

Westborough Board of Selectmen
Meeting Minutes
September 8, 2009
6:10 p.m. – 8:47p.m.

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

Also, Present: James J. Malloy, Town Manager, Maryanne Bilodeau, Assistant Town Manager, Greg Franks, Town Counsel

Absent: Chairman Emery, Selectman Thompson

Selectman Goldblatt moved to enter into Executive Session for the purpose of collective bargaining and negotiating, pursuant to M.G.L. c39, Section 23B(3) as discussion in an open meeting may have a detrimental effect on the collective (coalition) bargaining and negotiating position of the Town of Westborough. Selectman Dodd seconded. The Board voted unanimously in favor of the motion by roll call vote to go into Executive Session. The Vice-Chair announced that the Board would reconvene in Open Session after the Executive Session.

The meeting was called to order at 7:00 p.m. by Vice Chairman Jane´. Town and School payroll and expense warrants were approved and signed.

Pledge of Allegiance/Open Forum:

Approval of the Board of Selectmen's Meeting Minutes

- August 18, 2009

Selectman Goldblatt moved to approve the Board of Selectmen Minutes of August 18, 2009. Selectman Dodd seconded. 3-0

Ratification of the Group Insurance Commission (GIC)

Selectman Goldblatt moved to ratify the Board of Selectmen's vote to conditionally accept Massachusetts General Laws (MGL) Chapter 32B, Section 19 for the purposes of reviewing and transferring all subscribers to the State Group Insurance Commission (GIC) for health insurance as previously adopted at Executive Session meeting on August 18, 2009. Selectman Dodd seconded.

Mr. Malloy said that adopting Chapter 32B, Section 19 allows towns to proceed in investigating the State's Group Insurance Commission Health Insurance. Once the local authority has approved the adoption of this statute it gives the town the ability to create a Public Employee Committee (PEC) which then reviews the health insurance benefits and the GIC. The PEC and the town of Westborough would negotiate the agreement; if the PEC agrees that the benefits are equivalent and both are in agreement with the outcome they will move forward.

Minutes: September 8, 2009

1.

Mr. Malloy said that it takes a 70% vote from each eligible union member and once the agreement has been settled the agreement and the application gets submitted to the GIC. The application deadline is December 1, 2009 if the GIC accepts the town's agreement the health insurance members will be transferred from their current health insurance to the GIC by July 1, 2010. 3-0

Request for Tavolino Restaurant/Graham Silliman

Present: Randy Watermen, Property Owner of 31-33 East Main Street; Marshall Gould, Attorney; Graham Silliman, Better Food Westborough LLC; Anthony R. Valletta, General Manager Tavolino Restaurant

- *All Alcohol Liquor License*

Attorney Gould requested that the Board approve an All Alcohol Liquor License for Tavolino Restaurant located at 33 East Main Street. He said that this request is related to the Town's rezoning Article 39 (Bay State Property) and from Article 40 (Request for Additional Liquor Licenses) for the purpose of downtown revitalization under the Zoning District entitled Downtown Planning Overlay District (DPOD District) Article 38 approved at the annual town meeting of 2004. Attorney Gould said that the restaurant is a very high quality eclectic restaurant with a very reasonable menu and a patio to serve their patrons.

Selectman Goldblatt voiced her concern of who was to receive the three additional liquor licenses under the DPOD rezoning. She said that she along with other individuals that were at the annual town meeting of 2009 was told that these liquor licenses would be strictly for the Bay State Commons vendors. Selectman Goldblatt said that she and others are still under that impression and have not heard anything different.

Selectman Dodd noted that he was not in attendance at the 2004 Annual Town Meeting but does have the legislation and the articles of that meeting and proceeded to read the approved legislation from Article 40 (attached). He said that the language in the legislation says that the licenses are restricted to the zoning district entitled "Downtown Planning Overlay District (DPOD)" and that the language states under Article 38, section 4930- that the DPOD shall be only within twenty-five hundred (2,500) feet of the intersection from the center line of Milk, Main and South Streets. He said that he does not find anything that would indicate that these liquor licenses would be solely for the Bay State Commons vendors and that Tavolino Restaurant is within the twenty-five hundred feet of the intersection from the center line of Milk, Main and South Streets as presented in the map that was handed out by Attorney Gould.

Attorney Mark Donahue, Westborough LLC, voiced his concerns regarding the approval of this request and also stated that the liquor licenses that were approved at the annual town meeting of 2004 were specifically for the Bay State Common vendors only. Attorney Donahue respectfully requested that the Board deny the all alcohol liquor license for Tavolino Restaurant.

Selectman Dodd moved to approve an All Liquor License to Better Food Westborough, d/b/a Tavolino Restaurant located at 33 East Main Street and further moved to name Anthony Valletta as General Manager, subject to receiving an approved fire and safety inspection certificate signed by the Fire and Building Departments and all other applicable documents. Vice Chairman Jane´ seconded.

Vice Chairman Jane´ noted that he appreciates everyone’s perspective and will vote base on what the article and legislation states.

2-1 (Selectman Goldblatt)

Common Victualer Permit

Selectman Dodd moved to approve the Common Victualer Permit to Better Food Westborough, LLC., d/b/a Tavolino Restaurant located at 33 East Main Street, contingent upon receiving all other documents as requested by the Town’s various departments. Selectman Goldblatt seconded. 3-0

Sunday Public Entertainment License

Selectman Dodd moved to approve a Sunday Public Entertainment License to Better Food Westborough, LLC., d/b/a Tavolino Restaurant located at 33 East Main Street. Selectman Goldblatt seconded. 3-0

Request to Appoint a Non-Voting Associate to the Historical Commission/Commission Chairman

This agenda item is postponed to the Board of Selectmen’s meeting of October 27, 2009.

Request to Reappoint Member to the Treatment Plant Board/Treatment Plant Board Chairman

Selectman Goldblatt moved to reappoint Mr. Joseph Farrell to the Treatment Plant Board for a term ending September 30, 2012. Selectman Dodd seconded. 3-0

Request to Place Signage on Robin Road/Police Chief

Police Chief Gordon requested that the Board approve placing “No Parking This Side” signs for the north side of Robin Road up to the corner of Milk Street for public safety issues.

Selectman Goldblatt moved to authorize the Department of Public Works to install “No Parking This Side” signs on the north side of Robin Road up to the corner of Milk Street. Selectman Dodd seconded. 3-0

Request for Hawker Peddler Permit Bylaw Change/Assistant Town Manager

Ms. Bilodeau requested that the Board support the Hawker Peddler Bylaw Change to reflect that the Police Chief be authorize to issue Hawker Peddler Permits and to authorize the permitting authority to the Chief of Police.

Ms. Bilodeau said that Police Chief Gordon and Town Counsel Franks are in support of this change and if approved by the Board the next step will be to submit an article for the fall town meeting and if the article passes the language change will be forward to the Legislature for approval.

Selectman Goldblatt moved to support the Hawker Peddler Bylaw Change to authorize the Police Chief to grant Hawker Peddler permits. Selectman Dodd seconded. 3-0

Ms. Bilodeau also requested that the Board reduce the Hawker Peddler's \$25 fee to \$5 and a no charge for non-profit groups for the Cultural Council's "Art on the Commons" event to be held on Saturday, October 3rd.

Selectman Goldblatt moved to reduce the Hawker Peddler's \$25 fee to \$5 and to waive the fee for non-profit groups for the Cultural Council's "Art on the Commons" event to be held on Saturday, October 3, 2009. Selectman Dodd seconded. 3-0

Recognition Certificate Program/Selectman Dodd

Selectman Dodd requested that the Board review the recognition certificate that was created by MIS/GIS Director Mark Stockman and thanked Nidia Ruberti for all her work in going through and compiling the election worker volunteers and the full and part-time employees and identifying the 10, 15 or 20 year volunteers and employees that are included in your packet.

Selectman Dodd requested the Board's permission to place the town's volunteer list, which he has been working on and still needs information, on the town's web site to have people help confirm the volunteers' service dates with a 30 day viewing window. Vice Chairman Jane' and Selectman Goldblatt supported Selectman Dodd's request.

Selectman Dodd asked if the Board would want to have a cut off date for recognizing our volunteers. He said that some volunteers have resigned or retired. Selectman Goldblatt noted that she and Selectman Dodd have discussed this and suggested that everyone should be acknowledged from day one for the first round. Vice Chairman Jane' asked Selectman Dodd what kind of acknowledgement will be given to the volunteers. Selectman Dodd said that right now is based on years of service and everyone will receive a certificate.

Selectman Dodd asked if the Board would like him to explore and pursue recognizing the volunteers before the fall town meeting begins (Monday, October 19th) or before a selectman's meeting. He said that he anticipates between 120-160 people to recognize. Vice Chairman Jane' and Selectman Goldblatt suggested that Selectman Dodd speak with the Town Moderator and then come back to the Board with some information.

Town Counsel Report

Town Counsel Franks requested that the Board approve an Indemnification agreement between the Town and the residents of 3 Ridge Road to allow the stone wall (town's right of way) at that address to remain on town property. The stone wall was placed there by the developer.

Selectman Goldblatt moved to approve the indemnification agreement between the Town and the residents of 3 Ridge Road to allow the stone wall at that address to remain on town property. Selectman Dodd seconded. 3-0

Town Manager Report

Zaara Gardens Approval

Mr. Malloy said that per the Board's request the final letter of support has been sent to Chairman Emery for her review. He said that she was comfortable with the revisions as discussed at the last Selectmen's meeting and unless there are any changes a final copy will be printed off for her signature and will be sent to the State.

Pole Hearing on Summer Street

Mr. Malloy said that this is the continued pole petition hearing for 78/80 Summer Street Extension and has attached the Fire Department's letter indicating that they have no concerns with the location of the pole.

Selectman Goldblatt moved to approve the pole location for National Grid to install a new pole 24-5 on Summer Street Extension between poles 24 and 25 to provide service to a new dwelling at 78A Summer Street Extension. Selectman Dodd seconded.

Mr. Forestall, Developer, noted that the correct address in the motion should be 78-80 Summer St Extension not 78A. The motion was amended to reflect the change as follows:

Motion Amended:

Selectman Goldblatt moved to approve the pole location for National Grid to install a new pole 24-5 on Summer Street Extension between poles 24 and 25 to provide service to a new dwelling at 78-80 Summer Street Extension. Vice Chairman Jane' seconded. 3-0

Charter Communications Request

Mr. Malloy said that Charter Communications is requesting to re-open the franchise agreement. He and Tim Reiter have met regarding this and exchanged communications with Brigitte Casemyr. Mr. Malloy recommends that the Board consider establishing an Ad Hoc Committee to meet and negotiate with Charter Communications on this single issue. His understanding is that Tim and Brigitte were involved in the last negotiations and are involved with Westborough TV.

Selectman Goldblatt moved to establish an Ad Hoc Committee to meet and negotiate with Charter Communications relative to the proposal attached to their August 5, 2009 letter and for the Ad Hoc Committee to consist of Town Manager James Malloy, Tim Reiter and Brigitte Casemyr representing Westborough TV and to return any amendments to the franchise agreement to the Board of Selectmen for final review/approval. Selectman Dodd seconded. 3-0

Meadow Road

Mr. Malloy requested that the Board approve the Order of Taking for Meadow Road as approved by the Town Meeting (Articles 12 & 13 of the 2009 Annual Town Meeting) for the laying out of Meadow Road as a public way. Town Counsel has prepared the document for the Board's signatures and filing at the Worcester Registry.

Selectman Goldblatt moved to approve the attached Order of Taking for Meadow Road and to authorize the Board of Selectmen to execute all documents necessary related to this matter. Selectman Dodd seconded. 3-0

Easement Deed

Mr. Malloy requested that the Board approve the Easement Deed prepared by Town Counsel relative to the road width on East Main Street across the property at 35 E. Main Street (where Dunkin' Donuts is located) that was necessary for the widening of East Main Street at that location and drainage easement.

Selectman Goldblatt moved to approve the attached Easement Deed for 35 E. Main Street for road widening and drainage easement and to authorize the Board to execute the Acceptance of the Easement. Selectman Dodd seconded. 3-0

Bay State Commons Park Property Taxes

Mr. Malloy said that Linda Swadel, Chief Assessor, has indicated that although the Board of Selectmen signed off on the Bay State Commons Park deed on 6/21/09 the property owner did not sign the deed until 7/8/09 extending their ownership into Fiscal Year 2010. Ms. Swadel has indicated that she will need to have the taxes for the 2nd quarter of Fiscal Year 2010 abated by the Board since these have already been committed (in the amount of \$1,538.38).

Selectman Goldblatt moved to request the Chief Assessor to abate the FY10 2nd quarter property taxes on the Bay State Commons Park in the amount of \$1,538.38 and to authorize the Chair of the Board of Selectmen to send a memorandum to the Chief Assessor to request the abatement. Selectman Dodd seconded. 3-0

Town Meeting Issues

Mr. Malloy informed the Board of the following issues:

- The first document is related to the budget issues that will need to be addressed at the Town Meeting. Mr. Malloy has provided these to the Finance Committee on 8/31 to discuss how he has drafted articles and the format he has used with a summary of each article following the article which explains the purpose of the article. These are just a couple of the articles and are being provided now simply as an example. Mr. Malloy noted that he has inserted a line for the Selectmen's recommendation on each article (even though the Finance Committee's recommendation is what Town Meeting acts on, generally people appreciate knowing the Selectmen's position).

Mr. Malloy noted that the Finance Committee thought adding the Selectmen's recommendation and summary box was a great idea.

- The second document is the Abandoned and Foreclosed Property Bylaw that Selectman Goldblatt had requested be drafted for the Board's review. The purpose of this bylaw is to provide a registration process for foreclosed properties to ensure that there is a responsible party known to the Town so that property maintenance issues are addressed and the Town has a contact. This bylaw has been sent to Joe Inman, Linda Swadel and Joanne Savignac for their review as they will be involved in the administration of the article. This article will be placed on the fall town meeting warrant

The Board agreed with the Abandoned and Foreclosed Property bylaw.

- The third document is the Public Shade Tree Bylaw that Selectman Dodd requested to be drafted for the Board's review. This bylaw proposal has been reviewed by the DPW Manager.
- The fourth document is the Department of Revenue (DOR) Bulletin 2009-15B which discusses the Room Occupancy Tax increase and the Meals Tax increase which is fully described in the bulletin. The Room Occupancy Tax may be increased from 4% to 6% and is estimated to generate \$238,566 (by the DOR). Mr. Malloy noted that the Town's estimate for the existing 4% Room Occupancy Tax is \$650,000 so that 2% additional would be 50% more or \$325,000 (\$86,434 more than the DOR estimate). The Meals Tax may be increased from the State 6.25% to 7.00% with the additional 0.75% going to the Town; the DOR has estimated this would raise \$369,831. Both are local options that require Town Meeting approval. As of 9/2 there are 30 communities that have adopted the Meals Tax. Mr. Malloy has not seen any data on how many communities have adopted the increased Room Occupancy Tax. Between the two new local option taxes, it would amount to just under \$700,000. Mr. Malloy's intent would be to draft the warrant with these included so that the Board could make the decision whether to leave one or both on the warrant for Town Meeting to consider.
- The last attachment is related to the Mandarin Westborough Restaurant. The owner of the restaurant and his attorney are here to discuss this issue with the Board. Mr. Malloy said that the problem they are facing is that their lease has expired and is not being renewed so they are looking to move elsewhere in town and have identified a location which is outside of the 2500 downtown business district (on Route 9) and therefore their current over-quota license would not be available to them at their new location. They are seeking to add a warrant article to seek special legislation to remove the prohibition that the license not be relocated outside of the downtown business district.

Attorney Resnick reiterated what Mr. Malloy said and passed out a draft of the article that will be presented as a Citizen's Petition tomorrow.

Mr. Malloy noted that he has given Town Counsel some MGL's to research the establishment of an "Exemption for Over Quota Liquor License" authority for the Town of Westborough as it was established in the Town of Sturbridge. By adopting this statute the Board would be eliminating sending the over quota liquor license request to the Legislature and will have the authority to approve them at a local level.

The Board agreed to research the option of adopting the over quota liquor license exemption for the Town of Westborough. Mr. Malloy said that he will follow-up this item at the Board's September 22nd meeting when all of the members are present.

Mr. Malloy said that warrant articles are starting to come in from the various departments, boards and committees and have asked that they be submitted to his office no later than 9/11 so that the warrant can be closed on 9/22. When he met with the Finance Committee they indicated they would be sending their report to the printer by 10/8 which only provides 9/22 for the Selectmen to meet and consider warrant articles and have your recommendation included. Mr. Malloy suggested to Chairman Emery that the Board may want to reschedule the meeting scheduled for 10/13 to 10/6 for the purpose of having a second meeting to consider and vote the Board's recommendations on the warrant articles.

Mr. Malloy said that the Board will need to consider the debt exclusion ballot vote. He said that this may be combined with the Special Election to fill the US Senate seat on 1/19/10 but will require a Town Meeting vote to seek special legislation to extend the 90 time limit to allow the debt exclusion vote to be combined with the special election (it's 93 days from the 10/19/09 Town Meeting).

The Board agreed to have the Public Safety Complex ballot question on the January 19th election.

Senior Tax Work Off Program – Mr. Malloy said that there was a change in the law regarding this program (MGL Ch. 59, §5K) to increase the maximum amount that seniors can work off from \$750 to \$1,000. He has met with Alma Demanche, Director of the Senior Center and Linda Swadel, Chief Assessor and has estimated that the impact of the increase to the Town is a maximum amount of \$12,000 per year. After our discussion it is our recommendation that the Board consider amending the regulations for this program (adopted by the Board on 1/14/03) to increase the maximum amount to \$1,000.

Selectman Goldblatt moved to amend the third sentence of the Senior Tax Work Off Program as adopted by the Board of Selectmen on 1/14/03 from "Maximum annual abatement is \$750.00 per applicant per year, at the state minimum wage" to Maximum annual abatement is \$1,000 per applicant per year, at the state minimum wage". Selectman Dodd seconded. 3-0

Mr. Malloy requested nominees to conduct the annual evaluation for the Fire Chief and Town Counsel. Vice Chairman Jane' recommended that this item be placed at the Board's September 22nd meeting when all members are present.

Miscellaneous

Mr. Malloy informed the Board that he will be attending the International City Managers Association (ICMA) Conference in Montreal from September 13th thru September 16th.

Issues and Correspondence

Selectman Dodd announced the Lee Property Open House and the Westborough High School Cross Country Meet will be held at the Lee Property at 3:30 p.m. on Monday, September 14th. He said that a short ceremony will be held at 3:15 p.m. to recognize some key people. Selectman Dodd said that the property is located at 169A West Main Street. This event is opened to the public.

Directions to the Lee Property are as follows:

Drive down West Main Street, past the Country Club turn onto the second drive way past the pump station.

Selectman Goldblatt request to post the Trustees of Soldier's Memorials' vacancy on the town's web site and extended the Board's sympathies to the Eagan family for their loss. Selectman Goldblatt requested that we keep our servicemen and women in our hearts and prayers so far from home and to also keep our loved ones in our hearts who perished at the September 11th World Trade Center bombing.

Adjourn Open Session

Selectman Goldblatt moved to adjourn the Board of Selectmen meeting at 8:47 p.m.

Selectmen Dodd seconded. 3-0.

Submitted by Nidia Ruberti

Chairman Leigh Emery

(Absent)

Vice Chairman Rod Jané

Selectman Lydia Goldblatt

Selectman Timothy A. Dodd

Selectman George Thompson

(Absent)