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**TOWN OF UXBRIDGE
BOARD OF SELECTMEN'S MEETING MINUTES
BOARD OF SELECTMEN'S MEETING ROOM
21 S. MAIN STREET, UXBRIDGE, MASS
MONDAY, NOVEMBER 28, 2016 – 6:30PM**

Present: Chair Jennifer Modica, Vice Chair Jeff Shaw and Selectman Peter Baghdasarian. Also present Town Manager David Genereux.

I. CALL TO ORDER

1. Announcements –

The Special Election to fill the Board of Selectmen's vacant seat is Tuesday, December 6, 2016. All are encouraged to vote.

The Town Manager discussed complaints regarding the suitability of various individuals appointed to Boards of Committees and various issues. There was reference to the Charter. (Statement attached to the minutes).

2. Citizen's Forum –

Residents discussed/addressed concerns on some of the following topics:

- Letter of Support endorsed by the Town Manager – soil importation projects – Millville Road, South Street
- BOS meeting – DVD missing/cutting sections of the meeting
- Status Planning Board Special Permit – Millville Road – earth/soil importation project
- Request for removal/termination of various board/committee members and town officials
- General discussion on soil importation projects – public process, transparency, ongoing reporting/discussions
- Letter submitted by Kristen LeBlanc – inquiry relating to aquifer running under Millville Road – decommissioned 2007 – request for information
- DEP test reports on soil importation projects – detected soils, amount of material deposited

II. PUBLIC HEARING

FY 2017 Tax Classification Hearing – The Chair opened the public hearing. Mr. David Genereux discussed the Tax Classification Report and Recommendations for FY 2017. It was noted that the tax rate for the fiscal year will be \$16.97. Following no public input, the Chair closed the public hearing. **MOTION: I, Mr. Shaw move that the Board vote to establish a single tax rate to be apportioned equally upon all residential, commercial, industrial and personal property classes for Fiscal Year 2017. Seconded by Mr. Baghdasarian, the motion carried 3-0.**

III. NEW BUSINESS

1. Gift Acceptance - \$500 donation from retired Chief John Emerick for color guard – Chief Lourie announced the donation received by retired Chief John Emerick. **MOTION: I, Mr. Shaw, move that the Board accept the gift donation with thanks. Seconded by Mr. Baghdasarian, the motion carried 3-0.**

IV. OLD BUSINESS

1. Approve Street Name – Akita Drive (off 85 Chestnut Street) – **MOTION: I, Mr. Shaw, move that the Board approve the street name Akita Drive. Seconded by Mr. Baghdasarian, the motion carried 3-0.**
2. Annual Report – There was general discussion. Ms. Modica will make slight revisions and submit to the office.

V. MEMBER ISSUES

None.

VI. TOWN MANAGER

The Town Manager report is attached to the minutes.

VII. MEETING MINUTES

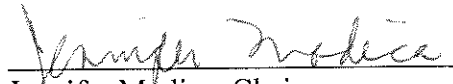
11/14/16 Meeting Minutes – **MOTION: I, Mr. Shaw, move that the Board approve the 11/16/16 Meeting Minutes. Seconded by Mr. Baghdasarian, the motion carried 3-0.**

VIII. ADJOURNMENT: NEXT SCHEDULED BOARD OF SELECTMEN'S MEETING 12/12/16


Ms. Modica adjourned the meeting at 8:00pm.

Minutes respectfully submitted by, Tracey Ante.

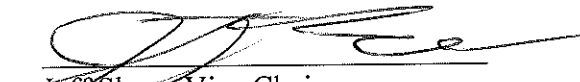
Minutes approved by Board of Selectmen:



Jennifer Modica, Chair



Peter Baghdasarian, Selectman



Jeff Shaw, Vice Chair

Jim Hogan, Clerk

Date 12/12/16

Over the past months, I have heard comments regarding the suitability of various individuals appointed to Boards of Committees. Charges have been leveled that one member or another has acted in conflict, improperly used social media, has made unfounded accusations against others, and/or been rude to members of the public during meetings, and that, because of any of those reasons, should be removed from their Board. That has not occurred.

I have also heard that I was going to attend a meeting of one of the Boards, and publically fire at least three of its members during their meeting. That also has not occurred.

There is a reason that all Board and Committee members remain in place, and it is found in the Charter. As you know, the Charter burdens the Manager with the responsibility of filling the majority of board and committee positions, as it does with employees. While the powers of the Manager in making appointments is quite broad, it narrows considerably when it comes to removing a board member mid-term. Article 7, Section 8 reads:

Any appointed town officer, member of a multiple member body or employee of the town, not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for just cause. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

The Charter further lays out a suspension process that must be followed and offers the suspended employee or board member the option of a public hearing. Not addressed is the ability of the employee or board member to take the Town to court for its removal effort, evidence presented, or final result of the Town's process.

With that in mind, and recalling that Counsel plays a significant role in any extreme employee discipline, I had a discussion regarding the alleged comments, actions and activities that have been brought forward in order to determine what direction should be taken. I have been advised that if I proceed with a removal, the Town is be open to legal action, because the alleged deeds, words or activities do not merit action for dismissal pursuant to just cause (even under conduct unbecoming the office).

The categories or events that we discussed are as follows:

- Improper social media comments - The Town does not have a social media policy, and if it did, it would not extend to private, non-governmental sites. Therefore, comments made in there cannot be regulated.
- Improper pubic contact via electronic device during a meeting.
- Signing documents relating to one's own project. I investigated one complaint regarding this and determined that the member's signature was not on the document.
- Threatening behavior – I am not aware of any face-to-face intimidation being done; which would be considered threatening. Driving on a public way is not illegal, and cannot be used in establishing a credible threat against another person
- Unfounded accusations – Are considered opinions. Whether they are true or false, even if they are related to a town sponsored activity, they refer to one person's belief of what may or may

not have happened. To my knowledge, there has been no direct comment accusing an individual of doing an illegal activity, just questions about it.

- Comments made about individual's or business during public meetings – Again, are opinions of one person. The Town does not have the right to stop a person for expressing an opinion, or take action after the fact.
- Boorish Behavior – Again, is the right of an individual. Comments, or criticisms from one individual about another are destructive, and do not promote public participation, but they are not grounds for removal.

Any individual who has perpetrated these actions potentially opens themselves up to court action by an aggrieved individual, but in the opinion of Counsel, the Town is on difficult legal ground performing such an action and avoiding suit from the aggrieved party after the action.

Legalities aside, it is my opinion that the six categories of behavior that I just illustrated are contrary to the public process. I encourage board and committee members who are involved in the activities outlined to cease this disruptive activity immediately.

I will continue to investigate any complaints brought forward, but absent a clear violation that will allow me to terminate an appointment without legal risk or impediment, board and committee members will remain in place to the end of their terms.

Article 7, Section 8 closes with:

Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when the term for which such person was appointed has expired.

As all legal impediments are removed at the end of a member's term, this is the methodology that I intend to use to remove members whose behavior may not allow for removal, but is objectionable nonetheless. While I am loath to remove knowledgeable citizens who wish to serve the Town, there are times when that knowledge is outweighed by their behavior.

Thank you for your attention in this matter.



**TOWN OF UXBRIDGE
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dgenreux@uxbridge-ma.gov**

**David Genreux
Town Manager**

November 28, 2016

To: Board of Selectmen
From: David Genreux, Town Manager

RE: Town Manager Report

I am pleased to provide the Board of Selectmen with a report of current activities of the Town Manager's Office.

- Preparation/compiling Department's Capital Plan
- Ongoing processing of annual license renewals – common victuallers, dealer's license, entertainment, auto amusement, alcohol
- Ongoing preparation of annual town report
- Attended Cert Team Meeting
- Ongoing negotiations - Pilot Agreements (2)
- RFP Dog Park – bid due date 11/17 – meetings with committee
- Meeting with residents – Waterman Way street acceptance
- Attended meeting with DEP – Update Administrative Consent Order – Millville Road
- Poll Workers – minimum wage salary

Please contact me with any questions.