

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Present: Joseph E. Flanagan, Wayne R. Walker, and Heather M. Billings

CALL TO ORDER

Mr. Flanagan called the meeting to order at 6:00 p.m. in the Selectmen’s Office at Town Hall. He announced that the meeting was being broadcast live and recorded by Ashburnham Westminster Community Access TV. He also noted that Kerry O’Brien from the Gardner News was recording the meeting.

APPROVAL OF WARRANTS

Board members reviewed and approved the following warrants:

December 10, 2012	Sr. Tax Work-off Payroll #33S	\$ 22,160.00
	Accounts Payable #35	\$ 133,933.89

OLD TOWN HALL NEEDS ASSESSMENT COMMITTEE APPOINTMENT

Mr. Flanagan moved that the Board appoint Andy Hertel of the Agricultural Commission to the Old Town Hall Needs Assessment Committee. Ms. Billings seconded the motion. The motion passed unanimously.

DISCUSSION WITH WESTMINSTER BUSINESS PARK OFFICIALS – PROPOSED ACCEPTANCE OF EARTH MATERIALS FROM LAYOVER STATION SITE.

Mr. Flanagan explained that the Westminster Business Park has been asked to receive earth fill from the layover station site and have also received letters from the Town that there needs to be a modification of the existing earth removal permit or the creation of a new earth fill permit in order for such a thing to occur.

Chuck Scott of CFS Engineering concurred with Mr. Flanagan’s statements regarding the earth removal and/or fill permits. He stated that he was not here to speak on behalf of MART or the MBTA, but Westminster Business Park and Powell Stone and Gravel’s perspective.

Mr. Scott stated that one of the benefits in WBP taking this material is that they have better ability to control how the material leaves the site. He stated that it was his understanding that the MBTA is exempt from local permitting and he felt it would better serve the town to allow WBP to receive the materials under the restrictions of their earth removal permit.

Steve Powell of Powell Stone & Gravel stated that he does not have a contract with the MBTA, but based on discussions with S&R Construction, he estimates that they want to remove about 150,000 cubic yards of material, or 4,000 yards per day. Approximately 30,000 yards will go over to the commuter rail site and the remainder would be stored on

~ ~

Lot I-7 at the business park, if authorized by the Board. MBTA would pay WBP for the use of their machinery to place the earth materials on WBP property.

Powell anticipates using approximately half of the material as on-site fill. Mr. Flanagan raised the potential of this causing a half year delay in completing the preparation of Lot I-7 as a rail site.

Mr. Flanagan asked whether allowing the layover station material to be used for fill within the business park would then make it feasible for the park to use the layover station. Mr. Scott said that it would not make tying a freight rail spur into the layover station feasible.

Mr. Powell assured the Board that WBP would not accept earth materials from the layover site without the Board's approval and stated that he was not aware of the local requirement for a fill permit.

Mr. Walker stated that he found it troubling that the MBTA could potentially commence earth removal operations without applying for a permit, and that this should have come first before considering WBP's request for a fill permit. The Board indicated they would be discussing the issue of MBTA's claim to sovereign immunity in executive session.

The Board agreed to invite representatives from the MBTA to attend their meeting on January 7, 2013.

6:21 P.M. EXECUTIVE SESSION

Mr. Walker moved that the Board enter into executive session to discuss strategy with respect to litigation; further that the Chair declares that an open meeting may have a detrimental effect on the litigating position of the body; and that the Board adjourn directly from executive session. Mr. Flanagan seconded the motion. The motion passed on a roll call vote.

ADJOURNMENT

The Board adjourned from executive session at 6:45 p.m.

Respectfully submitted,

Heather M. Billings, Clerk  
(Prepared by B. Kazan)