

**Town of Uxbridge Board of Selectmen
Meeting Minutes-Regular Session**

July 10, 2006

Roll call

The following persons were present: Chairman Julie Woods, Vice Chair Arthur DuBois, Clerk Dan Stack, Sel. Jim Dwyer, Sel. Kevin Kuros, Town Manager Jill Myers, and BOS Assistant Joseph Smith.

Call to order

Chairman Woods called the meeting to order at 7:00 p.m.

• **Announcements**

- o Sel. Stack commended the Whitin Middle School on the success of their recent debate.
- o Sel. Dwyer commended the 4th of July Committee on the success of their recent festivities.
- o Sel. Woods officially welcomed Joseph Smith as Assistant to the Board of Selectmen.

• **Citizens Forum**

- o Jeff Ritter, Executive Director, addressed the Board regarding the Blackstone Valley Chamber of Commerce and to formally invite the Board and the citizens of Uxbridge to the upcoming Blackstone Valley Celtic Festival on July 22 & 23rd.
- o Peter Baghdasarian addressed the Board regarding the legal expenses that the Town incurred for \$1300 in relation to the Spring Annual Town Meeting. Mr. Baghdasarian stated he felt that counsel had very little input at Town Meeting. He referenced a practice in the City of Framingham.
 - Sel. DuBois noted that the legal fees are a collective expense for preparation of the warrant and not just for attendance at Town Meeting.
- o Mary Ann Baker of South Main Street, Uxbridge, addressed the Board regarding the dumping of rubbish and household items along the banks of River Road. Ms. Baker indicated that this area has been continuously used as a dumping area for leaves, trash, and other household items and this is not the first time she has brought this matter before the Board.
 - Chm. Woods asked for clarification as to whether or not the items previously dumped had been taken care of- Ms. Baker indicated that this had not been done.
 - Chm. Woods suggested that the Town Manager investigate this with the appropriate departments and provide a response to the BOS and Ms. Baker. The Board also requested that the Town Manager research whether or not fees could be levied against anyone caught dumping illegally or if posting would be required.

ACTION ITEM: Town Manager to follow-up on complaint.

- o Rachel MacGillivray of 395 West Street addressed the Board regarding excessive noise and illegal parking activities by patrons of The Habitat. Ms. MacGillivray indicated that there are noise issues starting at 7:30 in the morning and going until past midnight some days. She asked the Board if there was some kind of uniform noise control standard that could be enforced in the area around The Habitat and who is in charge of enforcing this standard.
 - Chm. Woods asked for time for the Board to research the matter and indicated that she would review this matter with the Town Manager and the appropriate departments and respond in writing.
 - Sel. Stack commented on the parking in the area and how poor it is for the needs of the area.

ACTION ITEM: Town Manager to follow-up on complaint.

- o Steven Griff of 2 Ironstone Road addressed the Board regarding their decision to proceed with court action against him regarding the usage of his property as a motocross track. Mr. Griff recapped the legal fees involved to date in this case and indicated that he will not back down from the matter until the court case has been resolved one way or the other. Mr. Griff also provided the Board on 7/10/06, with a copy of a letter from his Attorney Mr. Stephen Gordon, dated September 9, 2005, requesting that the Board close down The Habitat for similar Zoning violations to those involving Mr. Griff's property.
- o Howard Fortner of 44 North Main Street addressed the Board regarding a suggested correction to Article 22 from the May 9, 2006 Town Meeting. Mr. Fortner provided supporting documentation regarding his correction that the Section referred to in the Article should be Section III and not Section II as published.
 - Chm. Woods asked the Town Manager to put this in a tickler file so that it could be addressed at a future Town Meeting. A response to Mr. Fortner will also be sent on behalf of the Board thanking him for bringing the matter to the Selectmen's attention.

ACTION ITEM: Draft a letter to Mr. Fortner in response to this matter. The change will be in an article for the Fall Town Meeting.

- o Mike Benedetto of 664 West Street addressed the Board in support of Mr. Steven Griff.
 - Chm. Woods thanked Mr. Benedetto for his comments and stated that the Board, due to the ongoing legal case, does not permit open discussion.
- o John Spicer of 405 River Road addressed the Board in support of Mr. Steven Griff. Mr. Spicer is a new resident of the Town and claimed he moved here as a result of their being a motocross track here. Mr. Spicer asked the Board to consider negotiating a settlement with Mr. Griff that would permit "reasonable hours of operation for the track."

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- o Scott Lecour addressed the Board in support of Mr. Steven Griff. Mr. Lecour stated that the Town is “missing an opportunity” in his opinion to offer this park to the residents of Uxbridge. He also asked the Board to consider negotiating restrictions on hours to allow the park to continue to operate.
 - Chm. Woods thanked Mr. Lecour for taking the time to address the Board and added that the Uxbridge Motocross Track did make 2 attempts to go to Town Meeting to change the Zoning By-laws of the Town.
- o Chm. Woods closed Citizens Forum at approximately 7:50 p.m. noting that no one else wished to address the Board.

Consent Items

- Meeting minutes from the regular session of 6/12.
 - o **MSDV by Sel. Dwyer, seconded by Sel. DuBois, to approve the meeting minutes as submitted. The motion passed unanimously.**
- Meeting minutes from the regular session of 6/19 were reviewed for corrections.
 - o **MSDV by Sel. Stack, seconded by Sel. Dwyer to approve the meeting minutes as amended. The motion passed unanimously.**

Public Hearings/Appointments

- Chairman Woods continued the Public Hearing on the Lavallee Gravel Permit at 8:00 p.m.
 - o **MSDV by Sel. Dubois, seconded by Sel. Stack, to open the Public Hearing. The motion passed unanimously.**
- The applicant, in a written letter, requested a continuance to 07/24/06.
 - o **MSDV by Sel. Dwyer, seconded by Sel. Stack, to move the Public Hearing to the next meeting as requested. The motion passed unanimously.**

Old Business

- Sewer Betterment Charges
 - o The Board discussed the Sewer Betterment charge that is being disputed by Mr. and Mrs. Davis for \$831.00. Finance Director David Genereux addressed the Board on the history of the Betterment charge that is levied against residents to reimburse the Town towards the \$3 million that was spent to lay the sewer lines starting in 1979. Mr. Genereux explained the differences between Betterment and a Sewer Privilege fee and indicated that M.G.L. Ch. 83 validates the practice. Sel. Stack inquired as to how long the fee had been in place and Mr. Genereux responded that all 2,215 users of the Town sewer system have paid the same \$831 fee since 1979 when the practice was adopted. Sel. Kuros asked about the numbers used and inquired if data exists from 1979 to support the determination of the \$831 fee. Sel. Kuros also asked about the Enterprise fund and when it was established. Sel. Dwyer questioned why we are charging the fees for new users to the Sewer system when the system was set up for those property owners who were added the Sewer system at its inception in 1979. He sees no logic in still levying the fee for the Douglas Street property and referenced By-law 22. Chm. Woods recapped that the project was mandated

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by the State to address health concerns and that the system benefits all the citizens of Uxbridge. Sel. Dwyer is researching the minutes from the Board meetings from 1979 to determine if it was the intent of the Selectmen to only assess the fees to those who were tying into the system at the time of its inception. Sel. DuBois added that this review could help to determine if the \$831 fee was sufficient or if it was not sufficient to cover the costs to the Town of installing the Sewer system. Sel. Kuros stated that the Board should have the term benefit defined as it applies to this matter. Chm. Woods suggested a continuation of this matter to review minutes from the Board meetings in 1979.

- Quaker Highway (Lavallee) Property Purchase-Status report from Town Manager
 - o Town Manager Myers updated the Board on the timeline of the Lavallee Property Purchase. The Purchase and Sale was received on 5/8. On 5/7 the DPW Superintendent, Gravel Permit Inspector, and the Finance Director met with the applicant re: site work. A permit hearing was originally scheduled for 6/12, was continued to 7/10, and again now to 07/24, at the request of the applicant, for the public to respond. Ms. Myers indicated that the Architect for the plan has reviewed the site and the plans for the school do work with the site. An initial site design is being sent to the Town Manager for review. Other matters pertaining to this matter were tabled for Executive Session.
 - o **MSDV by Sel. Kuros, seconded by Sel. Dwyer, to come out of the scheduled Executive Session at the end of the meeting to establish a Committee for continuing the work on the Lavallee Property purchase. The motion passed unanimously.**
- BOS Appointments
 - o Town Manager Myers addressed the answer to Sel. Kuros's question from the prior meeting regarding the Party status of the Town Clerk. The Town Clerk is now considered "unenrolled" as she has been out of either Political Party for more than two years. Ms. Myers indicated the Board is free to choose the next member of the Board of Registrars from either Political Party but could seek candidates from both parties. Sel. DuBois added that the Board should use caution calling this a "reappointment process" when in fact, it is a new appointment. Sel. DuBois reiterated the fact that he would like to see the Board select a Democrat for the Board of Registrars as there is a 2 to 1 ratio in the town of Democrats to Republicans. The Town Manager also reminded the Board that the deadline is approaching for the reappointment of election workers for the Town. The BOS needs to act on this matter prior to August 15, 2006. After discussion the Board moved to ask the Republican and Democratic Town Committees to forward a list of those individuals qualified and willing to serve as election workers.
 - o The Board also accepted the resignation of Registrar Bellacqua and the Chairman was supported in her request to send a letter of thanks to Mr. Bellacqua for his service to the Town.
 - o **MSDV by Sel. Stack, seconded by Sel. Dwyer, to ask the Republican and the Democratic Town Committees to each forward a list of three candidates each**

for the opening on the Board of Registrars. The motion was approved unanimously.

ACTION ITEM: Draft a letter to the Republican and Democratic Town Committees requesting a list of nominees for the Board of Registrars.

ACTION ITEM: Draft a letter to the Republican and Democratic Town Committees requesting a list of qualified and trained election workers.

ACTION ITEM: Draft a thank you letter to Registrar Bellacqua for his service.

- Appointment of Town Counsel
 - o Mr. Genereux and Ms. Myers reviewed the spreadsheet provided to the Board outlining the costs for each firm being considered to be the ongoing legal counsel for the Town.
 - o Ms. Myers added that the benefit in going with the Merrick firm was that they would have the Town on a legal retainer system which has the potential to save the Town nearly \$30,000 over Kopelman & Paige. This savings is based on the calculations done by Mr. Genereux and are added as part of these minutes. The projections assume that the Town would continue to spend 70% of their litigation budget on counsel, 20% on litigation, and 10% on labor negotiations.
 - o Mr. Genereux added that he has some experience working with the Merrick firm and that the firm performed well and he had an excellent working relationship with them.
 - o The Board discussed the need to ensure that savings on legal costs would be achieved by switching to Merrick, Louison, & Costello. Areas of concern included:
 - Would the Town see a substantial increase in the retainer in second and subsequent years; would there be a transition fee for moving existing legal work from one counsel to the other, could special services be cut to the point that would bring the proposal from existing counsel more in line with that of the proposal from Merrick, Louison, & Costello?

ACTION ITEM: Staff to determine the litigation budget scenarios to use in the comparison of RPF's for each legal firm; Research Transition fees from existing to a new legal firm if a change is made; Research with current legal counsel as to if their fees will change if we use them as special counsel.

New Business

- Update from Historic Cemetery Commission
 - o Shelly Merriam, Chair of the Commission, addressed the Board regarding the Norden Cemetery in Uxbridge. The cemetery is being neglected because the Commission is unable to determine who is responsible for the upkeep of the cemetery or whom to contact regarding the upkeep. The existing owners of the property are listed as Trustees of the Norden Cemetery, which has apparently ceased to exist. Ms. Laurie Berthelette is known to have records pertaining to the cemetery and also the Norden Society who originally created the cemetery. The Commission is seeking help from the Board to declare the property abandoned and neglected and to urge Ms. Berthelette to come forward with any records she has pertaining to the cemetery. The Uxbridge Historic Cemetery Commission is requesting the Board declare the cemetery abandoned or

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neglected property pursuant to M.G.L. 114, §18. They would also like the Board's assistance in obtaining documents from Ms. Berthelette pertaining to the cemetery. Sel. Dwyer questioned if the Board was required to advise anyone of their action to declare the cemetery abandoned or neglected property and if the Board would be inviting any financial liability for assuming control of the property.

o **MSDV by Sel. DuBois, seconded by Sel. Dwyer, to:**

1. Declare the Norden Cemetery as abandoned or neglected property per M.G.L. 114, §18 ;

2. Authorize the Uxbridge Historic Cemetery Committee to proceed with the superintendence of it; and

3. Authorize Sel. DuBois to assist the Historic Cemetery Committee in its efforts to obtain information relative to the members of the cemetery.

The motion was approved unanimously.

Old Business-continued

- Consider Town Manager Goals and Objectives
 - o The Board discussed the goals document provided to them by Ms. Myers. Chm. Woods noted that all goals set were to be in compliance with M.G.L. Sel. Kuros suggested that a self-evaluation form be utilized in the evaluation of the Town Manager's performance at the end of the year. Ms. Myers noted a performance evaluation form is included with her contract and she would gladly review his suggestions. The Board took no action.
- Local Government Reform-Sel. Kuros
 - o The Board decided to move this to a future meeting considering the hour.
- Discuss Standard Warrant Articles for the Spring Annual Town Meeting –Sel. Dwyer
 - o The Board decided to move this to a future meeting considering the hour.
- Chm. Woods asked to revisit the motion on access to Town Counsel by department staff in the absence of the Town Manager. As the procedure now stands communication would be directed to the Chairman of the Board of Selectmen or the Vice-Chairman. No action occurred.

New Business continued

- End of Year Fiscal Transfers
 - o Mr. Genereux reported to the Board on the transfer of expense to close out the previous fiscal year. Most items are minor and relate to additional payroll expenses in various departments. Mr. Genereux provided a spreadsheet to the Board that detailed each transfer item. A copy of this report is added to these minutes.
 - o **MSDV by Sel. Dwyer, seconded by Sel. Stack to approve the recommended transfers contingent upon approval by the Finance Committee at their upcoming meeting. The motion was approved unanimously.**
- Schnorr Gravel permits expiring (#35,36) status

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- o Sel. Dwyer expressed concern that the Board had not held a hearing yet regarding the upcoming expiration of these permits. Rachel Landry reported that the owner had not filed a request for an extension, although notification had been sent to him. Discussion relative to permit expiration and the process that the Gravel Pit Inspector uses to track permits that have expired or are due to expire. Chm. Woods suggested that Ms. Landry, the Gravel Pit Inspector, be contacted for a review of all gravel permits and a report issued back to the Board of their statuses.

ACTION ITEM: Contact the Gravel Pit Inspector for a list of expiring permits for review by the Board of Selectmen.

- Animal Control concerns
 - o This item is not on tonight's agenda: Sel. Stack commented about a recent article regarding an animal attack and noted that the Board should add this issue to a future agenda for discussion and review. Chm. Woods added that this is on a list of pending items for future BOS meetings.

Town Manager Report

- The Town Manager presented a written report to the Board of Selectmen. A copy of this report is added to these minutes.

Correspondence/Other Business

Executive Session

At 10:30 p.m., MSDV by Sel. Kuros , seconded by Sel. Dwyer , to enter Executive Session for the purposes posted: To consider the purchase, exchange, lease, or value of real property if such discussion may have a detrimental effect on the negotiating position of the governmental body. The motion passed unanimously. RCV: Kuros-aye, Dwyer-aye, Stack-aye, Woods -aye, DuBois-aye.

- **MSDV by Sel. Kuros , seconded by Sel. Dwyer , to come out of Executive Session for the purpose of appointing an ad-hoc committee to finalize negotiations for the Lavallee land purchase at 11:40 p.m. The motion passed unanimously. RCV: Kuros-aye, Dwyer-aye, Stack-aye, Woods -aye, DuBois-aye.**
- Proposal of an ad hoc Negotiation Committee for the Lavallee purchase was discussed directly after Executive Session. Based on the Town Manager's report, the Board supported the need for a committee and agreed to the following composition: Co-chairman of the School Committee, Chairman of the Board of Selectmen, Superintendent of Schools, a Co-Chair of the Scholl Building Committee, and the Town Manager.

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- **MSDV by Sel. Dwyer, seconded by Sel. DuBois , to have the Town Manager appoint the above-mentioned positions to the Ad hoc Negotiation Committee. The motion passed unanimously.**

- Next Meeting

Considering the hour, the Board voted to hold an off-night Meeting on Wednesday, July 19, 2006 to convene an Executive Session to complete further matters pertaining to MGL c.39, §23B, #6.

- **MSDV by Sel. Stack, seconded by Sel. Kuros, to hold an off-night Board of Selectmen Meeting on 07/19. The motion passed unanimously.**

Adjournment

- With no other business before them, at 11:55 p.m., Chm. Woods adjourned the meeting.
 - **MSDV by Sel. Dwyer, seconded by Sel. Stack, to adjourn. The motion passed unanimously.**

Minutes respectfully submitted by Joseph Smith, Assistant to the Board of Selectmen

Minutes approved by Board of Selectmen:

Chairman Julie A. Woods

Selectmen Jim Dwyer

V. Chairman Arthur O. DuBois

Selectmen Kevin Kuros

Clerk Daniel Stack

MSDV: Moved, Seconded, Discussed & Voted

RCV: Roll Call Vote