

Members present: Kevin McCormick Allen R. Phillips
Valmore H. Pruneau Christopher Rucho
Members absent: Steven Quist

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

Read and acceptance of Minutes from Previous Meeting:

Motion Mr. Rucho to approve the meeting minutes of October 7, 2009, seconded by Mr. Phillips, all in favor.

Mr. McCormick reminded everyone that the Annual Town Meeting was postponed until 7:00 p.m. on November 9th at the Middle/High School. The town still has a lot of business to conduct and attendance would be appreciated.

OLD BUSINESS

1. BYOB Regulation

Mr. McCormick recused himself. This item was carried over as it was initiated by Mr. Pruneau and he was not in attendance at the last meeting. Mr. Gaumond requested comments from the Police Chief with regard to his feelings on BYOB. The Chief has no issues with BYOB at all. He also does not feel regulations are necessary, and would not oppose them should the Board put them forth. Mr. Gaumond also spoke with William Kelly, General Counsel to the ABCC about the responsibilities in BYOB situations. He advised that the establishment has no liabilities placed upon them for having a BYOB provided they follow the provisions of Chapter 138/140 relative to the operation of liquor establishments. They cannot charge a fee, the patron must be the one who carries the liquor in and out of the establishment, the wait staff cannot have the liquor in their possess or assist in opening a bottle of wine or pouring a glass of beer, any leftover alcohol must leave with the patron upon the completion of the meal. Mr. Kelly further advised that the town may establish a notification process or a regulation requiring the establishment to notify the Board of Selectmen. The options available to the Board are do nothing, adopt a bylaw to prohibit BYOB, adopt a bylaw to regulate BYOB by providing notice to the Police Department, adopt a regulation to the Common Victualler License to prohibit BYOB or adopt a regulation to the Common Victualler License to require notification to the Police Department.

If it were going to be a bylaw, it would require town meeting action and if the Board elected to put in a regulation he would suggested that it be done in January. Mr. Phillips stated that it does not appear that there is an issue or a problem in the past with BYOB establishments. If we intend to enforce any of this we would have to notify the establishments of the ground rules of the ABCC. He suggested sending them a one sheet handout with the rules and a sign off when they come to get their common victualler license. Mr. Rucho questioned who would get the handout. Mr. Gaumond would recommend all those establishments with a common victualler license who do not have a liquor license.

Mr. Rucho voiced concern about re-writing this as we might miss something and he suggested directing businesses to contact their own attorney to ensure they are in compliance with the law. Should they not follow the rules, they it is not up to us to enforce it. Mr. Gaumond thinks would be up to the town to enforce this. Mr. Pruneau stated that this is why he would like some kind of a mechanism. Mr. Gaumond noted that if people are not following the law it would be a criminal complaint; however, the Board of Selectmen could have a public hearing and take action on their common victualler license. Mr. Rucho recommends leaving everything as it is and not pass a bylaw.

Mr. Gaumond noted that many communities are wrestling with this and it is one of the subjects which will be discussed at the ABCC regulator meeting.

Motion Mr. Phillips to table until the meeting on November 18 so that Mr. Gaumond can report back after attending the ABCC meeting, seconded by Mr. Rucho, all in favor. Mr. McCormick returned.

2. Discussion Selectmen's Policy on bringing back defeated agenda items (AP)

Mr. Phillips requested this item be tabled until the meeting on November 18.

Public Hearing: Re: Consider Approving Updates to Sections J, K, L & M of the Board of Selectmen's Policy Book (cont.)

Mr. McCormick reconvened the public hearing which was opened on September 2. Mr. Gaumond explained that when we last discussed this all of Section J was approved by the Board of Selectmen so no action is needed other than to reaffirm these policies. Section K, on Data Processing, lists three policies, two of which, policies 2 and 3, are in the process.

Motion Mr. Phillips to accept the policies in Sections J and K as written, seconded by Mr. Rucho, all in favor.

Section L deals with personnel and all of which were approved by the Board. He asked the Board to carry this over as he wanted to provide a copy of the Violence in the Workplace Policy to the unions for acceptance. This section is now complete.

Motion Mr. Phillips to reaffirm the vote on this section with the addition of the Violence in the Workplace Policy, seconded by Mr. Pruneau, all in favor.

Section M contains 12 policies, five of which are new. The first is Use of Town Counsel, which has been the process in place by the town, but it has not been codified.

The next policy deals with the evaluation of the Town Administrator by the Board of Selectmen. Mr. Phillips recommends amending the section, which indicates a two week turn around by adding 'unless agreed to by all parties to extend the period.'

Motion Mr. Phillips to include after two weeks, unless agreed to by all parties to extend the period, seconded by Mr. Rucho, all in favor.

Mr. Phillips questioned whether the policy should include where the funds should go. Mr. Gaumond explained that Mass General Law governs the disposition, however, in the case of the recent auction, the Council on Aging included a vehicle, which was purchased with funds from their Friends organization and those funds revert back to them. Mr. Rucho questioned what happens if the item does not sell. Mr. Gaumond explained that the requirement is to make the item available to everybody and once you have done that you can now sell the item for any good offer with the profits coming back to the town. We are required to do a public disposition process and we could also throw it away. Mr. Phillips asked about liability to the town on items we sell. According to Mr. Gaumond it is buyer beware.

The last new addition is a Policy on Requesting Comments from Municipal Boards for 40B Affordable Housing or Local Initiative projects. The last policy is a Policy on Recognizing Elected & Appointed Officials of the Town. There is no public comment at this time.

Motion Mr. Phillips to close the public hearing, seconded by Mr. Pruneau, all in favor. Mr. Phillips questioned whether he should recuse himself on the vote as one of the policies has to do with ambulance billing. Mr. Gaumond noted that the policy on Ambulance Fees Billing and Collection was passed back in 1996 and he does not see a need for Mr. Phillips to recuse himself.

Motion Mr. Phillips to accept Section M in its entirety as amended, seconded by Mr. Pruneau, all in favor.

Town Naming Committee

Town Naming Committee Chairman Robert O'Connell joined the Board with member Charles Hudson. Also in attendance is committee member Patricia Barrie, Roger Hall is unavailable this evening.

The Board of Selectmen authorized the creation of a Naming Committee for the town and one of things they were charged with was the development of a process on the naming of town owned properties. Mr. O'Connell reported that the committee researched how other communities went about this process and used that information as a guideline to develop our own policy. It is their intention to offer this process to all town boards; however, it is up to them whether they choose to adopt it. The policy is a guideline for any facility located on parcels of land under the jurisdiction of the Board of Selectmen, including buildings, a portion of a building, driveway, intersection, walkway or other parcel or portion of the parcel of land and places or natural features contained thereon. He feels the policy is pretty straight forward.

Mr. Phillips thanked the committee for the policy, which he feels is well done, and he would support the policy. With regards to the school he asked Mr. O'Connell if he had physically met with them. Mr. O'Connell indicated that they did not as the committee thought it would be something the Town Administrator or Board of Selectmen would do as they were only directed to come up with something to present to the Board. In other towns those discussions were initiated by the Board of Selectmen. This is the Naming Committee's recommendation on criteria going forth.

Mr. McCormick noted that if the Selectmen accept the policy, our goal should be to meet with other elected officials and say this is the policy we accepted and give them the opportunity to adopt the policy as well. Mr. O'Connell noted that it was the belief of the committee that this would be a standardized means of getting to that process and the Naming Committee could be used to review the initial criteria, which could continue to move through the system.

Motion Mr. Phillips to accept the policy of the Naming Committee on Naming Town Owned Property, seconded by Mr. Pruneau, all in favor.

Motion Mr. Phillips to have Mr. Gaumond forward the policy to the other elected boards, seconded by Mr. Rucho, all in favor.

Motion Mr. Phillips to have a member of the Board of Selectmen and a member of the Naming Committee go to the other elected officials with the policy, seconded by Mr. Pruneau, all in favor. Mr. McCormick recommends meeting with the other elected officials only if they need to meet with the Board to discuss the policy as they may just approve the policy.

Mr. Gaumond recommends amending Section M of the Board's policies to include this as M-13.

Motion Mr. Phillips to amend Section M to include the Policy on Naming Town Owned Property, seconded by Mr. Rucho, all in favor,

Public Hearing, Re: Petition From The Municipal Lighting Plant to Install 11 Poles Along R. Huntington Highway (Cont.)

Mr. McCormick reconvened the public hearing, which was continued from October 7, 2009. He stated that he had hoped to have a note from the Municipal Lighting Plant which indicated that they were only putting in two poles and others would be donated by the participating communities. Mr. White assured him that there would be a commitment letter. There is no one present this evening to comment on the request.

Motion Mr. Phillips to close the public hearing, seconded by Mr. Pruneau, all in favor.

Motion Mr. Phillips to approve the request pending a commitment letter from Mr. White of the Municipal Light Plant, seconded by Mr. Rucho, all in favor.

NEW BUSINESS**1. Consider request from the American Legion for a change of manager**

Mr. McCormick recused himself. Ernest Neale and Jack McCormick joined the Board to discuss their request for a change of manager at the American Legion from Troy Senosk to Ernest Neale effective January 1, 2010. All department and boards have indicated that the establishment is in compliance with them.

Mr. Phillips asked if Mr. Neale was TIPS certified and he indicated that he was.

Motion Mr. Phillips to approve the change of manager, seconded by Mr. Rucho, all in favor.

2. Revolving Fund discussion

At the May town meeting this issue was raised by former Selectman, Jim Ryan. He questioned whether there was a review of the Revolving Funds to see if we should dissolve this practice or not. Mr. McCormick noted this question and requested we include this as an agenda item. Finance Director Michael Daley developed an analysis of the General Law Chapter 44, Section 53E-1/2, which governs revolving funds, activity for the past two years. He found that at the end of FY2009 we had eleven revolving funds with an equity of \$108,000 and on the average they generate about \$110,000 of revenue each over the past two year, which is less than 1% of the annual total general fund revenue. They appear to spend what they take in, however in FY08 they spent more than they took in by \$13,000. This past year they collected about \$22,300, which was a net gain in equity of less than \$10,000 over the two year period. Four of the funds lost equity in FY08 and two of those four lost equity in FY09, with one being inactive for two years. He concluded that most of the revolving funds are in fair shape and several could survive a year or more with no revenue. He sees no financial reason for moving away from this current lawful activity.

Mr. Ryan joined that Board and explained that he originally brought this up as a question for two reasons. If you add up the maximum expenditures allowed under these funds it exceeds over a half a million dollars. He is happy to see the expenditures are actually \$100,000. Mr. Gaumond noted that annually our Finance Director reviews our authorizations and this year we changed two of the funds as the individual allowed to expend those funds was over the threshold allowed by law. Mr. Ryan is concerned that everything goes into the revolving funds and thus comes out of our local receipts and his concern was that the amount was significant. He recommends changing the maximums to make it more in line to what is being spent. Mr. Gaumond noted that the reason we established a revolving fund for WBPA-TV was due to the fact that they were not in the budget. The Board of Health's fund was for septic pumping and we couldn't judge how much we would need.

To Mr. Ryan it seems like revolving funds are a way for departments to grab onto funds and spend them. His concern is to what extend we were taking the general funds away from the town and in tight financial time he didn't think we were being fair to the public. In good times maybe it is not a big deal. Mr. McCormick recommends continuing these discussions. In reviewing the list, the Board noted that several of the revolving funds appeared to be missing. Mr. Gaumond will request Mr. Daley update the list.

Mr. Gaumond feels that at some point the pay-as-you-throw revolving fund will be dissolved as those receipts should go into the budget. Mr. Ryan's concern is the money gets captured into a revolving fund and if there was a priority list, those expenses may not be funded as it would have to face the same analysis of priorities as anything else. He also feels we need to take a serious look at the maximums so they are more in line with everyone else. Mr. Gaumond noted that Finance Director Michael Daley mentioned that we should discuss this with those boards who oversee those funds. He noted that the Conservation Commission and Zoning Board of Appeals survive only on their revolving

fund as they are not in the budget. The Board thanked Mr. Ryan for his input and agreed to do more work in this area.

3. Move Vocational School Expenses to its own line item

As the School Superintendent is under the weather this evening, we will carry this agenda item over to the November 18th meeting.

4. Speak with Finance Committee re: demand fees

At town meeting in May, we increased demand fees to \$10 and the Finance Committee questioned why we did not go to the maximum of \$30. The Treasurer/Tax Collector explained that she can waive up to \$15 and if we raised the fee to \$30 we might make less money. Mr. McCormick stated that he tends to agree with the Treasurer/Tax Collector.

With regard to demand fees, Treasurer/Tax Collector Bonnie Yasick reported that last year she took in \$7,465, with the increase to \$10 she projects \$14,930 and if it were increased to \$15 it would be \$22,395. She has researched what other communities are doing and it is mixed. She is not in favor or against the increase and will continue to do her job. Her concern is in following the Department of Revenue regulations, she can only abate \$15. Often times there are issues with the post office and if something is lost in the mail, why would you hold the person accountable. She very seldom waives a demand fee but there are some issues that make it a common sense practice to do. She also feels it could make balancing with the accounting office messy. However, if the Treasurer/Tax Collector had the ability to waive demand fees up to \$30 then it would make sense.

She reported that there are more people in payment plans and more people out of work. Although she questions burdening them more right now and recommends waiting another year to see if the laws change and it is easier, she will do whatever the Board decides. Mr. Rucho noted that the agenda item is 'speak with the Finance Committee about demand fees.' Mr. Gaumond explained that at town meeting the Finance Committee objected to the decision and recommended going to the maximum on the demand fees. They were also invited to attend the meeting. Mr. McCormick kept a list of items brought up, which he felt the Board needed to address. Mr. Phillips suggested going from \$5 to \$15, rather than the \$5 to \$10, which was approved. According to Ms. Yasick the only issue is she cannot waive the interest and she can only waive \$15 of the charge. Because this is so new she has no feedback from any of the other communities. She will report back on how it is going in other communities who elected to go with the higher rate. It was agreed to leave the demand fees as they are.

5. Re-establish DPW Liaison Committee

Mr. Gaumond explained that in the past when Mr. DiPietro was a member of the Board both he and Mr. Pruneau were designed as the DPW Liaison Committee. Upon the recommendation of John Westerling, he would like to re-establish that committee. Both Mr. Pruneau and Mr. Phillips indicated an interested. Mr. Rucho is also interested, however, due to the fact that the meetings are typically during the day, he is unavailable. Mr. Phillips is able to attend meetings at that time provided he has sufficient notice. The committee typically meets on Tuesday mornings at 11:00 a.m.

Motion Mr. Rucho to designate Messrs. Pruneau and Phillips as the DPW Liaison Committee, seconded by Mr. McCormick, all in favor.

MEETINGS, INVITATIONS & ANNOUNCEMENTS

1. October 23, 2009, 8:00 a.m. MMA Legislative Breakfast in Rutland – Mr. Gaumond intends to attend the breakfast with Mr. Quist.

2. October 28, 2009, 7:00 p.m. – Ice-Storm Wrap-Up & Pre-Disaster Mitigation Meeting

3. November Business Roundtable Meeting – the date is going to be November 16th beginning at 6:30 p.m. Mr. Rucho, a member of the Economic Development Committee, reported that the committee decided to invite all the local businesses to a meeting with the Economic Development Committee, the Building Inspector, and the Planning Board to discuss any issues they have. The committee will be sending invitation letters out. Mr. Gaumond thanked the Economic Development committee for their work on this.

FUTURE AGENDA ITEMS

Mr. Pruneau questioned Mr. Westerling's time schedule on crack sealing the roads. He expressed his concern that it never occurred last year and he does not want to be in the same position again this year. He also noted that we are expecting several inches of rain this weekend and the DPW should ensure that the catch basins are cleaned. Mr. Gaumond will contact Mr. Westerling following the meeting.

Motion Mr. Phillips at 8:15 p.m. for the Board to enter executive session under the provisions of MGL Chapter 39, Section 23b, Part 3 to discuss strategy with respect to contract negotiations, and the Board will not be going back into open session, seconded by Mr. Rucho. Roll call vote: Mr. Pruneau, Mr. McCormick yes, Mr. Phillips yes and Mr. Rucho yes.

Motion Mr. Phillips at 8:30 p.m. to come out of executive session, seconded by Mr. Pruneau. Roll call vote: Mr. Pruneau, Mr. McCormick yes, Mr. Phillips yes and Mr. Rucho yes.

With no further business to come before the Board, motion Mr. Phillips at 8:35 p.m. to adjourn, seconded by Mr. Pruneau, all in favor.

Respectfully submitted,

Approved: November 4, 2009

Nancy E. Lucier

Kevin M. McCormick, Chairman

Valmore H. Pruneau, Vice Chairman

Allen R. Phillips, Clerk

Christopher A. Rucho, Selectman