

Members present: Kevin McCormick Christopher Rucho
Allen R. Phillips Steven Quist

Members absent: Valmore H. Pruneau

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

Read and acceptance of Minutes from Previous Meeting:

Motion Mr. Phillips to approve the meeting minutes for the September 2, 2009 regular session seconded by Mr. Rucho, all in favor.

Motion Mr. Phillips to approve the regular session meeting minutes from September 16, 2009, seconded by Mr. Quist, all in favor.

Motion Mr. Phillips to approve the regular session meeting minutes from September 30, 2009, seconded by Mr. Rucho, all in favor.

OLD BUSINESS

1. BYOB Regulation

As this was an item requested by Mr. Pruneau, this item will be tabled until he returns.

2. Creation of a Municipal Building Committee

At the September 16th meeting of the Board, the Board requested Mr. Gaumond examine the possibility of creating another Municipal Building Committee and develop a model for the Board's consideration. The original Municipal Buildings Committee was charged with implementing a plan, developing construction plans and going out to bid for design work. If the Board wishes to include reviewing maintenance and repairing items as well, he would recommend coming up with a new name in light of the article on the warrant to create a municipal Buildings Committee. He recommends the new Committee consist of seven residents appointed for one-year terms, consisting of two members of the Board of Selectmen, one member of finance or the Capital Investment Board and residents with various building and construction backgrounds to be appointed by the Town Administrator. He also recommends the Town Administrator Finance Director and Inspector of Buildings shall serve as ex officio. If the Board agrees with this proposal he will begin to search for members.

Mr. Phillips questioned whether there will be an application process or would the members of the previous Municipal Buildings Committee remain as they were on the committee before. Mr. Gaumond intends to have an application process. Mr. McCormick questioned adding the review of maintenance component. Mr. Gaumond noted that Article 10 of town meeting, if passed, would allow the town to create a fund which would allow for quick action on maintenance items. He recommends separating the maintenance out of the new committee. He views the new committee as more of an advisory committee because it does not have the five members of the Board of Selectmen seated on it. Mr. Quist feels that maintenance is a big thing. Mr. Gaumond pointed out that the ultimate responsibility of the municipal buildings belongs to the department managers. The Capital Investment board's job is to develop a long-term capital plan for the town. Mr. McCormick noted that the town has also implemented a Property Conservation Program to review all buildings throughout the year. He drew attention to the fact that some things are getting done such as the library project, for which Community Preservation Act funds were approved. Should the legislation pass, we will then have a funding mechanism for maintenance.

Motion Mr. Phillips to call the new committee the Municipal Buildings Advisory Committee, seconded by Mr. Rucho, all in favor.

Public Hearing, Re: Petition From The Municipal Lighting Plant To Install 11 Poles Along R. Huntington Highway

Mr. McCormick opened the public hearing and read the following notice. The Board of Selectmen of the Town of West Boylston will hold a public hearing on Wednesday, October 7, 2009, at 7:05 p.m., on the petition of the Municipal Lighting Plant to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures along and across the following public ways: 11 Poles – Raymond Huntington Highway, Pole numbers 15 to 25 on the northwest side of the highway. The public hearing will be held at Conference Room #1, 127 Hartwell Street, West Boylston, MA. Kevin M. McCormick, Chairman, advertised on September 30, 2009.

The Board's agenda package contains the list of the abutters who were notified together with a map of the area delineating the location of the poles. Municipal Light Plant Manager Brad White joined the Board. He explained that the poles will provide power to the new Wachusett Earthday site and none will cross the street. Mr. Phillips ask who is paying for the poles. Mr. White explained that of the six towns involved with the Wachusett Earthday project, five have their own municipal light plants. He estimates the cost will be around \$20,000 and each of the light plants will donate two poles and wires. It will not cost the individual town anything.

Mr. Phillips believes the \$20,000 cost should be shared by the communities who have signed on to this. He asked if the Earthday Committee voted on this decision. Mr. Gaumond noted that there was a meeting last week which he was unable to attend. Mr. McCormick asked if the land, which was recently rezoned by the town, is located in this area. Mr. Phillips feels that if businesses come in the town would get tax money from that. Mr. McCormick noted that our tax money will not go towards the poles. Mr. Phillips stated that it will be paid out of the rate money. Mr. White is sure there will not be much usage at the site. Rutland is the only town that does not have a municipal light plant. Mr. McCormick pointed out that each communities light plant will donate something. Mr. Phillips asked if there was anything in writing that says that. Mr. White replied just my word. Mr. Phillips is concerned that the costs need to be borne by all of the communities involved and he does not want West Boylston doing more than any other town. Mr. White explained that they have an agreement amongst the people in the light plant to do this and the Commissioners already approved this.

Mr. Rucho asked if this was a private business how would it be done? Mr. White indicated that the light plant would bill them. Mr. Rucho feels the Municipal Light Plant should bill Wachusett Earthday. Mr. White stated that we could certainly bill Earthday but then the town will end up paying. Mr. Philips feels the town will be paying anyway and there is nothing that show us the other towns are picking up their share. He has no problem installing the poles it is just the cost and he wants to be assured that West Boylston will not be paying more than their share. Mr. White will come back with something that addresses the issue of the cost. Mr. Philips would like to see it broken down by town, as to what they will provide so West Boylston won't get stuck with it.

Mr. White explained that initially they wanted a three-phase and then they decided they would not put in three phase as it was cost prohibited. Mr. Quist noted that the new zoning would likely need three-phase for any commercial development. Mr. Rucho asked if street lights were going to be installed. Mr. White indicted that nothing is planned. They may be putting up protective lights on the trailer. Mr. Philips is fine with installing the poles as long as West Boylston is not paying the cost. Mr. White will get the paperwork to the Board.

Motion Mr. Phillips to continue the public hearing until the October 21 meeting of the Board, seconded by Mr. Quist, all in favor.

Discussion On Change Of Date For Municipal Election With Town Clerk And Bylaw Committee

Town Moderator David Sweetman joined the board. Mr. McCormick explained that at the board's last meeting they voted on the warrant and held discussion on the article which would change the date for the annual town election. The goal is to hold the election after town meeting and the language being proposed would put the election off until the first Tuesday following the thirty-five day after the adjournment of the Semi-annual Town Meeting. Mr. Phillips understands the reason for the time line takes into account the possibility of a ballot questions, however, he prefers to set an earlier date. Mr. Sweetman did pole the Moderator Association the predominant answer was a week and a half after town meeting. The question is how frequently we would have the need to call a special election. The Board's concern is that the date is too late and once school is out people may be out of town. Mr. Rucho suggested the election being the first Tuesday in June. Mr. McCormick suggested the second Tuesday in June as there may be a time when the first Tuesday falls the day after the Memorial Day holiday.

Motion Mr. Phillips to change the motion on the article to reflect the date of the annual election will be the first Tuesday in June, seconded by Mr. Rucho, all in favor.

Mr. Sweetman noted that the General Bylaw, which governs the makeup of the Bylaws Committee, gives no direct assignment to the Bylaw Committee. Mr. Phillips' understanding of the committee is that it is charge to make recommendations at town meeting on bylaws. Mr. Sweetman questions the nature of the recommendations the committee should make. He asked if it is appropriate for three citizens to have that much influence on an article brought before town meeting. Mr. Phillips pointed out the fact that at town meeting every attendee has an opportunity to give input. Mr. Sweetman feels the Bylaw Committee is being asked to do a task that they are no more prepared to do than anyone else.

Mr. Gaumond explained that he and the Moderator had a conversation about the vagueness of what the Bylaw Committee is being asked to do. Is it there to give its own opinion or are they charged with saying this is a good idea or a bad idea? The Moderator does not think it is appropriate that the Bylaw Committee recommend approval. As a point of clarity, they really are rationalizing a change without discussing its impact. Mr. Phillips believes it is a recommendation. Mr. Gaumond recommends at the next town meeting the bylaw should be amended to reflect the mission of the Bylaw Committee. Mr. Sweetman feels comfortable having the committee discuss this and will return with a new bylaw.

Christine Taylor, Permission To Plant A Tree On The Common

Mrs. Taylor joined the Board. She is requesting permission to plant a tree on the Town Common in memory of her husband, Dick Taylor, who passed away this past May. They lived in West Boylston for 22 years and were very involved in the town.. Aaron Goodale explained that every year we light the big holiday tree in the center of town. The tree was badly damaged during the ice storm and just about all the lights were destroyed. The Light Plant Manager recommends planting a new smaller tree as stringing the lights on the existing tree requires the use of a lot of resources including the Fire Department. The new tree could be lit every year and as it grows we could add more lights. Mrs. Taylor indicated that she has donations to cover the purchase of the tree.

Mr. Phillips recommends going forward with the installation in conjunction with the DPW and the Historical Society. Mr. Rucho questioned whether the DPW could install the tree. Mr. Westerling indicated that his department will help any way they can. Mrs. Taylor is finding that the cost of the tree is growing with installation so any help they could get would be appreciated. Mr. Rucho asked once the tree is planted, will it involve maintenance. Mr. Westerling indicated very little maintenance.

Mr. McCormick recommends digging a trench to the gazebo for the lighting. Mr. Phillips questioned the time frame. Mr. Goodale hopes within the next month or so it will be set for the holiday lighting. Jack McCormick reported that the Bandstand Committee has no objection to the request. He recommends bringing in some loam as the back land is all gravel. Mr. Rucho asked whether the Parks Commission needed to be consulted. Mr. McCormick noted that the Board of Selectmen has oversight of the Common property.

Motion Mr. Phillips to grant permission to Mrs. Taylor to plant a tree on The Common in memory of her husband, seconded by Mr. Rucho, all in favor.

John K. Westerling, Director Of Public Works

1. Joint sewer and water billing

Mr. Westerling has investigated the possibility of joint water and sewer usage billing and has determined that it is not in our best interest to have the Water Department bill for sewer services. Because they now have user friendly software the savings to the DPW would be less than two days per quarter for the Administrative Assistant, which is what it takes to process the bills. There would be a non-municipal entity responsible for the creation of the town's sewer bills. The Sewer Division would be asked questions by customers on sewer bills they did not create. Who would be responsible for reconciling and reporting to the Treasurer/Collector. Who would collect the payments for the sewer bills and if it were the Water District then they would need to make turnovers to the town. He feels this would present too many challenges and after much review he recommends keeping the status quo.

Mr. Phillips questioned how other communities accomplish this. Mr. Westerling noted that in other communities the Water District is part of the municipal entity. Worcester, Holden and Shrewsbury the town oversees everything and utilities go out on one bill. Mr. Phillips asked about the Town of Milford. They have everything separate and it is billed together. Mr. Westerling feels it is too much confusion. The questions would come to the DPW and we would have to refer them to the Water District. Mr. Rucho asked if the savings would only be postage. Mr. Westerling believes it would be postage, administrative and printing costs. It costs \$400 per quarter for postage. Mr. Rucho suggested including on the bill verbiage that if you had questions on the water portion to call the Water District number and if you had questions on the sewer portion to call the Sewer Department.

Mr. Gaumond does not think this is the end of the discussion on this issue as we still have a very young system and down the road maybe we could revisit this. Mr. McCormick suggested that maybe it is time to combine the two departments. The sense of the Board is not to combine at this time.

2. Closing of River Road

Mr. Westerling reported that under its current condition River Road is unsafe. The riding surface is in a state of disrepair due to its improper base, ledge outcroppings and lack of adequate drainage and the estimate to repair the road is \$1.4 million. The town is not in a position to do the necessary repairs. The DPW does attempt to keep the road safe and passable by patching potholes and keeping the existing drainage structures clear although attempts are a never ending and expensive process that only gets worse in the winter. Winter plowing is difficult on the uneven surface and they apply large amounts of sand and salt due to the lack of adequate drainage. He recommends closing River Road from a point just after the DCR building to the Holden town line, to through traffic for the winter season. This recommendation was unanimously supposed by the Transportation Committee, Police Chief and Fire Chief.

Motion Mr. Phillips to close River Road from November 15, 2009 through April 1, 2010 and notify the Town of Holden and DCR, seconded by Mr. Quist, all in favor.

3. Annual Review of Snow and Ice Policy

Annually every fall, the Board reviews this policy. Mr. Westerling drew attention to a couple of points that will impact the policy. The first is one DPW employee was cut, and that operator will be replaced. Sand prices have increased from \$11 to \$11.25 a cubic yard, although salt decreased from \$69.00 to \$64.40.

4. Laurel Street drainage

Mr. Westerling has three options to deal with the Cormier drainage issue at the 193 Laurel Street Property. The first it town could do nothing, however, in the past the town did engage an engineer and remedy a drainage issue impacting the Cairns Property on Prescott Street. We could extend the drainage easterly down Laurel Street to discharge it into an existing stream, however, that cost would exceed \$60,000; or, we could extend the drainage system across the property and discharge it behind the house. The abutter behind the Cormier property is Robert Scales and he has already offered to allow the discharge to cross his property.

Mr. Westerling recommends option three as he could accomplish the work for less than \$15,000. Mr. Rucho questioned how many more properties we have with this similar situation. Mr. Westerling pointed out the fact that there are many streams that run under roadways and in the old days they would not take the time to get easements. The builder who built the home should have been required to run it across the property. He does not know how many more properties are out there, and we have had two in seven years. This project would be eligible for Chapter 90 funding. The drainage would flow through the woods in the rear of Mr. Scales property, which is wetlands. The DPW would not perform this work.

Motion Mr. Phillips to allow Mr. Westerling to expend up to \$20,000 in Chapter 90 funds to fix the drainage problem, seconded by Mr. Rucho, all in favor.

5. Improvements to Huntington Square

Mr. Westerling reported that local residents, after walking to the rail trail, decided to improve Huntington Square by cleaning up the island and planting plants. Those residents included Bruce and Jacqueline Dickinson, Richard and Gail Bouchard and the Forham family.

Motion Mr. Phillips to send a letter of thanks to those families for the efforts, seconded by Mr. Rucho, all in favor.

Mr. Rucho feels there are people who would like to do more, however, they are hearing that you have to get approval in order to do things. Other people have done stuff and they get in trouble for it. Mr. Phillips stated we were asked if they could plant stuff there and our response was have at it. Mr. Rucho feels we need to find those people who want to volunteer and he thinks Huntington Square is just like the parks and the common and we need to be consistent with what we do. Mr. Quist asked where one would go to do that. Mr. Gaumond is working with somebody who is offering to serve as a Volunteer Coordinator for the town and if people come to us and tell us what they want to do we would ask them to sign a waiver. He indicated that he understands what Mr. Rucho is saying on this. When an unsolicited event like this occurs, they do deserve our appreciation. If somebody gets injured at the town's request doing volunteer work, the town does bear some responsibility. Mr. McCormick feels we need to keep it simple. If you make it cumbersome no one is going to do anything else. Mr. Rucho stressed the need to be consistent and if it is a group with insurance it should not be an issue to the town.

6. Mark Kerrigan tree issue

Mr. Westerling received a call from Mr. Kerrigan back when he was evaluating the trees that came down from the storm. He went out, evaluated the tree and found it was not damaged by the storm. The complaint was the pine tree was dropping sap and pine cones and the town does not have the funds to remove the tree.

Mr. Gaumond reported that he did go and visit the property. It is a town tree and falls under the definition of a Public Shade Tree. He observed that the tree did hang over the parking lot and the tree drops sap. He sent Mr. Kerrigan a letter stating that the tree is a healthy tree and he did not feel it was prudent that the town should remove a healthy tree. He realized that he may have an objection to having the sap falling and if Mr. Kerrigan wishes to pursue the option of removing a limb we would be happy to discuss it with him. The law defines a public shade tree as all trees within a public way or on the boundaries thereof. When a public shade tree needs to be removed there are certain rules we have to follow. No person may cut, trim or remove a public shade tree except the tree warden or his deputy or a person to whom the tree warden has issued a written permit. In order for Mr. Westerling to do so, a public hearing has to be held except in certain situations when public safety is involved. Abutters also have to be notified of the public hearing. In the meantime Mr. Kerrigan sent a fax to the Board of Selectmen requested an agenda appointment with them.

Mark Kerrigan joined the Board. He lives at 86 Osgood Road in Sterling and owns the property located at 767-79 Sterling Place. There is a strip of land in front of his building and there have been continuing problems with the town owned trees located on that land. Mr. Westerling once came in and removed a leaning tree and a couple of years ago he removed branches. He does not remember the procedure that was followed. Now he has a tenant whose car has been impacted by it. Mr. Kerrigan provided the Board with photos of two trees, which lean over the parking lot. He would argue that the tree is not healthy as the branch takes a 90° angle. He feels the tree was damaged, it leans and it does not appear to be a healthy tree. Mr. Westerling obtained a quote of \$600 to remove the tree.

Mr. Phillips asked Mr. Westerling if it is a healthy tree. Mr. Westerling does not see anything to believe it is unhealthy; the foliage is green and other than an awkward lean it could stand for another fifty years. Mr. Rucho noted that you could have a tree, which is not leaning, and it could come down during an ice storm. He recommends following Mr. Westerling's opinion. Mr. Kerrigan would like to understand the law and regulations on town trees restricting the use of an individual's property. Mr. Gaumond explained that the public shade trees govern all municipal owned trees. Trees can be dealt with, and they can be removed or trimmed. The town's position is that this is a healthy tree and there are probably many trees in West Boylston similar to this. If the town deems it a healthy tree you have the ability to deal with this. You could petition Mr. Westerling to remove the tree and there is a process we have to follow. Under the law, permits to remove trees are allowed; however, permits are not required in the case of an emergency.

Mr. McCormick asked Mr. Kerrigan how long he owned the property. Mr. Kerrigan indicated around 20 years and this is the first time that any of the tenants have complained about the tree. Mr. McCormick noted that this variety of tree generally drop sap and pine cones and for 20 years it has been doing this. Mr. Kerrigan feels this is impacting residents of the Town of West Boylston and questions how many requests have come forward over the last five years because the tree is limiting the use of the property. Mr. Rucho asked no one can park under it? Mr. Kerrigan replied correct, I cannot use the parking spaces. The Town Administrator suggested the tenants could park in other spaces, however, if they have guests they cannot park on the street in the winter. He also questioned what the Town Administrator and DPW Director's expertise is in trees. Mr. McCormick noted that Mr.

Westerling is the Tree Warden and asked Mr. Kerrigan how he knows that the tree is not healthy. He doesn't think the town is going to start cutting trees down because they drop things in people's property. Mr. McCormick has a similar situation on property he owns as pine needles and pitch drop on cars that park under the tree.

Mr. Kerrigan noted that trees do not grow at a 90° angle. He does not know if this occurred during the ice storm. He asked Mr. Westerling when he removed the branches in the tree before did he go through the procedure. Mr. Westerling noted that removal of branches is different than the entire tree. Mr. Kerrigan's response was, you removed an entire tree. Mr. Westerling explained that the other tree was a damaged tree and could be removed without a hearing. Mr. Kerrigan is concerned the tree is impacting his property, it is a town tree and he would like it removed. Mr. Phillips informed Mr. Kerrigan that he could request a tree hearing.

Mr. Rucho thinks the answer has been given by the Tree Warden.

Motion Mr. Phillips to deny Mr. Kerrigan's request to have the town remove the tree in front of 77-79 Sterling Place, seconded by Mr. Quist, all in favor.

Mr. Quist would like to know how many parking spaces are in the parking lot and how many are required. Mr. Gaumond's guess is 20 and Mr. Gaumond does not know how many tenants there are.

OLD BUSINESS (cont.)

3. Update on Asian Longhorned Beetle

Mr. Gaumond reported that the beetle has been found in the Crescent Street area and as a result the Restricted Zone has been expanded to cover the entire Town of West Boylston. The Zone also covers the entire City of Worcester, and parts of Boylston, Shrewsbury and Holden. He will continue to post information on the web site as to what you can and cannot do with wood products. The Laurel Street brush dump will now reopen as it is included in the Restricted Zone.

NEW BUSINESS

1. Vote to accept donation on behalf of the Council on Aging in the amount of \$25.00

Motion Mr. Phillips to accept the donation on behalf of the Council on Aging in the amount of \$25.00, seconded by Mr. Rucho, all in favor.

2. Designate the Town Administrator as the liaison to the Ethics Commission

Motion Mr. Phillips to designate the Town Administrator the liaison to the Ethics Commission, seconded by Mr. Rucho, all in favor.

3. Notification & provide comment, if any, from the Mass State Lottery Commission that the American Legion Post has applied for a Keno License

Mr. McCormick recused himself. The Police Chief has no issue with this request. Should the Board object, a hearing will be scheduled. There is no comment from the Board. Mr. McCormick returned.

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

Mr. Phillips requested this item be tabled until the next meeting.

5. Acknowledge receipt of letter from Charles Greenough resigning from the Town-wide Planning Committee, Transportation Committee and Community Preservation Committee

Mr. Gaumond noted that it is not every day that he brings forward the acknowledgment of a letter of resignation from a committee member, however, Mr. Greenough has been a long-time initial member of the Town-wide Planning Committee. He thanked Mr. Greenough for his many years of work on behalf of the town. The Board signed a thank you card for Mr. Greenough.

MEETINGS, INVITATIONS & ANNOUNCEMENTS

1. October 17, 2009 – 8:30-3:30, Mass Selectmen's Conference at Tri-County Regional Vocational Technical High School in Franklin

Mr. Gaumond noted that during the budget process funds for the Board to attend the January MMA Conference and Trade Show were eliminated. Should any members be interested in the Mass Selectmen's Conference there are funds available in their line item to cover that cost. If interested, they need to notify Mrs. Lucier who will process the paperwork.

2. October 19, 2009, 6:00 p.m. Board of Selectmen meeting prior to 7:00 Semi-Annual Town Meeting

3. November 12, 2009, 1:00-3:00, Alcoholic Beverages Control Commission regional local boards training for regulators at the Leominster City Hall Auditorium

Mr. Gaumond noted that this year the training will include BYOB. Mr. Phillips is unable to attend and requested Mr. Gaumond report back to the Board on that discussion.

FUTURE AGENDA ITEMS

Board members have no requests this evening.

Motion Mr. Phillips at 8:55 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 and union negotiations and litigation, and the Board will not be going back into open session, seconded by Mr. Rucho. Roll call vote: Mr. Quist yes, Mr. McCormick yes, Mr. Phillips yes and Mr. Rucho yes.

Motion Mr. Phillips at 9:15 p.m. to come out of executive session, seconded by Mr. Rucho. Roll call vote: Mr. Quist yes, Mr. McCormick yes, Mr. Phillips yes and Mr. Rucho yes.

With no further business to come before the Board, motion Mr. Quist at 9:20 p.m. to adjourn, seconded by Mr. Phillips, all in favor.

Respectfully submitted,

Approved: October 21, 2009

Nancy E. Lucier

Kevin M. McCormick, Chairman

Allen R. Phillips, Clerk

Christopher A. Rucho, Selectman

Steven Quist, Selectman