

BOARD OF SELECTMEN

Minutes

November 7, 2011

Slade Building

Members present: Ernest Newcomb, Chairman
Michael Stauder, Vice Chairman

Member absent: Matthew Castriotta, Clerk

Staff present: Brian Bullock, Town Administrator; Elaine Peterson, Town Secretary

Others present: Betty Bumpus, Connie Bumpus, William Bumpus, Hans Carlson, Brian Doherty (MRPC), Walter Ducharme, Laura Foley,
Wendy Howes, Tom Howlett, Roger Knipe, Peter Jefts, Barre Gazette;
Diane Lanney, Judi McArthur, Chris Norcross, Catherine
North-Erickson, Jamie Pitney, Mary Taylor, Diane Watkins, Carol
Whitney, Charles Woodward

Meeting opened at 6:40 pm

Mr. Newcomb invoked the Rule of Necessity stating his conflict as a Highway Department employee and payroll being part of the warrant. As a result of disqualification of members due to conflict of interests, the Board lacked a sufficient number of members necessary to take a valid vote, and as a last resort that all those disqualified may now participate under the Rule of Necessity.

Warrant #10

Motion: M. Stauder

2nd: E. Newcomb

To approve Warrant #10 in the amount of \$201,962.00

Vote: All in Favor

October Snowstorm

Mr. Bullock stated he would like to start the meeting by thanking all of the town employees, certainly those that he worked beginning early last Sunday morning as they were ramping up to fight the snowstorm; Highway crews, Fire and administrative personnel. All of them gave a very good accounting of themselves. He was pleased with the work that was done and the roads without wires down were opened relatively quickly although National Grid still had their work to do. The Board agreed.

Open Agenda:

Brian Doherty from Montachusett Regional Planning Commission introduced himself and stated he was going to Selectboard in Subregion 1 (Athol, Hubbardston, Petersham, Phillipston, Royalston, Templeton and Winchendon), seeking participation on the Montachusett Planning Organization (MPO) board. Montachusett Planning Organization is a federally funded and mandated transportation decision making board. They discuss different aspects of the federal transportation system in the region and the transportation

improvement program (TIP). They meet the second Wednesday of the month at 1:00 pm in Fitchburg. They are seeking candidates from the Selectboard to attend the meetings and represent the region. Mr. Doherty stated they are also requesting a person designated by the Board as an official designee in addition to the Selectboard member, such as a Planning Board member or DPW employee serve on the MPO. Mr. Newcomb stated the problem was the time of the meeting as the Board members work other jobs during the daytime.

Mr. Doherty stated the D.O.T. sets the meeting time as they don't want to come to night meetings. He offered to answer any other questions. Mr. Doherty thanked the board for their time and exited the meeting.

First Parish Unitarian Church member Mary Taylor stated she was here concerning the Unitarian Universalist Association letter regarding the UUA's bylaws stating upon the Hubbardston church's dissolution, a requirement to transfer their assets to the Association. Ms. Taylor stated their attorney, Mr. Aveni, was going back and forth with Kopelman & Paige, PC attorney Kate Klein. Ms. Taylor stated she had been correct all along in her interpretation of the bylaws. Mr. Stauder pointed out that for the protection of the town this information had to be confirmed. Mr. Stauder asked when the local church's bylaws could be amended. Ms. Taylor said there needs to be a business meeting of the church with fifteen days notice to church members for changes to the Articles of Organization and could not provide a deadline tonight. Ms. Taylor added she needed to know from Attorney Klein what would be sufficient. Mr. Bullock reported he had spoken to Ms. Klein earlier in the day and she had stated two weeks. Mr. Stauder stated 30 days should then be sufficient for the church to work out their details. Ms. Taylor asked for clarification of what is now needed. Mr. Stauder stated everything is in place except for the changing of the local church's bylaws. Mr. Stauder stated everything should be completed by the Selectboard meeting on December 5, 2011. Mrs. Bumpus asked for clarification of the word "final". Mr. Stauder stated nothing has changed other than bringing up the concern that the UUA has first choice on the property before the Town. The church members exited the meeting.

New Business:

Ms. Peterson reported the Community Preservation Committee is recommending hiring Peter Jefts as the CPC Clerk.

Motion: M. Stauder 2nd:E. Newcomb

To hire Peter Jefts as CPC Clerk with a wage of \$11.48/hour effective 11/7/2011

Vote: All in Favor

Seasonal Snow Plow Drivers

Ms. Peterson reported Highway Superintendent Gauthier was recommending hire two season snow plow drivers.

Mr. Newcomb invoked the Rule of Necessity stating he was a Highway employee but the hiring would not directly impact him financially.

Motion: M. Stauder 2nd:E. Newcomb

To hire Matthew Power as seasonal snow plow driver at \$16.00 per hour effective 11/7/2011

Vote: All in Favor

Motion: M. Stauder 2nd:E. Newcomb
To hire Norman Webb as seasonal snow plow driver at \$15.00 per hour effective 11/7/2011

Vote: All in Favor

Council on Aging Resignation

Ms. Peterson reported there has been a resignation from the Council on Aging.

Motion: M. Stauder 2nd:E. Newcomb
To accept the resignation of Mary Girouard from the Council on Aging effective immediately with regret

Vote: All in Favor

Minutes Approved

Motion: M. Stauder 2nd:E. Newcomb
To approve the October 24, 2011 minutes as written

Vote: All in Favor

Mr. Stauder asked if the Building Inspector had submitted the letters regarding the lapsed Class II licensees. Ms. Peterson stated he had phoned her on Thursday and had not created the letter in time to meet this agenda. She asked for clarification from the Board on sending the letter to request they appear on November 21st.

Ms. Peterson reminded the Board of their meeting on November 14th at 6:00 PM for the tax classification hearing.

Library Trustee Election

Ms. Peterson explained how the vote will proceed to fill the vacancy on the Library Trustees according to Massachusetts General Law. Library Trustees present were Judi McArthur, Catherine North-Erickson, Laura Foley

Motion: M. Stauder 2nd: Judi McArthur
To appoint Johanna Henning as Library Trustee until the 2012 annual election
Vote: Ms. McArthur- yes, Ms. North Erickson- yes, Ms. Foley-yes, Mr. Stauder- yes, Mr. Newcomb- yes

The Library Trustees thanked the Board and Ms. North-Erickson and Ms. Foley exited the meeting.

Town Charter Committee Presentation:

Town Charter Committee members present: Jamie Pitney, Judi McArthur, Roger Knipe, Tom Howlett, Walter Ducharme, Wendy Howes

Mr. Stauder began by thanking the committee for their work. Chairman Pitney stated the committee has completed the first part of their remittance, being the charter and report and they are here for the remainder of the process through June 2012. He asked if there were questions.

Mr. Stauder asked for an overview on the titles "town administrator" and "town manager" and the difference between the two and the creation of a DPW. Does that necessarily have to be in the charter? Mr. Pitney stated there is no difference between the two titles; the role in itself is defined by the town bylaws or charter. There is no statute or MGL assigning the title and the committee wanted to keep the name as is because it the running of the administration of the town. Mr. Pitney addressed the question is there a need to create a DPW in the charter? No, a bylaw could address this but the committee saw many DPWs being created in other towns' charters and felt this was the time to do so. Mr. Knipe stated how the Selectboard phases all this in is up to them. As far as the DPW is concerned the committee is concerned about the town facilities and property because the town doesn't have the resources to address them now. This is a generic model that the Board can use. Mr. Stauder added he was in favor of appointed versus elected.

Mr. Newcomb stated he appreciated what the committee has done but does not agree with everything. Mr. Newcomb alleged in the past the Town used pressure to balance the budget by misuse of the cemetery trust funds. He stated the best guide for the trust funds is an elected board. Mr. Knipe pointed out the cemetery commission would still have the autonomy to be making recommendations and control trust funds. Ms. McArthur said one of the core issues is a chain of command for the town with the town administrator being top supervisor but in turn answers to the Selectboard. The more authority the Town Administrator has to oversee things, the clearer the budget should be. Mr. Newcomb stated this would be a far more expensive form of government. Ms. McArthur stated this would be a more efficient form of government. Mr. Newcomb stated maybe but do you want to pay for that? Ms. McArthur said she did. Mr. Ducharme stated there is a return on an investment of more efficiency. Mr. Newcomb stated you cannot have highway employees working in the cemetery and asked how the DPW Head is going to supervise all these cemeteries and parks divisions and make sure everything is done correctly and the correct personnel are hired. Mr. Pitney stated this why you still have the Board of Selectmen. Mr. Newcomb stated it was under the thumb of who appoints them rather than being elected by the voters. Ms. McArthur added people have to be accountable. Mr. Pitney stated there is nothing unique to this charter other than it being unique to Hubbardston. This chain of command occurs in other towns. Ms. McArthur stated the committee's recommendation is to present the charter to Kopelman & Paige, PC and if there are any questionable areas, it should show up. Mr. Newcomb stated the committee was appointed by the Board of Selectmen as an ad hoc committee. Mr. Newcomb stated he believed Town Meeting should determine if there is support amongst residents for a new charter. He believes the charter and management letter could be distributed at the annual town meeting and give residents opportunity to peruse it. Town Meeting would then choose a town charter committee. He stated spending money at this time may be precipitous if we don't have enough people in town interested in changing.

Mr. Newcomb voiced opposition to Section 2/3-2-2 "No person shall serve on the Board of Selectmen while at the same time serving as a Town employee or as an elected or appointed member of a multiple member town body." He stated it could be challenged in a court of law and the subsequent legal cost to the town would be costly. Mr. Newcomb

stated it is clear violation of civil rights and he would challenge it. Mr. Howlett pointed out it will also be researched by the town legal counsel. Mr. Jeffs stated the committee was not making a distinction between part-time or full-time employees either. He added he would be working only two hours a week for the town and be unable to run for office as well. Mr. Jeffs stated there is town staff that hold part-time hour jobs and the committee is now saying that those people are now ineligible to serve on the Board of Selectmen. He believed it was broader than what the committee intended. Mr. Newcomb asked why deny the voters who they can vote for? Mr. Pitney offered to ask U/Mass Collins Center for any case law related to the provision. Mr. Newcomb stated he was not impressed with case law as it doesn't mean it couldn't go to court back again and have the decision changed. Mr. Stauder stated the group was probably done debating this issue and that the Town Charter Committee and Mr. Newcomb could agree to disagree at this point. Mr. Stauder stated if there is case law in the literature, this is how the foundation of our government is built. Mr. Stauder stated as a whole he believed the committee did a good job and asked how the committee would like to proceed next.

Mr. Pitney recommended sending the final charter and report to legal counsel for review. Mr. Pitney stated he had spoken to Mr. Bullock about placing this on a special town meeting after review but there was nothing currently that needs a special town meeting. If approved at special town meeting, it would go to the legislature and governor for approval and if accepted would return to town election in June 2012. Mr. Stauder asked if the charter document could be amended on town meeting floor. Mr. Pitney stated yes. He stated the charter committee is dedicated to seeing it through to the end, to answer questions on particular subjects. He suggested having a question and answer forum a week or so before it goes to town meeting.

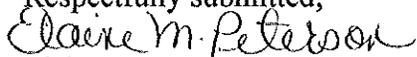
Mr. Pitney stated that he now sees it in the Selectboard's hands from this point forward. Mr. Stauder stated the procedural aspect is the Selectboard takes this over, but he asked the charter committee to publicize and promote it and push this forward.

Mr. Newcomb again thanked the committee for all the work they have done but at this point he will not vote to hold a special town meeting just for the charter proposal. He doesn't see a need to rush to promote this and suggested it could be added to annual town meeting to save on the expense of holding a special town meeting. Mr. Bullock stated he has advocated for a special town meeting as he believed it deserved the focus of a special town meeting. He said adding this to an annual town meeting would make for a marathon night. Mr. Stauder disagreed and supported Mr. Bullocks' recommendation to hold a special town meeting. Mr. Stauder stated every voter in town will be notified via a mailing that there is a special town meeting scheduled and the voters choose to come or not. Mr. Pitney stated the timeline the committee is proposing is due to feedback from the Selectboard regarding the lack of a town administrator and the need to fill the position. Mr. Newcomb stated the committee did not hear that from him. Mr. Pitney stated the committee heard from the board as a whole. He concluded that regardless of whether this charter passes or not is that the committee has provided a blueprint for better government for the town. Mr. Ducharme stated they focused on the process of the organization. Mr. Newcomb stated the Board had reached the time limit for the discussion. Mr. Pitney stated the committee was at the Board's dismissal. Mr. Stauder proposed letting everyone

take a week to read the entire document and discuss as a whole Board. He thanked the committee.

Detective Hans Carlson entered the meeting. Mr. Bullock stated for the record he had advised Officer Carlson that the Board could not meet on this tonight because the individual having the complaint brought against him could not have his attorney present. Mr. Bullock stated he had left a message on his cell phone earlier in the day. The Board apologized for the inconvenience. Officer Carlson exited the meeting. Mr. Bullock believed the Board should still enter Executive Session to discuss some points regarding this complaint. Ms. Peterson presented a copy of the Executive Session guide to Officer Carlson. Mr. Newcomb stated he would not go into Executive Session this evening.

Motion: M. Stauder 2nd: E. Newcomb
To adjourn the meeting at 7:51 pm
Vote: All in Favor

Respectfully submitted,

Elaine Peterson
Town Secretary

Approved: December 5, 2011