

**BOARD OF SELECTMEN
MINUTES
November 5, 2012
Slade Building**

Members present: Michael Stauder, Chairman
Chris Norcross, Clerk

Member not present: Matthew Castriotta, Vice Chairman

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

Others present: Tom Howlett, Ed Blanchard, Dennis O'Donnell, Randy Jepson, Al
Afonso, Mark Dymek

Meeting was called to order at 6:34 p.m.

Accountant Karen Chick presented her written resignation to the Board adding she had emailed the Board members last week. Her last full-time day will be Friday, November 9th. Ms. Chick offered to stay on at her current rate of pay for Monday and Wednesday evenings through the closing of year end books and the transition to a new accountant. The Board members appreciated the offer and agreed with the temporary arrangement. Ms. Chick added until the municipal finance clerk position is permanent she has been preparing the bi-weekly warrant. The Board would like to conduct an exit interview with Ms. Chick. Ms. Peterson will arrange a date and time. Ms. Chick exited the meeting.

Motion: C. Norcross **2nd: M. Stauder**
To accept Ms. Chick's resignation with regret effective November 9, 2012
Vote: All in Favor

Emergency Management Director Dennis O'Donnell came in to report on the October 2011 snowstorm reimbursement. The Town had applied to FEMA for \$57,786.36 and will be receiving \$43,339.77. FEMA reimburses 75% of the eligible costs based on their requirements. Mr. O'Donnell stated our actual cash outlay was \$30,200.00 and we are around \$13,000 ahead which will be available to certify as free cash for the next fiscal year.

Motion: C. Norcross **2nd: M. Stauder**
To authorize the Chair to sign the agreement for reimbursement of \$43,339.77
Vote: All in Favor

Mr. Stauder signed the agreement.

*Board of Selectmen
November 5, 2012*

Another agreement for CERT (Community Emergency Response Team) was presented in the amount of \$2,950.00. Mr. O'Donnell stated he would be returning in a couple of weeks with another grant agreement granting \$2,500. The CERT group is buying some other equipment: radios and other technical equipment. He added he would also be reporting on the Code Red system also. The Board thanked him and he exited the meeting.

Motion: C. Norcross

2nd: M. Stauder

To authorize the Chair to sign the agreement for reimbursement of \$2,950.00

Vote: All in Favor

Other Agreements:

Local Cultural Council Allocation:

Motion: C. Norcross

2nd: M. Stauder

To authorize the Chair to sign the FY'13 Cultural Council agreement in the amount of \$3,870.00

Vote: All in Favor

Motion: C. Norcross

2nd: M. Stauder

To authorize the Chair to sign the agreement for Elder Affairs grant in the amount of \$4,536.00

Vote: All in Favor

Open Agenda:

Finance Committee Chairman Ed Blanchard reported the committee did not approve the Board of Assessors' request for a \$7,000 reserve fund transfer to the health insurance account. They have advised the Assessors to wait and see if the new hire would require health insurance and request an intermunicipal transfer if needed on May 1, 2013. They also recommended the position remain at 24 hours per week with benefits.

The Finance Committee also approved a \$6478.64 reserve fund transfer request by the Town Accountant for interest accrued since 2009 to pay Verizon NE. On March 19th, the MA Appeals Court reversed the MA Appellate Tax Board ruling regarding the Hubbardston vs. Verizon NE for 2009 personal property taxes. Interest is calculated at 8% back to 2009, on a principal payment of \$22,954.29. There is around \$13,000 remaining in the reserve fund account.

Mr. Blanchard reported the Finance Committee is recommending level funding plus contractual agreements for fiscal year 2014 budget. Mr. Bullock stated he preferred presenting a balanced budget as well as listing the level budget, which is easy to do by listing the budget from the previous year. He added he would try to accomplish both.

Mr. Blanchard repeated the Finance Committee's offer of four committee members polling other towns for pay rates/fringe benefits for employees from towns similar to Hubbardston, especially due to several recent staff resignations. Mr. Bullock stated it goes beyond salary survey but also to establish a compensation plan. Mr. Stauder stated if the Finance Committee members wanted to do that, he had no problem and would keep in mind the variances in job descriptions and titles from town to town. Mr. Blanchard

asked Mr. Bullock to send any other suggestions on what to ask other towns. Mr. Bullock stated he would.

Mr. Blanchard asked if the town had a plan for personnel for the Chapter 40B plan (Affordable Housing). He suggested the Board place the item under Old Business on the agenda to keep on top of it.

Mr. Blanchard asked is it possible to get an updated schedule on the roads plan. Mr. Bullock reported a Planning Board tree hearing will occur on the 14th. All the trees are marked now. Other than that we should be putting the project out to bid in December, hoping to begin work in March 2013.

Assessor's Clerk position-

Motion: C. Norcross

2nd: M. Stauder

To change the Selectboard's recommendation for the Assessor's Clerk hours from 19 to 24 hours per week

Vote: All in Favor

Police Dept. Clerk position- discussion ensued on whether to reduce the position to 19 hours from 20 hours per week. Mr. Bullock reported he had already spoken with Chief Perron regarding this option. Mr. Blanchard stated hiring should go forward as needed for positions and need to fund fringe benefits and if health insurance is needed, it will be funded. If it gets depleted in May, we may have to take from other line accounts or free cash.

Mr. Stauder asked about the municipal finance clerk position. Mr. Bullock reported the application period had closed and would get the applications to the Board. Mr. Norcross asked if the Board could review all the applications for all positions. Ms. Peterson will scan them and forward to the Board.

Highway Superintendent Gauthier has recommended awarding the bid for plowing Streeter and Mile Roads to Grass Hopper Yard Grooming at the cost of \$2800.00 for Streeter Road and \$3,420.00 for Mile Road. He was the low bidder. The award will be contingent on his supplying a certificate of liability insurance and workman's compensation insurance. The Board did inquire since Jim Dixson is on the Fire Department and a municipal employee that he file a financial disclosure.

Motion: C. Norcross

2nd: M. Stauder

To award the plowing of Streeter and Mile Road to Jim Dixson, d.b.a Grass Hopper Yard Grooming, P O Box 316, Hubbardston, MA 01452 in the total amount of \$6,220.00

Vote: All in Favor

Town Clerk Joyce Green has submitted two more election worker appointment requests.

Motion: C. Norcross

2nd: M. Stauder

To appoint Nancy Rogan and Joanne Welch as election workers with a term to expire June 30, 2012 and to authorize their wage at \$8.00 per hour

Vote: All in Favor

Ms. Peterson presented Highway Worker Eric Tebbett's resignation.

Motion: C. Norcross

2nd: M. Stauder

To regrettably accept Eric Tebbett's resignation effective October 26, 2012

Vote: All in Favor

Mr. Norcross reported he had phoned Mr. Tebbett to request an exit interview but had received no response back.

Ms. Peterson presented two wage authorizations for seasonal plowers for the Highway Department.

Motion: C. Norcross

2nd: M. Stauder

To authorize wage authorizations for Edward Mann and Keith DiTaranto for \$15.00 or \$16.00 per hour depending on the vehicle

Vote: All in Favor

Motion: C. Norcross

2nd: M. Stauder

To authorize Brian Bullock to sign the Planning Board application for the tree hearing

Vote: All in Favor

The Board requested Fire Chief Hayes come in to the next meeting to further explain what Central Mass EMS Corporation does.

2007 Land Sale Discussion

Mr. Blanchard reported about 5 or 6 months ago two Finance Committee members approached him with concern about a land transaction concerning thirty-five acres of town land being exchanged for \$8500.00 worth of services five years ago to Mr. Dymek. Mr. Blanchard stated he done a couple of months of research and had some questions. He asked who first contacted whom regarding the potential sale of the 35 acres on Pitcherville Road. What are the personal and business relationships of the parties involved? Selectboard members Paul Hale, Kristie Casey, Matt Castriotta and former Town Administrator Deb Roussel were involved at the time.

Randy Jepson stated he came as a concerned citizen. He has spoken to Mr. Hale about the inquiry and stated Mr. Hale will not be attending this evening unless there is some type of proven impropriety. He would not be coming in and answering questions that were done above board and legally six years ago.

Mr. Blanchard presented assessments of the property. He questioned why the assessment went down 35%. There is no specific documentation as to why the assessment went down at that time. Mr. Blanchard stated due to the fact the assessment of the property went below \$25,000.00, the Board members at the time could declare that property surplus, thereby not having to go under procurement rules.

Mr. Blanchard also reported the Treasurer's name was not listed under the newspaper advertisement which is usually the norm. Why did the Town Treasurer and Accountant refuse to have anything to do with this transaction?

Mr. Blanchard read from the Selectboard minutes of August 21, 2007, recorded by Town Administrator Deb Roussel: *Merits of Pitcherville Road parcel discussed. Ethical dilemma of inclusion of barter in RFP, perception if Mark Dymek participated, given that he had worked with land committee. Board members felt as long as was advertised*

appropriately, not an issue, however recommended Mr. Dymek contact ethics commission for opinion. Board agreed with moving forward on sale of this parcel to provide for percolation and survey of Ragged Hill ANR for spring auction. Ms. Roussel to arrange meeting with Mr. Hale and Mr. Dymek.

Mr. Blanchard then read from minutes of September 4, 2007, Selectboard voted *that the town-owned land on Pitcherville Road, map 3, lot 7, consisting of 35 acres and described as map 3, lot 7 be declared surplus and require any future purchaser to place conservation restrictions on the property at their own expense.*

Mr. Blanchard reported the bid had no name to the bid and read, *Terms of sale may include cash, certified check or barter for survey of seventeen acre town parcel as five lot ANR, including percolations tests for each lot, services to be completed by December 20, 2007 or at a time and date mutually agreed by the Town and successful bidder.* Mr. Blanchard stated it is not a usual case where if you go to sell a piece of property but they did so. He stated he had documentation regarding the disposition of surplus property and the procedure. There were three bids presented on the property.

Offer 1 was \$2,500 in cash and twelve hours of engineering services and 12 hours of backhoe work to the Town of Hubbardston from Michael Cove, Sr. Ms. Roussel had stated the offer had a time limit of November 23rd on it, therefore the offer was not valid at the time.

Offer 2 was payment of \$31,000 contingent on the buyer (Pitcherville Gravel) receipt of an earth removal permit for the premises. Ms. Roussel had spoken to the Inspector General's office concerning unacceptable contingencies and the Board was not obligated to consider this, therefore the offer was not valid.

Mr. Blanchard stated Offer 3 also had contingencies as far as doing the five percolation tests etc. Mr. Blanchard read from the rules of real estate disposition from the Commonwealth of Massachusetts. Mr. Blanchard stated the Town had an opportunity to accept \$31,000 dependent on the gravel removal permit and the bid advertisement stated the terms were negotiable.

Offer 3 was perform five Title V percolation tests, contract with a MA certified land surveyor to barter for survey in accordance with bid specification set new front lot corners, prepare and ANR plan suitable for endorsement showing the new lots to be created as well as legal descriptions for future conveyance and submit to the Planning Board for endorsement.

Mr. Dymek responded that there was no specific dollar amount associated with the bid he submitted. The ANR plan cost over \$5,000 and each percolation test was around \$1,000 each; with a combination of backhoe use as well, over \$10,000. The conservation restriction cost me around \$4000, totaling over \$14,000 in value for this particular piece of land. Mr. Dymek stated he didn't understand why we are talking about something that happened over 5 years ago. As far as the Finance Committee's involvement he looked up the minutes on August 29th, 2007 and the Board reviewed the documents and no action was taken. My understanding is Mr. Blanchard is here on behalf of the Finance Committee but there is no indication you are here for that. Mr. Dymek stated the original deed reads 30 acres, not 35 acres of land that is partially in Templeton and Hubbardston. He also wanted to point out if you look at the assessments Mr. Blanchard had as far as the value goes, up until a year or two before this transaction took place the property was

assessed by a couple from Gardner named Plunkett. The Town (of Hubbardston) did not even know they owned it. They have owned since the thirties or forties; the tax map shows someone else owning it. Mr. Dymek presented a map of the property; Templeton has fourteen acres leaving sixteen in Hubbardston. Out of the sixteen acres in Hubbardston, there are a lot of wetlands on the property with a 100 foot setback from wetlands designates the property unusable. There has never been any testing on the property for gravel. It does abut a gravel pit but we don't know. There are two vernal pools on the parcel as well. It really limits the ability to take gravel out of there. For Pitcherville Gravel to use this property as a gravel pit they would have had their current pit at the time to come into compliance, which it is not.

This is also one of the parcels of land that Open Space Committee identified as leaving due to the wildlife corridor on the back part of the Templeton airport. It is a landlocked piece of land as well, not valuable to anyone but me and Templeton. I feel the town made out well on the deal, it got five lots perced and surveyed.

Mr. Blanchard stated it is more of an ethical question on the bid process. Mr. Dymek stated he did go to the State Ethics Commission for advice under the conflict of interest law and followed their advice on filing a financial 20© or 20(d) exemption as a special municipal employee. Mr. Bullock stated if ethics had a problem with it they would have pursued it.

Mr. Blanchard questioned if this could have been opened up to more people for the bid process. He acknowledged Mr. Dymek's proposal did not have a dollar amount assigned to it so how could the Board have accepted it? Mr. Blanchard reported Kopelman & Paige, PC. paid over \$3,000 for legal expenses for this transaction. Mr. Dymek stated he had agreed to pay up to \$1,000.00 for legal expenses.

Mr. Norcross asked Mr. Dymek why he was interested in the property if it is useless to anyone. Mr. Dymek stated it was more to help the Town out; to secure and protect that open space. Mr. Bullock offered to represent the material to Kopelman & Paige, P.C. for further review if needed. No action taken by Board.

Mr. Jepson stated before he left and reported to Mr. Hale he had always wanted to be part of town government and is happy to be a resident of Hubbardston but this this discussion is nothing he would want to be a part of. There has not been one piece of evidence showing any impropriety whatsoever. It's a very slippery slope when we ask people to come in and answer questions. Mark Dymek donates hours and hours to this town; Paul Hale gives his life to this town and continues to do so today and we're going to call them in and ask questions with not one bit of impropriety

Mr. Stauder stated this is not a hearing and anyone is welcome to attend an open meeting and ask questions. Mr. Stauder suggested the Board take no action at this point, it was reviewed by ethics and they took no action. Mr. Blanchard stated this was not about what could be done with the land; it was about the process of how the land was transferred. Did the Town receive fair value for what the land was worth? Mr. Dymek stated if the other bidders had a problem they could have filed an injunction. He added this land is not a significant piece of land that anyone would have wanted due to being landlocked and frequented with wetlands. It also was stipulated it would have a conservation restriction on it. Mr. Blanchard stated the Finance Committee will vote on how to

proceed; they don't need anyone permission on whether to move forward on it; adding any individual can move forward with this. Mr. Jepson exited the meeting.

Other Business:

Mr. Bullock presented various wage figures for how to restructure the salary for the current Highway foreman's open position. The Board discussed different options including not having a foreman and hiring another individual to direct the department. The Board members confirmed they would like a person, starting in the 2013 spring and going through the summer, to be clerk of the works for the road construction and as the project winds down in the fall, he would be the director of the entire department. Mr. Gauthier would remain superintendent of town roads but would report to the director. After Mr. Gauthier retires, a foreman could be hired. Mr. Bullock will rework figures and report at the next meeting.

Mortgage Subordination Request

Mr. Bullock reported that Septic Loan Clerk Cyndy Washburn-Doane had received a request from First American Title Insurance Company for their clients, Paul and Patricia Clark of 16 Burnshirt Road, to subordinate their septic repair loan of \$18,703.28. This would place the Town second on the repayment list once the property sells. Mr. Bullock recommended denying the request.

Motion: C. Norcross

To deny the request for subordination

2nd: M. Stauder

Vote: All in Favor

Mr. Bullock reported on the Phillips dog kennel case. Kopelman & Paige, P.C. is going to court this Wednesday to oppose a motion by the defendant to postpone the judgment. Mr. Blanchard reported Ms. Phillips is reconstructing the roof. Mr. Bullock stated he has asked Kopelman & Paige to report that to the judge as well. Mr. Blanchard exited the meeting.

Warrant #10

Motion: C. Norcross

To approve Warrant #10 in the amount of \$274, 653.12

2nd: M. Stauder

Vote: All in Favor

Motion: C. Norcross

To enter Executive Session for Reason #2, to conduct strategy in preparation for negotiations with non-union personnel or contract negotiations with non-union personnel with intent to adjourn upon end of executive session.

2nd: M. Stauder

Vote: Mr. Stauder- yes, Mr. Norcross-yes

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

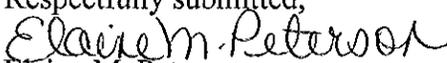
Motion: C. Norcross

To adjourn the meeting

2nd: M. Stauder

Vote: All in Favor

Meeting adjourned at 9:30 PM

Respectfully submitted,

Elaine M. Peterson
Town Secretary

Approved: November 19, 2012.

*Board of Selectmen
November 5, 2012*