

MINUTES

CALL TO ORDER

Meeting called to order by Mr. Weiss at 6:30 p.m.

ATTENDANCE

Present: Gerry Weiss, Anne Awad, Alisa Brewer, Diana Stein, Stephanie O’Keeffe

Absent: (none)

Town Manager Larry Shaffer

Phil Jackson, Vince O’Connor, Walter Chudzik, Paul Brunelle, John Rae, Jim Wald, Robert Phillips, Andy Phillips, Clare Bertrand, Harry Brooks, Isaac BenEzra, Larry Kelley, Ethel Clemons, Helen Thelen

OPENING REMARKS/ANNOUNCEMENTS

There were no opening announcements by the Select Board.

PUBLIC COMMENT

Phil Jackson talked about the traffic situation in the Lincoln Avenue neighborhood, and said it had been two years since residents of that area had submitted a traffic calming proposal to the Town. He expressed concern that little progress had been made on the issue and asked if the Select Board intended to issue a policy statement on traffic calming. Mr. Shaffer talked about the speed cushions that had been installed last spring and the data collected from that experiment, and said the report on that was late but pending. Mr. Shaffer talked about various options proposed in the past and their related concerns and objections, and said that eliminating truck traffic in the neighborhood is being considered by the Public Works Committee. He said another meeting with the neighborhood would be held, perhaps in late August.

SELECT BOARD’S ACTION

Pole Hearing – WMECO

Public Hearing opened at 6:42. Hearing closed at 6:46.

WMECO representative Walter Chudzik explained the need to add three utility poles on Potwine Lane to extend electrical service to a new house at 188 Potwine Lane. Select Board members expressed appreciation for being provided with copies of abutter notices.

VOTED unanimously to approve, pending permit from the Department of Public Works, the petition from Western Massachusetts Electric Company and Verizon New England, Inc., to set three jointly owned poles (#111/B23, B24, B25) on the North side of Potwine Lane, approximately 2095’ easterly of West Street.

Proposed poles needed to provide new electric service to 188 Potwine Lane; also that permission be and thereby is granted to each of said Companies to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings in accordance with the plan marked 6A810346.

Committee Appointments

There was discussion about specific criteria for Design Review Board appointees, and whether or not the Planning Board had officially designated a potential representative. It was decided that there would be follow-up on these issues and that only the appointment of the Historical Commission's DRB representative would be made at this meeting.

VOTED unanimously Linda Faye to the Design Review Board as representative from the Historical Commission, for a term to expire June 30, 2011.

There was discussion of the need to replace Ms. Awad as representative to the PVTA Advisory Board, and Mr. Shaffer's willingness to fill that role if a Select Board member was not willing or able. Ms. Awad said the group meets in Springfield, and that Town Managers are among the representatives from other communities.

VOTED unanimously to appoint Mr. Shaffer as Amherst's representative to the PVTA Advisory Board.

Master Plan Update

Jim Wald provided an update on the Master Plan: the Comprehensive Planning Committee's charge has expired but its work continues (Ms. Brewer said only the members' terms had expired, and that they could serve until replacements are named, and none will be so named); the draft plan is being edited, amended and polished, and still needs supporting materials such as maps and photos added; filling in the implementation matrix, a feature mandated by Massachusetts General Law, may be left to the Planning Board or a different group; once the Planning Board receives the document, it is expected to hold some form of public process; while the CPC wants to finish the document as soon as possible, it values thoroughness and legitimacy over speed.

No action taken.

New Date for Special Town Election

There was lengthy discussion regarding changing the special election date – whether or not that was a necessity based on a discussion in the judge's chambers (as part of the 1974 Walgren v. Amherst Selectmen lawsuit) and subsequent Town policy to not hold elections when college students are not available to participate. Much discussion centered around whether students being in town for election day was sufficient, or whether the deadlines for submitting nomination papers and registering to vote needed occur outside of student breaks. Town Counsel's opinion was that the September 16 election date could stand. Mr. Weiss, Ms. Stein and Vince O'Connor expressed concern that the date would not

be regarded as a good-faith effort to honor the past promise of student accommodation and could expose the Town to costly litigation. Ms. Brewer, Ms. O’Keeffe and several members of the public (Robert Philips, chair of Aaron Hayden’s campaign; Andy Phillips, Clare Bertrand; Jeff Blaustein) supported keeping the September date citing: Town Counsel’s opinion; the result of the original lawsuit and its appeal allowing the Town to hold the election outside of student availability; students being available on election day; a special election to fill a seat for a short time being different from the annual election that was the subject of the lawsuit; candidates having already gathered and submitted signatures under the original election calendar dates (Town Counsel said this was not problematic;) significant changes in students’ local voting participation since the early 1970s; that changing the date also created litigation potential, that litigation against the Town is common and unavoidable, and that vulnerability to losing a lawsuit is more significant than general vulnerability to being sued; that an election a few years ago hadn’t conformed to the strictest interpretations of student availability and occurred without concern, among other arguments. Additional arguments cited by members of the public included: concern about the threat of lawsuits undermining the ability to govern the Town; lack of evidence that other communities accommodate the schedules of their resident colleges and universities; and concern that Ms. Awad didn’t recuse herself from the discussion. **VOTED** 3 in favor (Weiss, Stein, Awad) 2 opposed (Brewer, O’Keeffe) to rescind the June 23, 2008 motion, which said: *Whereas, Anne Awad, Select Board member elected in 2000, 2003, and 2006, has on June 20, 2008 submitted to the Town Clerk her resignation from the Select Board effective September 1, 2008, and Whereas, the Amherst Town Government Act, Chapter 216 of the Acts of 2001, as amended by Chapter 263 of the Acts of 2006, requires that a special election be called to fill such vacancy as the vacancy shall occur more than 90 days before the annual election, I move that the Select Board hereby call a special town election for Tuesday, September 16, 2008, with polls open from the hours of 7:00 am to 8:00 pm, to fill the vacancy for her unexpired term, such term ending with the Annual Town Election of 2009.*

Setting New Special Election Date

December 2, 2008 was proposed as a new election date. Ms. Stein suggested that combining polling locations might alleviate the strain on poll workers and Town staff for some elections. The Town Clerk’s strong desire to not have the election on November 4th, the day of the Presidential election, due to logistical complications and strain on staff and poll workers was noted. Concern about the inconvenience to residents and impracticality of a third election day in the fall, and the desire to fill the Select Board vacancy as soon as possible, led to the determination that November 4th was the most reasonable alternative date. **VOTED** unanimously to support the following motion: *Whereas, Anne Awad, Select Board member elected in 2000, 2003, and 2006, has on June 20, 2008 submitted to the Town Clerk her resignation from the Select Board effective September 1, 2008, and Whereas, the Amherst Town Government Act, Chapter 216 of the Acts of 2001, as amended by Chapter 263 of the Acts of 2006,*

requires that a special election be called to fill such vacancy as the vacancy shall occur more than 90 days before the annual election, I move that the Select Board hereby call a special town election for Tuesday, November 4, 2008, with polls open from the hours of 7:00 a.m. to 8:00 p.m., to fill the vacancy for Ms. Awad's unexpired term, such term ending with the Annual Town Election of 2009.

Consideration of motion to support Ms. Awad/censure Mr. Kelley

Isaac BenEzra said he was disenfranchised by losing Ms. Awad's representation on the Select Board and said she was being driven out of Town by the actions of another resident (clearly implied but not stated to be Larry Kelley.) Mr. BenEzra urged the Board to take a stand against such actions. Mr. Weiss and Ms. Stein expressed their support for Mr. BenEzra's comments. Mr. Weiss suggested a motion opposing alleged actions by Mr. Kelley, without naming him. Ms. Brewer expressed concern about the motion, and Mr. Weiss withdrew it, and said he would consider a new motion at a future date.

No action taken.

LICENSES AND PERMITS

Special All Alcoholic Liquor License – University of Massachusetts

VOTED unanimously to approve the Special All Alcoholic Liquor License for the University of Massachusetts for September 20, 2008 from 5:00 p.m. – 9:00 p.m. at the Fine Arts Center for a reception.

Taxi Business License – Celebrity Cab Company

John Rae said that he had been working for the Celebrity Cab Company and was now purchasing the business.

VOTED unanimously to approve the new Taxi Business License for Sarafin Cab Company, d/b/a Celebrity Cab Company, 10 Gate House Road, Manager John E. Rae.

TOWN MANAGER'S REPORT

Update on Talks with Amherst Fourth of July Parade Committee

Mr. Shaffer said he had met twice recently with the Amherst Fourth of July Parade Committee, and discussed opportunities for resolving differences regarding who is allowed to participate in the parade, and said that no conclusions have yet been reached. Ethel Clemons, of the Parade Committee, expressed her concern that the Committee was being pressured to accept protesters or else lose its traditional 3:00 p.m. time slot. Helen Thelen, also of the Parade Committee, thanked Mr. Shaffer for attending the recent Committee meeting, and said the group would soon be voting on its plans for 2009.

No action taken.

Town Web Site Update

Mr. Shaffer said the new Town Web Site was set to debut August 15.

No action taken.

Civil War Tablets

Mr. Shaffer said that five Civil War tablets removed from Town Hall during its reconstruction in the 1990s were being considered for restoration. He said that the Historical Commission is looking at the issue and may bring a request to Fall Town Meeting to use Community Preservation Act money to clean up the tablets in time for Amherst's 250th anniversary celebration.

No action taken.

Capital Spending and CPAC Funds

Mr. Shaffer said that an analysis by staff was not yet complete regarding what kind of capital needs might be eligible for Community Preservation Act funds.

No action taken.

ADJOURNMENT

The meeting adjourned at 9:46 p.m.

Approved at the September 8, 2008 Select Board Meeting