

**BOARD OF SELECTMEN
MINUTES
AUGUST 26, 2013
SLADE BUILDING**

Members present: Chris Norcross, Clerk
Daniel Galante
Jeffrey Williams
Matthew Castriotta, Chairman
Michael Stauder, Vice Chairman

Staff present: Anita Scheipers, Town Administrator; Elaine Peterson, Town Secretary

Others present: Tom Howlett, Paul Clark

Meeting was called to order at 6:36 p.m.

Mortgage Subordination Request

Paul Clark of 16 Burnshirt Road appeared regarding his and his wife's request for mortgage subordination of their septic repair loan. Ms. Peterson reported the Clarks submitted all the required information for the mortgage subordination but exceeded the median income level in order to qualify. Mr. Clark reported he had obtained the septic repair loan in June 2009. and had been above the income level at the time of application. Mr. Clark stated they were seeking a reduced interest rate on their mortgage and would continue to pay off the septic repair loan. Ms. Scheipers advised the Board that they could modify their policy pertaining to this situation because the Clarks had exceeded the minimum income requirement at the time of application and to now hold them to the requirements would be inconsistent.

Motion: J. Williams

2nd:D. Galante

To approve the request to subordinate the septic repair mortgage

Vote: D. Galante, C. Norcross, J. Williams- All in Favor

Ms. Scheipers will sign the subordination tomorrow and Mr. Clark will pick it up at noon.

Mr. Castriotta and Mr. Stauder entered the meeting.

Town Administrator Report

Ms. Scheipers reviewed her report with the Board. (See attached)

Burnshirt Road Bridge Repair and Paving- Ms. Scheipers reported she had met with Mass DOT and the bridge repair can be done without including the removal of the Burnshirt dam.

Route 68 project - Ms. Scheipers reported Arthur Frost of MassDOT believed the town should get the engineering design from the Rutland town line up to the town center completed as soon as possible. This project could be picked up sooner than expected if funding is freed up. The funding we would be saving by not including the town center in the engineering design could be used elsewhere. Then we would not have to meet stricter federal criteria for design standards. . In order to do the design, Ms. Scheipers recommended placing an article would need to be placed

on the Special Town Meeting warrant in November. Ms. Scheipers will have more information at a later date.

Phillips Kennel case- an order of contempt has been issued to Ms. Phillips. All parties are returning to court on September 24th. Zoning Officer Larry Brandt will be doing a site visit before and on the morning of the court date. More discussion about course of action will occur after the court date in September.

Legal Costs - the July bill for legal costs is \$13, 266. Ms. Scheipers is concerned about using up so much funding this early in the fiscal year and would like to request a transfer into legal account after reviewing past years' bills. She will put together a draft article for STM. Mr. Castriotta asked about improving communication between the Planning Board and Selectboard so that future special permit decisions are not so costly and to request the Planning Board place time limits on all special permits.

DPW Director Position- Ms. Scheipers reported she has received four applications so far.

PILOT Agreement was passed over because the Board of Assessors is voting on it tonight.

Ad Hoc Committee to develop enforcement of existing zoning bylaws - Ms. Scheipers reported she had discussed this with Planning Board member Vinnie Ritchie and he is in favor of this. Two Selectmen, two Planning Board members and the Zoning Officer would serve on the committee to develop enforcement of existing zoning bylaws.

Motion: M. Stauder

2nd: J. Williams

To create an ad hoc committee consisting of 2 Selectboard members, 2 Planning Board members and building inspector to work on enforcement of the town's existing bylaws

Vote: All in Favor

Motion: M. Stauder

2nd: C. Norcross

To appoint Dan Galante and Jeff Williams to the ad hoc committee

Vote: All in Favor

Community Development Block Grant –Disaster Recovery Funding

Ms. Scheipers reported she had submitted a letter of interest on behalf of the Selectboard due to the August 20, 2013 deadline, to request \$330,000 in CDBG – Disaster Recovery funding to undertake the Hubbardston Emergency Housing Rehabilitation Program. There is currently a waiting list of 25 residential properties in need of repairs, 15 of which need critical emergency repairs to the exterior of their home due to weather-related damage. The Board concurred.

Offer of Land

Edwin Ramirez has offered his Seminole Avenue property (Map 12w, parcel 276) to the town as it is unbuildable and he has been unable to sell it. Mr. Ramirez is on a fixed income and has no use for the property. There are outstanding taxes in the amount of \$2,343. Highway Superintendent Gauthier reported in an email that the parcel could be favorable to the town to run a drainage pipe from Apache Road onto the property to flow into a retention pond before entering a nearby stream. The property is now assessed at \$820.00 due to being unbuildable. The Board could take the land through tax title process rather than go to town meeting.

Motion: M. Stauder

2nd: C. Norcross

To instruct the treasurer and tax collector to take the land under tax title

Vote: All in Favor

STM Warrant Article

Ms. Scheipers reported there has been a Parks Commission request to transfer \$8000 back into their expense account to maintain parks through fiscal year 2014. Ms. Scheipers is not recommending this to be placed on the STM warrant after further discussion with Park Commissioner Sanda Barry and Mr. Norcross. The Board took no action.

Center School Flagpole

This flagpole is located on the Main Street side of Center School. The Historical Commission has requested to move it to Brookside Cemetery. They would work with the Highway Department to move it and provide lighting for it.

Motion: M. Stauder

2nd: D. Galante

To move the flagpole to Brookside Cemetery

Vote: All in Favor

Statewide Public Safety Mutual Aid

Ms. Scheipers reported Massachusetts Emergency Management Agency (MEMA) has encouraged the town via letter to formally adopt the Statewide Public Safety Mutual Aid Law (GL C. 40, §4J) and the Public Works Municipal Mutual Aid Law (GL C. 40, §4K). These provide a comprehensive multi-discipline mutual aid system for cities and towns which are impacted and overwhelmed by a public safety incident or disaster to ask for and receive assistance from municipalities that may have resources to share. The Town must formally opt-in as required by law.

Motion: M. Stauder

2nd: J. Williams

To opt-in to the Statewide Public Safety and Public Works Mutual Aid Agreements

Vote: All in Favor

International Association of Fire Fighters (IAFF) Recognition

Motion: M. Stauder

2nd: J. Williams

To recognize the IAFF as the exclusive representative for the purpose of collective bargaining for all employees excluding the Fire Chief and excluding all other town employees

Vote: All in Favor

Ms. Peterson reported the Council on Aging has submitted a request to hold a two day rummage sale in and outside the Senior Center on September 28 and 29 from 8 am to 1 pm. Funds raised will go towards the Senior Center Building Donation Account.

Motion: M. Stauder

2nd. C. Norcross

To approve the request to hold a rummage sale

Vote: All in Favor

Minutes Approved

Motion: J. Williams

2nd: C. Norcross

To approve the meeting minutes of August 12, 2013 as presented

Vote: Mr. Castriotta, Mr. Norcross, Mr. Williams – yes

Mr. Stauder and Mr. Galante- abstained

Country Hen Scholarship Fund

Ms. Scheipers reported she has contacted the California- based parent company of The Country Hen regarding the pledged \$15,000 scholarship donation and they need to know the criteria for

the scholarship fund in order to send the appropriate funding. Ms. Scheipers drafted a scholarship fund policy based on what Interim Town Administrator Bullock had provided from the Town of Holden. Criteria for the scholarship applicants will be drafted at a later date.

Motion: C. Norcross

2nd: J. Williams

To approve the scholarship fund policy and designate the Selectboard as the scholarship committee members

Vote: All in Favor

Ms. Scheipers asked the Board if they had read the email from Senior Center Building Committee member Bill Murray regarding the DCR land swap of 17 acres of Mile road for 10 acres off Gardner Road. Mr. Murray thought the swap was not fair to the town. He had stated he would be contacting Senator Brewer's office as an individual to reach out to the DCR for more acreage. Ms. Scheipers stated she had not heard anything further for the committee. Does the Board want to stand on the previous decision? Discussion ensued regarding requesting more acreage. Ms. Scheipers recommended requesting a meeting with Senator Brewer and his staff if doubt remained. The Board agreed.

Road construction update was provided. (See attached)

Motion: M. Stauder

2nd: D. Galante

To adjourn the meeting at 7:53 pm

Vote: All in Favor

Respectfully submitted,



Elaine M. Peterson
Town Secretary

Approved: September 9, 2013



To: Hubbardston Board of Selectmen

From: Anita Scheipers, Town Administrator

Date: August 26, 2013

Re: Bi-weekly Town Administrator Report

The following is a summary of key issues handled during the past two weeks:

1. **Burnshirt Road Bridge Repair and Paving:** On Aug 22nd I went to the MassDOT District 3 office to meet with Arthur Frost and his team. They stated that MassDOT has almost completed the design for the Burnshirt Road Bridge superstructure repair, and that the project will be advertised in March for a summer of 2014 construction. This will be at no cost to the town. They confirmed that while DCR asked MassDOT to remove the Burnshirt dam, as part of the project, MassDOT has refused to do so, so we can feel comfortable that the bridge repair can be done without impacting the water level of the pond and affecting the quality and value of the properties located there.

As we know from the letter recently received, MassDOT also agreed to re-pave Burnshirt Road due to the failing pavement installed about 7 years ago. Arthur Frost confirmed that there should be no costs to the town for this project, unless we ask that sidewalk improvements be done as part of the project, but MassDOT stated they felt there was no need to touch the sidewalks for this project. The repaving will be advertised in Oct of 2014 and construction is expected to begin in the spring of 2015. This will cover the entire Hubbardston stretch of the road from Barre to Templeton.

In discussion about Rt 68, MassDOT urged me to urge the Town to appropriate the funds for the design of the Rt 68 project ASAP as they feel it is a project that could be moved ahead quickly if it had a completed design. Arthur Frost asked if we could have a town meeting vote this fall for the funds. He stated he could not put anything in writing, but he felt sure that the project could be moved up on the Tip list, or completed under the "Way Forward" project funding. I need to do additional research on this project and will bring this issue before the board for full discussion at our next meeting.

2. **Classification and Compensation Study:** I have chosen the firm of Human Resources Services, Inc of Andover MA to help us complete the study for a contract sum of \$14,000. It is expected that the actual work will begin in October and should be wrapping up in February with the final report due March 1st at latest.
3. **Phillips Kennel Case:** An order of contempt has been issued to Cindy Phillips, and the judge has ordered compliance by reducing the number of dogs to 4 or less. The judge determined the kennel cages do not need to be removed. All parties are to return to court on Sept 24th to determine if Phillips has complied with the court order. Larry Brandt has been instructed to inspect the property inside and out well ahead of the hearing on the 24th and then again just

before or the morning of the hearing. If Phillips has complied with the Court's order, Judge Sullivan is likely going to consider this matter closed. If she has not, we need to be prepared to request sanctions and should renew our arguments that nothing short of full removal of the kennels and dogs will resolve this matter.

According to Town Counsel, as for the seemingly never ending cycle of enforcement and noncompliance, if she reduces the number of dogs to four or less, she has complied in the Court's eyes. While unsatisfying, the Town has done everything in its power except for taking steps to address the nuisance dogs process (mentioned below) and it is the Court that has heard the facts and arguments on numerous occasions and has seen fit to resolve this dispute as it has.

Atty. Winner of K&P also stated the current enforcement action is purely a zoning enforcement action. It has never directly aimed at the noise problem although, of course, removal of the dogs would have accomplished that. It is his opinion that the proper way to address dogs that are a nuisance by way of excessive barking is through the process established in G.L. c.140, sec.157. That statute establishes a process whereby anyone can make a complaint to the Town's "hearing authority," typically the Board of Selectmen. The hearing authority then has the duty to conduct a public hearing and investigate the complaint. If the hearing authority finds that a dog or dogs are a nuisance and/or dangerous, it can issue appropriate orders.

4. FY13 Legal Costs: We will continue to track the legal costs each month. Please see the attached FY13 summary. As you may recall we covered the FY13 deficit through Interdepartmental transfers at the end of the fiscal year. We have not yet received the July invoice.
5. DPW Director Position: I have placed ads in the MMA Beacon and MMA.org website for the position, as well as in the Worcester Telegram. We have set Oct 4th as a deadline for submittal of resumes and applications. I will be providing a detailed report re status of all DPW reorganization issues and actions for the next meeting. Please feel free to contact me before that if you have any questions or concerns.
6. MMA Fall Legislative Breakfast Meetings: The MMA is holding a series of breakfast meetings across the state to inform local officials of legislative. See attached memo. I encourage you to attend a session if able.
7. Schedule:
 - a. On Friday Aug 30th I will be taking 4 hours personal time.
 - b. On Thurs Sept 5th and Friday Sept 6th I will be taking vacation leave for the family wedding on the Cape.
 - c. On Friday Sept 27th I will be working from home due to the scheduled new carpet installation in the Slade building that day.

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

HOUSING COURT DEPARTMENT
WORCESTER COUNTY DIVISION
CIVIL DOCKET NO. 10-CV-909

TOWN OF HUBBARDSTON
Plaintiff

VS.

CINDY PHILLIPS
Defendant

ORDER OF CONTEMPT

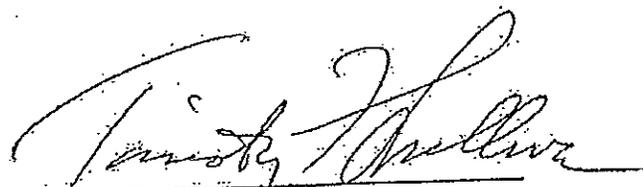
After hearing on July 30, 2013, the Court finds that plaintiff has proven by clear and convincing evidence that defendant is in CONTEMPT of a clear and unambiguous order of the Court dated February 27, 2013. Specifically, although defendant has removed the exterior kennel "structures" according to the testimony offered by plaintiff, more than four (4) dogs remain on the premises, in violations of said order. Accordingly, it is hereby ordered that:

1. Defendant reduce the number of dogs on the premises to no more than four (4) immediately, and;
2. The parties return to the Gardner session of this Court on September 24, 2013 at 2:00 p.m. for a hearing on sanctions against defendant for her contempt of the February 27, 2013 order.

Should the court find after further review on September 24, 2013 that defendant is in compliance with this order, the case shall be dismissed. Should continued non-compliance be shown, the court will hear the parties further on proper sanctions.

SO ORDERED:

Date: 8/14/13


TIMOTHY F. SULLIVAN
ASSOCIATE JUSTICE

MONTH	General Legal Services	General Labor Services	General Services	Union/ Indiv Contracts	Appellate tax board	Personnel	Town Common Partition	PLANS BOARD LANEY, CAPONE	bidg. dept vs lowe & Andrews	Divoce v. Nomans (ZBA)	Ropalaz, Hualalvito, solar Farm - Zoning e routes	Pinerest Zoning Options	DIVCO V. HOLMANIS	Russo et al vs. ZBA/Blaine hard	Town v. Phillips	TA Sabry	Expenses	Charter	Total	Paid from Legal Account	Balance remaining In Legal account
JULY	\$280.00	\$70.00					\$55.00	\$210.00							\$3,537.50		\$201.84		\$3,334.14	\$3,334.14	\$40,000.00
AUG.	\$840.00	\$332.50					\$140.00	\$805.00							\$1,487.50		\$90.95		\$3,665.35	\$3,665.35	\$46,402.57
SEPT.	\$245.00	\$1,172.50					\$1,535.00	\$367.50							\$1,820.00		\$388.90	\$1,260.00	\$5,506.90	\$5,506.90	\$36,230.31
OCT.	\$52.50	\$520.00					\$35.00	\$380.00							\$245.00		\$15.45	\$1,452.50	\$3,410.45	\$3,410.45	\$32,819.86
NOV.	\$1,962.50						\$227.50	\$315.00							\$1,392.50		\$116.07	\$267.50	\$4,071.07	\$4,071.07	\$28,748.79
DEC.	\$52.50	\$215.00					\$122.50	\$70.00							\$910.00		\$39.42		\$1,509.42	\$1,509.42	\$27,239.37
JAN.	\$980.00	\$105.00						\$332.50	\$437.50						\$3,885.00		\$56.89		\$5,650.00	\$5,650.00	\$20,589.37
FEB.	\$1,470.00	\$85.00					\$105.00	\$1,400.00							\$957.50		\$24.20		\$3,469.19	\$3,469.19	\$17,120.18
MAR.	\$2,012.50	\$770.00					\$35.00	\$675.00			\$192.50				\$585.00		\$22.18		\$5,779.88	\$5,779.88	\$11,345.98
APRIL	\$4,130.00	\$157.50					\$122.50	\$1,032.50			\$395.00		\$70.00		\$402.50		\$130.88		\$9,143.18	\$9,143.18	\$1,576.30
MAY	\$1,355.00										\$280.00				\$52.50		\$105.00		\$3,710.00	\$3,710.00	\$1,566.88
JUNE															\$52.50		\$105.00		\$3,710.00	\$3,710.00	\$45,276.88
YTD TOTALS:	\$19,807.50	\$5,250.00		\$0.00	\$5,092.50	\$0.00	\$2,327.50	\$8,015.00	\$437.50	\$52.50	\$1,957.50	\$0.00	\$70.00	\$0.00	\$14,805.00	\$0.00	\$1,008.59	\$3,090.00	\$55,013.59	\$55,013.59	

TOWN ADMINISTRATOR
TOWN OF HUBBARDSTON
SLADE BUILDING
7A MAIN STREET
HUBBARDSTON, MA 01773
Office No. 978-928-1400 x 200
admin@hubbardstonma.us

MEMORANDUM

To: Hubbardston Board of Selectmen
From: Anita M. Scheipers, Town Administrator
Re: Road Project Update
Date: August 21, 2013

The following is the status of the work on the various roads:

1. Ragged Hill Road – Binder is down. Drainage work is still in process. Cross culverts are being cleaned to ensure they are functioning. Structures have been raised, and painted and marked with cones or barrels for driver safety. Top coat of pavement will be completed in two weeks.
2. Hale Road - Binder is down. Drainage work is still in process. Cross culverts are being cleaned to ensure they are functioning. Structures have been raised, and painted and marked with cones or barrels for driver safety. Top coat of pavement will be completed in two weeks. The Sessler easement at 51 Hale Road (abandoned property) was not able to be obtained voluntarily, so an appraisal of the property is being done to determine the value of the easement. This appraisal will be provided to Town Counsel who will file a taking of property in the courts and allow us to get in there ASAP to do the drainage work. We then will attempt to establish the payment owed (if any) to Sessler for the easement. It is likely the Town will have acquired the property through tax title takings before any easement reimbursement payment is developed with the property owner. The Dimauro easement at 93 Hale Rd was also becoming problematic so the engineer worked out a different drainage plan which avoided the need for any drainage easement along that section.
3. Grimes Road – The edges have been cut back and the reclamation will soon begin. Grimes has an area that was not included in the scope of work due to the less distressed nature of the pavement in that area. We have asked for an estimate to pave this section and will determine the value of this possible change order before we complete the paving work there. Binder paving and drainage work should begin next week.
4. Healdville Road – Reclamation of the road is anticipated to start the week of Sept 9th.
5. Healdville Bridge Repair Design – Perkins' structural engineer did corings and looked at the bridge abutments and determined they are structurally sound. This confirms we need only work on the superstructure itself, thus greatly reducing the cost of that work. We still will

have to wait until additional funds are obtained before that work can be completed. We should soon have the draft design and preliminary construction estimates.

6. Total project completion is expected to be achieved in October – well ahead of the original November projection.