

**Westborough Board of Selectmen
Meeting Minutes
June 28, 2011
6:00 – 8:50 p.m.**

Present: Chairman Goldblatt, Vice Chairman Dodd, Selectmen Emery, Thompson and Johnson

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

Request to Approve the Board of Selectmen's Meeting Minutes of June 14, 2011
Postponed to the next meeting.

Open Forum

There was no business for open forum.

Budget Transfer – Conservation/Conservation Officer

Derek Saari introduced Destiny Ashworth, the new Administrative Assistant in the Conservation Commission's office. Mr. Saari explained to the Board that due to space constraints the Conservation Commission has moved from the Building Department office to an available space across from the Planning Board and adjacent to the auditorium. The room has never had power and Mr. Saari is requesting a transfer of \$1,500 from their salary/wages budget to equip the room with electrical/cable. Frank Cornine procured the cost estimates.

Selectman Thompson's motion to approve the request to transfer of \$1,500 was seconded by Selectman Johnson. Vote: 5-0

Request to Appoint a Voting Member to the Conservation Commission/Derek Saari, Gary Kessler

The Conservation Commission voted unanimously at their last meeting to recommend Gary Kessler as a full voting member. Mr. Kessler has been heavily involved with the Commission as well as the Westborough Community Land Trust.

Selectman Emery's motion to appoint Mr. Kessler as voting member of the Conservation Commission effective June 28, 2011 to fill the term, which expires June 30, 2012 was seconded by Selectman Johnson. Discussion: Selectman Emery pointed out that Mr. Kessler also served on the Open Space Committee as a scientist. Board members commended and thanked Mr. Kessler for his service to the community. Vote: 5-0

Budget Transfers/Town Manager

Mr. Malloy presented the Fire Department's request to transfer \$6,000 from the expenses account to the salary/wages account as there has been a lot of overtime in the past few weeks.

Selectman Johnson's motion to approve the transfer of \$6,000 was seconded by Selectman Emery. Vote: 5-0

Mr. Malloy presented the Building & Grounds Department request to transfer \$1,400 from the wages account to the expenses account as there is not enough money left for the remainder of the year.

Selectman Johnson's motion to approve the transfer of \$1,400 was seconded by Selectman Emery. Vote: 5-0

Request to Re-appoint a Member to the Historical Commission/Nancy Strecker

Selectman Emery's motion to re-appoint Nancy Strecker to the Historical Commission for a term ending June 30, 2012 was seconded by Selectman Dodd. Vote: 5-0

Mass Saves Initiative Program/Asst. Town Manager/HR Director

Ms. Williams informed the Board that she and Mr. Malloy met with the Initiative Program Manager from National Grid. They will evaluate the energy consumption, benchmark the results against similar buildings and identify ways to reduce costs. This program is free to the Town provided that they agree to move forward with one of their recommendations, no matter what it is. The top three users in Town, the Senior Center, Library and Gibbons Middle School will be audited. Mr. Malloy and Ms. Williams will meet with key personnel from each of the buildings to review the process and obtain building data for National Grid. The process, which will take about eight weeks, will identify financial incentives and education campaigns are available to teach personnel ways to conserve energy.

Selectman Emery's motion to authorize the Town Manager to sign the letter of intent was seconded by Selectman Dodd. Discussion: The Board discussed the program and the \$15,000 approved at Town Meeting for a similar study. The Town will have three buildings audited for free and it would cost \$4,000 to \$6,000 to audit additional buildings, therefore the Town could have six buildings audited for approximately \$15,000. Selectman Emery asked that as the Warrant Article came from the Green Technology Advisory Committee, a liaison should be assigned to attend the work sessions and to be involved with education program as well. Discussion: None Vote: 5-0

CSX Public Hearing

Appeared: Maurice O'Connell, Government Relations for CSX Transportation; Ned Bartlett, Bowditch & Dewey Law Firm for CSX and TRANSFLO; Jan Barnes, TRANSFLO; Dan Feeney, Project Civil Engineer from Beals & Thomas.

Selectman Goldblatt stated for the record that this would be the first of many hearings and nothing will be voted on this evening.

Mr. Bartlett explained that the hearing is for the redevelopment of the existing facility at 19 Walkup Drive from an auto delivery ramp to trans-loading, which is the transfer of bulk

commodities. The project will be done under the appropriate regulatory standards of the State as well as those recognized in the bylaws.

Mr. O'Connell presented an overview of the agreement between the Commonwealth and CSX, where CSX was asked to increase the number of commuter trains and after a formal study it was decided in order to do that the operations would have to be moved from Allston/Brighton to central Massachusetts. After investigating sites they decided on moving the intermodal business to Worcester, the trans-loading to Westborough, and some of the intermodal business to West Springfield. Once CSX is relocated, the Commonwealth will take ownership of this line and they plan to increase from 25 trains to a total of 45 trains from Framingham to Worcester. The Westborough terminal is a \$20 million investment, will provide jobs and will have an enhanced storm water drainage system.

Ms. Barnes explained that TRANSFLO trans-loads bulk commodities from one mode of transportation to the other. They transport commodities that are classified by the Department of Transportation (DOT) as non-hazardous and a list has been submitted to the Fire Department. Regarding noise concerns, Ms. Barnes assured the Board that their testing meets OSHA standards, the use of the latest technology will mitigate the noise and there will be 6-12 trucks per day as opposed to 125 per day when the auto facility was operating. TRANSFLO does not handle highly toxic commodities or explosives as their employees' safety is their main concern.

Mr. Feeney submitted in May updated site plan review documents and reviewed the proposed development on the site plan and the two phases of construction. The total land area is approximately ninety-nine acres. Section 1241 of the Westborough Zoning Regulations outlines the criteria for the Board to consider when approving the site plan and Mr. Feeney reviewed some highlights of those regulations. A traffic study was completed, which details the traffic flow and the Fire Department has confirmed that there is adequate access for emergency vehicles. CSX is waiting for comments from the Town Engineer regarding an earth moving permit filed with the Planning Board and the Notice of Intent application filed with the Conservation Commission. The Planning Board voted last Tuesday to grant a waiver for an ten to fifteen thousand cubic yards of material to fill an area that has settled.

Questions from the Board were addressed regarding traffic and CSX will educate drivers and work with the Town on signage. TRANSFLO will conduct traffic management meetings with trucker drivers and post signage in the terminal directing the traffic away from Southborough. Selectman Johnson asked that any drivers that arrive early or stay overnight, park in an appropriate place as currently tractor trailers are parking overnight in front of Whittier. Also discussed were the materials that are being transported and Ms. Barnes explained that they have provided the Fire and Police Departments with the categories of commodities that are handled in Boston, but they cannot provide a list of the actual items due to Homeland Security issues. Selectman Dodd also requested that the drivers be aware of the height restriction of the railroad bridge in the center of town.

Chief Perron reported that CSX has addressed most items and he is comfortable with the site plan. CSX has worked with the Conservation Commission, replacing a culvert in April, 2010 to

stop flooding and Mr. Saari commended the Town and CSX as the level of Cedar Swamp has dropped to where should be. He will be working with CSX focusing on other culverts on East Main Street and Flanders Road. The Conservation Commission is satisfied with the plans.

Two Westborough residents and one Southborough came before the Board expressing their concerns, which included truck traffic, the commodities that will be stored on site and how the Fire Department is going to protect the community, trucks not being aware of the bridge in the center of Town and that the site plan include that no explosives be allowed on the site, now and in the future. The Board acknowledged the concerns.

Selectman Thompson is concerned about a possible incident, however if it happened on the rail in transit it would be more difficult to access, whereas CSX will control and manage the Westborough facility and there will be the appropriate equipment to address a potential accident on site.

Mr. O'Connell assured the Board that they have met with Southborough's Town Administrator, Fire Department and others, explained the project and traffic plan, addressed their concerns and created a website (www.railwestborough.com) with a link for the Southborough community. Regarding the bridge, CSX understands the community's concerns, has added extra signage and plans to address it further in future meetings.

Ms. Barnes addressed security on the site and explained that there will be fencing around the site perimeter, web-based security cameras which will be accessible to the Fire and Police Department; they will not have the ability to monitor them. TRANSFLO is required to maintain the Department of Homeland Security plan, and regularly drill with CSX, Dept. of Homeland Security and the American Railroad Administration. Greg Rhodes, a Fire Protection & Chemical Safety Consultant, has been retained by TRANSFLO to assist with fire safety, hazardous material handling and security. Selectman Emery requested time at a future meeting to discuss the safety plan with the Fire Department.

Selectman Johnson's motion to continue the hearing to July 12, 2011 at 6:35 p.m. was seconded by Selectman Dodd. Vote: 5-0

Jackstraw Brook Discussion and Vote / Town Manager

Mr. Malloy reviewed the events from the last eighteen months since Town Meeting appropriated the money to address the Jackstraw Brook issues on Warren Street. An appraisal report was done for the option of obtaining the easements through eminent domain with a land damage estimate and if the Town should proceed this way it would exceed the \$600,000 appropriated at Town Meeting. David White of Woodard & Curran devised a conceptual plan for the best option within the \$600,000, which was reviewed at a meeting with internal Town staff and the Division of Fisheries & Wildlife. It was agreed that what was proposed was the best that could be done in the confines of what the Town has, which is different than the original plan.

Mr. Malloy reviewed the difference between the two plans; the new plan replaces the culvert with a larger, open bottom box culvert, addresses the ten-year storm event, not the two and 25 year storm events, which is consistent with what the community has for storm drainage.

David White, Woodard & Curran Professional Engineer, addressed the Board. He investigated alternatives to the diversion project, focusing on replacing the existing culvert which has the capacity to pass the two-year storm event. It was determined that a nine-foot wide by three to four-foot deep culvert would fit, but there are concerns about the increased amount of flow passed downstream. The plan includes one to three-foot earthen berms between the properties and the stream to mitigate this concern. Mr. White stated that they will need to perform hydraulic calculations to determine what impact the increased flow will have.

Mr. Balduff explained that the stream has overflowed several times since 2005 and the original design did not require the culvert replacement as it was still in decent shape, but the flows have been tearing up the bottom in the last few years, which is leading to the culvert replacement instead of the diversion design.

In response to Selectman Emery's request, Mr. Balduff explained the details of the plan and how it will work (incorporated by reference). In order for the berms to be installed, permission is required from the two residents whose properties would be involved as easements are needed on both sides.

For Selectman Johnson's benefit Mr. Balduff explained what happens when the brook has a storm flow that is too great to run beneath the road using the plan as a reference and that the berm could contain the larger capacity of flow.

Mr. White explained the construction process of the berms in response to Selectman Dodd's question. The object of finalizing the size of the culvert and what will pass under the roadway in association with the level of protection from the berm, is that they will be equal so that the adjacent properties would not be impacted any more frequently than they are today. There will be no impact to the culverts under Upton and Hopkinton Road and Mr. Balduff assured that even though there is flooding at Morse Street and Upton Road during a large storm, it is handled and manageable.

Selectman Thompson's concerns were whether the \$600,000 includes compensation for the easement rights, which it does not and that the easement is needed from the property owners to build the berms. Another concern was that it was not anticipated that there would be a need to pay property owners for an easement in order to give the Town the right to protect the integrity of the property from storms. There is no guarantee that this can be done for \$600,000 without the consent of the property owners and according to Mr. White the estimated cost of the construction is \$300,000 to \$400,000 and that is without property owner compensation.

Mr. Franks explained that the Board as well as Town Meeting would have to vote for eminent domain, any litigation may take years and would be expensive.

Robert Moore appeared before the Board and expressed concerns regarding basement flooding at 50 Warren Street, that he is eager for the work to be started to correct the problem, and that he is not looking for compensation. Selectman Goldblatt acknowledged Mr. Moore's concerns and assured him that the Board is willing to move forward with what was voted for at Town Meeting and it is not the Board that is stopping the process.

Jim Cavaretta, of 52 Warren Street, had concerns about the sacrifices he would have to make regarding his property for the project and that there should be a value for that. He reviewed information obtained from Woodard & Curran regarding the increased amount of water that will flow through the larger culvert and is concerned that there will be damage to the existing stream banks and erosion at the roots of trees that are close to the brook and that water will end up in his yard at the end of the berm. He also indicated that he was not approached regarding the Town obtaining an easement. Mr. Cavaretta requested that the Board reject the plan and consider the diversion plan. Selectman Goldblatt thanked Mr. Cavaretta for his comments.

Mr. Kassatly, of 46 Warren Street, has water in his garage and basement when there is an overflow, and is satisfied with the original plan, and with the installation of a 3-foot by 7-foot culvert. The Board took his comments under advisement.

Mr. Balduff responded to Selectman Emery's question regarding the original plan and would the diversion run completely under Mr. Cavaretta's property, that it would, however, the original proposal discharged behind 52 Warren Street into an open channel and that was an issue for the property owner.

Mr. Malloy stated for the record that he did meet with Mr. Cavaretta in the fall of 2009 and asked if he would grant an easement to the Town at no cost and his counterproposal was that the Town purchase his house for \$430,000, install the drainage structure, then put the house up for sale. This situation put the Town in the position to get an appraisal report for eminent domain and recoup the difference.

The Board has taken all the comments under advisement and will place the issue on a future agenda for discussion. The residents will be notified of the meeting date.

Request to Appoint Members to the Cultural Council / Katherine LeBlanc, Lynn Watts, Cliff Watts, Phyllis Jaffee, Brett Poza, Joy Cho

Ms. Watts explained to the Board that the Cultural Council's bylaw states that a member cannot serve more than two three-year terms in succession therefore, she and Ms. Jaffee will become associate members and Joy Cho will be joining as an Associate Member as well.

Selectman Dodd's motion to appoint Brett Poza and Cliff Watts for a three-year term as regular members of the Cultural Council and Lynn Watts, Phyllis Jaffee and Joy Cho as associate members for a one-year term was seconded by Selectman Emery. Discussion: Selectman Goldblatt requested that the Council formally vote on the positions at their next meeting and send a memo the Board. Vote: 5-0

Gilmore Road Truck Exclusion / Southborough DPW, Superintendant Karen Galligan

Ms. Galligan came before the Board to request the Town's approval for Southborough to use the Town's streets as an alternate route to keep trucks from using Gilmore Road in Southborough, as the road is narrow and residential. A truck exclusion can be entered into the GPS system which will provide the drivers with the alternate route.

Selectman Emery's motion that the Board support the request that the GPS system make Gilmore Road a truck exclusion was seconded by Selectman Dodd. Discussion: None. Vote: 5-0

Site Plan Fees Discussion and Vote / Town Manager

Mr. Malloy researched site plan fees in response to the discussion at the previous meeting and presented a fee structure based on the average of what other towns charge.

Selectman Johnson's motion to set site plan fees in the following amounts: Major Site Plan Review (Over 20,000 sq. ft.) at \$2,500 + \$0.05 per sq. ft.; for Minor Site Plan Review (Up to 20,000 sq. ft.) at \$1,000 + \$0.05 per sq. ft.; for Site Plan Revision \$500; and for Site Plan without a structure \$1,000 effective July 1, 2011, was seconded by Selectman Emery.

Discussion: None. Vote: 5-0

Request to Award the E-Permitting and Document Management System Project / Town Manager

After the Town Meeting vote to move forward, Mr. Malloy provided the Board with a quote from MX Consulting Services to purchase, install and train staff in the use of the E-Permitting system. Mr. Htway researched several firms that use this type of software and visited them as well. He selected Hawkeye Permitting Solutions which is provided through MX Consulting through the State Bid.

Selectman Thompson's motion to the award the E-Permitting and DMS project to MX Consulting Services, Inc. and further to authorize the Town Manager to execute the contract in the amount of \$39,600 was seconded by Selectman Dodd. Discussion: Selectman Emery thanked Mr. Malloy and Mr. Htway. Vote: 5-0

Request to Approve the Boston Mutual Life Contract / Asst. Town Manager/HR Director

Ms. Williams came before the Board to request approval of the contract to change the life insurance from Fort Dearborn and the long term disability from UNUM to Boston Mutual as discussed at the previous meeting.

Selectman Dodd's motion to approve the contract with Boston Mutual for Life and Long Term Disability insurance and further to authorize the Town Manager to execute any related contracts was seconded by Selectman Johnson. Discussion: Ms. Williams explained that there were two different meetings due to the impact bargaining deadline which was June 24, 2011 at 12:00 p.m. According to Mr. Malloy, there were no requests to negotiate as of the deadline, however a request came from the teachers at 5:00 p.m. after the deadline for impact bargaining passed; they were given the opportunity but failed to meet the deadline. Mr. Malloy will meet with them to insure that they are supportive of it. Vote: 5-0

Request to Extend the Contract with Veolia Water / DPW

John Walden came before the Board to request approval of the first of two five-year extensions to the ten-year contract with Veolia Water; this extension will not change any of the contract's terms or conditions.

Selectman Emery's motion to approve extending the contract between the Town of Westborough and Veolia Water NA for an additional five year period under the same terms and conditions of the original contract and further authorize the Town Manager to execute the contract was seconded by Selectman Johnson. Discussion: Selectman Emery, who is the liaison to the Sewer Treatment Board, has witnessed an exceptional relationship between the Board and Veolia and that they have done an incredible job. Vote: 5-0

Request to Award Hot In-Place Asphalt Recycling Bid / DPW Manager

Mr. Walden received and opened one bid on Thursday, June 16, 2011 for the Hot In-Place Asphalt Recycling from Highway Rehabilitation Corporation. He is recommending that they be awarded the bid.

Selectman Thompson's motion to award the bid for Hot In-Place Asphalt Recycling to Highway Rehabilitation Corporation in the amount of \$3.74 per square yard as per their bid and further to authorize the Town Manager to execute any related contracts was seconded by Selectman Dodd. Discussion: Mr. Walden wants to focus on Milk Street to the Town line. Regarding Adams Street, before Mr. Walden puts a lot of money into this issue, the gas company is interested in running a line there and if it does not happen for several years then repair work will be done. Vote: 5-0

Request to Award Ruggles Street Water Tank Maintenance Contract / DPW Manager

Mr. Balduff came before the Board to recommend awarding the bid to Worldwide Industries, who was the low bidder, for the maintenance painting of the Ruggles Street steel water reservoir pending subject to them providing bonds and insurance. The amount is \$298,160.

Selectman Emery's motion to award the bid for Ruggles Street Water Tank Maintenance Painting to Worldwide Industries in the amount of \$298,160 as per their bid and further to authorize the Town Manager to execute any related contracts was seconded by Selectman Johnson. Discussion: In response to Selectman Thompson's question, Mr. Balduff could not remember what it cost to paint it the last time, the Route 9 tank is much larger and was more expensive as it was painted inside and outside. The bids came in lower than he expected. The appropriation at Town Meeting was \$420,000 and there surplus cover supervision and quality control and any other contingencies. Vote: 5-0

Request to Amend the Original Contract for Peer Review of the CSX Project with MDM Transportation Consultants / Town Manager

Mr. Malloy explained that the original peer review resulted in a list of questions and required additional studies of CSX, which have been submitted to MDM and the Transportation Engineer and their recommendations will be incorporated in the site plan. This additional study is

supported by the Town Engineer, Police Chief and Town Planner and the cost of \$10,400 will be paid by CSX bringing the total cost of the contract to \$18,600.

Selectman Thompson's motion to approve amending the contract between MDM Transportation Consultants, Inc. and the Town of Westborough by increasing the total contract to \$18,600 and further authorizing the Town Manager to execute the contract was seconded by Selectman Dodd. Vote: 5-0

Town Counsel Report

As a result of the discussion at Town Meeting, Mr. Franks prepared a release of restriction document for the VFW property, which the Board had previously voted to approve. He also prepared an agreement of first refusal for the Board to review. Mr. Franks is satisfied with release of restriction document and distributed it for the Board's signature.

Town Manager Report

Mr. Malloy asked the Board to discuss at this meeting or in the future, authorizing the Town Manager to sign contracts with conditions/up to a certain dollar amount. In response to Selectman Emery's request Mr. Malloy will provide information from the last six months regarding the distribution of contracts. For the next meeting's agenda Mr. Malloy will present the final settlement agreement with Constellation Energy for the Board's approval.

Issues and Correspondence of the Selectmen

Regarding the budget and the proposed debt management plan and unfunded reserve plan, Selectman Johnson encouraged the Board to bring the issues back for presentation and formal adoption, preferably before fall Town Meeting and to share the plans with the Advisory Finance Committee and ask for their input. As an agenda item, Mr. Malloy will invite the AFC to the next meeting. A former Westborough resident and high school classmate of Selectman Johnson's was recently in a fatal car accident and he asked to keep her parents and daughters in everyone's thoughts and prayers.

Selectman Dodd attended the second public forum for the Westborough State Hospital Reuse Commission and in response to the public's request for more information suggested that a website be set up with information that the public can access. Mr. Malloy will request that a new department be added to the Town website's home page, "Westborough State Hospital Reuse Commission" and the Planning Board information will be posted on it.

Selectman Emery's request that the Board discuss consider the option of purchasing the State Hospital property or any part of it will be addressed at the next meeting. Mr. Malloy will contact DCAM and discuss what the procedure would be and will outline the results in the Town Manager's report. Selectman Emery thanked Paul Temple for bringing the meeting tonight to the public.

Selectman Thompson also thanked Mr. Temple and Ms. Bain-Morgado. He requested from the Town Manager CSX's truck fee schedule for Worcester and suggested that Westborough consider charging a fee as well.

Mr. Malloy informed the Board that he will be attending the Economic Assistants Coordinating Council's meeting tomorrow and will attend the hearing for E-Clinical Works' State approval of their TIF agreement. The EACC is also considering the approval of the Bank of NY/Mellon Bank expansion here, which would be an extraordinary opportunity for the state.

In response to Selectman Thompson's question, Mr. Malloy will meet with the Town Account regarding the increase in the mileage reimbursement rate, if it will affect this year's budget and if so, it will be addressed at Special Town Meeting.

Selectman Goldblatt wished everyone a happy Fourth of July and asked to remember the men and women that are away from home.

There is no need for Executive Session.

Selectman Thompson's motion to adjourn the Board of Selectmen meeting at 8:50 p.m. was seconded by Selectmen Dodd. Vote 5-0.

Submitted by Paula M. Covino

Chairman Goldblatt

Vice Chairman Dodd

Selectman Emery

Selectman Thompson

Selectman Johnson