

**Westborough Board of Selectmen  
Meeting Minutes  
October 23, 2012  
6:00 p.m. – 8:26 p.m.**

Present: Chairman Emery, Vice Chairman Johnson (arrived at 6:15 p.m.,  
Selectmen Dodd, Barrette and Drewry

Also Present: Jim Malloy, Town Manager; Kristi Williams, Assistant Town Manager/  
HR Director; Gregory Franks, Town Counsel

**Request to Approve the Board of Selectmen's Meeting Minutes**

Selectman Barrette's motion to approve the minutes of October 9, 2012 was seconded by  
Selectman Drewry. Vote: 4-0

**Open Forum**

Chief Gordon informed the Board that there is the possibility of a hurricane next week and that  
residents can tune into the Town's radio system at 1610 AM, which will provide instructions for  
shelter and emergency information.

**Request to Approve the Appointments of Todd Alexander and Justin Lundberg as  
Alternate Members to the Zoning Board of Appeals / Jim Johnson, Chair**

Mr. Johnson informed the Board that the Zoning Board of Appeals have met with the applicants  
and voted unanimously to recommend that the Board appoint them as Alternate Members.

Selectmen Barrette's motion to appoint Todd Alexander for a three year term ending June 30,  
2015 and Justin Lundberg for a two year term ending June 30, 2014 as Alternate Members to the  
Zoning Board of Appeals was seconded by Selectman Drewry. Vote: 4-0

**Request to Award the Superintendent Contract for the Westborough Country Club to Golf  
Course Management, Inc. / Earl Storey / Michael Hightower, Superintendent**

Mr. Storey and Mr. Hightower came before the Board and Mr. Storey informed the Board that  
Mr. Hightower is in his eleventh year at the Country Club as Superintendent and the  
Procurement Committee voted unanimously to recommend that the Board award the contract to  
Golf Course Management, Inc.

Selectman Barrette's motion to award the Golf Course Superintendent's Contract to Golf Course  
Management, Inc. for a five year period January 1, 2013 through December 31, 2017 as per the  
bid and attached contract was seconded by Selectman Drewry. Discussion: Selectman Drewry  
pointed out that not only is Mr. Hightower a good golfer he is also an excellent superintendent  
which is reflected by the condition of the course. Selectman Barrette questioned the personal  
property insurance amount and Attorney Franks pointed out that there is no minimum  
requirement. Selectman Barrette asked Mr. Hightower to review the number again at the  
expiration of this contract. Mr. Storey explained that the contract is paid by member dues and  
greens fees and that currently there is no wait list. Vote: 4-0

**Public Hearing for Request to Transfer the Wine & Malt Restaurant Liquor License from Hisa Japanese Cuisine, Inc. d/b/a Hisa Japanese Cuisine to Sake Hana, Inc. d/b/a Sake Hana, 21 South Street / Yu Jiang**

Selectman Barrette's motion to approve transferring the liquor license at 21 South Street to Sake Hana, Inc. naming Yu Jiang as the Manager of Record as per their application was seconded by Selectman Drewry. Discussion: Mr. Jiang has had previous experience at Tenka Grill and is fully aware of the alcohol training requirements and regulations. Vote: 5-0

**Request to Approve a Common Victualer Permit for Sake Hana, Inc. d/b/a Sake Hana, 21 South Street / Yu Jiang**

Selectman Johnson's motion to approve the Common Victualer License for Sake Hana, Inc. at 21 South Street as per their application was seconded by Selectman Barrette. Discussion: There will be no changes to the restaurant design and Japanese food will continue to be served. Vote: 5-0

**Public Hearing for Request to Alter Premises by LD Wines, Inc. d/b/a LD Wines to be Located within the Stop & Shop Store, 290 Turnpike Road / Leslie Downey**

Ms. Downey explained to the Board that they currently do not have enough storage space within the self contained area they occupy and would like to store product in the storeroom.

Selectman Emery's motion to open the public hearing was seconded by Selectman Dodd. Vote: 5-0

Selectman Barrette's motion to approve the Alter Premises application of LD Wines, Inc. to add additional storage in a segregated area on the second floor mezzanine store room of the Speedway Plaza Stop and Shop at 290 Turnpike Road as per their application was seconded by Selectman Johnson. Discussion: Chief Gordon confirmed with Ms Downey that the storage room will be locked and Ms. Downey explained that the products will continue to be securely transferred from the storage room through the store. Vote: 5-0

Selectman Johnson's motion to close the public hearing was seconded by Selectmen Dodd. Vote: 5-0

**Zaara Gardens Comprehensive Permit Application / Farooq Ansari**

Mr. Ansari explained that after this Chapter 40B project was approved he discovered a way to improve the project layout and he returned to the Zoning Board of Appeals with a new plan, which requires approval from the Board of Selectmen. The original plan was changed from a thru-street to a cul-de-sac. Because of concerns about stormwater management from the Town Engineer two years ago, Waterman Design revised the plan which addresses the existing issue of flooding on East Main Street during heavy rain as well as preventing adverse effects from the proposed development.

Mr. Balduf, Town Engineer, came before the Board and issued a memo that summarizes the Engineering Department's position. Mr. Balduf reviewed the history of the project and informed the Board that the drainage issue has been addressed to his satisfaction and that the four conditions listed in his October 23, 2012 memo be included in the Board's approval. In response to Selectman Emery's question Attorney Franks explained that the Board's vote would be to continue to support the project.

Comments from the Board included: concerns about receiving information at the last minute; the need for more input; if Mr. Ansari is comfortable with the four conditions, which he is and that he is only looking for the Board's support to move forward; the Board did support the project initially and it will have to go back to the Zoning Board of Appeals for approval. Mr. Liedell came before the Board and informed them that the Housing Partnership provided a letter of recommendation dated October 18, 2012 that the Board support the project and that the revised plan will be sent to the Department of Housing and Community Development as the next step. Out of the twelve units, three will be affordable housing.

Selectman Johnson's motion to take this under advisement and that the Town Manager prepare a motion for the Board to take action on at the next meeting was seconded by Selectman Barrette. Vote: 5-0

**Request to Accept Gift of Land at 18 Nourse Street / David Kelley and Donna Ricci**

Selectman Barrette's motion that the Board approves the Conservation Commission's vote on August 23, 2011 to accept 18 Nourse Street as a gift of land to the Town's Conservation Commission was seconded by Selectman Drewry. Discussion: The property generates \$311 a year in taxes and it is mostly wetlands. Vote: 5-0

**Request to Approve a Casino Night Fundraiser for Beth Tikvah Synagogue / EJ Dotts**

Bob Siegel, President of Beth Tikvah Synagogue, EJ Dotts, Vice President of Member Services, who are residents and Paul Chastenet, Treasurer, a Northborough resident came before the Board to request approval for a permit to hold a poker tournament fundraiser on November 18, 2012.

Selectman Barrette's motion to approve the Casino Night application of the Beth Tikvah Synagogue, 45 Oak Street for November 18, 2012 between 12:00 p.m. and 5:00 p.m., subject to any requirements of the Chief of Police and further to waive the \$10 permit fee was seconded by Selectman Drewry. Discussion: Chief Gordon is satisfied that they have met all the requirements. The event is will raise funds for the synagogues operating expenses and participation is by member invitation only. Ms. Dotts provided details on the cost to participate, what the prizes are and that she can be contacted for further information. Vote: 5-0

**Public Hearing for the Approval of a License to Store Flammable and Combustible Materials for MicroChem, 200 Flanders Road / Kevin Roache**

Kevin Roache, Senior Project Manager and Jay Cole, President and CEO came before the Board. Selectman Emery stated that the Fire Department has undertaken an extensive review and employed a fire protection engineer to advise them on the conditions attached to the license and Chief Perron approved the license on Friday, October 19, 2012. Mr. Roache provided background information on the company, why they are expanding in Westborough and asked the Board for approval to store flammable and combustible material.

Selectman Johnson moved to approve the License Application for Storage of flammable and combustible material submitted by MicroChem for 200 Flanders Road for 45,000 gallons of storage as per their application as approved by the Fire Chief, subject to the following conditions:

- Compliance with all Massachusetts General Laws, Codes, Regulations and Standards to include but not limited to MGL148, 527 CMR1.00 – 50.00 (Fire Prevention Regulations), and 780 CMR (Building Code).
- An annual review may be required of the property and the building(s) by a third party registered professional(s) chosen by the Fire Chief at the owner/occupant's expense to assure code and regulatory compliance.
- Provide emergency planning and evacuation plans.
- Provide and onsite containment booms and other equipment for spill/fire response.
- Provide initial and refresher training of site personnel in compliance with OSHA and NFPA for response to spills and fires.
- Provide a minimum of 2 site liaisons to provide ongoing communications with the fire department.
- Provide training to be conducted by MicroChem at times deemed appropriate by the fire department as the facility comes on line and expands.
- Provide replacement foam concentrate on foam trailer system at its expiration.
- Provide a foam water standpipe per NFPA 11 or a mobile foam generator.
- Provide supplemental equipment to assist in narrowing the area of problem such as heat detectors, zone valves, etc.
- Provide year round access around the areas of the building to the left and right of the lobby.

The motion was seconded by Selectman Barrette. Discussion: Ben Stevens, from Trask Development, informed the Board that he has been working with Town Departments for the past six months building houses adjacent to MicroChem and was not aware that they were moving in. He expressed concerns regarding the value of the houses that he is building and will have to disclose to the buyers the nature of what is being stored. Mr. Stevens stated that he should have been notified and Attorney Franks explained that the Town has no obligation to notify abutters. The building is zoned industrial and there will be no changes to the outside of the building. MicroChem did hold an open house last Thursday, abutters were notified, Mr. Malloy and Selectman Dodd attended and they were the only attendees. Mr. Stevens stated that he did not get the notice. Vote: 5-0

Selectman Johnson's motion to close the public hearing was seconded by Selectman Dodd. Vote: 5-0

### **Ebridge Montessori School / Jin Huang**

Jin Huang, Director and Rebecca Walker, Assistant Director came before the Board as well as parents and staff. Ms. Huang and provided background on the Montessori School which opened in 2005 and the progress they have made. The space next to the school became available for the school's expansion, which they planned to renovate. The process began in January 2011 and the plan was to move into the space in the summer of 2011 but they were delayed as the entire building did not meet the requirements by the Building Dept. and Fire Dept. Ms. Huang has been working with the Town Departments and was able to proceed with renovations but was unable to obtain the occupancy permit and as a result is undergoing operational hardships.

Selectman Emery stated that the Board supports the decisions of the Building Dept. and Fire Dept. and asked Mr. Moquin and Chief Perron for their input. Ms. Walker pointed out that other

businesses have renovated during this time period and Selectman Emery assured her that this issue will be addressed.

Mr. Moquin provided the Board with a summary of permits that were issued and when. The Building Dept. does understand the school's predicament, but supports the Fire Dept. as the issues are safety related. Mr. Moquin reviewed the permitting and work that the school was allowed to do without the Fire Dept.'s final inspection. The dance company's expansion was done without a permit, they are in violation and Mr. Moquin will address the issue this week.

Chief Perron distributed copies of their inspection documents stating that it is their job to enforce the State Fire Code. He reviewed the process they have been through and the issue with sprinkler heads which were not code and previously installed. There are still issues in other spaces in the building a permit cannot be issued as the fire alarm system is not operating properly. Chief Perron reviewed what documents/affidavits are still needed, and once received they can inspect the building and issue the school an occupancy permit. The landlord's contractor will not issue documents until he gets paid, which is a landlord-tenant issue. They cannot close the building, but can prohibit new construction and expansion.

Selectman Barrette asked if the Town has any recourse to get the landlord to comply and Attorney Franks suggested that the school hire an attorney, to which Ms. Huang stated that they did not have the money to do so. The Board agreed that the children's safety is the first priority and they cannot ask the Fire Chief to violate State Fire codes.

The landlord's contractor came before the Board and explained his position and the work he has completed. He stated that he has paid all of the sprinkler and alarm companies with the exception of one invoice for work that was performed today and is making every effort to get the required documents to the Town. There are three documents that will be very difficult to obtain and has asked Chief Perron if there is other evidence that is adequate to waive those particular documents. The Chief will reasonably consider his request. Once this document issue is resolved it will take approximately one to two weeks to complete the work.

Even though the issue is out of the Board's purview they asked to be kept informed with updates and a list of outstanding items. Dana Haagansen, Code Enforcement Officer from the State Fire Marshall's office stated that the affidavits are needed and the project cannot move forward without them.

#### **Request to Approve the Explorer Post Lease Renewal / Town Manager**

Selectman Barrette's motion to approve the Lease Extension with the Explorer's Post was seconded by Selectmen Drewry. Vote: 5-0. Retired Fire Chief Jim Parker and the Board signed the lease agreement.

#### **Request to Approve Veterans' Tax Work-off Program Policy / Selectman Dodd**

Selectman Dodd thanked those who attended Town Meeting and for their vote to approve the policy.

Selectman Dodd's motion that the Board adopts the policy for the Veteran's Tax Work-Off Program as presented was seconded by Selectman Drewry. Discussion: Board members thanked Selectman Dodd for his efforts to develop the policy. Vote: 5-0

### **Request to Approve the Fire Station Design Architectural Contract / Town Manager**

The construction of a new fire station was approved at Fall Town Meeting after having been an issue on ten different Town Meetings. The Municipal Building Committee reviewed and approved, with cost reduction adjustments, the contract with Jacunski Humes at a meeting last week. The proposal is \$600,000, which is approximately 5.5% of the total project cost.

Selectman Barrette's motion to approve the Agreement between the Town of Westborough and Jacunski Humes for architectural services for the new Fire Station as per their proposal as presented and further to authorize the Town Manager to execute the agreement was seconded by Selectman Drewry. Vote: 5-0

### **Town Counsel Report**

At the last meeting the Board voted in favor of the plan with four lanes on Colonial Drive that was submitted by Dunkin' Donuts. Because of difficulties with the turning radius Dunkin' Donuts has proposed that the sidewalk be moved in order to accommodate this issue, which could cause queuing on Colonial Drive. Board members did walk the site, some with the Town Engineer and some on their own. Selectman Drewry still has safety concerns; Selectman Barrette asked Chief Gordon for his input, and he suggested moving the crosswalk north to the other side of the entrance to the plaza which is on the right so that pedestrians will not have to cross the line of traffic that is entering and exiting Dunkin' Donuts. Chief Gordon will be asking the Board at some point in the future to approve placing "No Parking" signs on both sides of the area being discussed. The Board agreed with Chief Gordon's recommendation.

Regarding the conservation land in the vicinity of Sandra Pond that was discussed at a previous meeting, Attorney Franks spoke with Gary Kessler from the Conservation Commission and there was a Town Meeting vote to give one of the parcels to the Conservation Commission, but no instrument was ever recorded. He will address that and bring it before the Board. The other properties that he addressed on the chart are correct, most belong to the Conservation Commission and the large parcel in the middle belongs to the DPW.

### **Town Manager Report**

In 2009, Mr. Malloy had proposed to the Board the Pay as You Throw (PAYT) system for solid waste disposal and is presenting it again for consideration for the FY 2014 budget. Shrewsbury, Northborough and Grafton are using the system and he explained the process and the benefits. It encourages recycling and will lower the Town's solid waste costs. The decision would involve three steps which are outlined in the October 23, 2012 Manager's Report. Mr. Malloy suggested creating Sub-Committee consisting of two members of the Board of Selectmen, two members of the Board of Health and the Town Manager or Assistant Town Manager. Selectmen Emery and Dodd will represent the Selectmen.

Selectman Dodd's motion to create an Ad hoc Pay as You Throw Study Committee consisting of two members appointed by the Board of Selectmen, two members appointed by the Board Health, one of which could be a Board of Health staff member, and either the Town Manager or his designee was second by Selectman Barrette. Vote: 5-0

The Comprehensive Wastewater Management Plan (CWMP) has nine remaining areas to be serviced as part of the original plan and several months ago Woodard & Curran Engineers were



asked to provide the estimated costs of these projects. After reviewing the estimates with Mr. Walden and Mr. Balduf, Mr. Malloy suggested that the Board has a work session to review the maps and discuss whether to move forward with these projects as whole, as one project at a time or to cease further sewer extensions. There would be input from Woodard & Curran and public meetings would be held. The process would be public and educational. The Board would have to decide how to address the issue that some residents are expecting sewer connections. There is no hurry as there are no plans for a project this year.

Mr. Malloy informed the Board that the Town did not have a formal organization chart, but had one that was unapproved and confusing. According to the Charter, in order for an organization chart to be in place the Board has to hold a public hearing and it has to be adopted by Town Meeting. As part of the Board's goal Mr. Malloy was assigned the task of reviewing the Town Charter and provide the Board with a list of issue that need to be addressed. Mr. Malloy reviewed the draft of the organization chart that he prepared. Once the Board has reviewed the chart the discussion will be put on a future agenda along with some charter review issues.

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

Selectman Drewry asked to keep the men and women overseas in everyone's thought and prayers. Selectman Emery thanked Tim Novak for producing the meeting. Selectman Johnson reminded the public about the Westborough Education Foundation Trivia Bee on Monday, November 5, 2012 and that the Selectmen will have a team.

### **Adjourn Open Session**

Selectman Emery's motion to adjourn at 8:26 p.m. was seconded by Selectman Drewry.  
Vote 5-0

### **Executive Session**

Selectman Johnson's motion that the Board enter into Executive Session for the following purposes: to discuss collective bargaining, as an Open Session would have a detrimental effect on the Town's bargaining position; and to discuss the litigation strategy, as an Open Session would have a detrimental effect on the Town's litigation position. A Roll Call vote was taken: Selectman Drewry – yes; Selectman Barrette – yes; Selectman Emery – yes; Selectman Johnson – yes; Selectman Dodd – yes.

*Submitted by Paula M. Covino*

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**Chairman Emery**

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**Vice Chairman Johnson**

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**Selectman Dodd**

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**Selectman Barrette**

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**Selectman Drewry**