

BOARD OF SELECTMEN
Meeting Date: January 7, 2003
MINUTES

Members Present:

F. Eric Sonnett, Chairman
Mary C. Pratt, Vice-Chairman
Leonard A. Holden
Ronald M. Clark
Paul J. Nelson

Others Present:

Russell Phipps, AT&T Broadband Technicians
Jeff Gould, MetroWest Daily News
Cindy Chesmore, Director - Senior Center
Ann Click, Town Clerk
J.T. Gaucher, DPW Director
Fire Chief Gary Daugherty
Michael Shepard, Municipal Building Inspector
Police Chief Thomas Irvin
John Coolidge, Chairman – Planning Board
Tina Rose and Sandra Altamura, Planning Board
Theodore D. Kozak, Executive Secretary
Geri Holland, Clerk

Others Present: Stephen Scaringi, Joseph Pucciarelli, Paul Graham, Beatrice McMullen, Michael Gallagher, Thomas Tao, Dale Danahy, Emily Campbell, Thomas Ellam, Jim Monaghan, Clayton Waterman, Richard Brault, and Paul Weiss

Public Meeting Opened:

6:30 p.m. Mr. Sonnett, Chairman, opened the public meeting.

Move into Executive Session: Potential Litigation

6:30 p.m. VOTE: Mr. Sonnett entertained a motion to move into executive session for the sole purpose to discuss potential litigation and then move back into public session to continue the public meeting. **So moved Mr. Clark. Second Mr. Nelson.** Mr. Sonnett: yes; Mrs. Pratt: yes; Mr. Holden: yes; Mr. Clark: yes; Mr. Nelson: yes. **Unanimously voted.**

Public Meeting/Pledge of Allegiance

7:35 p.m. Mr. Sonnett re-opened the public meeting and invited the audience to stand for the Pledge of Allegiance. Town bills were approved for payment. Town warrants were signed as follows:

- Town Payroll #03-26 (pay period: 12/22/02-12/28/02) for \$118,093.21 (FICA: \$1,300.86)

- Town Payroll #03-27 (pay period: 12/29/02 -1/4/03) for \$128,008.30 (FICA: \$1,343.80)
- Town Accounts Payable #03-35 (run date: 12/30/02) for \$144,962.33
- Town Accounts Payable #03-36 (run date: 12/27/02) for \$9,883.71
- Town Accounts Payable #03-38 (run date: 1/7/03) for \$144,536.58
- Town Manual Check #03-37 (run date: 12/30/02) for \$3,266,041.41
- Town manual check #03-39 (run date: 1/7/03) for \$34,589.05
- School Payroll #03-13 (pay period: 12/12/02-12/25/02) for \$759,225.26 (FICA: \$9,378.47)
- School Payroll #03-13A Supplemental Payroll (pay period: 12/12/02-12/25/02) for \$1,574.92 (FICA: \$22.84)
- School Accounts Payable #03-0049 (run date: 12/20/02) for \$102,299.48
- School Accounts Payable #03-0050 (run date: 12/20/02) for \$42,872.38
- School Accounts Payable #03-0051 (run date: 1/7/03) for \$7,224
- School Accounts Payable #03-0052 (run date: 1/7/03) for \$126,001.93

Selectmen Minutes: 12/17/02; 12/17/02 (ES); 12/24/02 and release of July 23, 2002 (ES)

Mr. Sonnett asked Board members if they read the Selectmen minutes dated 12/17/02, 12/17/02 (Executive Session), 12/24/02, which they responded yes.

VOTE: Mrs. Pratt motioned to approve the minutes of December 17, 2002, December 17, 2002 (executive session), December 24, 2002 as amended.

Mr. Sonnett asked Mrs. Pratt to read her amendments, as follows:

1. **December 17, 2002:** *Truck Traffic Clinton Street Issue (page 3):* Insert before last sentence the following: *Mrs. Pratt stated that she had observed considerable truck traffic on Front Street, Clinton Street, and East Street, and she felt the Board of Selectmen should care about it's (Hopkinton) residents. She agreed with Chief Irvin.*
2. **December 17, 2002:** *Harrington/Clark Petition on Page 4 – 5th line from the bottom of the page:* change “asked” to “stated” and insert 3^d line from the bottom after position the following: *Mrs. Pratt deplored the defamatory, fraudulent and libelous materials being mailed to the Board of Health. She further stated that they were similar to those posted against Mrs. Peters when she ran for re-election in May (2002) and warned Mrs. Harrington and Mr. Clark to watch their associates*
3. **December 17, 2002 (Executive Session):** As these are executive session minutes, Mrs. Pratt did not read the amendment. The Board agreed to the amendment, as submitted by Mrs. Pratt.
4. **December 24, 2002:** *Add on page 2 Fruit Street paragraph before Mr. Kozak the following: Mr. Clark said he felt Mrs. Pratt should be allowed to express her concerns, as would any audience participant. Also, add the following after Mr. Kozak: Mrs. Pratt was allowed to state concerns regarding insurance that we should have the entities Pyne, NE Sand Gravel etc. carry liability, disability, and workmen's compensation until they leave the property in 2004. She also felt that we (the Town) would not truly own all the property until 2004 and some money should be kept in escrow. Also, Mrs. Pratt questioned the Garner's Right of Way easement if the Garner's sold the property.*

DISCUSSION: Mrs. Pratt then commented that the minutes should include more detailed comments, because she believes that residents do not know what is going on. Mr. Nelson responded that the purpose of minutes is to record substance and votes are not meant to be a repository of comments. He said that if the Selectmen's Clerk, Geri Holland, were to record the minutes as Mrs. Pratt suggests, she would be challenged with completing them within work hours. Mrs. Pratt read the amendments that she submitted. Mr. Sonnett suggested changing "deplored" to "made reference". Mrs. Pratt said that residents do not know what is going on (regarding the Board of Health issues). She commented about the defamatory brochures about Ms. Peters, Chairman of the Board of Health, that were distributed. Mr. Clark said that he had not seen the brochures. Mrs. Pratt said that she has copies for anyone's attention. There was no further discussion at this time.

VOTE: Second Mr. Clark seconded the motion made by Mrs. Pratt to approve the minutes of 12/17/02, 12/17/02 executive session, and 12/24/02, as amended by Mrs. Pratt. Unanimously voted.

Release of the July 23 2002 Executive Session Minutes:

Mr. Sonnett explained that on July 23, 2002 the Board of Selectmen held an executive session meeting relative to discussion regarding the positions of Director of Inspectional Services and Director of the DPW. In a letter from the Middlesex District Attorney dated December 23, 2002, the Board has been informed that this meeting should have been held in a public session according to the Open Meeting Law. The District Attorney's Office suggested that the Board of Selectmen release the Selectmen's executive session minutes dated July 23, 2002 to the general public.

VOTE: Mr. Sonnett entertained to release the July 23, 2002 executive session minutes to the general public. So moved Mr. Clark. Second Mr. Nelson. Unanimously voted.

Public Hearing: Flammable Liquid Storage License Application (35 South Street)

7:45 p.m. Mr. Sonnett read the public hearing notice on the application of Timothy Scannell for BCC Property 1, for a license for the storage of flammable liquids to be stored at 35 South Street.

VOTE: Mr. Sonnett entertained a motion to open the public hearing. So moved Mr. Clark. Second Mr. Nelson. Unanimously voted.

Mr. Sonnett read the abutter's list. There were no abutters present.

Clayton Waterman, Facilities Manager for Stryker Biotech, gave an overview of the license request. Fire Chief Daugherty stated after Lt. Kenneth Clark reviewed the application and went to the site, the Fire Department endorses the application with the following restrictions: 1.) 527 CMR 9.00 & 14.00 in effect at all times. 2.) The applicant shall provide sufficient motor vehicle protection around the generator and associated transformer pad.

On behalf of residents from the Lake Maspenock area, resident, Bea MacMullin stated environmental concerns and asked who monitors the liquid storage licenses. Mr. Sonnett replied

that the company monitors their own storage areas, but that if there were any concerns they would contact the Fire Department. Mr. Waterman added that the company has a clean-up service. Chief Daugherty explained that the tanks are double walled and protect the contents should anything hit it. He added that there are no single wall tanks. If there were a problem, an alarm would go off alerting the business of the problem. He also explained that the reason for the tanks being aboveground versus underground is for safety. He added that most underground tanks have been pulled out. Resident, Paul Weiss, asked what kind of fuel is being used? Mr. Waterman responded diesel fuel. There were no other comments at this time.

VOTE: Mr. Sonnett entertained a motion to close the public hearing. So moved Mr. Holden. Second Mrs. Pratt. Unanimously voted.

VOTE: Mr. Sonnett entertained a motion to approve the Flammable Liquid Storage License with the restrictions as submitted by the Fire Department as follows: 1.) 527 CMR 9.00 & 14.00 in effect at all times. 2.) The applicant shall provide sufficient motor vehicle protection around the generator and associated transformer pad. So moved Mr. Clark. Second Mrs. Pratt. Unanimously voted.

Legal Assistance: Board of Health (Nancy Peters)

Mrs. Peters explained the Board of Health's legal assistance request for advice and court representation, for more than two sessions, relative to responding to a summons dated December 19, 2002 of an appeal by E.L. Harvey of two major issues regarding the traffic on Elm Street and the Fruit Street wells. Mrs. Peters said the Board of Health had twenty (20) days to appeal from the date, December 19, 2002. She requests five (5) hours of legal assistance. Mr. Sonnett asked Mrs. Peters if an extension of the appeal would be requested? Mrs. Peters responded yes and that Attorney Faiman, Town Counsel, would ask for an extension of the twenty (20) days. Mrs. Peters explained that the purpose to meet with Town Counsel would be to secure a strategy to resolve the issues and, therefore, settling out of court.

Mrs. Pratt began a motion when John Coolidge, Planning Board Chairman, stated that he is very concerned as to the Board of Selectmen interjecting themselves into the decision process of another elected town board. He said that he is not taking a position on the current appeal against the Board of Health nor on their original findings regarding E. L. Harvey. He added that he realizes that the Board of Selectmen have the authority to grant or refuse the use of Town Counsel to any Board, but by the Selectmen refusing to approve funding for use of Town Counsel to answer the appeal against the Board of Health before Town Counsel has even given the Board of Health an opinion of their case, would cause the appeal against the Board of Health to be granted, making their decision and its conditions unresolved. Mr. Coolidge said that as Chairman of the Planning Board, he believes that this is setting a negative precedent for any Town Board in the future. He added that it is also stating to the other side of the Town's strategy as to possible litigation. He added that the current Board of Health is one of the most qualified Boards and should be allowed to do their jobs.

Mr. Eldridge asked how many funds were left in the legal expense line? Mr. Kozak responded that he could get that information the next day.

Mr. Sonnett responded to Mr. Coolidge's comments in saying that it is the Board of Selectmen's responsibility to grant all legal assistance requests, but that it is part of their job to clarify facts. He explained that the Board is not scrutinizing what they need. He added that it is the diligence of the Board of Selectmen to look at the request and make the best judgement.

Mr. Eldridge commented that he is concerned about costs and planning financially. Ms. Altramura, Planning Board member, commented that if the Planning Board makes a decision, it's important that the Town backs them up and the Board of Selectmen supports their decisions. Mr. Nelson stated that there needs to be an understanding of the process and that the Board does need to be watchful for taxpayer's money.

Mr. Clark said that the Board of Selectmen has to have a balance between supporting a Board in legal endeavors and managing the Town's funding. He added that in this particular issue, the Board hopes that both parties reach an agreement that is good for all parties and that the Board of Health needs to work on making arrangements to facilitate this. Mr. Clark noted that the Board has not denied any legal assistance requests. Mr. Sonnett added that process requires the Board to ask questions.

VOTE: Mr. Clark motioned to grant the Board of Health (5) five hours of legal assistance and to grant approval to requesting an extension of the E.L. Harvey appeal. Second Mr. Nelson. Unanimously approved.

Tax Credit Work Program Overview: *Cindy Chesmore, Director*

Mrs. Chesmore summarized the purpose of the Tax Credit Program. She reviewed the number of jobs being performed within the various Town departments i.e., Public Library, Town Hall, Senior Center, High School Library, various maintenance jobs needed throughout the Town. Mrs. Chesmore requests that the number of seniors who can work in the program be increased from the present number of 40 seniors to 50. When Mr. Clark asked who decides where the seniors work, Ms. Chesmore responded that either the departments call the Senior Center or she calls the various departments to ask their needs. Mr. Clark asked Ms. Chesmore if she knew where the extra ten seniors would be working. Ms. Chesmore responded that she did not know at this time. Mr. Sonnett responded that Ms. Chesmore anticipates a future need for the seniors to work in the program and recommends not restricting her by not approving the extra ten seniors. He has no problem with approving the request to add ten extra seniors. Ms. Chesmore explained her idea of a "neighborhood by neighborhood" program. Mr. Clark asked if there are any seniors working at the high school library. Mrs. Chesmore responded that there is a senior working at the high school library one day a week within the normal school hours. Mr. Clark said that perhaps the high school would open to the general public after school hours and suggested speaking with the School Committee about this idea.

VOTE: Mr. Sonnett entertained a motion to approve the request to expand the number of applicants in the Tax Credit Work Program from 40 seniors to 50. So moved Mr. Holden. Second Mr. Clark.

Tax Credit Work Program Applicants

Cindy Chesmore, Director for the Council on Aging, submitted the names of 40 seniors for the Tax Credit Work Program for 2003 and requests the Board of Selectmen's approval of all applicants into the program.

VOTE: Mr. Sonnett entertained a motion to approve the following applicants into the Tax Credit Work Program for calendar year 2003: *Ramona Barkyoumb, John Beale, Therese Robert-Birri, Harold Boudreau, Mary Carey, Ernest Chamberlain, Blanche Driscoll, Dorothy Fairclough, Mary Fredette, Phil Griffin, Virginia Hatch, Marge Kennedy, Ruth Kenney, Pauline Knorr, Charlotte Lavoie, Rose Leveille, Pat Lynch, Virginia Mahar, Ann Marcy, Helen McCarty, Jim McFaul, John McInerney, Ruth McIntire, Jean McIntyre, Mary McKnight, Mary Messier, James Mezger, David Nelson, Marjorie Peloquin, Josephine Phalen, Irene Salvucci, Robert Scanlon, Jim Silvestro, Carolyn Sullivan, Harold Tolstrup, Jean Warden, Davison Welsh, Richard Whalen, and Ruth Yeslow.* So moved Mr. Holden. Second Mr. Clark. Unanimously voted.

Veterans' Celebration Committee Discussion

Mr. Sonnett recommends expanding the Veterans' Celebration Committee from a (5) five-member committee to a (7) seven-member committee to ensure a cross section of the general public with veterans. He said that the Board would not approve the applications at this evening's meeting, but rather table the vote until a future Selectmen's meeting. Mr. Sonnett encouraged residents to submit an application to the Selectmen's Office as soon as possible. Mrs. Pratt recommends Cindy Chesmore to serve on this committee as the liaison from the Council on Aging. When Mr. Holden asked if the HUG application is on the website, Mrs. Holland responded that it is on the Town's web page. Mr. Sonnett invited candidate, Mr. Ellam, to give an overview of his background, which he did. Mr. Clark said that Mr. Ellam would be a "great addition" to the committee. Mr. Sonnett thanked Mr. Ellam and that the Board would address this issue at the February 4th Selectmen's meeting. The Board discussed expanding the committee from (5) five members to (7) seven members. Mr. Holden suggested waiting to see how applications are submitted to the Selectmen's Office before expanding the committee to (7) members. Mr. Sonnett recommended voting to expand the Committee to (7) seven members this evening. He added that the Board could always vote again to expand the committee at a later time. The Board concurred with Mr. Sonnett.

VOTE: Mr. Sonnett entertained a motion to expand the Veteran's Celebration Committee from a (5) five member Committee to a (7) seven member Committee. So moved Mr. Holden. Second Mr. Nelson. Unanimously voted.

Colella's Super Market Discussion: *Dale Danahy, President*

Dale Danahy, President of Colella's Super Market, spoke about the flooding, due to the Town drain at the Super Market located at 61 Main Street, that took place Friday, December 20, 2002 at approximately 3:55 p.m. She expressed the need for this ongoing drainage issue to be resolved. J. T. Gaucher said that he saw the damage and believes he has some ideas that could

help this situation. He talked about some of his ideas including reconstruction in the Super Market's parking lot. Mr. Sonnett asked if there are any studies regarding this issue. Mr. Gaucher responded yes and that he could bring plans to the Board of Selectmen that might help to resolve this issue. The Board had discussion regarding the source of the water and how the drain has been cleared in the past and that practice should continue until a permanent solution is put in place. When Mrs. Pratt asked Mrs. Danahy if she had "loss of business" insurance, Mrs. Danahy responded that she did. Mr. Sonnett agreed for Mr. Gaucher to come back to the Board of Selectmen to review the plans. The Board thanked Mrs. Danahy for attending the meeting.

Snow & Ice Account Request:

Mr. Gaucher, DPW Director, explained that he believes that due to the recent winter storms, the Snow & Ice Account will be depleted by mid-January. He said that the Snow and Ice Account's balance as of December 31, 2002 was \$101,505.87, but has spent considerably more since that time. He believes that \$150,000 would makeup the deficit from the Snow & Ice Account for this year. He added that if he needs more, he would come back to the Board with another request. He requests the Board's support to authorize him, as DPW Director, to incur liabilities in excess of appropriation for the purpose of snow and ice removal during the balance of FY'03 not to exceed \$150,000.

VOTE: Mr. Sonnett entertained a motion to support Mr. Gaucher's, DPW Director, request to authorize him to incur liabilities in excess of appropriation, for the purpose of snow and ice removal during the balance of FY'03, as provided in M.G.L. Chapter 44, Sec. 31D, not to exceed \$150,000. So moved Mr. Clark. Second Mr. Holden. Unanimously voted.

Civic Engagement Group Overview: Ron Eldridge, Chairman

Mr. Eldridge, Chairman of the Civic Engagement Group, gave the Group's background and mission that is to provide town residents an inclusive process for the ongoing exchange of ideas about issues that matter to them about the Town. He added that decisions made on important issues could define the Town's long-term identity and vision. Mr. Eldridge announced the Committee's intentions of holding a forum "Voices For Vision", a two-day forum scheduled on February 28 and March , 2003. He explained the process of sending out 120 invitations of which 60 include members of various departments, committee heads and various organizations throughout the town, while the other 60 would include residents at large. He encouraged residents to call the Selectmen's Office if they are interested in attending. Mr. Eldridge said that he requested High School Government teacher, Mrs. Clark, to extend an invitation to five high school seniors. There was discussion regarding the event. Mr. Sonnett thanked Mr. Eldridge for his overview and invitation. He encouraged residents to submit their name to the Selectmen's Office.

Corridor Study Upton/W. Main St. (Central Regional Planning MA Agency: Mary Pratt

Mrs. Pratt gave an overview of a corridor study on Upton/W. Main Street area to be done by the Central Regional Planning Commission, which is considering making Hopkinton Street in Upton and a portion of West Main Street in Hopkinton a four-lane highway. The section of the road that

would be affected goes east into Hopkinton across Lake Maspenock, past South Street ending at Rt. 495. Mrs. Pratt requests that the Board send a letter to the Commission opposing the four-way highway. The Board had discussion regarding the preliminary study and agreed to send a letter stating the Town's desire to be kept informed of this proposal. The Board suggested requesting the Planning Board to also send a letter.

VOTE: Mr. Nelson motioned to send a letter from the Board, as an abutter to the proposed project, to the Central Regional Planning Commission to how the proposed four-lane highway would affect our Town; and to suggest to the Planning Board to also send a letter. Second Mr. Clark. Unanimously voted.

Legal Assistance: Police Building Committee

Mr. Sonnett read a legal assistance request from the Police Station Building Committee for an opinion, advice relative to construction contracts for the new police station. They request two sessions. There was no discussion.

VOTE: Mr. Sonnett entertained a motion to approve legal assistance from the Police Station Building Committee as requested. So moved Mr. Clark. Second Mr. Nelson. Unanimously voted.

Order of Taking: Fruit Street Property (attachment)

Mr. Kozak presented the Order of Taking and Acceptance of Conveyance for the Fruit Street land purchase, each of which should be signed by the Board. He also said that Town Counsel noted that the Board could exclude taking the Boston Edison easements, at this time, and do a taking at a later date, if the Town determined it needed this land for a municipal purpose.

VOTE: Mr. Sonnett entertained a motion to approve the Order of Taking for the Fruit Street land purchase, but to eliminate the Right of Way Easement to the Boston Edison Company, at this time. So moved Mr. Clark. Second Mr. Holden. So voted. Mr. Sonnett: yes; Mr. Holden: yes; Mr. Clark: yes; Mr. Nelson: yes. Mrs. Pratt abstained from the vote due to conflict of interest, as she is an abutter to the property.

Readout Mail:

1. Mr. Sonnett read a letter from the American Red Cross that announces Hopkinton's Community Blood Drive on Tuesday, January 14 from 2:00 p.m. to 7:00 p.m. at the First Congregational Church in Hopkinton.
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Street name request

Mr. Sonnett referred to a letter from Attorney Douglas Resnick dated December 19, 2002 that requests a street name of Sylvan Way for Whisperwood Preserve subdivision, off Winter Street, on behalf of clients, Meyer Homes, Inc. Mr. Sonnett noted that Police Chief Irvin and Fire Chief Daugherty have no objection to the name, Sylvan Way, as requested. There was no discussion.

VOTE: Mr. Sonnett entertained a motion to approve the street name request, Sylvan Way, for subdivision, Whisperwood Preserve. So moved Mr. Holden. Second Mr. Clark. Unanimously voted.

Authorize Town Treasurer Short-Term borrowing of \$6.45M (Fruit Street property) (see attachment)

Mr. Kozak requested to authorize approval for signature the short-term borrowing Municipal Purpose Loan for \$6,450,000 regarding the purchase of the Fruit Street Property for municipal purposes. He said that the purchase was scheduled to go forward on Friday, January 10th. He requests the Board's approval to authorize to sign the note. Mr. Kozak also said if the short-term note was not in place by January 10th, the Town Treasurer could use available funds up to 75% of the purchase price to \$4.8M, until the short-term notes were in place.

VOTE: Mr. Sonnett entertained a motion to authorize the Board's signature on the Short-Term borrowing of \$6,450,000 pertaining to the purchase of the Fruit Street property, and, if necessary, to allow the Town Treasurer to use available funds prior to the issuance of the notes, up to the amount of \$4.8M. So moved Mr. Clark. Second Mr. Nelson. Mr. Sonnett: yes; Mr. Holden: yes; Mr. Clark: yes; Mr. Nelson: yes. So voted. Mrs. Pratt abstained from the vote due to conflict of interest, as she is an abutter to the Fruit Street property.

Clinton Street Truck Traffic Concern Issue:

Mr. Kozak said that the Board of Selectmen from the Town of Ashland agreed to meet with the Board of Selectmen on Thursday, January 16th at 7:00 p.m. to discuss the Clinton Street Truck Traffic Concern. It was agreed that a meeting would be posted at that time.

Executive Session: Potential Litigation and Contract Negotiations

10:00 p.m. Mr. Sonnett entertained a motion to move into executive session for the purpose to discuss potential litigation and contract negotiations and then move back into public session for the sole purpose to adjourn the meeting. So moved Mr. Nelson. Second Mr. Holden. Unanimously voted.

Public Session Adjourned:

10:20 p.m. Mr. Sonnett entertained a motion to adjourn the public session. Second Mr. Nelson. Second Mr. Clark. Unanimously voted.

Respectfully submitted,

Geri Holland

Clerk

Date Approved: