

**BOARD OF SELECTMEN
MINUTES
SEPTEMBER 10, 2012
SLADE BUILDING**

Members present: Michael Stauder, Chairman
Matthew Castriotta, Vice Chairman
Christopher Norcross, Clerk

Staff present: Brian Bullock, Town Administrator; Elaine Peterson, Town Secretary;
Lyn Gauthier, Highway Superintendent; Dennis Perron, Chief of Police; Bob Hayes Jr,
Fire Chief,

Others present: Ed Blanchard, Finance Committee Chair, Walter Ducharme, Tom
Howlett, Katherine Klein, Kopelman & Paige, PC, Barbara Hubbard,
Jeffrey Aveni, Carol Whitney, Robert Hubbard, June Hubbard-Ward,
Mary Taylor, Diane Lanney, Donna Tobine, Betty Bumpus, William
Bumpus, Nancy Hubbard

Meeting called to order at 6:30 PM.

Warrant # 6

Motion: M. Castriotta

2nd: C. Norcross

To approve Warrant #6 in the amount of \$187,613.04

Vote: M. Castriotta- yes, C. Norcross- yes, M. Stauder- abstain

Town Vehicle Use:

Mr. Stauder stated this discussion was to get an overview/update of usage of the town vehicles are and if this is still necessary. He asked the public safety department heads if they are being used full-time.

Chief Hayes stated it is being used full-time during the day by either him or the staff for inspections and errands. He added there is another pickup for use also. The Explorer is only taken home by the Chief in order to respond to off hour calls quickly. If he has personal events to attend he takes his own vehicle home.

Mr. Stauder asked how the new fire pickup is used. Chief Hayes reported it is used to plow and as a utility vehicle. It is also set up if the other forestry truck goes down it can be used in that temporary capacity also.

Mr. Stauder asked Chief Perron if he used his vehicle for off hour calls also. The Chief confirmed he can respond to calls immediately rather than coming back to the station and changing vehicles. It also has four wheel drive for the winter months. It does have a radio and functions as an emergency vehicle and is being used as his primary patrol vehicle.

Mr. Castriotta asked Mr. Gauthier how much mileage he had on his vehicle. He reported around 198,000 miles. Past practice has been to recycle the outgoing police four wheel drive vehicles to the Highway Department. When asked about storm response, Mr. Gauthier stated summer is quieter than winter regarding storms. Dispatch calls him first and he determines who should respond. Mr. Norcross asked Mr. Gauthier if he can do the work if a tree is down. He replied yes. Mr. Stauder asked if it would make sense to save money if Mr. Gauthier takes the pickup truck home instead of a dedicated vehicle. Mr. Gauthier said he could take a pickup home as long as he has a vehicle to go out in and added he pays \$3.00 a day to use the town vehicle according to IRS rules. Chief Perron reported Mr. Gauthier also has road closed type of signage in case of closing the road when needed for accidents. Mr. Gauthier added the Police cannot always be out there so he is out checking the roads.

Mr. Blanchard asked the department heads if they kept driving vehicle logs on each vehicle. The general response was no, only for maintenance. Mr. Gauthier reported he is applying for a \$10,000.00 MMA software grant for all town vehicle maintenance. Mr. Blanchard asked why the Police Chief's vehicle is not lettered for safety issues. Chief Perron stated his unmarked vehicle is useful for certain instances. The vehicle is not set up with a cage and emergency lighting as for a true emergency vehicle. The cost to set that up would be in the three to four thousand dollar range.

Chief Perron presented a signatory authority form for the Chair to sign for the previously approved Massachusetts bullet proof vest reimbursement grant funding.

Motion: M. Castriotta

2nd: C. Norcross

To have the Chair sign the authorization form

Vote: All in Favor

Open Agenda

Donna Tobine came in to inquire about the house located at 46 Iroquois Avenue in Pinecrest that was cleared recently demolished. She and her husband are abutters. She presented pictures showing a large pile of debris remaining from the recent demolition. The demolition was a safety issue but abundant trash is still present with many contaminants (paint, gas cans etc.) and is located adjacent to the pond.

Mr. Norcross reported he has spoke to Tom Larson, the original contractor, and three dumpsters had been filled already. Another \$3,000 is needed to clean up the rest. Mr. Norcross stated this could set precedent for future houses. Mr. Stauder asked what the town's obligation is to clean up. There is a lien on the property and the current owner is still paying taxes on the property. Mr. Norcross reported there are two other properties in town slated for future demolition. There is a Homecorps state grant that will help local Board of Health address the health and safety hazards of foreclosed and abandoned properties.

Mr. Blanchard stated the Finance Committee would like to see the Selectboard work with the owners of these abandoned properties to pay for the cleanups or gift the properties to the town. Mr. Blanchard also suggested requesting the Planning Board to look at zoning bylaw options for cleaning up abandoned property. He added the Town shouldn't have to assume responsibility for cleaning up private property. Fines should be instituted. Ms.

Hubbard-Ward suggested creating a revolving fund for funds collected from liens placed to clean up other abandoned properties. Mr. Bullock will follow up with Ms. Tobine. Ms. Peterson reported there are also fines for violating the Wetlands Protection Act.

Mr. Blanchard reported on two community service projects he would like to run by the Board. The first is an offer to paint the gazebo at Charles Clark Corner. Rich Bonnett and daughter Nicole, a student at Quabbin Regional High School, should request a letter detailing how many hours of community service she provided.

Motion: C. Norcross

2nd: M. Castriotta

To authorize Rich and Nicole Bonnett to paint the gazebo

Vote: All in Favor

The other project is for Mr. Blanchard and Mr. Bonnett to repair and paint the ramp to the Slade Building. Mr. Blanchard would like to do this on a Friday. Ms. Peterson asked that he alert her before starting so she can notify staff who works on Friday. Mr. Norcross asked Mr. Blanchard to run this by the Building Commissioner before painting the ramp.

Motion: C. Norcross

2nd: M. Castriotta

To authorize the repair of the Slade Building ramp

Vote: All in Favor

Mr. Blanchard wanted to discuss the funding of \$75,000 for the roads construction project coming from free cash, assuming there is free cash to do that. Mr. Stauder stated the \$75,000 is slated to contribute to the Capital Plan and the roads project is only one part of the Capital Plan. Even if we did not have the \$75,000, we have debt service that is being retired and would then go to free cash. This year we have \$210,000 and we are projecting on increasing that by 3-5% every year.

Mr. Bullock reported there are two streams of dollars going into the Capital Plan; one is the levy appropriation which is \$210,000 this year and the other is free cash, the goal is to do all of it, the minimum would be \$75,000. When there are years when you have more to contribute, you soften the blow for when you have less.

Mr. Blanchard reported a couple of employees approached the Finance Committee about a salary survey. Would the Board be interested in the Finance Committee to conduct it independently in order for the Board to review as the Personnel Committee? They would delegate a work study person. Mr. Bullock stated the problem is the pay and classification study and would prefer to see it done by a firm. Problems persist with the job description and the title. Mr. Blanchard stated there would be a lot of similarities as well and develop a delta. Ms. Lanney suggested consulting with the Massachusetts Municipal Association for the information. Ms. Peterson reported she had used the Massachusetts Municipal Personnel Association's compensation reporting, but there are not many towns similar in population and geographical location in the state that are reporting their data. Mr. Bullock stated we have also used other firms' salary data when they request information from this town. He stated you get a better product from a firm that is familiar with surveying rather than going out and doing independently. No action was taken by the Board.

Town of Hubbardston to First Parish Unitarian Church of Hubbardston

Katherine Klein of Kopelman & Paige, PC come to the table to proceed with the agreement with the First Parish Unitarian Church. Mr. Aveni, legal counsel for the First Parish Unitarian Church, was also invited to the table.

Ms. Klein stated this has been a long time coming and believed they have reached a place where they can go forward and wrap this up. It cannot be wrapped up tonight because of the procedure. She reported the way to proceed is to file a complaint that has been filed by both parties with the land court explaining it's a way to avoid going to the legislature. Mr. Aveni will file on behalf of the church a consented to complaint for adverse possession. Then there will be an agreement for judgment and consequently a settlement agreement. She asked Mr. Aveni how long it will take to go through land court. Mr. Aveni estimated sixty to ninety days or as long as one hundred and twenty days. Ms. Klein stated the Order of Taking has to be filed with the Registry of Deeds within thirty days of it being signed. Mr. Stauder stated he did not see the Right of First Refusal and the land credit. Ms. Klein stated the Right of First Refusal was signed in December of 2011. She explained further that the church only owns the land while the church owns the building. The Town will get a credit of the value of the land at the time the church chooses to sell the building based on an appraisal. If the Town wants to purchase the land and the church in the future, the Town will only pay for the building. If the Town decides not to purchase it, the Town will get paid from the proceeds of the sale that is attributable to the land value.

Mr. Blanchard asked if the First Parish Unitarian Church of Hubbardston ceases to exist, would the building and land revert back to the UUA (the parent association of the congregation). He asked do we have documentation stating the UUA gives up their rights. Ms. Klein reported there is a letter dated October 19, 2011 from the executive vice president of the UUA, stating their interpretation of the bylaws. The association bylaws are based on tradition of congregational policy giving each of their congregations the right to make their own decisions and control their own property and funds. The association bylaws do not supersede the Hubbardston church's bylaws and the Town is protected under the Right of First Refusal agreement.

Ms. Klein presented the papers governing the court action. Mr. Aveni asked if the Board would sign the release papers tonight in case of a change in the Board composition to keep the signatures consistent. Ms. Klein will hold the papers. Mr. Stauder asked if there were any other concerns. Mr. Norcross stated he was not in favor of the transaction and would not vote for the motion. He had no further comment.

Mr. Blanchard asked Ms. Klein about the 2007 Town Meeting vote for eminent domain taking of the church; do you feel comfortable this still follows the vote that was taken then as the procedure is now going to land court. Ms. Klein stated several attorneys at Kopelman & Paige, PC have analyzed the vote and determined it falls within the scope of the town meeting vote.

Mr. Blanchard asked why it has taken five years and close to \$40,000 in legal bills. Mr. Bullock pointed out the firm is protecting the Town's interests and he believed they have done so.

June Hubbard-Ward wanted to point out the church has worked diligently to ensure that the Town's interests are protected. The Town's concerns have been raised over and over again; they have evolved and we have certainly addressed every concern. The Right of First Refusal is voluntary on our part. We've worked in the spirit of cooperation with the Town to get to this point. An alternative that the church has is to pursue adverse possession on our part and to do that there would be no Right of First Refusal; there would be no land credit. There would be no consideration for the Town. The church has clearly had unimpeded use of that building for over twenty years and the land around it. We've come to the Town with a friendly adverse possession case and we've gotten back a bit of unfriendliness. So it concerns me that we have a "no" vote on the Board when the Town's interests have been so securely protected. It seems a bit disingenuous to vote no at this late date.

Mr. Stauder stated any one of the Board members is entitled to their opinion and really did not want to discuss why people are voting yes or no. Ms. Hubbard-Ward stated she wanted to make everyone aware of the alternative. Mr. Stauder stated we are here tonight to vote on this and clearly there are two members voting yes. If you want to get in a fight about it, we can certainly start back to zero again. So I suggest we get this completed tonight. Ms. Hubbard-Ward interjected she wanted to remind everyone of where we are at and how we got here because the church does have alternatives. Mr. Stauder replied so do we, we can vote no and you can take your alternative but you are turning a friendly evening into an adversarial evening. (Protests arose from the attending church members.) Mr. Stauder called for order and stated the Board will vote on this and move forward.

Motion: M. Castriotta

2nd: M. Stauder

That the Board moves as follows:

- 1. The Board of Selectmen authorize the execution by Town Counsel of an Agreement for Judgment in a matter captioned "First Parish Unitarian Church of Hubbardston, Plaintiff v. Town of Hubbardston, Defendant," to be filed in the Land Court Department of the Trial Court, which matter arises from the filing of a Complaint for Adverse Possession and/or to Quiet Title to Real Property by the First Parish Unitarian Church of Hubbardston against the Town of Hubbardston.**
- 2. That the Board of Selectmen execute a Settlement Agreement in the matter entitled "First Parish Unitarian Church of Hubbardston, Plaintiff v. Town of Hubbardston, Defendant," to be filed in the Land Court Department of the Trial Court, said Settlement Agreement to be held, in escrow, by Town Counsel, pending issuance by the Land Court of the Agreement for Judgment.**
- 3. That the Board of Selectmen shall execute the following documents, to be held in escrow by Town Counsel, pending release of the Settlement Agreement, said documents to be held in escrow by Town Counsel, to be recorded or filed, in the judgment of Town Counsel, upon receipt of the final executed documents, and such other documents as deemed necessary by Town Counsel:**
 - a. Order of Taking**
 - b. Affidavit Under G.L. c. 183, section 5B as to Lot 2 and two certain**

- easements as shown on a Plan entitled "Plan of Lots Prepared for Town of Hubbardston," dated November 7, 2002, recorded with the Worcester South Registry of Deeds in Plan Book 876, Page 68.
- c. Affidavit Under G. L. c. 183, section 5B as to Lot 1B as shown on the Plan entitled "Plan of Lots Prepared for Town of Hubbardston," dated November 7, 2002, recorded with the Worcester South Registry of Deeds in Plan Book 876, Page 68.
 - d. Release Deed from the Town of Hubbardston to the First Parish Unitarian Church of Hubbardston for Lot 2 and two certain easements.
 - e. Historic Preservation Restriction Agreement (to be released to counsel for the First Parish Unitarian Church of Hubbardston, who shall cause the Restriction Agreement to be submitted to the Massachusetts Historic Commission, along with Baseline Documentation, and approval of the MHC shall be obtained.)
 - f. Right of First Refusal, the original of which shall be forwarded to Town Counsel.

Vote: Mr. Castriotta- yes, Mr. Stauder- yes, Mr. Norcross- no

The Board and church members signed the documents. The Board thanked both attorneys. The church members and both attorneys exited the meeting.

Ms. Peterson presented the upcoming budget calendar prepared by Mr. Bullock.

Mr. Blanchard asked for an update on the Phillips dog kennel appeal. Mr. Bullock reported there was an attorney only hearing on this Wednesday and he was waiting to hear back from town counsel. Mr. Blanchard asked to be informed of any updates.

Mr. Blanchard asked if the Request for Proposals (RFP) for the municipal land purchase had gone out. Mr. Bullock stated it was out and proposals will be due on September 21st. Mr. Blanchard asked about an RFP for legal services. Mr. Bullock reported he had not done that but under advisement from the Board had done an informal survey of other communities. Mr. Bullock will have that study next meeting.

Mr. Blanchard asked now that Oakham and New Braintree have not approved their Quabbin Regional School District school budget assessments and if there are further cuts to get one of those towns to agree on a lower number, what will happen to the reduction that we will get from the difference from the \$134,000.00 that Hubbardston has approved? Mr. Bullock reported the Town will need to go back to town meeting and revote the lower number. It will free up an amount of money and I suggest you take it off local receipts and then it will flow through to free cash. Mr. Castriotta asked if the other money would go to Center School. Mr. Bullock stated it would need another article to be appropriated.

Mr. Blanchard asked about the \$10,000 transfer from unemployment and stated we are vulnerable. Mr. Bullock stated we are always vulnerable but that was predicated on one individual who is no longer a concern.

Mr. Blanchard stated the Finance Committee had sent a recommendation to hire a DPW Superintendent and reorganize the Highway Department rather than hiring a clerk of the works for upcoming road projects. Mr. Bullock stated this would be discussed later in the evening.

Motion: M. Castriotta **2nd: C. Norcross**
To go into Executive Session for Reason #2 to conduct strategy sessions in preparation for negotiations or to conduct collective bargaining sessions or contract negotiations with non-union personnel and return to open session
Vote: Mr. Castriotta- yes, Mr. Stauder-yes, Mr. Norcross-yes

*****Executive Session Minutes Are Separate*****

Motion: M. Castriotta **2nd: C. Norcross**
To go into Executive Session for Reason #2 to conduct strategy sessions in preparation for negotiations or to conduct collective bargaining sessions or contract negotiations with non-union personnel and return to open session
Vote: Mr. Castriotta- yes, Mr. Stauder-yes, Mr. Norcross-yes

*****Executive Session Minutes Are Separate*****

The meeting resumed at 9:10 pm

Ms. Peterson presented a list of election workers to be appointed.

Motion: M. Castriotta **2nd: M. Stauder**
To appoint the following election workers with a term from September 5, 2012 to June 30, 2013:
Beverly Baxter, Kellianne Becker, Andrea Colyer, Ann Gushue, Wendy Howes, Marcia Howlett, Maureen Hubbard, Shonna Larson, Dolores Ordway, Amy Stevens, Kathleen Vincent, Carol Whitney, Lynn Wilkinson, Patricia Woodward
Vote: All in Favor

Ms. Peterson presented an agreement for a Ricoh copier for the Slade Building as the current one expires September 17, 2012. Mr. Stauder signed the three year agreement.

Ms. Peterson presented a letter of support for the Quabbin Reservoir to Wachusett Mountain (Q2W) FY2014 Forest Legacy Project Proposal. The letter is addressed to the Forest Legacy program through the department of Conservation and Recreation. If approved, 3000 acres of Central Massachusetts forests will be conserved. The Board signed the letter.

The meeting adjourned at 9:20 P.M.

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

Approved: September 24, 2012.

*Board of Selectmen
September 10, 2012*