the Board to consider another compromise, reducing the  
70 sewer connection fee for the forty affordable units by fifty-percent, a \$100,000.00  
71 reduction. Chairman Paul stated that the Board has given enough and will make no  
72 further concessions and if they do not take the final settlement offer, they may consider  
73 going back to the original permit. It's about what is good for the community and the  
74 Board is standing firm. Both Selectman Fleming and Selectman Picard agreed with  
75 Chairman Paul.

76 Even though he has no problem with the final proposed settlement, ZBA  
77 Chairman Lebrun has concerns when they hold the public hearing, noting some  
78 displeasure may be voiced. Selectman Picard made it clear that the Selectmen can  
79 make recommendations but it is the ZBA who makes the decision for the Special Permit,  
80 the hearing is to view and discuss the 40B changes with the community.

81 After a lengthy debate, the Board agreed with Attorney Talerman's suggestion of  
82 drafting a letter to Mr. Ruland (copied to Attorney Levey) indicating that there will be no  
83 more compromises and the Board is standing firm on their final settlement offer, adding,  
84 that construction is not to take place until the Conservation issues are corrected and the  
85 Pulte situation cleared up. This will be ratified and an Agreement for Judgment or a  
86 Stipulation of Dismissal at the HAC is filed, then a Notice of Project Change that reflects  
87 all the changes is submitted. Once the Notice of Project changes is approved, the ZBA  
88 will have thirty-days to commence a Hearing. He added that Attorney Levey would have  
89 to file the notice of Project Change. Attorney Talerman will have the draft completed for

90 the August 7<sup>th</sup> meeting of the Board. Selectman Fleming requested Attorney Talerman  
91 draw up the complete verbiage needed for the Board to make the necessary and  
92 complete motion regarding the full process of the agreement.

93 The Board thanked Attorney Talerman for attending.  
94

95 Next on the Agenda, DPW Director Steve Soma addressed the Board with an  
96 update in reference to the third water source. Director Soma commented that he would  
97 like to have Tata & Howard come in for a meeting to discuss why it is taking so long to  
98 get to the various levels of approval. He reviewed the approval process and the  
99 approximate time lines of the specific testing. The pump test reports are halfway into the  
100 process. Total estimated optimal schedule for process is 120 weeks to reach date of  
101 new source approval from DEP. He gave an overview of the list of additional DEP  
102 permits and reports required. Noting the typical process for the third water source from  
103 start to finish is three to five years. Director Soma would like to have the representative  
104 from Tata & Howard come to the Board's meeting when they meet on August 7<sup>th</sup>. The  
105 Administrative Clerk will check the agenda for a time period and report back to Mr.  
106 Soma. The Board has requested a time line chart drawn up for better understanding.

107 Director Soma continued with an overview of his Department projects noting that  
108 the Pearl Street tank project invoicing is completed. There was a water break on  
109 Pleasant Street today and asked the Board for support in the repaving of the Road. The  
110 patching that was done was only intended to get through the winter months. Chairman  
111 Paul asked for a plan first to replace the pipes before paving can take place. Director  
112 Soma agreed saying it is a good time to use TIP funds. Documentation needs to be  
113 submitted by August 1, 2007. A general costs estimate had been previously drafted and  
114 the Town can move forward with the general estimate.

115 The Station Street pump station report has been received. Estimate of  
116 \$225,000.00 was within the ballpark. He needs to communicate with Water/ Wastewater  
117 Superintendent Ron SanSouci to review the specifics of what is needed. Purchase of  
118 equipment and work for the treatment plant has begun. The I&I plan for the DEP draft  
119 will be started in the next 2-3 days. The State gave a surprise visit to the Highway  
120 Garage and Water/Wastewater Treatment plant and was pleased to report that Dean  
121 Parker did an excellent job filing in for Water Superintendent Ron SanSouci who was on  
122 vacation. Regarding the Cemetery Commissioners, always a great job done. He noted  
123 the Highway Department is still behind due to the vacant Highway Supervisor's position.  
124 His plan is to put together a database of accepted and non-accepted Streets with dates  
125 as they were last repaired.

126 Selectman Picard asked Director Soma when he believes he will be moving  
127 forward in hiring a new Highway Supervisor. Director Soma feels he needs to discuss  
128 this with the Board. To consider moving forward with his proposed five-year plan,  
129 making a few revisions or filling the position. A copy of this five-years plan will be  
130 forwarded to Selectman Picard.

131 Drainage problems are numerous and have had communications with several  
132 individuals. He has set aside Thursdays for anyone who wishes to discuss any  
133 problems / issues they have, to come into the office and speak with him. It appears to  
134 be working well.

135 Chairman Paul commended Director Soma for the terrific great job he is doing,  
136 and remarked that he is getting a hold of the DPW (Divisions) situations.  
137

138 *Confidential:*

139 ⇒ Request letter dated July 11, 2007 and response letter Re: Personnel matter.  
140

141 *FYI:*

- 142 ▪ *Motion* to rescind Motion of May 29, 2007 (line #'s 211 & 212) to un-appoint  
143 Margaret Carroll from the Conservation Commission. This action would leave  
144 Margaret appointed to this Commission until May 2008.

145  
146 Responding to the appointment of Margaret Carroll to the Conservation  
147 Commission, it is the feeling of Selectman Fleming that as an Elected Official to the  
148 Planning Board he sees this as a conflict. Ms. Carroll should not serve on the  
149 Conservation Commission. It is a check and balance process and he sees a conflict.  
150 He is not in favor of rescinding the motion made on May 29<sup>th</sup>. Selectman Picard agrees  
151 with Selectman Fleming while Chairman Paul feels differently. Selectman Fleming noted  
152 it has nothing to do with the person, it's dealing with the issues.

- 153  
154 ▪ Copy of a correspondence from Kopelman & Paige to the ConCom Re: Miscoe  
155 Hill Road.
- 156 ▪ Lot 4 Orchard Street Documents. (*Pleased to announce the Closing on Lot 4 is*  
157 *complete – funds to be applied to the debt. Lot #3 Orchard Street is under agreement*).
- 158 ▪ Letter from Rep. George N. Peterson, Jr. Re: October 2006 flood funds.
- 159 ▪ Code Enforcement detailed mileage log.
- 160 ▪ Request from the Recycling Committee to place sandwich board type signs  
161 announcing the Hazardous Waste/Recycling day on September 29<sup>th</sup>. (*approved*)  
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### 163 **Motion # 3**

164 Selectman Fleming motioned to approve the request of Mike Bravo, Recycling  
165 Committee, for permission to place two sandwich board signs, one at the intersection of  
166 School and High Streets and one on Route 140 near Mendon Road announcing the  
167 Hazardous Waste/Recycling Day on September 29<sup>th</sup>. Signs can be put up two weeks  
168 prior to the event and taken down following the event. Seconded by Selectmen Picard,  
169 unanimous by Chairman Paul.

- 170  
171 ▪ Review memorandum dated June 16<sup>th</sup> from Firefighter EMT.  
172

173 The Board reviewed the above memorandum from Bonnie Lopez, Firefighter/EMT,  
174 requesting that the Board reconsider the current appointed members *or* add two  
175 additional members to the 7 member Fire & EMS Management Study and  
176 Implementation Committee bring it to 9 members. Selectmen Fleming stated there was  
177 more than ample time to submit a request noting three to four weeks before any  
178 appointments were made. This is a well-rounded Committee and he is not in favor of  
179 adding additional members. Chairman Paul and Selectmen Picard agree. Anyone can  
180 attend these Committee meetings and give input.  
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182 *Mail:*

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1. Letter from Dept. of Public Health (EMS office) Re: EMS Service Zone Planning *(copied to Director Kemp)*.
2. Copy of a letter to a Glen Ave resident from Tunison Smith Re: Glen Ave evaluation of the onsite intermittent stream for potential sediment.
3. ZBA Variance / Special Permit decision Re: construction of a personal wireless service – denial. *(The Towns’ bylaw is very restrictive regarding cell towers. Selectman Picard noted the CMRPC is well adversed in this area and if the Board is in favor, he will contact Steve Wallace and ask him call the Selectmen’s office to review. The Board gave approval)*.
4. Notice of availability: Mass DEP waste site cleanup technical assistance grants.
5. Senator Augustus’ Second District Journal. *(Cc: BOH)*
6. CMRPC Notice: No cost Technical Assistance.
7. Chief Bradford has received the student Awareness of Fire Education grant of \$2,438.91.
8. Letter from Mass Turnpike Authority Re: Application Tourism Grant Program. Copied to Historical Commission, Planning Board, ConCom, COA & DPW.

The Board approved special Town Meeting dates:

- \* September 18, 2007 (already set)
- \* December 4, 2007= free cash and recap sheet would be completed
- \* March 18, 2008= winter meeting
- \* May 8, 2008= *possible* special before the Annual
- \* June 10, 2008= clean-up meeting.

At the Boards’ meeting on August 7<sup>th</sup>, the appointments to the Enterprise Fund Committee will be made.

Selectman Fleming complimented the Fire Department in the managing of the June 20<sup>th</sup> fire at Cook Land Clearing on Milford Street. Assistant Fire Chief Michael Marchand was the Senior Commander on duty. The Board was pleased to see the invoice for services sent out in an expeditious timeframe.

*Reminders:* Next meeting of the Board of Selectmen, is August 7<sup>th</sup> 7:30pm.

**Motion # 4**

Selectman Fleming motioned to adjourn the meeting at 9:20pm. Seconded by Selectman Picard, unanimous by Chairman Paul.

Respectfully submitted,

Karen L. Varney, Administrative Clerk