

Members present: Allen R. Phillips Christopher A. Rucho
Valmore H. Pruneau Kevin M. McCormick
John B. DiPietro, Sr.

Mr. Phillips convened the meeting at 6:30 p.m.

Motion Mr. McCormick at 6:31 p.m. to enter executive session under the provisions of Massachusetts General Laws Chapter 39, Section 23b, Part 3 to discuss strategy with respect to litigation, and the Board will be going back into open session, seconded by Mr. Pruneau. Roll call vote: Mr. McCormick yes, Mr. Phillips yes, Mr. Pruneau yes.

Motion Mr. Pruneau at 6:57 p.m. to come out of executive session, seconded by Mr. McCormick. Roll call vote: Mr. Rucho yes, Mr. McCormick yes, Mr. Phillips yes, Mr. DiPietro yes, Mr. Pruneau yes.

Read and acceptance of Minutes From Previous Meeting:

Motion Mr. McCormick to accept the meeting minutes of June 4, 2008, seconded by Mr. Rucho, all in favor.

OLD BUSINESS

1. Board Deliberation Re: Public Hearing on May 21, 2008 for Reservoir Motor Lodge Violation

Messrs. Pruneau and DiPietro recused themselves as they were not present for the public hearing. On May 21 the Board voted the following motions - Mr. Rucho to find that the Reservoir Motor Lodge is in violation of Section 12 a(1) of the West Boylston Motel Operations Permit Regulations, seconded by Mr. McCormick, all in favor. Motion Mr. McCormick to find that the Reservoir Motor Lodge is in violation of paragraph six of the newly accepted Manager Policy, seconded by Mr. Rucho, all in favor. Motion Mr. McCormick to hold off deliberations on the penalty at the next meeting of the Board, seconded by Mr. Rucho, all in favor.

Mr. Rucho noted that the Board previously issued a five-day suspension to be held in abeyance for one year pending no other violations. For this new violation he recommends an eight or ten day suspension to be held in abeyance for six months pending no further violations. Mr. Phillips feels that the five day suspension should now be imposed as there has been a violation within that one-year period. He is also in favor of progressive disciplinary action.

Mr. McCormick is opposed to closing the motel for any amount of days due to the fact that people live there and voiced concern that the Board has no other option to penalize the owners. Mr. Rucho also feels that a \$300 penalty also needs to be imposed for this violation. The regulations do not allow a fine in lieu of suspension. Mr. Phillips questioned whether the Board has the option of imposing a \$300 fine for each day of the violation. Tom McEnaney of Kopelman and Paige, town counsel for the town advised that under Section 13 each day a violation exists is a separate penalty; however, due to the fact that the Board already imposed the penalty it does not have that option. On the new violation from May 25 the Board would have to rule that the premises was not cleaned for a certain amount of days. Mr. Phillips noted that in the testimony of the EMT's they did state that most of the fecal matter was there for a number of days. Attorney McEnaney feels the Board can make a case that each violation of the regulations is a separate violation. Mr. Rucho asked whether the owner had paid the \$300 fines which have been imposed. Mr. Gaumond reported that the first fine was paid. Kinit Malaviya, owner of the Reservoir Motor Lodge advised that he did not pay the second \$300 as he has appealed that.

In lieu of closing the establishment, Mr. McCormick questioned whether the Board could look at a change of management as that seems to be the reason why the violations are taking place. Mr. Phillips also does not want to put people out on the street and noted that the regulations were established to get them to clean up their act, not rent to undesirables and to assist our public safety departments. Attorney McEnaney advised that the Board does not have the authority to do that. Mr. Rucho feels the only way the owners are going to feel a loss is to close the facility and they have a loss of revenue. He also feels that the owner should be taking steps to change management and it shouldn't be up to the Board to tell him that.

Motion Mr. Rucho to close the Reservoir Motor Lodge for five days and to impose the previous two days, shutting them down from July 9 through July 15th, seconded by Mr. Phillips Vote on the motion – Messrs. Phillips and Rucho yes; Mr. McCormick no.

2. Board Deliberation Re: Public Hearing, Re: Reservoir Motor Lodge Joint Inspection by Fire Chief, Building Inspector and Board of Health

Motion Mr. McCormick to issue a written warning to Reservoir Motor Lodge for the violation and should another violation occur the Board would treat it more seriously than it has in the past because we never gave them a warning prior to this and it is one of the options allow in the regulations, seconded by Mr. Rucho. Mr. Phillips pointed out the fact that back in December there were three separate incidents that happened and that is why the Board opted not to issue a warning. Mr. Phillips would like to include a \$300 fine. Mr. Rucho stated that if the establishment went past one year without a violation he would be in favor of a warning, however, he feels we are way beyond a warning. Mr. Phillips is willing to work with the facility to get things cleaned up. He is also willing to issue a warning letter with a probation period and a fine. Mr. Rucho also wants the place cleaned up, however, he does not think a warning has a penalty.

Mr. Phillips asked Attorney McEnaney if the Board could hear from the owner. Attorney McEnaney explained that the hearing has been closed and we are at deliberation stage. Mr. Phillips would like the opportunity to ask the owner what he is going to do different to change the way things are. Town Counsel swore in Kinit Malaviya and Mark Fornier.

Both Mr. Malaviya and Fornier came forward for questioning.

Mr. Phillips asked Mr. Malaviya what he going to do different at his facility and how he is going to fix the problems.

Mr. Malaviya – we are going to keep maid service reports. If anybody does not take service we have it in writing that they denied it. Every week when the person comes in to pay they get a paper that they can comment on for maintenance and any problem with the rooms or if there are no problems they can sign off on it.

Mr. Phillips – is that it?

Mr. Malaviya – these are my suggestions if you have any others.

Mr. Phillips – I think at your facility you have a management issue. I do not think that the facility is being looked after properly and it shows every time we are here.

Mr. Malaviya – right now I am coming 8 to 10 hours a day and I am taking over the management so I know the day-to-day problems. I am supervising myself.

With regard to the motion on the table, Mr. Phillips asked counsel if the Board issues a letter of warning and a \$300 fine would that preclude them from going back with a tougher penalty. Attorney McEnaney replied it does not. Mr. Phillips suggested another five days held in abeyance for one year to allow the owner an opportunity to get things done. Motion and second withdrawn.

Motion Mr. Rucho to issue a ten-day suspension to be held in abeyance for one year provided there are no other violations and a \$300 fine, seconded by Mr. McCormick, all in favor.

Mr. DiPietro and Mr. Pruneau rejoined the Board.

Mr. Malaviya and Mark Fornier came forward for questioning regarding the Comprehensive Inspection performed by Mr. Fornier. As the Board just received the report prepared by Mr. Fornier, Mr. Phillips would like an opportunity to review the information and recommends including it on the next agenda of July 2.

Mr. Fornier stated that he has ten-years with the Marlboro Board of Health, managed residential properties for two years and now has his own inspection company. He was contacted to do the walk through of the Reservoir Motor Lodge and has completed a comprehensive inspection of each unit. Thirty-eight rooms were inspected, five units had no violations, 11 had minor violations and 22 had violations not uncommon in rental properties. The two rooms not inspected were those put out of use by the Building Inspector due to the exterior walk and the owner is under contract with a welder to make those repairs. Mr. Malaviya stated that he may have his permit tomorrow.

Mr. Rucho noted that there was talk of a lot of mold. Mr. Fornier stated that there is no mold. They have metal frame windows, which cause condensation and tenants have been advised do to a wipe down. He did speak to the tenant who had a problem and she admitted that it was an ice issue. He stated that when people rent the rooms and put out a 'do not disturb sign' on the door, those residents will now come to the office and pick up their linens and sign a statement of apartment conditions so that they can report apartment issues and deficiencies. A lot of the problems are brought about by the residents which is not uncommon. There are levels of cleanliness and sanitary conditions. The goal is to improve the management. He also stressed the need for low-end housing. We have regulations in place that allow us to determine compliance and non-compliance. The inspection was done in accordance with Mass Regulations of Minimum Standards. He has issued a detailed list to allow them to address those items. The owner will go in room by room to get us where we need to be and he has instituted Main Service Orders and Statement of Apartment Condition Report. Another issue is the tenants do not come forward with complaints as they may have caused the damage.

Mr. Phillips noted that the standards are based on apartments and questioned whether there is a Minimum Set of Standards for hotels. Attorney McEnaney advised that there is not a license for an apartment and there is a license for lodging. This is licensed as a motel pursuant to the town's regulations. Mr. Fornier advised that there is not a separate set of regulations for motels as they apply for a rental situation. He is not aware of any set of regulations for a motel. There are also no exemptions from the state sanitary code.

Mr. DiPietro asked about the ventilation systems. Mr. Fornier explained that they have a small old motor and if they are located close to an exterior wall you get a better draw. The issues are not having a strong draw and some of the residents do not clean the fans. The owner cleaned the vent and it had a heavy dust build up. They should have it in closer proximity to an exterior wall and very few meet the requirements for air changes. If there is heavy use of a shower or bathroom there are methods that can be used by the residents to keep it clean. When we see mold it is mildew and it is not uncommon to see this as they are ducted fans. Some appear to be effective and have a strong motor. We are going to work with him to replace the fans.

Mr. DiPietro questioned whether the chipped paint was tested for lead. Mr. Fornier did not and noted that it was spotty at best. There is only one child under six on the property and because of the age of the facility he would assume that there is lead paint. He didn't find any wide-spread problem that would negatively affect the habitation of the property.

Mr. Rucho asked if they are required to de-lead as they rent to people with children. Mr. Fornier noted that it applies to residences with children under the age of six. Attorney McEnaney is not sure whether that would apply motels or designed to apply to residences. It would require further research. Discussion ensued over lodging house, hotel and motel. Mr. Phillips noted that the

regulations were changed to include motels and hotels. Mr. Rucho questioned whether the establishment should be licensed as a lodging house.

Mr. Pruneau asked Mr. Fornier if he saw any evidence of cockroaches. Mr. Fornier did view one live cockroach in the back side. The owner has contracted with Terminex and he did not see any wide-spread problem. He has seen problems with tenants bringing them in. Mr. Malaviya stated that the tenant who attended the hearing and had a child left without paying the rent and the other two ladies gave him letters which he will provided copies of to the Board. After Terminex treated the room they had a monitor placed in it and it has not showed any activity after the treatment.

Motion Mr. McCormick to review the report at the July 2 meeting and deliberate, seconded by Mr. DiPietro. Vote on the motion – Messrs. Phillips, Pruneau, McCormick and DiPietro yes; Mr. Rucho no.

Mr. Malaviya will attend the July 2 meeting and bring any materials he would like to Board to review. He also has Mr. Fornier under contract while working on his improvements.

JOHN WESTERLING, DIRECTOR OF PUBLIC WORKS

1. Sewer Reserve Intradepartmental Transfer Request

Mr. Westerling is requesting a transfer of \$50,000 from the Sewer Reserve Fund to Sewer Operation and Maintenance. This will cover \$33,000 in bills from Weston & Sampson for maintenance and repair overages. There have been eight different occurrences when Weston & Sampson has had to go out.

Motion Mr. McCormick to approve the transfer, seconded by Mr. Rucho. Mr. Pruneau questioned the break downs. Mr. Westerling explained that any time there is a call out for a grinder pump that fails they are overtime charges to the Town of West Boylston. We have \$10,000 built into our agreement with Weston & Sampson. Mr. Pruneau voiced concern over the Oakdale pump station pump failure, asked if we have replacements on hand, and questioned why they are failing. Mr. Westerling advised that part of the request is to purchase a spare grinder pump and the pumps could be failing due to age, grease or improper items being flushed down the toilet.

John Howard of Weston & Sampson reported that Oakdale currently has two pumps, one of which has failed and we need to get the other rebuilt. With regard to the grinder pumps, they just changed one at the school and they have replaced five, each of which costs \$1,800. Mr. Westerling noted that the school pays that costs. Mr. Howard noted that improper items have been flushed down toilets at the school and they have recommended the school consider installing an interim tank at Major Edwards so that inappropriate materials can settle out. He noted that at Major Edwards a pair of underpants were flushed down the toilet and it cost \$2,500 to replace the pump with labor. He only has two back up grinder pumps.

Vote on the motion – all in favor.

2. Request for transfer for gasoline

Mr. Westerling requires a budget adjustment due to a 31% increase in gasoline and 60% increase in diesel. His original budget was for \$75,000 and thus far he has spent \$108,270.

Motion Mr. McCormick to approve the transfer in the amount of \$15,795.58, seconded by Mr. Rucho. Mr. Gaumond noted that we developed the FY09 budget in November and that probably would need to be adjusted at the October town meeting. Mr. Westerling will be monitoring this over the summer months. Mr. Gaumond is also separating municipal fuel from Mr. Westerling's budget creating a separate line item for it. Mr. Rucho questioned whether there is a need to review and modify our idling policy. Mr. Westerling noted that we have a no idling at the DPW policy and

signs are posted outside the garage. Vehicles are not running when they do not need to be. Mr. Gaumond noted that fuel usage is one of our performance measurements.

3. Driveway application for the DCR's land on Raymond Huntington Highway

This item will be passed over this evening.

4. Request from Charles Derrah for grinder pump

The Board received a request from Mr. Derrah for a meeting with the Board to discuss his need for a grinder pump. Mr. Gaumond asked Mr. Westerling to provide the Board with information relative to the request for a meeting should the Board agree to meet with Mr. Derrah. Mr. Derrah resides at 192 Goodale Street. Mr. McCormick believes the problem was caused by Old Century Farm Road and they should take care of it. Mr. Westerling stated that he gave Mr. Derrah that response to his request. Originally the property was to get a grinder pump and there was a deal between Mr. Derrah's father and Mr. Perkins who was going to purchase the property. The property was going to go with a gravity feed and now with the location of the new road he cannot go with a gravity feed as the property is too low. Mr. Derrah's contention is that because the DPW recommended that they go with individual grinder pumps for the new homes that caused the issue. Mr. Westerling made that recommendation because the original design was to have the 18 lots all flow to one pump station and to avoid that they recommended individual grinder pumps. The Board agreed to meet with Mr. Derrah.

5. Vote to sign Grant of Easement for Edwin J. and Diane K. Attella

This is a second easement, which is wider and in a different location, which is closer to Route 12 and much further away from the house. It will allow for a driveway access across the property.

Motion Mr. Rucho to sign the Grant of Easement for Edwin J. and Diane K. Attella, seconded by Mr. McCormick, all in favor.

6. Vote Acceptance of Easement for Edwin J. and Diane K. Attella

Motion Mr. Pruneau to vote Acceptance of Easement, seconded by Mr. Rucho, all in favor.

Mr. DiPietro asked Mr. Westerling about his progress on drawing up specifications to go out to bid for electrician services. Mr. Westerling reported that he has done that and it is based on time and materials per job using prevailing wage rates.

OLD BUSINESS (cont.)

3. Consider dedicating a baseball field to Kyle Little

Mr. Phillips previously requested Mr. Gaumond look into establishing a Naming Committee who would be charged with naming things in town. Mr. Gaumond provided the Board with examples of school naming committees or road naming committees. If the Board would like he could use these as models and bring it forward at the next meeting. Mr. Phillips likes the concept and would like recommendations brought to the Board of Selectmen who would concur or come up with something different.

Motion Mr. McCormick to authorize the Town Administrator to establish a Naming Committee for any facility or structure to get named, seconded by Mr. Pruneau. Mr. DiPietro does not think anything with the name Goodale should be renamed. Mr. Phillips noted that this is for unnamed items. Mr. Gaumond will include in the proposal that this is not to 're-name' items. Should the Board agree to the naming of the structure it would then go to town meeting. Mr. Gaumond is not sure we could

impose this process on an elected board unless it is done through a bylaw. He will research this and include it in his proposal. Vote on the motion – all in favor.

Motion Mr. McCormick to have the first order of business for the Naming Committee to be naming something in honor of Kyle Little, seconded by Mr. DiPietro, all in favor.

4. Discussion relative to meetings alternative locations during the Bicentennial Year

In celebration of our Bicentennial Year, Mr. Gaumond recommends the Board go to the following locations to conduct their Selectmen's meetings July 16 at the Beaman Library, August 20th at the Old Stone Church, September 17 at the West Boylston High School, October 15th at the Shepard Public Safety Building, November 19th at the Municipal Light Plant and December 17th at the Hillside Village Activity Center. If the Board agrees with his recommendation he will contact the appropriate parties. Mr. Phillips would like to notify the public access people to have somebody available with a hand held unit.

Motion Mr. Rucho to agree with the locations as submitted and go forward with the planning, seconded by Mr. DiPietro, all in favor. Mr. McCormick noted that the original high school was Major Edwards and suggested that should be the location for a meeting.

5. Date for joint meeting with Finance and School Committees

Board members could be available on July 10.

NEW BUSINESS

1. Concurrence on police details for the period of July 1, 2008 through June 30, 2009.

Motion Mr. McCormick to approve the list as submitted, seconded by Mr. Rucho, all in favor.

2. Concurrence on the appointment of Raymond DeSanti, 29 Valley Forge Circle to the Open Space Advisory Committee effective June 19, 2008 for a term to expire on June 30, 2009

Motion Mr. McCormick to concur with the appointments, seconded by Mr. Rucho, all in favor.

3. Review and approve contract with Financial Advisory Associates, Inc. (FAA)

Mr. Gaumond recommends the Board approve the contract with one change, under termination, if town meeting decides not to fund the agreement it is null and void.

Motion Mr. McCormick to approve the contract with the amended under termination, seconded by Mr. Rucho, all in favor.

4. Review and approve Request for Intradepartmental Transfer for the Office of the Finance Director in the amount of \$650.00 from Purchased Services to Salaries and Wages

Motion Mr. McCormick to approve the request, seconded by Mr. Pruneau, all in favor.

5. Review Property Survey Information for 35-39 Worcester Street

Mr. Gaumond explained that the Municipal Buildings Committee requested he survey the property lines for 35-39 Worcester Street. Our surveyor found the lines to be a little different. Mr. Gaumond spoke with the property abutter who gave us his information on the property lines. Our surveyor has reviewed those materials and he stands by the line he previously provided. Mr. Gaumond now plans to record the line as established by our surveyor. Now that we know where the true lot line is, Mr. Rucho asked if anybody else is using the property. Mr. Gaumond plans to look into it.

6. Review information on Goal #5 Improving the Town Bylaws

One of the goals for this year is to improve the town bylaws. In the next few weeks Mr. Gaumond will be sending out notices to town boards and committees for a formal process to review our bylaws. He plans to work closely with the bylaws committee on this. He asked the Board if they wanted him to go in a different direction. He encouraged the Board and residents to provide input.

7. Review information from Municipal Coalition for Affordable Housing on Housing Platform

Mr. DiPietro attended the meeting in Boxboro on May 2 and reported that he was surprised that he was able to put forth an article that any municipality with 30% or more of tax exempt, open space or conservation property does not have to meet the 10% threshold for affordable housing. He was also told by the group that they would like participation from the other Wachusett Communities as West Boylston is the only community who has participated.

8. Request for Transfer for Medicare in the amount of \$3,000.

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

9. Request for Transfer for the Fire Department.

Mr. Phillips recused himself and turned the meeting over to Mr. Pruneau. The request is for \$11,154.84 the second payment on the Fire Chief's vehicle.

Motion Mr. McCormick to approved the request, seconded by Mr. Rucho, all in favor. Mr. Phillips returned to the meeting.

10. Request to approve Fran McHugh as an alternate signature for Council on Aging payroll and payables.

Motion Mr. McCormick to approve the request, seconded by Mr. Pruneau, all in favor.

MEETINGS, INVITATIONS & ANNOUNCEMENTS**1. June 26, 7:00 p.m. Sidewalk Master Plan Hearing**

Mr. Gaumond explained that the Transportation Committee physically walked every sidewalk in town and on June 26th we will hold the Sidewalk Master Plan Public Hearing. He thanked Mr. DiPietro for his work on the committee. The Committee has been working with Central Mass Regional Planning Committee who will make a presentation at the hearing. We will be looking at what we have, making recommendation, and looking at what we do not have and make recommendations on expansion.

FUTURE AGENDA REQUESTS

Mr. Rucho has nothing this evening.

Mr. McCormick would like to review the Motel Regulations to see if there are new ways the Board could penalize people and make recommendations to the Bylaw Committee.

Mr. Pruneau would like to look at how many grinder pumps we are replacing and why. He would also like to look at having the fees collected for the school parking lot go back to the Parks Department because the lot is on town land.

Mr. DiPietro would like to discuss going to a four-day work week for as many department as we can.

Mr. Phillips reported that the Shared Services Committee met with the Towns of Paxton, Sterling and Boylston to discuss ways of sharing resources. They will be meeting again on July 14th and he invited his fellow Board members to attend.

With no further business to come before the Board, motion Mr. McCormick to adjourn, seconded by Mr. Rucho, all in favor.

Respectfully submitted,

Nancy E. Lucier

Approved:

Allen R. Phillips, Chairman

Valmore H. Pruneau, Vice Chairman

John B. DiPietro, Sr., Clerk

Christopher A. Rucho, Selectman

Kevin M. McCormick, Selectman