

**Westborough Board of Selectmen
Meeting Minutes
July 20, 2010
7:00 p.m. – 8:41p.m.**

Present: Chairman Jané, Vice Chairman Goldblatt and Selectman Dodd

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

Absent: Selectmen Thompson and Emery

Chairman Jané moved to enter into executive session under the Massachusetts General Laws, Chapter 30A, §21 (3) for the purpose of discussing a strategy with respect to collective bargaining since discussion in open meeting would be detrimental to the position of the Board of Selectmen. Selectman Dodd seconded. The Board voted unanimously in favor of the motion by roll call vote to go into Executive Session. 4-0 Chairman Jané announced that the Board would reconvene in Open Session after the Executive Session.

Pledge of Allegiance/Open Forum

Proclamations:

Walter Kinell

Chairman Jané read a proclamation that was given to Mr. Kinell on behalf of the State House of Representatives Karyn Polito's Office and also read a seconded proclamation on behalf of the Board of Selectmen which proclaimed June 30, 2010 as Walter Kinell Day and thanked him for his dedicated years of service to the Town of Westborough and congratulated him on his retirement.

Committee Vacancies:

Central Massachusetts Regional Planning Committee- (Alt)
Conservation Commission- (2 Non-Voting Associate)
Country Club Operating Committee- (1 Non-Voting Associate)
Cultural Council- (1)
Historical Commission- (1 Member/1 Non-Voting Associate)
Housing Partnership Committee- (1)
Open Space Preservation Committee- (2)
Youth Commission-(1)

Approval of Board of Selectmen's Meeting Minutes

- June 8, 2010
- June 22, 2010

Selectman Goldblatt moved to accept the Board of Selectmen's Meeting Minutes of June 8, 2010. Selectman Dodd seconded. 3-0

Selectman Goldblatt moved to accept the Board of Selectmen's Meeting Minutes of June 22, 2010. Selectman Dodd seconded. 3-0

Request to Transfer Liquor License Finding of No Detriment/Hisa Japanese Cuisine/Xiao Hong Chen

Attorney Coleman requested that the Board approve the Transfer of Liquor License and to make a Finding of No Detriment to Hisa Japanese Cuisine located at 21 South Street.

Selectman Goldblatt moved to approve the Transfer of Liquor License and to make a Finding of No Detriment to Hisa Japanese Cuisine. Selectman Dodd seconded. 3-0

Request for a Common Victualer Permit/Hisa Japanese Cuisine/Xiao Hong Chen

Attorney Coleman requested that the Board approve a Common Victualer Permit for Hisa Japanese Cuisine located at 21 South Street.

Selectman Goldblatt moved to approve the Common Victualer Permit to Hisa Japanese Cuisine located at 21 South Street. Selectman Dodd seconded. 3-0

Request to Change Manager/Piccadilly Pub Restaurant/Attorney Sutherland and Mr. Bingham, Restaurant Manager, requested that the Board approve the Change of Manager from Michael Pellerin to himself.

Selectman Goldblatt moved to Change the Manager from Michael Pellerin to Steve Bingham. Selectman Dodd seconded. 3-0

Request for a Common Victualer Permit-Subway at 18 Lyman St/Susil Sharma

Ms. Sharma requested that the Board approve a Common Victualer Permit for the Subway Restaurant located at 18 Lyman Street.

Selectman Goldblatt moved to approve the Common Victualer Permit for the Subway Restaurant located at 18 Lyman Street. Selectman Dodd seconded. 3-0

Request for a Common Victualer Permit-Khatta Mitha at 291 Turnpike Rd/Rajan Mehtani and Alan Hite

Mr. Mehtani and Mr. Hite requested that the Board approve a Common Victualer Permit for Khatta Mitha located at 291 Turnpike Road.

Selectman Goldblatt moved to approve the Common Victualer Permit for S & P Enterprises, LLC, d/b/a Khatta Mitha located at 291 Turnpike Road, contingent upon all paperwork being submitted and approved. Selectman Dodd seconded. 3-0

Request for a Common Victualer Permit-Ming III at 291 Turnpike Rd/Rajan Mehtani and Alan Hite

Mr. Mehtani and Mr. Hite requested that the Board approve a Common Victualer Permit for Ming III located at 291 Turnpike Road.

Selectman Goldblatt moved to approve the Common Victualer Permit for S & P Enterprises, LLC, d/b/a Ming III located at 291 Turnpike Road, contingent upon all paperwork being submitted and approved. Selectman Dodd seconded. 3-0

Request to Appoint Two Members to the Local Emergency Planning Committee (LEPC)/LEPC Chairman

Mr. Rand, LEPC Chairman, requested that the Board appoint the following individuals to the Local Emergency Planning Committee for an indefinite term. These two individuals are replacing two members that left the committee.

Selectman Goldblatt moved to appoint Ms. Lynn Keeley and Ms. Rebecca Roman to the Local Emergency Planning Committee for an indefinite term. Selectman Dodd seconded. 3-0

Request to Sign State Primary Election Paperwork/Town Clerk

Ms. Yendriga requested that the Board approve and sign the State Primary Election paperwork to be held on September 14, 2010.

The Board of Selectmen approved and signed the State Primary Election paperwork to be held on September 14, 2010. Ms. Yendriga witness the Board's signatures.

Ms. Yendriga announced that anyone who has moved from another town or is over 18 years old may come and registered to vote at the Town Clerk's Office prior to or on Wednesday, August 25, 2010. The Town Clerks' Office will be open from 8:00 a.m. to 8:00 p.m. on that day.

Request to Reconsider Board's Vote/Westborough Housing Partnership Committee

Mr. Steven Liedell, Chairman of the Westborough Housing Partnership Committee, requested that the Board reconsider their vote taken on June 22, 2010 of denying the sewer and water connection fees waiver request for the three (3) affordable housing units (\$45,000; \$15,000 each) associated with the friendly 40B Park Place Condominiums Project (Westwood Associates) also a Local Initiative Plan (LIP). He said that the Board did not have the information that was voted in 2005 by the presiding Board then of approving the waivers contingent upon the Building Department issuing a building permit (Housing Partnership Committee's reconsideration letter attached).

Mr. Liedell said that it has been the practice of the Board to waive the water and sewer fees associated with any affordable unit. In addition to that he also noted that the Housing Partnership Committee is very aware of the current Water and Sewer Waiver Policy which was adopted by the Board in 1993.

Mr. Liedell also said that the committee believes that the omission of having the affordable housing units' waived language in the Town's "Waivers of Water and Sewer Connection Fees Policy" was an oversight and is also requesting that the Board correct that. He said that by correcting the omission and by granting the request this action will bring the Town's policy in line with its long-standing precedent of granting water and sewer fee waivers to affordable housing units to meet the Department of Housing Community Development's (DHCD) Local Initiative Program (LIP) regulations.

Chairman Jané requested clarification on the number of affordable units, which was confirmed by Mr. Liedell as being only three (3) units and also asked for exactly what items were approved back in 2005. Mr. Liedell said that the following items were approved in 2005:

- Zoning Change
- Density Increase
- Waiver of permit fees for the affordable units only

Mr. Liedell said that when the project was initially submitted there was a septic moratorium. There was no submittal of waiver of septic fees because there weren't going to have any; later on the moratorium was lifted and now he believes that it is a town requirement to connect to town sewer and water. Mr. Liedell noted that typically the Town's permit fees have not been the only fees waived but also water and sewer. He noted that Mr. Papalilo is requesting that only the water and sewer fee be waived not the permit fees.

Ms. Allen informed the Board the history of implementing a written policy (point system) on waivers in 2003 due to many subdivisions coming to town along with several LIP applications. She said that part of the LIP application process that the DHCD looks for is the Town's participation. The town has shown its participation by waiving the water and sewer fees only on affordable units since 1991.

Ms. Allen said that the Town has always viewed LIP applications different from regular affordable housing projects..etc., and were treated separately but now believes that it certainly make sense to have the policy go along with the practice.

Town Counsel said that he recommends that the Board follow the policy that they have adopted and not waiver from it. He did note that it is under the Board's preview if they wish to change the policy.

Selectman Dodd said that he believes that the Board should followed the policy in place but also noted that he would be in favor of updating the policy to include affordable housing waivers language.

Selectman Goldblatt agreed to follow the policy that is in place and not to change it mid stream.

Chairman Jané noted that he is very hesitant on approving the waiver request now but is in favor of looking to update the policy in the future.

Ms. Allen noted that the Board has applied the sewer and water waivers under the LIP applications fairly across the board up to this date and believes that it is unfair to pick at this particular development. She also noted that in able to have a friendly 40B development the Town needs to participate in one capacity or other under the LIP regulations.

Chairman Jané requested that this item be placed at the Board's August 17, 2010 agenda when all members are present for a vote and also requested that the Town Manager and Town Counsel summarize the total contributes made to the project.

Mr. Malloy said that the LIP application that came before the Selectmen in 2005 was proposed to be constructed on private septic and now it is proposed to be on public sewer; the affordable units at that time were proposed at \$155,000 now they are proposed at \$167,400 (difference due to inflation and fewer units). He said that at \$155,000 per unit the developer would have had the expense in putting in septic systems for the units; now he wouldn't have that extra expense and asked the developer, Mr. Papalilo, if the \$15,000 fee for each unit is waived will those savings go to the home buyer; for example, the affordable units cost change from \$167,400 to \$152,400, or would the \$15,000 per unit go toward Mr. Papalilo income.

Mr. Papalilo said that the difference will not go to him but that it would cover the cost of building a Town House verses a standing alone home as previously proposed. The original project was amended and now he will be constructing Town Houses. Mr. Malloy noted that he did not have the signed amended project materials and only had the original submittal packet to refer from. Mr. Papalilo noted that he would stop by tomorrow with a copy of the amended materials. Mr. Malloy suggested that if the Board decides to revise the policy at their next Board meeting he recommends that the Board vote on changing the policy prior to taking up Mr. Papalilo's request. Mr. Malloy also requested that the Board consider including the following requirement language for a waiver of fees: "the affordable units remain deed restricted as affordable housing in perpetuity". He said that by adding this language the affordable unit will remain under the affordable status forever and be counted toward the Town's 10% of the Chapter 40B project percentage.

Request for a Sewer Connection Privilege Fee Wavier/3 Mohawk Drive/Town Engineer

Mr. Carl Balduf, Town Engineer, requested that the Board approve the waiver of the Sewer Connection Privilege Fee for the resident at 3 Mohawk Drive (Mr. & Mrs. Cochran) for allowing the future placement of a town sewer pipe and manholes on their property under the Department of Public Work's Contract 10-01. He said that the pipe will lie within a 20' wide public sewer easement on their property.

Selectman Goldblatt moved to waive the Sewer Connection Privilege Fee to the resident at 3 Mohawk Drive (Mr. & Mrs. Cochran), as recommended by the Town Engineer. Selectman Dodd seconded.

3-0

Request to Accept Easement Deed for 3 Mohawk Drive/Town Engineer

Mr. Carl Balduf, Town Engineer, requested that the Board approve the Easement Deed for 3 Mohawk Drive.

Selectman Goldblatt moved to approve the Easement Deed for 3 Mohawk Drive. Selectman Dodd seconded. 3-0

Request to Vote on Agreement for 3 Mohawk Drive/Town Engineer

Mr. Carl Balduf, Town Engineer, requested that the Board approve the Agreement for 3 Mohawk Drive.

Selectman Goldblatt moved to approve the Agreement for 3 Mohawk Drive. Selectman Dodd seconded. 3-0

Request to Award the Water Main Replacement Contract/DPW Manager and Town Engineer

Mr. Walden, DPW Manager, and Mr. Balduf, Town Engineer, requested that the Board award the Water Main Replacement Contract to Borges Construction in the amount of \$1,321,317.31, subject to all the necessary paperwork be in place and to have the Town Manager designated as the awarding authority to sign the contract.

Selectman Goldblatt moved to award the bid for the South Street Water Main Replacement Contract to Borges Construction as per their bid of \$1,321,317.31 and further to authorize the Town Manager to execute any contract documents related to this project. Selectman Dodd seconded.

Mr. Malloy noted that this project is short by approximately \$400,000 (for the paving phase) and has discussed with Mr. Walden and Mr. Balduf a couple of options that the Town will be able to proceed with which are the following:

- Return to the Board of Selectmen for an amendment to the award
- Place a warrant article for the Fall Special Meeting
- Use of Chapter 90 funds if not approved at fall meeting

Selectman Goldblatt requested that Mr. Malloy notify the Finance Committee Chair of the money issue. Mr. Malloy acknowledged the request. 3-0

Public Safety Report Discussion/Board of Selectmen Chairman

Police Chief Gordon noted that Selectman Emery requested that he come before the Board of Selectmen to make the public aware of the recent car break-ins in the area and along Route 9. Police Chief Gordon said that these actions are common but are now happening constantly. He said that one major reason for this is because people are leaving their computers, GPS's and GPS's holders, iPods'... etc..in plain sight. Police Chief Gordon urged the public not to leave anything of value in plain sight. He said that they have requested some restaurant owners on Route 9 to post signage informing their patrons of the activity.

The Board thanked Police Chief Gordon for the update and the public announcement.

Volunteer Interest Form Discussion/Selectman Dodd

Selectman Dodd requested if the Board would consider adopting a Volunteer Interest Form for the Town of Westborough and for the form to be placed on the Town Web Site. He said that this item was discussed a couple of years ago but no action was taken. After a brief discussion Chairman Jané requested that Ms. Ruberti and Selectman Dodd work on the restructuring of the current Volunteer Interest Form and to present the final form at the Board's September meeting.

Reorganization of the Committee Liaison List/Selectmen Dodd

Chairman Jané requested the Board members look over their assigned committees and let him know via email if they wish to change any of them and noted that this item will be placed at the Board's September meeting for a vote.

Selectman Dodd that in a conversation with Donna Kelly, General Manager, of the Westborough T.V. the idea of having the Liaison Members of their assigned committees host a T.V. segment updating the public of what those committees are actively working on and wondered if the Selectmen would be interested in entertaining the thought. Chairman Jané requested that this item also be placed at the Board's September meeting to discuss.

Town Counsel Report

Town Manager Report

Ambulance Bid (action required)

Mr. Malloy requested that the Board approve Chief Perron's recommendation of awarding the ambulance bid to Greenwood Emergency Vehicles as per their bid of \$162,250.

Selectman Goldblatt moved to award the bid for the 2010 Ambulance to Greenwood Emergency Vehicles in the amount of \$162,250 and further to authorize the Town Manager to execute any contract documents to carry out this award. Selectman Dodd seconded. 3-0

Sewer Waiver – 3 Mohawk Drive (action required)

Request was voted on earlier.

EPA Letter (action required)

Mr. Malloy requested that the Board approve the submittal of the attached letter (dated 7/4) addressed to the Environmental Protection Agency (EPA) which Jack Goodhall from the Westborough Treatment Plant, drafted a response to a study that the EPA is undertaking of the effluent from the Westborough Wastewater Treatment Plant. Mr. Goodhall, Mr. Dan Morgado, Shrewsbury Town Manager and Mr. Malloy have discussed their concerns that they have with the EPA conducting a study of the effluent at this point since (a) the Town of Westborough has not been part of the discussions of what the study will be used for; and (b) the study is being undertaken while the plant is undergoing an upgrade and any data that is obtained from this study will not be accurate relative to the post-plant upgrade effluent quality; and (c) it does not appear to take into account the impact of other sources that impact the river (only wastewater effluent). Mr. Malloy said that they are concerned since the NPDES permit for the Wastewater Treatment Plant is expiring next year and that any faulty data obtained from this study could be used to set new limits on the NPDES permit that may not be necessary. In their discussions, they felt it was best if this letter came from the Selectmen of both Towns and the Wastewater Treatment Plant Board. A final copy of the letter will be provided after the Wastewater Treatment Plant Board has signed the letter.

Selectman Goldblatt moved to sign the letter as attached to the EPA outlining the Town's concerns with the EPA undertaking a study of the Westborough Wastewater Treatment Plant's effluent. Selectman Dodd seconded. Selectman Goldblatt requested that a copy be sent to the Office of Congressman McGovern. Mr. Malloy acknowledged the request. 3-0

Appointment (action required)

Mr. Malloy requested that the Board re-appoint Brett Morava (Tufts University Police) as a Special Police Officer for a one year term. Mr. Morava was mistakenly left off the reappointment list.

Selectman Goldblatt moved to reappoint Brett Morava as a Special Police Officer for a one year term. Selectman Dodd seconded.

Water Supply Conservation (action required)

Mr. Malloy noted that per the Town's Water Management Act permit for our water supply, the Town needs to declare a "State of Water Supply Conservation" restricting the use of outdoor watering (see attached Article 40 of the Town's General Bylaws). Section 4 requires that the Board declare the State of Water Supply Conservation (it's based on the water level of Sandra Pond). Mr. Malloy said that given the chance of needing to declare a State of Water Supply Conservation is going to occur during the summer months when the Selectmen are generally on summer schedule, the Board may want to consider amending this bylaw to read, "The Town, through its Board of Selectmen *or Town Manager* may declare a State of Water Supply Conservation...".

Mr. Walden informed the Board that the DPW's web site has the information regarding water supply conservation and that the Town is advertising a volunteer water conservation option on the town's message boards around town. 3-0

Mr. Malloy requested that the Board consider amending Chapter 40 of the Town's Bylaws at the Fall Special Town Meeting to reflect the change so that that it can be done administratively in the future. Chairman Jané requested that Mr. Malloy draft a proposal for the Board to review.

Selectman Goldblatt moved to declare a State of Water Supply Conservation until such time that the water level in Sandra Pond no longer requires water conservation as per the Town's Water Management Act permit. Selectman Dodd seconded.

Miscellaneous

Mr. Malloy informed the Board of the following:

- A June 16, 2010 letter from the First Baptist Church of Westborough offering to sell their property to the Town.

A memorandum from the Fire Chief Perron recognizing the efforts of the firefighters on the Mill Pond Incident. Additionally, the Fire Chief and Mr. Malloy discussed that Roche Brothers provided the Fire Department:

- and the other Departments that arrived to provide mutual aid with drinks and refreshments on a very hot day at no cost. If the Board agrees, Mr. Malloy will send a letter of appreciation on behalf of the Board to Roche Brothers.

The Board agreed with Mr. Malloy's suggestion of sending a thank-you letter on behalf of the Board to Roche Brothers for being so generous.

- LEPC Appointments – Attached please find back up information for two appointments that Bob Rand is requesting to make to the Local Emergency Planning Committee. This item was voted earlier.
- Mr. Malloy informed the Board of the following appointments under his appointment preview–
 - Bob Brown to the Municipal Building Committee
 - Mark Silverberg to the Board of Assessors

Issues and Correspondence of the Selectmen

Selectman Goldblatt suggested that the Board consider having the Fire Chief and the individuals that were involved in the Mill Pond incident at the Board's August meeting. The Board agreed with Selectman Goldblatt's suggestion. Selectman Goldblatt requested that we keep our servicemen and women in our thoughts and prayers who are so far from home.

Selectman Dodd said that a few weeks ago Tufts Farm Field was closed because of some dog incidents but have now reopened their fields. Along with reopening the fields you are now required to register your dog (free service) and also provide registration proof from the town your dog is registered in to walk with your dog. You are also required to register if you just want to walk the premises. Selectman Dodd said that there is information regarding the new rules and regulations at their web site and requested if the Town would be able to place Tufts web site link on the Town's Web Site.

Selectman Dodd announced that the National Forestry and the Massachusetts National Forestry web sites have information regarding the long horn beetle and their services that they provided to homeowners. DPW Manager John Walden noted that if a resident calls in and suspects that they have the beetle a DPW personnel will go and check the resident's tree(s). DPW's web site also has information regarding the long horn beetle.

Adjourn Open Session

Selectman Goldblatt moved to adjourn the Board of Selectmen meeting at 8:41 p.m.
Selectman Dodd seconded. 3-0.

Submitted by Nidia Ruberti

Chairman Jané

Vice Chairman Goldblatt

Selectman Leigh Emery

(Absent)

Selectman Timothy A. Dodd

Selectman George Thompson

(Absent)