

Westborough Board of Selectmen  
Meeting Minutes  
July 21, 2009  
6:00 p.m. – 9:30 p.m.

Members Present: Chairman Emery, Vice Chairman Jane´, Selectmen Goldblatt and Dodd

Also, Present: James J. Malloy, Town Manager and Greg Franks, Town Counsel

\*\*\* **Selectman Thompson arrived at 6:45 pm**

The meeting was called to order at 6:00 p.m. by Chairman Emery. Town and School payroll and expense warrants were approved and signed.

### **Pledge of Allegiance/Open Forum**

Chairman Emery introduced the new Town Manager, Jim Malloy and welcomed him to his first official Board of Selectmen’s meeting.

### **Zaara Garden Local Initiative Program Application (LIP)**

Chairman Emery reiterated the information regarding Zaara Garden from the Board’s previous meetings. She indicated that the Board requested that the following Department Heads, Committees and Commissions review the materials that were sent to them and appear before the Board tonight for their comments: the Building Commissioner, the Conservation Commission, the Fire Chief, the Planning Board, the Department of Public Works, the Town Engineer, the Police Chief, the Board of Health, the Historical Commission, and the Housing Partnership Committee.

Captain Calvin Lawrence on behalf of the Fire Chief said that the Fire Department is not able to support Zaara Garden’s proposed development request due to not having fully developed plans and also believes that the proposed development of 14 home units on a 4 acre property is overdevelopment of that area.

Police Chief Gordon said that his concerns are the amount of traffic, traffic flow and the lack of visibility from the vehicles coming out from the development and the vehicles coming from East Main Street. Chief Gordon said that he needs a definitive plan to determine the height of the landscape.

Jim Robbins, Town Planner, said that he does not have adequate information to comment on some of the basic issues that he would have regarding the design on the property. He said that he shares the Police Chief’s concern of view and access on East Main Street.

Joe Inman, Building Commissioner, also said that he does not have adequate information and does have concerns regarding the drainage structure on these lots and the rights of the individuals regarding adding structures to their property. Chairman Emery asked Mr. Inman who would be the deciding entity for the waivers. Mr. Inman said that the Board of Appeals would decide on the waivers.

Steven Liedell, Chairman of Housing Partnership Committee, said that Mr. Danis, former Town Manager, requested that the committee research this property for affordable development. Mr. Ansari contacted the Committee and they collaborated on the proposed project before the submittal to the Board. The Committee feels that this is a very well done LIP project and submitted a letter of support to the Board of Selectmen. Mr. Liedell reiterated the process of previous LIP applicants that have come before the Board and said that if the Board of Selectmen supports the project then the process will be for the Town's various boards and committees to review the project and have all of their concerns answered.

Mr. Walden said that Town Engineer Carl Balduf has several concerns which are outlined in his memo of July 15, 2009 that was sent to the Board (memo attached).

Selectman Goldblatt noted two of Mr. Balduf's general comments: #8. "No provision is apparent for Stormwater Management" and #12. "There is no indication as to whether this road will remain private or is intended for acceptance as a public way".

Vice Chairman Jane' noted #15 of Mr. Balduf's general comments: "The 30' strip of land between #8 and #12, Granger Road, is represented as a locus parcel and was included in the judgment from the Land Court (tax taking). This strip is used as an access to Granger Road. The assumption under Mass General Law is that strips (roads) of this nature are owned by the abutters. This principal is referred to as the "derelict fee statute". The proponent should prove that their title documents support a claim to the contrary".

Kristina Allen, Housing Partnership Committee, noted that the LIP is a 40B. She said that the LIP was created by the towns with input from all of their Departments because the towns did not have any say of these projects before. She said that the process starts from the Town then proceeds to the State.

Mr. Malloy said that the LIP is a State program (administered by the Department of Housing and Community Development (DHCD)) that was established to give cities and towns more flexibility in providing low and moderate-income housing. Mr. Malloy said that the Comprehensive Permit Projects must meet the requirement in the MGL Ch. 40B and the regulations of 760 CMR 56.00. The project must have the written support of the Chief Executive Officer and that the Department encourages developers and municipalities to consult with the local housing partnership committees and provide evidence of the partnership's support (excerpts of MGL's attached). Mr. Malloy said that with the LIP process the town does have several advantages by working upfront with the developer and proceeding with a project that the Town and the developer are satisfied with.

Chairman Emery asked Mr. Malloy what is the difference between a straight 40B (Comprehensive Permit) versus the LIP. Mr. Malloy said that the application would be submitted to the Board of Appeals and does not include the Board of Selectmen's comments or concerns of the project. He also said that the plan might look different from when it was submitted at the end of the process. Mr. Malloy noted that the Board of Selectmen is not involved at all in a 40B Comprehensive Permit process.

Mr. Malloy said that according to the updated housing subsidizing inventory list from the DHCD it lists a total of 671 out of 6,729 subsidized units and places the Town of Westborough two housing units short of 10%. Mr. Malloy noted that this figure does not include the Park Place Development Comprehensive Permit which was approved last year. With that information the figures change to the following: one or two units above the 10% level (if Park Place affordable units are four we would be two units above the 10% level; if it is three affordable units then the town would be one unit above the 10%).

Mr. Ansari said that all of the Board's and the Department Head's questions and concerns will be addressed during the process if the Board supports the project.

The Board's consensus was not to proceed at this time and agreed upon having a public hearing for the residents of Granger Road to be heard at the Board's August 18<sup>th</sup> meeting along with having Mr. Ansari answer in detail the Department's concerns and Chairman Emery's questions as given to Mr. Ansari (questions attached). Chairman Emery added the following question to the list: "Have you ever gone into receivership or bankruptcy in any of your projects"? Vice Chairman Jane' also requested Mr. Ansari to submit the following answer to his question: "To give an economic impact analysis of what the Board is agreeing to" Mr. Ansari agreed answering the questions that were presented to him.

Vice Chairman Jane' moved to place the Zaara Gardens LIP Application at the Board's August 18<sup>th</sup> meeting for a vote and further moved to advertise the item as a public hearing and invite the residents of Granger Road and further moved to include a set of provisions and have Mr. Ansari answer all of Chairman Emery's questions along with all of the concerns that the towns departments, committees and commissions have voiced. Selectman Dodd seconded.

**Motion Amended:**

Vice Chairman Jane' moved to place the Zaara Gardens LIP Application at the Board's August 18<sup>th</sup> meeting agenda for a vote and further moved to advertise the item as a public hearing and invite the residents of Granger Road and further moved to include a set of provisions and have Mr. Ansari answer all of Chairman Emery and Vice Chairman Jane's questions along with all of the concerns that the towns departments, committees and commissions have voiced and further moved to have Mr. Malloy compile Mr. Ansari's responses. Selectman Dodd seconded.

Selectman Dodd requested that copies of Mr. Ansari's answers be giving to the Housing Partnership Committee by Mr. Malloy. The Board agreed with Selectman Dodd's request.

Selectman Dodd requested that Mr. Malloy research the LIP application process throughout the surrounding towns and to create a town process for future use. Mr. Malloy acknowledged Selectman Dodd's request.

3-2 (Selectman Thompson and Chairman Emery)

**CMMPO Walkable Community Workshops/Selectman Dodd**

Selectman Dodd requested that the Central Massachusetts Metropolitan Planning Organization (CMMPO) be placed at the Board's August agenda for discussion.

Selectman Dodd explained that the (CMMPO) is spearheading a three-hour workshop to view pedestrian facilities and how they serve walker's needs that will help participants become educated on how to make their community more pedestrian friendly (sample agenda and overview of workshop is attached). The Board agreed to have this item placed on their August meeting agenda.

### **Approval of the Board of Selectmen's Meeting Minutes**

- March 31, 2009
- April 2, 2009

Selectman Dodd moved to approve the Board of Selectmen's meeting minutes of March 31, 2009 and April 2, 2009. Vice Chairman Jane' seconded.

Vice Chairman Jane' requested the following corrections:

March 31<sup>st</sup> minutes page 3 change verse to verses and page 5 change giving to given. Ms. Ruberti acknowledged the corrections. 5-0

### **Request to Appoint a Member to the Recreation Commission/Recreation Director**

Mr. DeSiata requested that Mr. Jewett be appointed as a Voting Member to the Recreation Commission.

Selectman Thompson moved to appoint Todd Jewett as a Voting Member to the Recreation Commission with a term ending June 30, 2010. Vice Chairman Jane' seconded. 5-0

### **Request to Appoint a Member to the Country Club Operating Committee/Country Club Chairman**

Mr. Willwerth, Chairman, requested that the Board appoint Mr. Gibson as a Non-Voting Member to the Country Club Operating Committee for a term ending June 30, 2010.

Selectman Goldblatt moved to appoint Ross Gibson as a Non-Voting Member to the Country Club Operating Committee with a term ending June 30, 2010. Vice Chairman Jane' seconded. 5-0

### **Request to Appoint a Member to the Historical Commission/Historical Commission Chairman**

Ms. Speckman, Secretary, requested that the Board appoint Mr. Nappa as a Non-Voting Member to the Westborough Historical Commission with a term ending June 30, 2010.

Selectman Goldblatt moved to appoint Jason Nappa as a Non-Voting Member to the Westborough Historical Commission with a term ending June 30, 2010. Selectman Thompson seconded. 5-0

**Site Plan Review: Public Safety Building/ Municipal Building Committee**

*Present: Members of the Municipal Building Committee, Brian Humes and Thomas Linden, Architects*

Mr. Humes requested that the Board approve the Site Plan of the Public Safety Building located at 42-50 Milk Street. Mr. Humes said that the building is a 62,000 square foot building with three floors. The building will house the entire Police and Fire Departments. Mr. Humes and Mr. Linden explained the entrances, exits, type of stone/brick, signage and the surrounding vegetation. Mr. Humes noted that a piece of steel from the World Trade Center will be placed on the exterior of the building as a memorial.

Selectman Goldblatt moved to approve Site Plan Item #1/2009, subject to all the written comments of the various boards and agents and Thomas Linden’s, M.R. Roming Associates, letter dated June 30, 2009 answering the various departments concerns. Selectman Thompson seconded. 5-0

**Request to Place Public Safety Building Article on Fall Town Meeting**

Mr. Blois requested the Board’s support to place the Public Safety Building Article on the Fall Town Meeting Warrant to present solid figures for the entire project which will create a debt exclusion ballot question if it passes.

Selectman Goldblatt moved to support placing the Public Safety Building Article on the Fall Town Meeting Warrant. Chairman Emery seconded. 3-2 (Vice Chairman Jane´ and Selectmen Dodd)

**Green Technology Advisory Group/Board of Selectmen Chairman**

Chairman Emery noted that this item is postponed to the Board’s August 18<sup>th</sup> meeting for a vote.

**Storm Drainage Issue Update/Jackstraw Update/DPW Manager**

*Present: John Walden, DPW Manager; Carl Balduf, Town Engineer; David White Wooden Curran Consultant*

Mr. Walden informed the Board that on July 7<sup>th</sup> and 8<sup>th</sup> the whole town experienced extreme rain storms that accumulated a total of four to eight inches of rainfall within in two to three hours continuously. Because of the storm’s magnitude the town had extreme run off conditions and extensive damage on the following streets because of the town’s drainage system failed.

- Warren Street
- Chestnut Street
- Kay and West Streets
- Oldham Road
- South Street Culvert

Mr. Walden said that some of the above mentioned streets are being currently addressed and the others will also be addressed in the very near future.

Mr. Walden noted that in a few instances (erosion and sediment occurred) the Town has assumed responsibility for clean up either by the Department of Public Works or the Town’s insurance.

*Jackstraw Brook Update:*

Mr. Balduf gave a brief history regarding the Warren Street culvert and the Jackstraw Brook watershed and supports Alternative A-2: Bypass at Warren Street Culverts as recommended by David White, Woodard and Curran Town's consultant in the amount of \$545,000. Mr. White explained in great detail the feasibility study findings along with the different options and associated costs. Mr. White said that the recommended measure (Alternative A-2) would have the capacity to handle a 100-year storm. He said that the structure would require a 15-foot weir and the bypass would be a 3-foot by 10-foot box culvert.

After a lengthy discussion of the different options the Board voted the following:

Selectman Goldblatt moved to instruct the Department of Public Works Manager to move forward with Alternative 2-A as recommended by Woodard & Curran for the design review portion and to revisit the Board within a month's time with an update and further moved to have an article placed at the fall town meeting warrant for funding. Vice Chairman Jane' seconded.

Selectman Thompson asked Mr. Malloy to request that Town Counsel investigate if the developers have any responsibility for mitigation costs because of their development constructions have changed the topography and have contributed to the run off issues that the town is now facing. Town Counsel Franks acknowledged the request. 5-0

**Town Counsel Report**

Town Counsel Franks inform the Board that the over quota liquor licenses that were approved at town meeting are moving forth and recommends that the Board read the updated open meeting law packet that he submitted to them a few days ago.

**Town Manager Report**

- *Donation from Port Authority of New York and New Jersey*

Mr. Malloy noted that this is the piece of steel from the World Trade Center that the Municipal Building Committee announced earlier under their site plan review.

Selectman Goldblatt move to accept the piece of steel from the World Trade Center identified as G-0064 from the Port Authority of New York and New Jersey and further to authorize Leigh Emery as Chair of the Board of Selectmen to execute the agreement between the Port Authority and the Town of Westborough, dated 7/21/09. Selectman Dodd seconded. 5-0

- *Bay State Commons Park \$10,000 (Park Maintenance)*

Selectman Goldblatt move that the Department of Public Works, acting on behalf of the Town of Westborough be, and hereby is authorized, pursuant to section 53A of chapter 44 of the Massachusetts General Laws, to accept and expend an award from the Westborough CC LLC, in an amount not to exceed Ten Thousand Dollars (\$10,000.00) for the purpose of park maintenance and improvements for the park at Bay State Commons. Vice Chairman Jane' seconded. 5-0

*Establishment of the Bay State Commons Park Committee, Ad Hoc*

Selectman Goldblatt move to establish the Bay State Commons Park Committee, Ad Hoc to advise the Board of Selectmen on matters related to the park conveyed to the Town by Bay State Commons and for the Committee, including naming of the park and for the Committee to terminate on 6/30/10 unless extended by the Board of Selectmen. Selectman Thompson seconded. 5-0

*Bay State Commons Park Rules and Regulations:*

Selectman Goldblatt moved to approve the Rules and Regulations for the Town Common (land conveyed to the Town by Bay State Commons, yet to be formally named) as attached and dated 7/21/09. Selectman Thompson seconded.

Town Counsel Franks informed the Board of the following minor addition under number *I-Prohibitions: letter "C"* of the rules and regulations:

- “Those bring pets to the Town Common must curb their animals (kept on sidewalk) to prevent them from urinating or defecation on the grass, and must remove all animal waste from the park.” 5-0
- *DCAM-“Parcel F”*

Selectman Goldblatt moved to request Representative Polito’s office to submit special legislation on behalf of the Town that would allow public works, municipal nursery and firing range uses on “Parcel F” that was conveyed to the Town by the MA Division of Capital Asset Management by (book 13114, page 169 – Worcester Registry of Deeds). Selectman Dodd seconded. 5-0

- *Town Manager Goals*

Chairman Emery read the Draft Proposed Goals for Town Manager Jim Malloy as stated below:

1. Perform the assigned responsibilities in the Town Manager job description to the best of his ability.
2. Develop a positive working relationship with all Town Department Heads and Town Hall Employees, and Town Manager staff.
3. Establish a 3-5 year budget/fiscal forecast in collaboration with the Town Finance Team, the Capital Expenditures Committee, the Board of Selectmen, the Advisory Finance committee and the School Committee.
4. Evaluate Town Manager, Town Hall, and the Board of Selectmen’s processes for purpose of recommending process improvements.

5. Communication:
  - a. Evaluate the Town's methods of communication with the public;
  - b. Establish a communication system (monthly meeting, etc.) with department heads;
  - c. Support the Board of Selectmen committee liaison program as a means of communication with volunteer committees and;
  - d. Establish a formal communication structure (memos) with the Board of Selectmen.
  
6. Building Maintenance:
  - a. Evaluate the needs of all Town Buildings

Selectman Dodd requested to include a 7<sup>th</sup> item: "Review the Personnel Bylaw Draft Proposals to update the Town Bylaws and coordinate with the Personnel Board and the Board of Selectmen with a goal of having agreed upon an update for the annual town meeting". The Board agreed with Selectman Dodd's request of including an item 7 under the Town Manager's goals.

The Board discussed at length the differences between goals, tasks and new initiatives. The Board agreed having Selectman Thompson coordinate the revisions with Mr. Malloy.

- *Wastewater Treatment Plant Fee Waiver Request*

*Present: Jack Goodhall, Administrator; Mike Stanton, Chairman*

Mr. Goodhall requested that the Board approve to waive all fees under their preview that are associated with the Wastewater Treatment Plant upgrade. Mr. Goodhall indicated that at this moment they do not know the exact amount of permitting costs.

Selectman Goldblatt moved to waive the fees for the Wastewater Treatment Plant project as stated in the Town Engineer Carl Balduf's memo dated 7/1/09 but to require any costs associated with contractual inspections or inspections conducted by town staff on overtime to be paid by the Wastewater Treatment Board as part of the project. Vice Chairman Jane' seconded. 5-0

- *Zimka Estate*

Town Counsel Franks informed the Board that John Zimka, left the Town a total of \$582,889 with the bequest divided for the purchase of a flag for the Senior Center, the Library and for Paramedic Services. He said that Mr. Zimka utilized these services over the years and desired to leave these funds to thank the town for the services he received and requested that the Board approve the funds under MGL Ch. 44, §53A. Town Counsel Franks noted that Mr. Zimka's attorney has notified the Town that Mr. Zimka's estate is being challenge at this time.

Selectman Goldblatt moved that the Trustees of Soldiers Memorials, acting on behalf of the Town of Westborough be, and hereby is authorized pursuant to section 53A of chapter 44 of the Massachusetts General Laws, to accept and expend an award from the Estate of John Louis Zimka, in an amount not to exceed One Hundred Dollars (\$100.00) for the purpose of purchasing a flag and further moved; that the Senior Center, acting on behalf of the Town of Westborough be, and hereby is authorized pursuant to section 53A of chapter 44 of the Massachusetts General Laws, to accept and expend an award from the Estate of John Louis Zimka, in an amount not to exceed One Hundred Sixty Nine Thousand Five Hundred Thirty Eight Dollars and Fifty Eight Cents (\$169,538.58) for Senior Center purposes and further moved; that the Public Library, acting on behalf of the Town of Westborough be, and hereby is authorized pursuant to section 53A of chapter 44 of the Massachusetts General Laws, to accept and expend an award from the Estate of John Louis Zimka, in an amount not to exceed One Hundred Sixty Nine Thousand Five Hundred Thirty Eight Dollars and Fifty Eight Cents (\$169,538.58) for Library purposes and further moved; that the Fire Department, acting on behalf of the Town of Westborough be, and hereby is authorized pursuant to section 53A of chapter 44 of the Massachusetts General Laws, to accept and expend an award from the Estate of John Louis Zimka, in an amount not to exceed Two Hundred Forty Three Thousand Seven Hundred and Eleven Dollars and Seventy One Cents (\$243,711.71) for paramedic purposes; and to authorize the Chairman of the Board of Selectmen to execute any documents necessary to carry out this bequest. Selectman Dodd seconded. 5-0

- *Wastewater Treatment Plant Pollution Abatement Trust Borrowing*

Ms. Savignac, Town Treasurer/Collector, requested that the Board approve the inflow and infiltration study borrowing for the Wastewater Treatment Plant. She said that the borrowing is an interim loan from the trust and will be a total of \$463,000 at an interest rate of .33%.

Chairman Emery moved to issue a bond or bonds in an aggregate principal amount not to exceed \$463,000 pursuant to Chapters 29C and 44 of the General Laws and a vote of the Town passed May 17, 2008 (Article 18C), which authorized a total borrowing of \$463,000 for the planning and construction of sewers and other water pollution control facilities (note attached).

*\*Assistant Town Clerk Wendy Mickel witnessed the Board's signatures.*

- *Wastewater Treatment Plant Bond Issuance*

Mr. Malloy requested and recommended that the Board approve a 20 year Wastewater Treatment Plant Debt Service on the rate payers for the next three years at an interest rate of 2.0% (town accountant's memo attached).

Vice Chairman Jane´ moved to approve a 20 year debt issuance for the Wastewater Treatment Plant Project. Selectman Dodd seconded. 5-0

Mr. Malloy noted that he has been here for approximately three weeks and that the staff and the community have made him feel very welcome and is very glad to be here. Chairman Emery noted that since Mr. Malloy has been here he has helped the Fire Department obtain a grant and identified opportunity to apply for another grant.

### **Issues and Correspondence of the Selectmen**

Selectman Thompson thanked and recognized Cliff Watts for his many years and service on the Advisory Finance Committee.

Vice Chairman Jane´ echoed Selectman Thompson’s comments and also thanked the Town’s public service employees for their outstanding service during the rain storms of July 7<sup>th</sup> and 8<sup>th</sup>.

Selectman Goldblatt also echoed Selectman Thompson and Vice Chairman Jane’s comments and requested that a letter of thank-you and appreciation be sent to all of the public service Department Heads for their and their staff’s outstanding work during the rain storms. Mr. Malloy acknowledged Selectman Goldblatt’s request. Selectman Goldblatt welcomed Mr. Malloy and noted that the Board is coordinating an open house for him and further details will be forth coming. Selectman Goldblatt noted that the Libby property (110 acres on Adams Street) is now Town owned and also requested that we keep our servicemen and women in our hearts and prayers who are so far from home.

Selectman Dodd echoed the Board’s sentiments regarding Mr. Watts and their support for our town public safety employees. Selectman Dodd said that he, Town Counsel Franks, and John Walden, DPW Manager, have met to write up a Tree Bylaw that hopefully will be ready for the fall town meeting. Selectman Dodd encouraged everyone to visit the Lee Property and enjoy the walking trails.

Chairman Emery thanked Tim Reiter and Tim Novak (new volunteer) for filming the Board’s meeting tonight.

### **Adjourn Open Session**

Selectman Goldblatt moved to adjourn the Board of Selectmen meeting at 9:30 p.m.  
Vice Chairman Jane´ seconded.

*Submitted by Nidia Ruberti*

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**Chairman Leigh Emery    Vice Chairman Rod Jané    Selectman Lydia Goldblatt**

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**Selectman Timothy A. Dodd                      Selectman George Thompson**