

Members present: Kevin M. McCormick Allen R. Phillips  
Christopher A. Rucho Alexander Fallavollita, Sr.  
Members absent: John B. DiPietro, Sr.

Mr. McCormick convened the meeting at 7:00 p.m.

**Read and acceptance of Minutes From Previous Meeting:**

Motion Mr. Fallavollita to approve the meeting minutes of January 17, 2007 as submitted, seconded by Mr. Phillips.

**Ladies Soccer State Champions**

Mr. Gaumond announced that the Ladies Division 3 State Soccer Champions are in attendance this evening. He is proud and honored to recognize them as they worked very hard to achieve their success and he wished them good luck next year. The Board extended its congratulations to team members Veronica Corcoran, Kristin Lewis, Amy Noyes, Lacie Carbonneau, Julia Barry, Haley Marchant, Team Captain Elizabeth Welch, Erica Rayworth, Kayla Rayworth, Dianna Cincotta, Kristin Dono, Team Captain Alexa Hebb, Casey Palmer, Leah Carbonneau, Kasia Mitaszka, Team Captain Andrea Janda, Susan Cowan, Christi Palmer, Kerri Palmer, Kerri Lewis, Shannen Mulryan, coach Paul Mumby and Assistant Coach Clifford Cloutier, who was unable to attend the meeting.

**Andrew Beardsley**

Mr. Beardsley is meeting with the Board this evening to discuss property he purchased at 66 Keyes Street. He explained that the property abuts his residence, and he was approached by his neighbor to purchased the 14 acres. As the property was classified as forestry under Chapter 61 the procedure, which should have been followed was to offer the town first refusal to purchase the property, and that did not happen. He does not believe the seller did this intentionally as he wanted Mr. Beardsley and his family to own the property. The transaction happened quickly as the state had shown an interest in purchasing the land. Mr. Beardsley does not intend to do anything more with the land. It abuts his family's property, which is not classified as forestry. He has hired a forest management person to classify the land, and he had hoped to have a letter on his progress for the meeting. Mr. Beardsley has every intention of keeping it classified as forestry and no intention of developing it. His understanding is that if it is a continuation of use he should have that right.

Mr. McCormick explained that there are other properties in a similar situation and the Board will be going into executive session to decide its intentions.

Motion Mr. Phillips to take this under advisement and someone will get back to Mr. Beardsley once the Board has made its decision, seconded by Mr. Rucho, all in favor.

**Henry And Kathy Michie, K&H Realty Trust**

This item will be tabled this evening at the request of Mr. Michie.

**NEW BUSINESS**

1. Request from Building Department for an Intradepartmental Transfer in the amount of \$3,500 from Salaries and Wages to Supplies

Mark Brodeur, newly appointed Inspector of Building, joined the Board. Mr. Gaumond explained that Mr. Brodeur has an aggressive plan to change some of the operations within his office. He is requesting this transfer to purchase file cabinets.

Motion Mr. Phillips to approve the request, seconded by Mr. Rucho, all in favor.

2. Request from Building Department for an Intradepartmental Transfer in the amount of \$500 from Salaries and Wages to Other Charges

As the Mass State Building Code was updated this past year, these funds will be used to purchase new books.

Motion Mr. Philips to approve the request, seconded by Mr. Rucho, all in favor.

**John Westerling Director Of Public Works**

1. Winter moratorium waiver request

Mr. Westerling explained that DeWolfe Contracting requested permission to install a gas service at a house at 575A Prospect Street. Due to the winter moratorium, which is in effect until April 1, Mr. Westerling denied the request. Mr. DeWolfe asked what the appeals process was and Mr. Westerling instructed him to send a letter to the Board of Selectmen. Mr. Westerling recommends against the waiver request for the following reasons. Mr. DeWolfe indicated that he could install temporary propane gas heat to heat the space while he plaster, NSTAR has poorly maintained its temporary patches on Shrewsbury Street, the asphalt plants are closed and temporary cold patches tend to break apart in cold weather resulting in an unsafe condition on the street and sidewalk and the town has denied similar waivers unless it was an emergency and this is not.

Mr. Fallavollita suggested using the bond for the Shrewsbury Street work. Mr. Westerling explained that the work was done in the fall and he is working with NSTAR to get this remedied. On the Prospect Street job he feels there is no guaranty that the work would be restricted to the sidewalk. Mr. Fallavollita reported that NSTAR is digging on his street and they are using some type of hot material. He also thinks it would be a big expense to use temporary heat in the building, and he would not have a problem with them digging in the sidewalk and working on the edge of the road. He suggested asking DeWolfe to stand behind NSTAR's work. Mr. Rucho questioned how long the property had been under construction. Mr. Westerling indicated less than two months. He also reported that the sidewalk is bituminous concrete with a berm and is in good condition. Mr. Fallavollita recommends saw cut, work done to Mr. Westerling's specifications, and an additional deposit by DeWolfe to stand behind NSTAR's work.

Mr. Westerling noted that he does not have the ability to waive the regulations, and if the gas main is more on the road side of the sidewalk it could undermine the roadway. Mr. Fallavollita wants to ensure he is not crossing the road, and the agreement should include verbiage that he shall maintain any settling throughout the season

Motion Mr. Fallavollita to grant the winter moratorium waiver request of DeWolfe Contracting, and give Mr. Westerling discretion to increase the amount of the bond for damage to the roadway and sidewalk for work within the meets and bounds and the right-of-way, seconded by Mr. Phillips. Mr. Westerling will ensure that DeWolfe understands. Mr. Fallavollita would like to see a copy of the agreement. Vote on the motion – all in favor.

**2. Oakdale Rehabilitation Center Abatement**

Oakdale Rehabilitation Center was previously granted an abatement and it was inadvertently placed on their tax bill. Two separate abatements are required, one of construction in the amount of \$6,853.16 and the other for the start-up in the amount of \$752.46.

Motion Mr. Fallavollita to grant the request, seconded by Mr. Rucho, all in favor. Mr. Fallavollita would like to make sure this does not happen on the next bill.

**3. Beaman Street/North Main Street Intersection Update**

At the request of the Board, Mr. Westerling has looked into three different options to improve the condition of the intersection. The first is realign the intersection to improve traffic flow and include landscaping, the second is remove the asphalt in the island and replace it with low maintenance stone and low growing bushes and the third is remove the asphalt in the island and build it up with timbers, loam and grass.

Mr. Phillips would like to hear the advantages and disadvantages of the three options, which Mr. Westerling agreed to prepare. Mr. Westerling reported that he spoke with Mr. DiPietro who indicated the reason the berm was left low was if a low-bed truck went around the corner they could bottom out and hit the berm. Mr. Fallavollita feels we will be creating a maintenance problem down the road. Mr. Westerling will report back with pros, cons and costs.

**4. Snow and Ice Budget Status**

Mr. Westerling reported that through January 19<sup>th</sup> his department had nine call outs. They have spent \$2,388 in Salaries, \$3,268 in Purchased Services, and \$46,182 in Purchased Supplies for a total of \$51,839 and \$50,960 remaining.

**5. Update on correction to "Entering West Boylston" sign on Route 12**

Mr. Westerling reported that the Mass Highway Department corrected the date on the sign and he personally checked all the signs to ensure that they are correct.

With regard to snow and ice, Mr. Fallavollita questioned why we are using so much material in Oakdale. Mr. Westerling explained that the decision is left up to the operator and based on the conditions. We have an Emergency Policy for the Removal of Snow and Ice and when he gets a call out he sends five trucks out. They have been out nine times and all were for sand and salt. Mr. Fallavollita suggested reviewing the policy as maybe only two or three trucks are needed. Mr. Westerling explained that two or three years ago the Board of Selectmen asked for the DPW to be more pro active. Mr. Fallavollita recommends taking into consideration the long-range weather forecast to see if temperatures are going to warm up and cause melting.

According to the Policy, when the Police Department contacts Mr. Westerling he asks if the conditions are for one area or town-wide. For a specific area, one sander is called out and if they say town-wide, five trucks are sent out. The Policy was changed to allow for the trucks to be sent out before the roads begin to get slippery.

**OLD BUSINESS****1. Announce approval of Sex Offender Residency Bylaw by Attorney General**

The town has received correspondence from Town Counsel, Kopelman and Paige and the Attorney General's Office, which indicate that the Sex Offender Residency Bylaw approved at town

meeting has been approved by the Attorney General's Office with one change. The non-criminal disposition penalty has a statutory limit of \$300, and the language passed at town meeting included a fine of \$500. The bylaw was approved by the AG's Office with no financial penalty. Town Counsel pointed out the fact that Article XXV of our General Bylaws allows for non-criminal penalty for any violation of a town bylaws in the amount of \$100. The Board has the option of either amending the Sex Offender Bylaw, or amending Article XXV to increase the penalty for a bylaw violation from \$100 to \$300. Mr. Phillips preference is to leave the penalty as is because the intent of the bylaw is not to make money. Mr. Fallavollita feels we should go back to town meeting as the town voted a \$500 fine and he is concerned it will cause a problem. Mr. Gaumond explained that the Attorney General has the ability to change the bylaw without going back to the towns' people, and he can strike those things that are unconstitutional. Mr. Fallavollita will like a clear opinion from the Attorney General's Office that he knows the bylaw will stand.

**NEW BUSINESS (cont.)****1. Report of Bid Opening for Tivnan Drive Request for Proposals**

The Board's agenda package contains the minutes of the bid opening. One submission was received from Bay Colony Recovery of Weymouth.

Motion Mr. Fallavollita to accept the proposal and proceed with further negotiations, seconded by Mr. Phillips, all in favor.

**2. Review Town Administrator's Report on Regional Selectmen's Meeting**

Mr. Gaumond and Mr. Rucho attended the meeting, which was held in the Town of Princeton. Officials from Princeton, Holden, Rutland, Paxton and Sterling were also in attendance. The Board's agenda package contains highlights of the meeting. The group discussed the reorganization of Municipalities Organized for Regional Effectiveness (MORE), and more information on that movement will be forthcoming. The Central Mass Legislative delegation provided an update on jail mitigation, lottery funds and the proposed sewer truck line transfer to the towns of Rutland, Holden and West Boylston. A statewide mutual aid program for public works was also discussed. Representatives from Central Mass Regional Planning Commission gave a presentation on the Transportation Improvement Program. A discussion was held on the topic of regional health insurance. They are still promoting the idea of looking at a regional trust, and the Governor's GIC proposal. Mr. Rucho reported that he and Mr. Gaumond were warmly received by the group and were invited to join future meetings of the group.

**3. Discussion on mitigation funds for the Worcester County House of Corrections**

We received correspondence from Senator Chandler who is advocating that the Town of West Boylston be considered for any mitigations funds should there be an expansion of the Worcester County Jail and House of Correction facility. Mr. Gaumond asked Board members if they had a specific dollar amount they would like to see included. Mr. Phillips reported that he spoke with Senator Chandler earlier this week and they discussed 10% of the entire project in a one-time payment. Mr. Fallavollita would like to see an annual PILOT payment. Mr. Gaumond explained that county facilities are exempt from PILOT monies. Mr. Rucho asked if there are other county facilities getting PILOT funds, and he would like communities with county facilities to join together and file a bill to get PILOT funds.

Discussion ensued as to when the County was abolished. Members voiced concern that there are still county positions which are elected. Board members will be given a copy of a jail survey previously done by the town. Mr. Rucho suggested updating the information. Mr. Fallavollita would like to review the legislation that abolished county government.

4. Vote to sign Acceptance for Chino Ave., as recommended by Town Counsel

Motion Mr. Phillips to sign the Acceptance, seconded by Mr. Fallavollita, all in favor.

5. Vote to sign Acceptance form for Stillwater Heights Drive, as recommended by Town Counsel

Motion Mr. Fallavollita to sign the Acceptance, seconded by Mr. Phillips, all in favor.

6. Concurrence on the appointment of Gerald Condon as Constable effective March 1, 2007 through May 31, 2007

Motion Mr. Fallavollita to concur with the appointment, seconded by Mr. Rucho, all in favor.

7. Consider appointment of Margaret Farwell as Temporary Election Clerk for March 20, 2007 election, as recommended by the Town Clerk

Motion Mr. Fallavollita to concur with the appointment, seconded by Mr. Phillips, all in favor.

8. Consider appointing Jim Bourget as Special Police Officer for Detail Assignments Only.

Motion Mr. Fallavollita to concur with the appointment, seconded by Mr. Phillips, all in favor.

9. Consider designating Town Clerk as 2010 Federal Census Liaison

Motion Mr. Fallavollita to designate the Town Clerk as 2010 Federal Census Liaison, seconded by Mr. Phillips, all in favor.

10. Consider request from the Town Clerk to vote to allow the placement of election and town meeting signs at various locations throughout the town

Motion Mr. Fallavollita to grant the request, seconded by Mr. Phillips, all in favor.

11. Review correspondence from the State Commission on the Status of Women

Mr. Gaumond will post this information on the web site so that people can nominate individuals who make a difference.

12. Review correspondence from the Department of Conservation & Recreation regarding Order of Taking of approximately 9.56 acres of land formerly belonging to the Bethlehem Bible Church

The Board noted that the DCR has taken the land around the Bethlehem Bible Church.

## **MEETINGS & INVITATIONS**

1. A meeting has been tentatively scheduled for February 27 with Joe Favalero to discuss the WB/Holden/Rutland trunk sewer. Mr. Gaumond will notify the Board once the meeting has been confirmed.

2. On Monday, February 26, 2007, 6:30 p.m. the State Ethics Commission will conduct a seminar on the Introduction to the Conflict of Interest Law. Mr. Gaumond encouraged as many members of the Board to attend as possible.

3. February 21, 2007 Agenda items to date

- Michael Staiti, Local Initiative Project
- Public hearing to consider adopting Policy on New Growth Taxation Revenue
- Public hearing to consider increasing fees for Alcoholic Beverage Full-Pouring Licenses
  - Public Hearing: Re: Consider Amending Office hours for the Office of the Inspector of Buildings
- Public Hearing, Re: Consider Amending the Building Department Permit Fee Structure

4. March 7, 2007 Agenda items to date

- Public Hearing: Re: Proposed Stormwater Management Bylaw

Mr. Fallavollita would like information on whether the town is required by law to have a Stormwater Management Bylaw.

Mr. Phillips requested the Board approve the attachment of a banner on the Bicentennial Trolley throughout the end of the Bicentennial Celebration. The Building Inspector's interpretation of the Bylaw is that the Board of Selectmen should consider and approve or disapprove the request. Mr. Fallavollita feels that the only reason the Selectmen acted on the previous banner installation was due to the fact that it was being installed across the road and the Selectmen act as the Road Commissioners. He does not think we need a permit for the Trolley Banner. Mr. Rucho also does not believe it needs a permit as it is a registered vehicle. Mr. Gaumond explained that the Building Inspector's interpretation of the Bylaw is that it is now an unallowable use. Mr. McCormick suggested holding this agenda off until the next meeting of the Board at which time they could have a conversation with the Building Inspector, who is already scheduled to be on the agenda. Mr. Fallavollita's understanding is that if the banner is on a registered vehicle it would not need a permit. Mr. Gaumond will go to his office to get a set of the bylaws.

**Public Hearing, Re: Request From Verizon New England, Inc. and Massachusetts Electric Company to Install 7 New Poles on Pierce Street**

Mr. McCormick opened the public hearing and read the following notice. In accordance with Massachusetts General Laws, Chapter 166, Section 22, the Board of Selectmen of the Town of West Boylston will hold a public hearing on Wednesday, February 7, 2007 at 8:30 p.m., on the petition of Verizon New England, Inc. and Massachusetts Electric Company for the placement of seven new poles on the northerly and southerly sides of Pierce Street. The public hearing will be held in the Board of Selectmen's Meeting Room, 120 Prescott Street, West Boylston, MA. Kevin M. McCormick, Chairman, advertised on January 31, 2007.

Scott Burns, Right-of-Way Manager for Verizon joined the Board. Mr. Fallavollita questioned why Massachusetts Election Company was included in the advertisement. Mr. Burns does not know why as the poles will be owned by Verizon.

Mr. Goodnow from the Municipal Light Plant offered the use of a couple of manholes that the Light Plant is not using. Mr. Burns indicated that Verizon had investigated that, however, their preference is to go with a special cable with 25 dedicated pairs. There currently is a pole on the left side of Temple Street, and they plan to cross over Temple Street to get to Pierce Street and set a

new pole. The line will begin at the intersection of Temple and Pierce Streets. The new poles will go along the capped landfill, and Mr. Burns indicated that Verizon does not wish to go underground with the wiring as they do not know what they will dig up.

Mr. Fallavollita is concerned with installing poles when he does not see dimensions on the right-of-way. Mr. Burns indicated that he checked with the Worcester Court House, the DPW and the Town Clerk and they did not have that information. Mr. Fallavollita is concerned the poles will be in the right-of-way, and he believes there has to be a lay out of the road. He would like to see the meets and bounds of the street. Mr. Burns explained that the engineer based the locations on the existing layout of the road.

Mr. Hughes an abutter to the site stated that he cannot tell where the poles would be. He has an undeveloped lot and questioned whether the poles would have power to them. Mr. Burns advised that at this time it is telephone only and the locations are staked. Mr. Fallavollita also voiced concern that Verizon would have to core down seven feet to put the poles in and it is on our capped landfill. Mr. Goodnow from the Municipal Light Plant noted that the poles would have to be 35-feet tall in order for them to buy into the pole to install power.

Mr. Fallavollita asked Mr. Burns if he would like to request a continuation of the hearing so he can get further information on the layout of the road and the meets and bounds. Mr. Burns stated that he cannot guaranty he can do that.

Mr. Fallavollita would like the meet and bounds of the road. Mr. Burns is not sure he can do that. Mr. Fallavollita suggested sending a surveyor or engineer out to lay the road out. Mr. Burns replied that generally they do not do that. It was noted that when National Grid began its work they looked for further information on property lines. They were able to get book and pages numbers and some of the markers.

Mr. McCormick suggested Verizon request a continuation of the public hearing to give them time to compile additional information. Mr. Burns stated that Verizon will not go out and survey. He could go out and try to plot the poles on the abutters' plan. He does not think he can give a survey. Mr. Fallavollita stated that it is Verizon's responsibility to do what the Selectmen ask them to do so we can resolve it. Mr. Burns questioned what the Board would like. Mr. McCormick wants to have exactly where the road is and where Verizon's poles are going to be in conjunction with the meets and bounds of the road so that the Board can make a logical decision. In looking at the plan, Mr. McCormick feels the poles are in the road and the anchors are off the road.

As a point of clarification, Mr. Gaumond noted that the posting was developed based on a January 2, 2007 letter from Mr. Burns, which indicated that the petition was on behalf of Verizon and Mass Electric. The letter from Verizon should not have mentioned Mass Electric.

There is no one in attendance to speak on this issue.

Mr. Burns requested a continuation of the hearing.

Motion Mr. Phillips to continue the hearing until March 7 at 7:30 p.m., seconded by Mr. Rucho, all in favor.

### **Request From Verizon For Telephone Easement On Pierce Street**

This item will be discussed on March 7<sup>th</sup> following the public hearing.

### **SELECTMEN'S REQUEST AND NEW BUSINESS**

Mr. Phillips reported that he had a conversation with Senator Chandler on why municipalities are required to pay state taxes on gasoline and he has asked her to look into this. She will report back on her findings when she meets with the Board on March 21<sup>st</sup>.

Messrs. Rucho, Fallavollita and McCormick having nothing to request this evening.

Mr. Gaumond returned to the meeting with a copy of the Zoning Bylaws and under Section 5.6 Signs and Billboards, Section D, #3, it states, “**Public, Civic and Non-profit Organizations:** Permanent or temporary signs, which do not comply with this by-law, may be authorized by special permit issued by the Board of Selectmen to public or other non-profit organizations.” Mr. Gaumond feels that the Building Inspector has determined that the sign does not comply with the bylaws, but could be authorized by members of the Board of Selectmen through a Special Permit. Mr. Phillips questioned how we can enforce a bylaw on a registered vehicle. Mr. Gaumond noted that is addressed under Section C, Definition “**Temporary Sign / Moveable Sign:** Any sign capable of readily being moved from one location to another and having no permanent or in-ground supporting structures or braces. This includes wheeled trailers whose primary function is to carry a sign which can be loaned, rented or leased. It excludes signs on cars, trucks, buses or trailers that identify the owner or products of the owner whose function is other than pure advertising.”

Motion Mr. Phillips to issue a Special Permit for the sign on the trailer and have Mr. Gaumond get a written explanation from the Building Inspector for further clarification, seconded by Mr. Fallavollita, all in favor.

Motion Mr. Phillips at 9:30 p.m. to entering into executive session under the provisions of Massachusetts General Laws Chapter 39, Section 23b, Part 6 to consider the purchase, exchange, taking, lease or value of real property, and the Board will not be returning to open session seconded by Mr. Rucho. Roll call vote: Mr. Phillips yes, Mr. McCormick yes; Mr. Rucho yes, Mr. Fallavollita yes.

Motion Mr. Rucho at 10:25 p.m. to come out of executive session, seconded by Mr. Fallavollita. Roll call vote: Mr. McCormick yes, Mr. Fallavollita yes, Mr. Rucho yes, Mr. Phillips yes.

With no further business to come before the Board, motion Mr. Fallavollita at 10:20 to adjourn, seconded by Mr. Phillips, all in favor.

Respectfully submitted,

Approved: February 21, 2007

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Nancy E. Lucier

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Kevin M. McCormick, Chairman

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Christopher A. Rucho, Vice Chairman

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Allen R. Phillips, Clerk

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Alexander Fallavollita, Sr., Selectman