

**Westborough Board of Selectmen
Meeting Minutes
May 24, 2011
6:00 p.m. – 7:43 p.m.**

Present: Chairman Goldblatt, Selectmen Thompson, Johnson and Emery

Also Present: James J. Malloy, Town Manager; Kristi Williams, Assistant Town Manager; Greg Franks, Town Counsel

Absent: Vice Chairman Dodd

Late Arrival: Selectman Ian Johnson (6:13pm)

Request to Approve the Board of Selectmen's Meeting Minutes

- April 26, 2011

Selectman Emery moved to approve the Board of Selectmen's Meeting Minutes of April 26, 2011. Selectman Thompson seconded. Selectman Emery noted that she was not in attendance for that meeting and noticed that her name was under the absent and present section. She requested that the correction be made. Ms. Ruberti acknowledged her requested. 4-0

Open Forum

Class II Used Car Dealer's License Hearing/Westborough Mobil, 24 East Main Street/Jack Azar

Present: Attorney Heineman, Jack Azar, Owner; Joe Kallini, Manager; Police Chief Gordon

- *Record Keeping Violation*
- *Class III Violation*

Mr. Heineman apologized to the Board of Selectmen for his aggressive manner at the Board's last meeting and requested that they not hold his behavior against his clients.

Mr. Heineman said that Joe Kallini will explain to the Board what they do and do not do at the station so the Board may have a better idea of what kind of business they run. Mr. Kallini explained that the Mobile Station does buy cars including cars that have been in accidents and from auctions and if some need minor repairs they fix them and then ship them overseas. Mr. Kallini stated that these cars are not repaired extensively only very minor mechanical repairs are done to get them onto a truck to ship overseas. Mr. Kallini said that the definition of rebuilding a car according to the book is the welding of two different set of cars together to form a new car; Mobile Station does not do that work at all. Mr. Kallini also said that Mobile Station does not do major bodywork only very minor types like for an example-replacing a bent fender, hood, headlights, mechanical parts and suspension parts. The cars are not extensively repaired or sold at the location but some cars from the auction do at times come to this location for storage and for some very minor mechanical and bodywork repair.

Selectman Thompson asked Mr. Kallini if they ever have or ever have done any rebuilding work that would be categorized as a Class III License. Attorney Heineman said that if his clients took salvage titled cars and rebuilt them to run and then sell them that type of business would be considered a Class III License but noted that his clients are not in that type of business.

Selectman Thompson asked Mr. Kallini what is the different between repair and rebuilding. Mr. Kallini said that car repairs are considered to be the following:

- Replacing belts and hoses that keep the car running properly,
- Replacing the spark plugs, oil and other fluids
- Replacing brake pads, struts and shock absorbers
- Replacing the muffler, catalic converter

Mr. Kallini said that bodywork/rebuilding is considered to be the following:

- The welding of two different cars together to form a new car
- The repainting of cars
- The straightening out of the car's body if crash or dented

Selectman Thompson asked Mr. Kallini if there is a domestic point person for the overseas sales. Mr. Kallini said that they are the purchaser for the overseas buyer. Selectman Thompson then asked if it was Mr. Kallini's position that there is no licensing statute that covers this type of activity. Mr. Kallini said that he does not take that position and noted that under the Class II License they can buy and sell cars overseas in those conditions.

Selectman Thompson asked Mr. Kallini if his position is that Mobile Station is not rebuilding cars. Mr. Kallini confirmed that Westboro Mobil Station does not rebuild cars at all.

Chairman Goldblatt asked, Police Chief Gordon, if there have been any infractions since their suspension of license. Police Chief Gordon said that they seem to have taken steps to comply and noted there were two vehicles on the property, one of which is allowed; the seconded vehicle he believes was there to be repaired. The Building Inspector came to inspect the lot and the second vehicle was moved to the garage. Police Chief Gordon said that since the suspension was given the lot looks presentable. He noted that he has been inspecting the property on a daily basis.

Selectman Emery asked Mr. Kallini to confirm that Westborough Mobile does not buy any salvage title cars to rebuild. Mr. Kallini explained that a car is deemed salvage title when the owner or the insurer of the vehicle decides that the vehicle is no longer economical to repair it. Mr. Kallini said that if they were in that type of business then that would be a different process. At this point, Selectman Emery asked Mr. Kallini again if Westborough Mobile buys any salvaged or salvage title cars. Mr. Kallini said that they do purchase salvage and salvage title cars.

Selectman Emery asked Mr. Kallini if Westborough Mobile rebuild these salvage cars that are bought. Mr. Kallini said that they only make minor repairs in order for the cars to be in “rolling” status which is the only requirement to have for the cars to be shipped overseas.

Selectman Emery clarified that Westborough Mobile sometimes do purchase salvage or salvage title cars and some of them are taken to the property for minor repairs, not to be rebuilt, so they would be in “rolling” status then they are shipped overseas. Mr. Kallini agreed with Selectman Emery’s clarification.

Selectman Emery asked if Westborough Mobile buys or sells second hand vehicle parts or tires. Mr. Kallini said that they do not sell second hand parts or tires.

Selectman Emery asked if Westborough Mobile disassemble or assemble second hand motor vehicle parts. Mr. Kallini said that they do not assemble or disassemble second hand motor vehicle parts. Mr. Kallini noted that they at times do purchase second hand vehicle parts to repair their customer’s and salvage title cars.

Selectman Emery asked Town Counsel to clarify the following: “if buying parts of seconded hand vehicles or tires” is part of the Class III License how would you distinguish the difference. Town Counsel said it is distinguished by what their principal business is. Town Counsel also noted that under a Class II License they can at times buy salvage cars and rebuild them.

Selectman Johnson asked Mr. Kallini how long does the salvage title cars stay on the lot prior to shipping them. Mr. Kallini said that it depends on how fast they are available to obtain the parts they need to get the car in a rolling condition and at times is just a matter of a few hours if the issue is a mechanical item to be repaired. Mr. Kallini noted that they purchase used or new parts for either salvage title or customer cars as a repair garage business not as a dealership.

Attorney Heineman noted that the Board has a concern as to the aesthetics of the property because of the location and suggested placing a screened fence to the left of the building where the tires are stored to hide the car(s), if necessary.

Chairman Goldblatt said that Westborough Mobile has always had junked cars way before today’s hearing on their lot and noted that is it unfair to other service stations in the area to have Westborough Mobile come before the Board multiple times for the same violation and wants to know why they continue violating the Class II License since the town has been very reasonable. She also noted that they have come before the Board and spoken about what needs to be regulated on their property and still the violations occur. Chairman Goldblatt said that this shows, on their behalf, disrespect for their Class II License and to the town officials including the Board of Selectmen.

Selectman Thompson asked Mr. Malloy for his understanding between the Class II verses the Class III type of business. Mr. Malloy said that in order to distinguish what type of primary business Westboro Mobile operates Town Counsel would need to review Mr. Kallini and Mr. Azar’s record keeping books and note how many salvage title cars have been purchased and

shipped overseas and how many cars are sold and repaired at the location and then decided what primary business they are operating.

Selectman Emery said that she would like to take this under advisement and suggested that Police Chief Gordon meet with them once a month to review the books. Police Chief Gordon acknowledged Selectman Emery's request and noted that Mr. Kallini and Mr. Azar does not need to install a screen fence as suggested by their attorney. He said that Westborough Mobile needs to follow the law of their Class II License conditions and responsibilities and that he will continue inspecting the property on a daily basis.

Selectman Thompson agreed with Selectman Emery's request to take this item under advisement and to have Town Counsel investigate and determine the primary business for Westboro Mobile.

Chairman Goldblatt asked Attorney Heineman when Westboro Mobile started shipping cars overseas. Attorney Heineman said that his clients acquired their Class II License in 1999 and started shipping salvage title cars overseas sometime in the year 2006. Chairman Goldblatt asked if Mr. Azar or Mr. Kallini have ever notified the Town of the selling of these salvage title cars. Attorney Heineman said that his clients have never notified the Town of the selling of salvage title cars. Chairman Goldblatt asked if they have the record book referring back to the 2006 sales. Attorney Heineman said that his clients have the entire car wholesale purchase information since January 2011 to present and retail sales from 2009 to present.

Selectman Thompson requested that Town Counsel review the books from January 2011 to present. The Board agreed with Selectman Thompson's request.

Selectman Emery asked Attorney Heineman if he is in agreement with the fact that the books are to be stationed on the property at all times as Town Counsel stated. Attorney Heineman said that he disagrees with Town Counsel's statement regarding the books and reiterated what the registry book says "during business hours" but agreed to have the books on the premises all the time as requested by the Board.

Selectman Emery recommended that the Board take the revocation of the Class II License under advisement due to the fact that the books were not on the premises when Lt. Fryer escorted Mr. Kallini and Mr. Azar to retrieve them as the Board requested at their last meeting.

Town Counsel noted that he can't give much guidance on having the books on the premises all the time. He said that the legislatures' intent was to have the license revoked if the book left the premises for a few minutes.

Selectman Thompson moved to take the following under advisement: the continuation of the revocation of the Class II License, the Class III issue and the removal of the registry books from the property until Town Counsel submits his report at the Board's June 14th meeting. Chairman Goldblatt seconded. 4-0

Request to Transfer an All Alcohol Restaurant Liquor License/Outback Steakhouse/227 Turnpike Rd

Mr. Malloy requested that the Board approve the Alcoholic Beverages Control Commission pre-approved Transfer of Alcohol License from the Outback Steakhouse to OSI Restaurant Partners, LLC, located at 227 Turnpike Road.

Selectman Emery moved to approve the Transfer of License from the Outback Steakhouse to OSI Restaurant Partners, LLC, located at 227 Turnpike Road. Selectman Johnson seconded. 4-0

Site Plan Review Hearing/Sure Fire Dogs-57 Brigham St/Mark Beaudry

Present: Mark Beaudry, Meridian Associates; Louise Hinckley and Christi McNamara

Mr. Beaudry requested that the Board approve the Sure Fire Dogs Site Plan Review located at 57 Brigham Street. He said that this proposed project is for a dog training facility under the name of Sure Fire Dogs. His clients will be leasing the space at 57 Brigham Street and will be installing the following three signs; a directional sign at the end of Brigham Street, a directional sign at the northwest corner of the building and a wall sign at the facility. Mr. Beaudry said that the building owner will be repaving a portion of the existing paved surface only. There will be no expansion of existing paved areas that the owner will also install wall mounted exterior lighting.

Selectman Thompson asked if this business in addition to the training facility would it also be a cannell. Mr. Hinckley said that the business is only a training facility.

Selectman Emery noted Derek Saari's letter regarding the owner's compliance to Mr. Saari's concerns and recommended that the motion have a contingency to that effect.

Mr. Malloy suggested adding at the end of the motion "items being met prior to issuing a building occupancy permit".

Selectman Emery moved to approve the Site Plan Review for Sure Fire Dogs, Inc., at 57 Brigham Street, subject to the written comments from the Town Planner letter dated May 18, 2011; the Town Engineer letter dated May 17, 2011; and the Conservation Commission letter dated May 18, 2011, and subject to all items being met prior to issuing a building occupancy permit. Selectman Thompson seconded.

Selectman Johnson asked if they have any plans on placing any training equipment outside or will all of the training be inside. Mr. Beaudry said that all of the training will be inside.

Ms. Hinckley asked for further clarification on Selectman Emery's motion. Mr. Malloy explained that the motion means that they are not allow to open the business until all of the items listed on the Conservation Commission, Town Engineer and Town Planner's letters are addressed by the landlord to the satisfactory of the Town. He noted that they can start decorating and moving in items for the business now but cannot open until the items stated in the letters have been approved.

Board's vote: 4-0

Request to Extend the CSX Site Plan Review for 90 Days/Building Commissioner

Mr. Malloy requested that the Board approve the CSX Site Plan Extension Request for another 90 days, if approved; the new deadline will be August 30, 2011. He said that this is the third extension due to the traffic study still in progress.

Selectman Emery moved to approve the CSX Site Plan Review Extension for 90 days (August 30, 2011) Selectman Johnson seconded. 4-0

Request to Extend the Dunkin Donuts Site Plan Review for 60 Days/Building Commissioner

Mr. Malloy requested that the Board approve the Dunkin Donuts Site Plan Extension Request for another 60 days, if approved; the new deadline will be August 10, 2011.

Selectman Emery moved to approve the Dunkin Donuts Site Plan Review Extension Request for another 60 days (August 10, 2011). Selectman Thompson seconded. 4-0

Request to Extend the Sikh Temple Site Plan Review for 60 Days/Building Commissioner

Mr. Malloy requested that the Board approve the Sikh Temple Site Plan Extension Request for another 60 days, if approved; the new deadline will be July 31, 2011.

Selectman Thompson moved to approve the Sikh Temple Site Plan Review Extension Request for another 60 days (July 31, 2011) Selectman Emery seconded. 4-0

Request to Approve Short-Term Borrowing/Treasurer/Collector

Ms. Joanne Savignac requested that the Board approve a State House note for work that has been completed during the year for well water, sewer and water projects for the Town of Westborough and the award of this note to Eastern Bank for .95%.

Chairman Goldblatt moved to approve the State House note and to award this note to Eastern Bank for .95% and read the Certificate and Covenant as to Tax-Exempt Statues of Notes as followed:

“We, the Treasurer and Selectmen of the Town of Westborough, Massachusetts (the “Issuer”), certify and covenant on behalf of the Issuer as follows in connection with the issuance of its Notes described above and the exclusion of interest thereon from gross income for federal income tax purposes under the Internal Revenue Code of 1986 as amended (the “Code”):

1. The Issuer will take all lawful action necessary to comply with requirements of the Code that must be satisfied subsequent to the issuance of the Notes in order that interest on the Notes be or continue to be excluded from gross income for federal income tax purposes.
2. The Notes are hereby designated as “qualified tax-exempt obligations” for purposed of Section 265(b) of the Code. We certify that the reasonably anticipated amount of tax-exempt obligations, including the Notes, that will be issued by the Issuer and all subordinate entities during the current calendar will not exceed &10,000,000”.

Selectman Emery seconded. 4-0

Town Clerk Nancy Yendriga witnessed the Board of Selectmen signatures.

Request to Appoint a Non-Voting Member to the Country Club Operating Committee (for a term ending June 30, 2012)/Country Club Operating Committee Chairman

Earl Storey, Member, requested that the Board appoint John McMorrow to the Country Club Operating Committee as a Non-Voting Member with a term ending June 30, 2012

Selectman Emery moved to appoint a John McMorrow to the Country Club Operating Committee as a Non-Voting Member with a term ending June 30, 2012. Selectman Thompson seconded. 4-0

Request for One Day Liquor License/Pancreatic Cancer Alliance/Audrey Kurland-Marcy

Ms. Kurland-Marcy requested that the Board approve a One Day Liquor License for the Pancreatic Cancer Alliance second annual fundraising event (“Arturo’s Fusion Sunday”) that will be held on Sunday, June 26, 2011 at Arturo’s Restaurant located at 54 East Main Street and also requested that the Board waive the permit fee for this charitable event. She said that this fundraiser will benefit the Pancreatic Cancer Research at the University of Massachusetts Medical School.

Selectman Thompson moved to approve the One Day Liquor License request for the Pancreatic Cancer Alliance for a charitable event to be held at 54 East Main Street on June 26, 2011 and to waive the \$50 fee. Selectman Johnson seconded. 4-0

Request to Award the Granite Curbing Contract/DPW Manager

Mr. Walden, DPW Manager, requested that the Board award the Granite Curing Bid to Williams Stone, Co, Inc., for the items included in their bid as follows: \$12/If for straight curbing; \$20.55/If for curved granite curbing; and \$172/each for granite inlets.

Selectman Emery moved to award the bid for Granite Curbing to Williams Stone Co., Inc. for the items included their bid as follows: \$12/If for straight curbing; \$20.55/If for curved granite curbing; and \$172/each for granite inlets. Selectman Johnson seconded. 4-0

Request to Establish a Gift Fund Account for the 9/11 10th Anniversary Committee, Ad Hoc/Chairman Goldblatt

Chairman Goldblatt requested, on behalf of the 9/11 10th Anniversary Committee, Ad Hoc, that the Town establish a gift fund for the purpose of accepting donations. She said that the Committee and the Town of Westborough would like to promote and recognize the 10th anniversary of the 9/11 tragedy and honor those who were involved in the rescuing of many lives that day.

Selectman Emery moved to establish a 9/11 10th Anniversary Gift Account and further to authorize the 9/11 10th Anniversary Committee to expend any donation or other funds in the account for the purpose of promoting events or other expenses in recognizing the 10th anniversary of 9/11. Selectman Johnson seconded. 4-0

Request to Appoint Two (2) Members to the 9/11 10th Anniversary Committee, Ad Hoc/Chairman Goldblatt

Chairman Goldblatt requested that the Board appoint the following individuals to the 9/11 10th Anniversary Committee, Ad Hoc for an indefinite term:

- Paulyn Howard
- George Barrette

Selectman Emery moved to appoint Paulyn Howard and George Barrette to the 9/11 10th Anniversary Committee, Ad Hoc for an indefinite term. Selectman Johnson seconded. 4-0

Request to Reappoint a Selectmen Representative to the Economic Development Committee (for a term ending June 30, 2012)/Chairman Goldblatt

Chairman Goldblatt noted that with Mr. Janés departure the Board of Selectmen needs to appoint a Board member to the Economic Development Committee and requested for nominations. After a brief discussion the Board voted the following:

Selectman Emery moved to appoint Ian Johnson as the Selectmen's Representative to the Economic Development Committee for a term ending June 30, 2012. Selectman Thompson seconded. 4-0

Request to Reappoint a Selectmen Representative to the Sewer Cost Apportionment Sub-Committee, Ad Hoc (for an indefinite term)/Chairman Goldblatt

Chairman Goldblatt noted that with Mr. Janés departure the Board of Selectmen needs to appoint a Board member to the Sewer Cost Apportionment Sub-Committee, Ad Hoc and requested for nominations. After a brief discussion the Board voted the following:

Selectman Thompson moved to appoint Tim Dodd as the Selectman's Representative to the Sewer Cost apportionment Sub-Committee, Ad Hoc, for an indefinite term, contingent on Mr. Dodd agreeing to his appointment. Selectman Emery seconded. 4-0

Town Counsel Report

Town Counsel Franks informed the Board that he will be filing special legislation that was voted at the annual town meeting to our state representative and that Westborough Mobile appealed their suspension (30 day) of their Class II License and that the court upheld it in the Town's favor.

Town Manager Report

Mr. Malloy requested that the Board sign the TIF Agreement for eClinical that was approved at the May Annual Town Meeting. The Board signed the agreement with the Town Clerk Nancy Yendriga witnessing their signatures.

Mr. Malloy informed the Board that he has attached a news story from the Boston Globe regarding the Municipal Health Insurance Plan Design and a summary of the Senate's action on the Health Insurance Plan Design authority for cities and towns.

He also has attached emails between Senator Eldridge and himself regarding this issue and indicated to Senator Eldridge that he would forward his position to the Selectmen. Mr. Malloy suggested that the Board may wish to invite the Senator and Representatives in to discuss this one issue or send a formal position letter to them.

Selectman Thompson moved to authorize the Town Manager to write a letter to Senator Eldridge in support of the House version of the Health Insurance Plan Design. Selectman Johnson seconded. 4-0

Mr. Malloy noted that the Post Town Meeting meeting conducted by Town Moderator Joe Harrington was today and that he has attached a memorandum that he gave to Mr. Harrington with his concerns.

Mr. Malloy said that he has attached both the Debt Management Policy that he drafted this year and the Fiscal Management Policy that he drafted last year for the Board's discussion (only) at this meeting so that he and the members may put it on a future meeting to establish formal policies on both.

Chairman Goldblatt requested that the Financial Policies be placed at a Board's meeting sometime in the summer to discuss it.

Mr. Malloy informed the Board that he and DPW Manager John Walden have agreed to place a Request for Proposal to lease space on the Town's water tank to seek companies who are interested in placing their cell towers there.

The Board agreed with Mr. Malloy's proposal.

Issues and Correspondence of the Selectmen

Selectman Thompson thanked all of the town meeting attendees for all their fine work done at the annual town meeting and all the town residents for their support.

Selectman Emery thanked Tim Novak for filming the Board's meeting tonight and also thanked the Town Manager for speaking, on her behalf, on the Green Technology Article at town meeting.

Chairman Goldblatt echoed Selectman Thompson's statements and announced that the 9/11 10th Anniversary Committee had its first meeting last Tuesday and will meet again on June 2nd. Chairman Goldblatt encouraged our residents to attend the Memorial Day Parade and also to remember our servicemen and women who are so far from home.

Executive Session/Litigation

Selectman Emery moved to enter into Executive Session for the purposes of discussing litigation strategy and collective bargaining, as meeting in open session would have a detrimental effect on the Town's negotiating position. The motion was seconded by Selectmen Thompson. Upon roll call vote, the Board voted unanimously to enter into executive session, and not to reconvene in open session.

Adjourn Open Session

Selectman Emery moved to adjourn the Board of Selectmen meeting at 7:43 p.m. Selectman Thompson seconded

Submitted by Nidia Ruberti

Chairman Goldblatt

Vice Chairman Dodd

Selectman Emery

Selectman Johnson

Selectman Thompson