BOARD OF SELECTMEN
MINUTES
SLADE BUILDING
August 16, 2010

Members present: Matthew Castriotta, Chair
Michael Stauder, Vice Chair
Ernest Newcomb, Clerk

Staff present: Debra Roussel, Town Administrator; Police Chief Dennis Perron, Joyce Green, Town Clerk

Others present: Tom Howlett, Walter Ducharme, MRPC Representative Jennifer Siciliano, Gardner News Reporter Jean Paul Salamanca, Robert Meagher, Kenneth Green, Mary Taylor, Carol Whitney, Sanda Barry, Nancy Hubbard, Barbara Hubbard, Robert Hubbard, Wayne Taylor, June Hubbard Ward, Finance Committee members Dave Simmerer, Ben Prentiss, Jamie Pitney, Mark Connery and Chris Norcross, Attorney Jeffrey Aveni, Unitarian Church Legal Representative; Joel Bard, Kopelman & Paige

Meeting commenced at 6:00 PM

Ms. Roussel announced the meeting was being digitally recorded.

Police Chief Dennis Perron appeared to request approval to hire a full-time police officer following the resignation of Officer Baril. He will be advertising for academy trained prospects internally and on the local police network. Mr. Newcomb asked how the recent grant application would affect hiring a fifth versus a sixth full-time officer. Chief reported the grant is based only on hiring the sixth officer.
Motion: E. Newcomb **2nd: M. Castriotta**
To authorize Chief Perron to advertise for a full-time officer **Vote: All in Favor**

Jennifer Siciliano of Montachusett Regional Planning Commission appeared to request support in the form of a letter and commitment as a member town for the **Sustainable Communities Regional Planning Grant Program**. The federal grant, if approved, will allow the Montachusett Regional Plan for Sustainable Development Consortium (MRPSDC) to develop a sustainable plan for the region and is funded through the United States Office of Sustainable Housing and Communities.
If Hubbardston becomes a member of the consortium, a representative from the Town is committing to attending the consortium meetings. Ms. Siciliano stated they plan to meet every other month in the evening over the three year project timeline.
The amount of the grant is $243,000.00 and will enable the consortium, at a minimum, to adopt a housing plan, incorporate equity and fair housing analysis into regional planning, advance regional transportation planning as well as water infrastructure planning, perform environmental planning, plan for economic development activities, conduct scenario planning and conduct comprehensive climate change impacts assessments. The consortium would consist of a lead city government entities and non-profit partners representing a region that includes the jurisdiction of a "Metropolitan Planning Organization."
The lead cities will consist of Fitchburg, Leominster and Gardner as well as twenty-two other communities. Typical representatives could be a Mayor, Town Administrator, or a Planning Board member.
Ms. Siciliano stated part of the plan would be conducting workshops in the Gardner or Fitchburg area.
Ms. Roussel stated if the Town wants to participate, a commitment to attend the meetings is essential and offered to represent the Town if no one comes forward.

Motion: E. Newcomb **2nd: M. Castriotta**
To sign the letter of support and participate as a member town for the Montachusett Regional Plan for Sustainable Development Consortium **Vote: All in Favor**
Ms. Siciliano thanked the Board and exited the meeting.

Warrant# 5
Mr. Newcomb invoked the Rule of Necessity to allow the Board to obtain a quorum noting his conflict as an employee of the Highway Department, as the payroll would be included in the warrant.
Mr. Stauder entered the meeting at 6:15 pm.

Motion: E. Newcomb **2nd:M.Castriotta**
To approve Warrant #5 in the amount of $178,361.55
Vote: Mr. Newcomb-yes, Mr. Castriotta-yes, Mr. Stauder-abstained

Lion's Club Field Day
Ms. Roussel reported the Lion's Club has requested approval to use Curtis Recreation Field on Saturday, September 11th with a rain date of September 12, 2010 for their Annual Field Day. The Parks Commission will be meeting on Tuesday to review the request as well.
Motion: E. Newcomb **2nd: M. Stauder**
To approve the Lion's Club request to use Curtis Recreation Field on Saturday, September 11 or Sunday September 12, 2010 **Vote: All in Favor**

Town Clerk Joyce Green entered the meeting.

Ms. Roussel reported she had been contacted by Center School Principal Maureen Donelan, who was following up on a request to change the location of the voting polls from the library. Ms. Roussel stated Massachusetts General Law requires a twenty day notice describing the new polling location be mailed to each registered voter prior to an election. This would require mailing out a notice by next Wednesday for the September primary election.
Ms. Green stated the change needs to be thought out before moving. There is a concern about the availability of parking space if the gymnasium is used. A suggestion was made to move to the Senior Center; Ms. Green believed the area was too small if there is a substantial turnout. Ms. Green believed the gymnasium would be the best choice as it has plenty of space. The Board determined to discuss further at a later date but to keep the polling place in the library for the September election. The Board thanked Ms. Green and she exited the meeting. Ms. Roussel will report back to Ms. Donelan.

Slade Building Renovation update
Ms. Roussel reported the contractor found some rotted sills under doors and a foundation crack in the corner of the building that needed to be repaired. The contractor agreed to reduce the cost of the work to $6,410.00, the amount remaining in the appropriation. She requested the Board vote to support the change order.
Motion: M. Stauder **2nd:E. Newcomb**
To authorize Chair Castriotta to sign the work change order on behalf of the Town
Vote: All in Favor

Ms. Roussel presented a **request to increase fees for plumbing and gas permits** from Plumbing and Gas Inspector Tom Monfreda. She stated Mr. Monfreda's recommendation was based by surveying surrounding towns' fees. There has not been an increase since August 2008. The Board requested Mr. Monfreda appear at the August 3oth meeting for further discussion.

Ms. Roussel reported she had met earlier this evening with the Assessors and reviewed the response to the Request for Proposals submitted by Regional Resource Group, Inc. The Assessors have voted in support of an award of the **three year contract for assessing services** to Regional Resource Group, Inc. in anticipation of town meeting appropriation. Mr. Scheid has agreed to sign the contract pending appropriation. To fulfill the terms of the contract, the Board will need to place an article on the fall special town meeting warrant requesting transfer of $33,992.64 from the Deputy Assessor salary line, $500.00 from Assessors' certification account, and $5,507.36 from the property update account to a new line item designated as Assessing Services.

Motion: M. Stauder **2nd: E. Newcomb**
To award the agreement for assessing services to Regional Resource Group, Inc. of Leominster, MA contingent on town meeting appropriation **Vote: All in Favor**

Ms. Roussel reported Highway Superintendent Gauthier is recommending awarding the Winter Sand bid to Brown's Trucking & Excavating. They were the only bidders. The bid price is $4.90 per cubic yard and trade in allowance of $2.00 per cubic yard.

Motion: M. Stauder **2nd: M. Castriotta**
To award the winter sand to Brown's Trucking & Excavating, Inc. of Barre, MA
Vote: Mr. Castriotta- yes, Mr. Stauder-yes, E. Newcomb-abstained

Ms. Roussel presented a **Statement of Support for the Guard and Reserve for the Hubbardston Police Department.** It states that employment will not be denied because of service in the Guard or Reserve and that employee job and career opportunities will not be limited or reduced because of service in the Guard or Reserve. In addition, employees will be granted leaves of absence for military service in Guard or Reserve, consistent with existing laws, without sacrifice of vacation, and this agreement and it resulting policies will be made known throughout the organization.

Motion: M. Stauder **2nd: E. Newcomb**
To support the Guard and Reserve and authorize Chair Castriotta to sign the statement
Vote: All in Favor

Motion: M. Stauder **2nd: E. Newcomb**
To approve the minutes of July 12 and July 27, 2010 as presented **Vote: All in Favor**

The Board reviewed Town Administrator's report.

Senior Center Building Committee is reviewing sites for the center and is requesting the Board provide an estimated $3,000.00 from the Selectboard Expense account to provide for the cost of an engineering study to review the condition of the Center School septic system that serves the school, library and town offices. She stated she had asked Clare Barnes, the school maintenance director, if the school would fund the study as they are responsible for the maintenance of the system; however they stated it was not within their normal maintenance procedures or budget. Ms. Roussel requested further discussion be delayed until she discusses with Ms. Peterson regarding the line item status as she is responsible for it. The Board will discuss further at August 30th meeting.

Ms. Roussel reported the **Center School water tank** should be up and running by close of tomorrow. She stated the staff has been wonderful about filling water buckets to flush toilets. Quabbin staff has been wonderful to work with as well.

Ms. Roussel reported P & P Contractors are coming tomorrow to finish the brickwork on the Slade Building which it should be completed by week's end.

Ms. Roussel reported all town office computers except two in the Assessors' office have been changed to non-administrative limited user access by Central MA Geeks. The problem with the Assessors' office is a third computer is being utilized as a server in addition to offsite access necessary for RRG, Inc. This is

being worked on. Ms. Roussel informed the Board that the computer account is getting low due to the multiple virus outbreaks and costs associated with the change in users.

The Senior Workoff Program team has met and they will be requesting placing an article on the fall special town meeting to increase the workoff limit abatement amount from $500.00 for ten residents to $1000.00 for up to fifteen residents. This would necessitate an increase in the overlay account by ten thousand dollars in the current fiscal year in exchange for much needed services and the added benefit of keeping seniors in their homes.

Ms. Roussel informed the Board she would be attending the Worcester County Retirement Commission 's August 26th informational meeting on the **Early Retirement Incentive Program** that was included in the Governor's municipal relief act.

Ms. Roussel reported she has received a suggestion for formation of **a 250th Anniversary Celebration Committee,** which would occur in 2017. This will be discussed further on a future agenda.

Storm Drain Regulations

Ms. Roussel presented a copy of the draft regulations that had been forwarded to Town Counsel for comment. Attorney Joel Bard stated he had specific comments regarding the draft. If residents are given permission to tie into the drain system in Hubbardston, a revocable license could be issued with the idea is that is a permanent license but the town can always revoke the license, if needed. Mr. Newcomb stated there may be some already tied in to drains in the Pinecrest Development. Mr. Bard replied if there are some residents homes already tied in to storm drains, they would be grandfathered, but the Town may want to register them. One issue is what is allowed to be discharged into the drain. Another issue is the license period and implementing periodic inspections and fee schedule.
Mr. Bard stated there will be a detailed reply with recommendation from Kopelman & Paige regarding the draft. Ms. Roussel recommended discussion be placed on the September 13th agenda when a full quorum is present.

Motion: M. Stauder **2nd:E. Newcomb**
To enter Executive Session to discuss strategy with respect to litigation and to continue to another Executive Session to discuss negotiations with non-union personnel
Vote: Mr. Castriotta- yes, Mr. Stauder- yes, Mr. Newcomb- yes

**********Executive Session Minutes are Separate**********

Meeting resumed at 7:50 pm in the Senior Center

Town Common

Finance Committee members and Board of Selectmen introduced themselves to the attendees.
Mr. Castriotta stated the meeting was scheduled as the Finance Committee had concerns and questions regarding the agreement separating the Town Common and were invited to be present for the discussion. He stated Ms. Roussel would be leading this evening's discussion.
Ms. Roussel thanked everyone for coming and stated the purpose of the meeting is to review the agreement as it pertains to Town finances and to review the questions that were brought up in regards to perceptions of equity within the agreement. Ms. Roussel asked if the Church was willing to discuss the difference between the reverter and right of first refusal on the land. She stated there is an expectation that if the Town gifts the land at no cost to the Church, the Town should not have to pay to get it back in the event the right of first refusal is revoked. Ms. Taylor stated this is news to the Church as she had requested clarification on what the meeting discussion would cover tonight in an email. Attorney Aveni stated he was under a different understanding on what would be broached tonight and he was not prepared

to discuss this as the Town is talking about two different interests. He stated the reverter clause was dropped some time ago due to the subjectivity of it. Ms. Roussel stated the reason the subject has arisen again is that composition of the Board of Selectmen and Finance Committee has changed and there is a different perspective. Both the Board of Selectmen and the Finance Committee are trying to protect the financial interests of the Town. Mr. Castriotta clarified they are now focusing on reversion on the land and right of first refusal on the building. Ms. Taylor stated the Church and Town were very close to coming to agreement and now we are back at it again. Mr. Castriotta stated the Church signed the agreement to agree and then the Church wanted to change the approach and in his mind the Church has breached the contract. Ms. Taylor stated the change in method of transfer was to benefit both parties. Mr. Aveni stated the methodology changed because his firm found a quicker way to do the land transaction.

Mr. Newcomb stated there is another issue that needs to be addressed before proceeding. He recalled seeing a deed for Lot 1 where the monuments and flagpole are located and questioned who owns that part of the town common. Ms. Roussel stated a title search would reveal any deed and there was no record as such. Mrs. Hubbard asked if Attorney Aveni could explain why he is advising to go with adverse possession of the land. Ms. Roussel stated it doesn't matter what way we are going tonight but what matters is how to resolve the issue of the ownership of lot 2.

Ms. Taylor stated clearly to operate, the Church needs land to park and enter the building and the Church is not interested in a land grab. Mr. Pitney stated when the Finance Committee discussed the agreement; it was for purely financial interests. Mr. Simmerer stated the Finance Committee was concerned about the concept of giving the land and having to purchase it back. Mr. Castriotta stated it is only if the Church ceases to exist as a church. Mr. Aveni pointed out the reverter clause brings back the subjectivity and how do you define going out of business. He added this would invite future litigation and did not believe it would work in this situation. Ms. Roussel recommended placing a value on the property less the Community Preservation funds provided as it exists now in the reverter clause. Mr. Castriotta stated he was not in favor of the reverter clause being removed previously and believes it should be in the agreement as it protects the Town. Ms. Whitney stated she believed not having the land attached to the building protects the historical value of the Church. Attorney Bard stated he believed the issue here is the potential windfall to the Church. Ms. Hubbard stated the membership bylaws condition the building would revert to the Unitarian Church in the event the Hubbardston Church disbands. She added the Historical Preservation Restriction agreement states the church is an historical landmark and includes thirty (30) feet surrounding it.

Mr. Pitney asked the church members if the Town gives the Church the land, and if circumstances arise that close the Church, would the land come back at no cost to the Town. Ms. Taylor stated she could not speak for the church committee but if the Town is worried about the financial implications, how much land does the Church need to exist, counting the 30 foot area surrounding the church. Mr. Stauder stated in a worst case scenario, if the Church ceases to be a church, the Unitarian Church could sell the church for condos. Ms. Taylor stated that couldn't happen as the Church is designated as a historical landmark. Sanda Barry asked the church members why they need more Town Common land. Ms. Taylor stated the Church needs land in order to enter the building and to park. She added this issue has been ongoing since 1977 and the Church does not want the land, only to operate as a church as they have been without having all of this to deal with at every meeting. Ms. Barry asked who is providing the funding to keep the church operating. Ms. Taylor stated the Unitarian church members pay for the church maintenance. Mrs. Hubbard stated the legislature has mandated separation of state and church. Attorney Bard suggested the value of the land could be given to the Town not the church, in the event the church is sold.

Discussion ensued on the acreage of the common and lots one and two. Mr. Newcomb requested to read into the record, in the Boston Registry of Deeds, town common land was recorded in Book 308, page 200, on June 6, 1835, for a sale price $250.00

Ms. Roussel recommended returning to the discussion of the mechanics of the agreement. Mr. Stauder asked if they could all agree to the reversion of all or some of the land or some form of credit. Mr. Bard

reiterated the concept of financial neutrality that at some future date if needed, the Town would not have to pay for land it gave away initially. If the church conveys the property, there are two possibilities, it would go to the Town or it would be sold to someone other than the Town. If the Town decided to purchase the Church, the property value could be determined by an impartial appraiser and the Town would only pay for the value of the building not the land. If someone else purchases it, that portion of the cash sale which represented the land would go to the Town.

Mr. Castriotta stated the Unitarian Church has been good stewards of the church and land, but the Finance Committee and Board of Selectmen need assurances that the agreement will protect the Town's interests. Ms. Taylor stated the Church also needs assurances. She stated one of the Church's bylaws' condition is the Church has to be sold to a like 501 c (3) organization. Ms. Roussel requested a copy of the church's bylaws for review. Attorney Bard stated the Massachusetts Historical Preservation Restriction Agreement applies to anyone who purchases the church and any changes are subject to approval by the Massachusetts Historical Commission.

Mr. Stauder asked if there is anything to prevent a new owner putting up a barbed wire fence on the Town Common. Attorney Bard stated the agreement with Mass. Historic Commission has several levels of review that would preclude anyone erecting a fence on the Town Common. In this case the Town could remove the fence. Mr. Stauder cited the easement in place to access the Town Clock, is there any way to ensure the Town has access to the land for public gatherings such as Memorial Day ceremonies. Attorney Bard pointed out historically the Town has been allowed to use the land but conceivably a future owner could restrict use of the Town Common for public gatherings.

Mr. Castriotta asked if the Finance Committee had any further questions or concerns. Mr. Norcross stated the Finance Committee was interested in the reversion clause so that the land would revert back to the Town without having to buy it back. Mr. Pitney concurred. Mr. Simmerer stated the Finance Committee would like to take any suggested wording under advisement. Mrs. Hubbard asked if the lawyers believe this could be done. Attorney Bard suggested a mutually agreed upon appraiser by both the church and town could value the land at the time of the sale.

Motion: M. Stauder **2nd:E. Newcomb**
To direct Town Counsel to meet with Mr. Aveni regarding the settlement agreement and right of first refusal language and return to the Board of Selectmen and Finance Committee for review
Vote: All in Favor

A meeting was scheduled for September 20th at 6:00 pm.

Motion: M. Stauder **2nd:E. Newcomb**
To adjourn the meeting at 9:30 pm **Vote: All in Favor**

Respectfully submitted,
Elaine M. Peterson
Elaine M. Peterson
Town Secretary

Approved: October 12, 2010