

**TOWN OF HOPKINTON
BOARD OF SELECTMEN
Meeting Date: January 31, 2006
MINUTES**

Members Present: F. Eric Sonnett, Chairman; Leonard A. Holden, Vice-Chairman; Mary C. Pratt; Muriel E. Kramer; Ronald M. Clark

Others Present: HCAM Station: Beth Fennier; HopNews: Robert Falcione and Kevin Kohrt; MetroWest News: Kathy Flynn; Fox News: Matt Tomlin and Dan Jaehnig; Brian Morrison, Chairman of the Conservation Commission; Carol DeVeuve; Gail Clifford; Jeff Furber; Patrick and Kathy Whalen; Cora Maresca; Stephen Warren; Eva Beede; Selectmen's Office Theodore D. Kozak, Executive Secretary, and Geri Holland, Executive Assistant.

Meeting Opened/Pledge of Allegiance (Selectmen's Hearing Room)

7:00 p.m. Mr. Sonnett, Chairman, opened the public session and invited everyone to stand for the Pledge of Allegiance.

Selectmen's minutes: 12/20/05; 1/10/06; 1/17/06

Vote: Mr. Sonnett entertained a motion to approve the December 20, 2005 Selectmen's minutes. **So moved Mrs. Kramer. Second Mrs. Pratt. Unanimously voted.**

Vote: Mr. Sonnett entertained a motion to approve the January 10, 2006 Selectmen's minutes. **So moved Mrs. Pratt. Second Mr. Holden. Unanimously voted.**

Vote: Mr. Sonnett entertained a motion to approve the January 17, 2006 Selectmen's minutes. **So moved Mr. Holden. Second Mr. Clark. Unanimously voted.**

Tax Credit Program: Cindy Chesmore, Senior Center Director

Mrs. Chesmore submitted a list of fifty applicants for the 2006 Tax Credit Work Program.

Vote: Mr. Sonnett entertained a motion to approve the following applicants for the 2006 Tax Credit Work Program: Karen Adelman, Helen Baratta, Therese Birri, Harold Boudreau, Mary H. Brown, Ralph Cass, Ernest E. Chamberlain, Aubrey Doyle, Sadie M. Drapeau, Blanche B. Driscoll, Barbara Druvins, Billie Flannery, Mary C. Gilson, Grace Gradie, Mary E. Harrington, Bob House, Peter Kelly, Pauline Knorr, Charlotte A. Lavoie, Patricia C. Leary, Rose Leveille, Patrick C. Lynch, William Mackin, Virginia Mahar, Anne Marcy, Candace Matthew, Robert McGraw, Ruth McIntire, Barbara Jean McIntyre, Carol Mecagni, Dorothy Meehan, James Mezger, David Minkle, Frederick Moseley, David Nelson, Marjorie Peloquin, Joyce Plucker, William Robinson, Alma Rousseau, Beryl Sachs, Christine Salvucci, Irene Salvucci, Sebastian Silvestro, Barbara Sullivan, Harold Tolstrup, Carol Walsh, Jean Warden, Mary Wise, Ruth Yeslow, Margaret Zilembo. **So moved Mrs. Kramer. Second Mr. Holden. Unanimously voted.**

Mrs. Chesmore requested the Board's approval of five additional positions on the Tax Credit program from fifty (50) positions to fifty-five (55) positions. Mrs. Chesmore said that the Assessors Office informed her that Town funding could support the additional five positions. She added that the program has been beneficial to the Town, and the additional five positions would be greatly appreciated. Mrs. Chesmore said that if the Board approves the additional five positions, there are three more applicants for the Board's approval.

Vote: Mr. Sonnett entertained a motion to approve Mrs. Chesmore's request for five additional positions from fifty (50) positions to fifty-five (55) positions on the Tax Credit Program for the calendar year 2006. **So moved Mrs. Kramer. Second Mr. Holden. Unanimously voted.**

Vote: Mr. Sonnett entertained a motion to approve the following applicants to the 2006 Tax Credit Program: Beverly Grayson, David Laquidara, and Dorothy Hutchins. **So moved Mrs. Pratt. Second Mr. Holden. Unanimously voted.**

Mrs. Chesmore also asked for the Board's consideration of approving the participation of spouses sharing the total amount of hours.

Vote: Mr. Sonnett entertained a motion to approve the participation of spouses sharing the total amount of hours on the Tax Credit Program. **So moved Mrs. Kramer. Second Mr. Holden. Unanimously voted.**

Tax Deferrals Legislation: John Palmer, Board of Assessors

Mr. Palmer stated that there is new legislation that permits cities and towns to lower the interest rate applicable to real estate deferrals under Clause 41A of Chapter 59, Sec. 5. Mr. Palmer said that under Clause 41A, deferral of all or a portion of the annual tax bill on a person's property is available to taxpayers age 65 or over who have total income of not more than \$40,000. Mr. Palmer said that prior to this legislation, the rate of interest was fixed at 8%, but the new legislation would allow the interest rate to be as low as 0%. Mr. Palmer said that Town meeting action is required for the reduction to apply. Mr. Palmer said that the Board of Assessors is supportive of a reduction in this interest rate and recommend an article at the 2006 Annual Town meeting. He added that both the Board of Selectmen and Board of Assessors could sponsor the article. Mr. Sonnett agreed and asked for this issue to be presented as an article on the Annual Town meeting warrant sponsored by both Boards. Mr. Holden recommended that the Council on Aging also sponsor the article. The Board members agreed.

Senior Center Building Budget: Cindy Chesmore

The Board of Selectmen reviewed the anticipated operating costs of the new Senior Center that Facilities Director, Brian Main, provided the Selectmen's Office. The Board discussed the costs for utilities believing the electric and gas estimates are very costly. Mr. Kozak said that Mr. Main had reviewed the costs with the architect, and that he recommended the forecasted figures. Mr. Kozak also pointed out the new custodial position and a part-time 19 hour desk clerk.

Snow & Ice Account Request: John T. Gaucher, DPW Director

Mr. Gaucher requested approval from the Board of Selectmen to be allowed to over extend the Snow & Ice Account in the amount of \$300,000 to cover expenses for the remainder of the winter.

Vote: Mr. Sonnett entertained a motion to allow the DPW to extend their Snow & Ice Account in the amount of \$300,000 to cover expenses for the remainder of the winter. **So moved Mrs. Kramer. Second Mr. Holden. Unanimously voted.**

Chapter 90 Notes

Mr. Gaucher requested the Board to authorize a State Aid Anticipation Note for Chapter 90 funds for \$633,563.52 at an interest rate of 3.55% totaling \$644,655.22.

Vote: Mr. Sonnett entertained a motion to approve the Chapter 90 State Aid Anticipation Note for \$633,563.52. **So moved Mrs. Kramer. Second Mr. Holden. Unanimously voted.**

Boston Metropolitan Planning Organization (MPO): Transportation Improvement Program (TIP) FY' 2006 – 2010

Mr. Gaucher presented projects that he would like to submit to Boston Region Metropolitan Planning Organization (MPO) for the Transportation Improvement Program (TIP) to consider for funding in the upcoming fiscal years 2007-2011. Mr. Gaucher said that the following project requests were approved by the DPW Advisory Committee:

1. Pleasant Street/Main Street Intersection Improvements w/Signal Upgrade - Again this has appeared on the list yearly since before 2002. It would be best to have a Corridor Study completed incorporating Main Street from Wood and West Main to Ash Street. I suggest leaving this in as a place holder until the study (which has to be funded by the town approx. \$30,000) can be completed.
2. Wood Street/West Main Street Intersection – Design Study has been drafted by Maguire Group. Final report needs to be passed into Mass Highway for their comments before design initiated.
3. School Street/West Main Intersection - Design Study has been drafted by Maguire Group. Final report needs to be passed into Mass Highway for their comments before design initiated.

Vote: Mr. Sonnett entertained a motion to approve the DPW Director to submit the three project requests as presented for MPO's consideration to fund for fiscal years 2007-2001. **So moved Mr. Clark. Second Mr. Holden. Unanimously voted.**

Middlesex District Attorney's Letter regarding Open Meeting Law (see attachment)

Mr. Sonnett read a letter from the Commonwealth of Massachusetts Middlesex District Attorney's Office dated January 26, 2006 that responds to a letter dated December 5, 2005 from Mrs. Kramer and Mrs. Pratt alleging that two members discussed topics outside the Open Meeting Law (OML). The letter stated that the Middlesex District Attorney's Office has closed their inquiry into the matter at this time as the complaint that Mrs. Kramer and Mrs. Pratt alleged falls outside the purview of the OML. Mr. Holden commented that he has been on the Board for five years, and when issues like this happen, it's troubling. Mr. Clark commented that to bother the DA's office with issues like this, risks a \$1,000 fine for the town when the matter could have been resolved between the Board members. Mrs. Pratt read a prepared statement (see attachment) in response to the complaint that Mr. Sonnett and Mr. Clark met, without inviting her and Mrs. Kramer, in Boston with the Massachusetts Environmental Protection Agency (MEPA) on December 1, 2005 to discuss what the town needed to do to get approval of the Fruit Street plan. The Board had a discussion regarding the Board's communication between one another. Mrs. Kramer said that the point of the complaint was that Mr. Sonnett and Mr. Clark kept her and Mrs. Pratt from knowledge of the meeting with MEPA. Mr. Clark pointed out that Mrs. Pratt attends meetings that other Board members are not invited. Mrs. Pratt commented that issues such as this one should not happen to members of a committee or board.

Vote: Mrs. Kramer motioned to communicate through Mr. Kozak all meetings that are of interest to the public and to each other, in a timely fashion. **Second Mrs. Pratt.**

Discussion: There was a discussion regarding the intentions of meetings and conversations with a focus on the December 1, 2005 meeting held in Boston with State and MEPA representatives. The vote was Mr. Sonnett: no; Mr. Clark: no; Mr. Holden: no; Mrs. Pratt: yes; Mrs. Kramer: yes.

Mr. Sonnett commented that the December 1, 2005 meeting was not intended to be a Selectmen's meeting. Mrs. Kramer commented, for the record, that she is not opposed to the athletic fields on the Fruit Street property, but rather the MEPA process, and hopes that the Board could be more congenial towards one another. Mrs. Kramer made a motion to resolve this lack of communication to keep each other informed. There were no seconds.

Piazza Lane Issue: Robert Murphy, Conservation Commission

Robert Murphy presented the Conservation Commission's findings regarding the issue of work done by Brian Morrison on Piazza Lane, his private gravel road and which is an environmentally sensitive area near Lake Whitehall; and which Mr. Morrison did not obtain permission from the Conservation Commission to use the process to control erosion. Mr. Murphy reported that the Conservation Commission at their January 23, 2006 meeting determined that Mr. Morrison should have obtained permission and taken the proper measures to preserve the environment. Mr. Murphy said that the Conservation Commission voted to issue a negative determination with conditions. He noted that the work Mr. Morrison conducted did not impact the wetlands. Mr. Murphy also pointed out that this situation was an unusual case and was the first situation involving maintenance of a gravel roadway. He said that the Conservation Commission would be more proactive in future issues that pertain to gravel roadways. After some discussion regarding steps to be taken to ensure that the Town stays in compliance of its maintenance work, Mr. Sonnett said that the Board would need to reconfirm their vote from December 6, 2005 to hold a public hearing on this issue and to either establish a date to hold a public hearing or to determine not to hold the public hearing. Mr. Clark supported holding the public hearing. Both Mrs. Kramer and Mrs. Pratt questioned what a public hearing would accomplish as the issue had been resolved. Mr. Sonnett said that the Board would discuss this after the vote. Mrs. Pratt said that she would not have any part of this discussion.

Vote: Mr. Sonnett entertained a motion to conduct the public hearing. **So moved Mr. Clark. Second Mr. Holden. Mr. Sonnett: yes; Mr. Holden: yes; Mr. Clark: yes; Mrs. Pratt: no; Mrs. Kramer: no. So voted.**

Mr. Sonnett suggested scheduling the public hearing on Thursday, February 16 at 7:00 p.m. at the High School Auditorium. He then instructed Mr. Kozak to obtain all emails from the Conservation Commission members between themselves and their consultants, employees and other Town Board members and to be specific about all emails sent from work and home that pertains to Piazza Lane. He also instructed Mr. Kozak to obtain from the Conservation Commission all minutes, proceedings and any work done including contractors that pertain to Piazza Lane.

Mr. Sonnett stated the following grounds the Board of Selectmen would investigate to determine whether cause for removal from the Conservation Commission exists:

1. Whether as Chairman of the Conservation Commission, Mr. Brian Morrison performed work involving wetland issues on Piazza Lane to a standard substantially less than that he has required of private citizens in similar circumstances.
2. Whether he attempted to use his position to influence the staff in the Conservation Office to modify or eliminate standard procedures relating to the work which was done on Piazza Lane.
3. Whether he made statements at public meetings relating to the work done on Piazza Lane which misrepresented facts.
4. Whether he submitted documentation to Town boards relating to the work done on Piazza Lane which misrepresented facts.
5. Whether his conduct has adversely affected his credibility and his ability to fairly perform his duties as a member of the Conservation Commission.

Mr. Sonnett requested Mr. Kozak to invite Mr. Morrison, all Conservation Commission members and Conservation Commission Administrator, Don MacAdam, Ellen Chagnon, Conservation Scientist, Mr. Gaucher, DPW Director, and Robert Shepard, a resident of Piazza Lane. He also asked to prepare a letter to Mr. White, Mr. Morrison's attorney.

Vote: Mr. Clark motioned that the Board of Selectmen move forward with the investigation based on the grounds as presented by Mr. Sonnett at the February 16, 2006 public hearing. **Second Mr. Holden.**

Mrs. Pratt stepped off the Board stating that she does not like this process.

Discussion:

Mr. Holden asked about inviting the Conservation Commission staff. Mr. Sonnett responded to also invite the Conservation Commission part-time secretary to the public hearing.

Mrs. Kramer commented that the list is expansive and questioned if holding the public hearing is worth the time and money, and if the list could be narrowed down. She questioned the hearing, considering that the Conservation Commission already established that they do not have any similar situations with gravel roads. Mr. Sonnett replied that this could be discussed at the public hearing.

Mrs. Kramer stated that Mr. Morrison has been a Town volunteer for ten (10) years and that the Board needs to be careful with going forward. She added that she is not sure that the Board should go forward with the hearing.

Mr. Sonnett reviewed a letter from Mr. Morrison's attorney dated December 15, 2005 that asked for clarification of the details to hold the proposed public hearing before it was finalized.

Mr. Clark asked to move forward with his motion and Mr. Sonnett reiterated the grounds for cause for removal. Mr. Sonnett: yes; Mr. Holden: yes; Mr. Clark: yes; Mrs. Kramer: no. So voted.

Mr. Sonnett requested Mr. Kozak to prepare a letter to Attorney White using the criteria in the motion and to review the letter with Town Counsel including that the public hearing will be conducted under MG.L. c. 40, §8C. Mr. Sonnett also outlined the actions that the Board will take during the public hearing including that each party will be permitted to present witnesses to testify; cross examination will be permitted; the proceedings are "quasi judicial" in nature and will not be conducted to the standard of a formal court proceeding; the Board will permit introducing letters and affidavits; the Board will determine the manner in which the proceedings are conducted; and it is anticipated that the Chairman of the Board of Selectmen will preside over the hearing.

Mrs. Kramer asked about the cost to hold the hearing. Mr. Kozak said that he can not determine the cost at this time, as it would depend on how much time it takes. Mrs. Kramer said that she is interested in obtaining the cost to hold this hearing.

Mrs. Pratt returned to the Board at this time.

Email Policy

Mr. Kozak said that the District Attorney's Office recommended for the Town to establish an email policy, as they are considered public record. He said that he contacted other Towns to ask if they had an email policy in place; and, if they did, he asked them for information regarding their Town's email policy. Mr. Kozak gave highlights of an Email Policy Use proposal as prepared by Town Counsel. The Board had a discussion regarding the proposal and obtaining a hard copy of emails as recommended by the State's Supervisor of Public Records. Mr. Kozak added that he would present this to the Department Heads at their meeting scheduled the next morning.

Vote: Mr. Clark motioned to adopt the Email Policy Use as presented. **Second Mr. Holden. Unanimously voted.**

Fruit Street SSEIR: Letter of Support

Mrs. Pratt stepped off the Board due to conflict of interest being an abutter to the Fruit Street property. Mr. Clark began the discussion regarding the Board sending a letter, supporting the Second Supplemental Single Environmental Impact Report (SSEIR) for the Fruit Street Master Plan, to the Massachusetts Environmental Protection Agency. Mr. Clark showed the Second SSEIR for the audience to view and commented that the document has been supported by the Town's public officials. He noted that a CD Rom has been included in the Report's back cover for those that might be interested when reviewing the report.

Vote: Mr. Clark motioned to authorize the Chairman of the Board to sign the letter of support. **Second Mr. Holden.**

Discussion: Mrs. Kramer asked to address the five areas that were identified in the Certificate dated November 14, 2005. Mr. Clark responded that the letter of support outlines the five areas. Mrs. Kramer asked for a workshop to discuss the report. Mr. Clark responded that the Fruit Street Development Committee is a nine (9) member Board whose mission is to address all these issues, and to hold a workshop would be counterproductive.

Vote: Mrs. Kramer motioned to schedule a meeting for the proponent board, the Board of Selectmen, to review and discuss the Second SSEIR document before drafting and sending a letter of support. There were no seconds.

Vote: Mr. Sonnett: yes; Mr. Clark: yes; Mr. Holden: yes; Mrs. Kramer: abstained. So voted.

Mrs. Pratt returned to the Board at this time.

Massachusetts Municipal Association (MMA) Trade Show Overviews

Mr. Kozak gave an overview of the programs that he attended at the recent MMA Trade Show including a program on insurance, joint labor and the MMA's yearly business meeting. Mrs. Kramer said that she attended an economic program, and a municipal law update (see attachment). Mrs. Pratt also gave a review of the program that she attended at the trade show.

MIIA: Declaration of Dividends & Participation Credits for Workers' Compensation & Property & Liability participants

Mr. Kozak referred to a letter from the Town's workers' compensation and property insurance company, MIIA, announcing that the Town was awarded \$1,249 through their Participation Credits program. Mr. Kozak gave a brief overview of the program. Mr. Kozak stated that the credit will be applied as credit to the Town's Property & Liability and Workers' Compensation premiums on policies effective Fiscal Year 2007.

Liaison Reports

Mrs. Kramer gave a brief overview of the recent Youth Summit, and the After School Programs. Mrs. Kramer would like to invite the Youth Commission to a Selectmen's meeting to give a full report of their programs. Mr. Holden gave a brief report of his attendance at a recent Library Trustees meeting.

Readout Mail

1. Mr. Sonnett referred to a letter from the Commonwealth of Massachusetts' Executive Office of Health and Human Services that requests assistance in conducting their first Homeless Census Count. The letter requests on behalf of the Interagency Task Force on Housing and Homeless Services to designate the Town's representative to help identify organizations in the community which work with homeless individuals and/or families. Mr. Kozak said that the Council on Aging (COA) informed the Selectmen's Office that Mary McLeod, Outreach Worker for the COA, has agreed to be the Town's representative.
2. Mr. Sonnett read a letter from Kevin Donovan, Town Administrator for the Town of Kingston, seeking support to petition each state legislator to remove the current cap on Lottery distribution to cities and towns. Mr. Kozak recommended requesting state legislators support of the Massachusetts' Municipal Association's (MMA) resolution endorsing a new State and Local partnership to increase local aid by one billion dollars over the next five (5) years, which can be achieved by removal of the cap on Lottery distribution.

Vote: Mr. Sonnett entertained a motion to send letters to the Town's state legislators to support a petition to remove the current cap on Lottery distribution to cities and towns, and to include Mr. Kozak's recommendation of supporting MMA's resolution endorsing a new State and Local partnership to increase local aid by one billion dollars over the next five (5) years. **So moved Mrs. Kramer. Second Mr. Holden. Unanimously voted.**

Accept gift into the Ambulance Account

Vote: Mr. Sonnett entertained a motion to accept a gift from Joseph and Diane Pyne for \$50.00 into the Ambulance Gift Account. **So moved Mr. Clark. Second Mrs. Kramer. Unanimously voted.**

Gift to the Youth Commission

Mr. Sonnett said there is a balance of \$426.67 from a gift account in memory of Ronald Phipps that was to be used for the youth of Hopkinton, and that Rob Phipps, Ron Phipps' brother, requests the Board to donate the funds to the Town's Youth Commission.

Vote: Mr. Sonnett entertained a motion to accept the gift of \$426.67 from the Ronald Phipps' fund to be used by the Youth Commission. **So moved Mrs. Kramer. Second Mr. Holden. Unanimously voted.**

One Day Liquor License Request: Southborough Rod & Gun Club; Saturday, 2/4/06; 6 p.m. – 11 p.m.

Mr. Sonnett read a request for a one day liquor license from the Southborough Rod & Gun Club for their annual Porketta Supper scheduled on Saturday, February 4, 2006 from 6:00 p.m. to 11:00 p.m. Mr. Sonnett noted that Police Chief Irvin has no problem with the issuance of this license.

Vote: Mr. Sonnett entertained a motion to approve the one day liquor license request to the Southborough Rod & Gun Club for Saturday, February 4, 2006 from 6:00 p.m. to 11:00 p.m. **So moved Mr. Holden. Second Mrs. Kramer. Unanimously voted.**

Common Victualer Licenses: Applicant: Sodexho Services; Locations: 42, 80, 171, 176, and 228 South Street (EMC)

Mr. Sonnett presented the applications from Sodexho Services to perform cafeteria services for EMC Corporation at their locations at 42, 80, 171, 176, and 228 South Street. Mr. Sonnett noted that the applicant has received the required permits from the Board of Health for all of the locations.

Vote: Mr. Sonnett entertained a motion to approve the Common Victualer Licenses to Sodexo Services at EMC Corporation located on 42, 80, 171, 176, and 228 South Street. **So moved Mr. Holden. Second Mrs. Kramer. Unanimously voted.**

9:50 p.m. Mr. Sonnett entertained a motion to move into Executive Session for the purpose to discuss litigation and then move back into public session to adjourn the meeting. **So moved Mr. Clark. Second Mr. Holden. Unanimously voted.** The roll call votes are: **Mr. Sonnett: yes; Mr. Holden: yes; Mr. Clark: yes; Mrs. Pratt: yes; Mrs. Kramer: yes. Unanimously voted.**

Public Meeting Adjourned:

10:00 p.m. Vote: Mr. Sonnett entertained a motion to adjourn the public meeting. **So moved Mr. Clark. Second Mr. Holden. Unanimously voted.**

Respectfully submitted,

Geri Holland
Executive Assistant
Date Approved: 2/28/06