

## MINUTES

### CALL TO ORDER

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

### ATTENDANCE

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

Absent: Anne Awad

Town Manager Larry Shaffer

Assistant Town Manager/Finance Director John Musante

Larry Kelley, Rob Kusner, Nancy deProse, Beth Moonstone, Mauro Aniello

### OPENING REMARKS/ANNOUNCEMENTS

Mr. Weiss announced several upcoming deadlines: September 16<sup>th</sup> for filing nomination papers for the November 4<sup>th</sup> Select Board special election; noon on August 29<sup>th</sup> for submitting citizen zoning petitions for the November 5<sup>th</sup> Town Meeting warrant; noon on September 15<sup>th</sup> for submitting citizen miscellaneous petition articles. He also noted that there is one Town Meeting vacancy in each of the following precincts: 1, 2, 5, 6 and 9.

Ms. Stein raised the question of posting draft minutes on the Town web site as a way of making information about committee work available in a more timely fashion. Discussion about posting committee minutes would continue later in the meeting.

### PUBLIC COMMENT

Larry Kelley asked the Select Board to make September 11<sup>th</sup> one of the days on which 29 commemorative American flags may be displayed downtown. Mr. Kelley noted that Town Meeting had voted “no,” but that the decision was in the Select Board’s domain. He said that he will continue to make the request annually until it is approved and noted that the current Select Board had not yet had occasion to vote on the request. Ms. O’Keeffe said that Select Board discussion and voting shouldn’t occur during public comment, and asked that the request be put on the September 8<sup>th</sup> agenda, and Mr. Weiss agreed to do so.

Rob Kusner cited the increased costs of funding buses and their increased ridership, both tied to increased fuel prices, and asked the Select Board and Town Manager to find funds to improve the transit system, not cut its service. He also talked about and read from a draft resolution he had created for the Select Board to reaffirm support for Town policy to create and maintain bike lanes. He said

that painting the lines to provide visibility for bike lanes and the edges of the road was an inexpensive way to prevent accidents. He also talked about the November 4<sup>th</sup> ballot question seeking to repeal the State income tax and urged the Select Board to take a position opposing that soon, so as to be a model for other communities. He also asked that the Select Board support the ballot question on the increase of the CPA surcharge from 1.5% to 3%.

### **SELECT BOARD'S ACTION**

#### **Apple Harvest Craft and Family Festival Parking Request**

Nancy deProse of the Amherst Family Center explained the need for vendors to have the ability to park along the common when registering and setting up for the September 27<sup>th</sup> Apple Harvest Festival, and the need for a couple of those spaces to be kept for a disabled vendor and a horse trailer during the event. The Town Manager provided a GIS aerial photo identifying the affected parking spaces.

**VOTED** 4 in favor 1 absent (Awad,) to authorize the bagging of a total of 32 parking spaces between College Street and Spring Street on the west side of Boltwood Avenue and the east side of South Pleasant from 10:00 p.m. on Friday, September 26, 2008 until 10:00 a.m. Saturday, September 27, 2008, and the continued bagging of up to five meters until 5:00 p.m. September 27, 2008 to accommodate vendors.

#### **Re-Vote Language for CPA Question on November 4, 2008 Ballot**

Mr. Weiss said the Town Clerk had requested that language for the CPA ballot question be approved as submitted, and Mr. Shaffer said that Town Counsel concurred. Ms. Brewer noted some confusion that had led to edits of the language at the last meeting.

**VOTED** 4 in favor 1 absent (Awad,) to amend the vote taken at the August 18, 2008 Select Board meeting to read: approve the ballot question and summary language for the November 4, 2008 State Election Ballot as submitted.

#### **Pelham Road Crosswalk Request**

Mr. Weiss said that a request for a crosswalk on Pelham Road west of Ward Street to the Amethyst Brook Conservation area had been recommended for approval by the Public Works Committee. Mr. Shaffer explained that DPW Superintendent Guilford Mooring does not oppose the crosswalk, and informs the Select Board that it will not be ADA-compliant as proposed, but can be made compliant within the next year. Mr. Weiss expressed concern that the Disability Access Advisory Committee had not had the opportunity to weigh in on this as an interim proposal. Mr. Shaffer said that they would be consulted on the proposal for the ADA-compliant design, and it was generally agreed that having a crosswalk in the meantime was better than not having one while waiting for a compliant version. Beth Moonstone, who lives in the neighborhood and had made the crosswalk request, spoke of the large numbers of families with children, seniors, dog-walkers and others who cross in that area when using the Robert Frost Trail.

**VOTED** 4 in favor (Weiss, Stein, Brewer, O’Keeffe) and 1 absent (Awad) to approve placement of a crosswalk on Pelham Road to Amethyst Brook, west of Ward Street; and to instruct the Town Manager to report back within 45 days on his findings from the Disability Access Advisory Committee and Public Works Committee regarding installation of an ADA-compliant crossing, to be completed within 12 months.

### **Approval of Minutes**

**VOTED** 4 in favor (Weiss, Stein, Brewer, O’Keeffe) and 1 absent (Awad) to approve the minutes of the August 18, 2008 Select Board meeting as amended.

### **Budget Process Discussion**

A revised draft timeline from Mr. Weiss, dated 8/22/08, was presented for the FY10 budget process. There was discussion about the necessity of having a clear intent for how the Select Board wants to create budget policy following budget hearings with department heads, and how and when such meetings might occur. It was decided that a single Saturday meeting – proposed for 8:00 a.m., October 25<sup>th</sup> – would be attempted with brief, targeted presentations from and questions to department heads, followed by policy formation. It was agreed that creating questions beforehand and relaying them to department heads would be important. Mr. Shaffer said that he and the department heads were eager to share information with the Select Board about how core missions are being impacted by insufficient funds. Mr. Musante said a meeting of the four boards (Select Board, School Committee, Library Trustees and Finance Committee) to share budget projections would be scheduled for a weeknight in October. Ms. O’Keeffe said that the issue of the Library keeping its late return fees via a revolving fund should be dealt with as early in the process as possible, and said that most seem to want this to happen but that there is confusion around the idea of that money supplanting budget money from the general fund. She said that Mr. Shaffer had once suggested that late fees above a certain amount might be kept by the Library, and Ms. O’Keeffe said this option should be further considered, and that the Select Board might be able to help facilitate that process. Ms. Brewer suggested sending a letter from the Select Board to the Library Trustees offering the Select Board’s assistance if the Library Trustees want to pursue that. Mr. Shaffer said that he and Mr. Musante had talked with the Trustees at length about the matter several months ago, and said he felt they were not ready to make that decision.

**No action taken.**

### **Committee Appointments**

**VOTED** 4 in favor 1 absent (Awad,) to appoint Ellen Kosmer to the Housing Partnership/Fair Housing Committee for a term to expire June 30, 2011.

### **Committee Discussion**

Ms. Stein had distributed a list of committee issues and ideas. With discussion, it was decided that: a new two-person system for making committee appointments would be formed, with overlapping two-month terms as follows: September –

Stein/O’Keeffe; October – O’Keeffe/Brewer; November – Brewer/Stein; December – Stein/new member; January – new member/O’Keeffe; February – O’Keeffe/Brewer; March – Brewer/new member; and it was agreed that the system be re-evaluated following the Annual Town Election. There was discussion about how to get meeting minutes for all boards and committees on to the Town web site. Mr. Shaffer said he would talk with office staff about how best to implement that, and said it might involve training sessions for those committee members who need assistance posting to the web site. It was decided that the question of whether to form a new Parking Commission would wait until another meeting, probably to include a briefing by the Town Manager of progress made by the Parking Task Force and presentation of the parking study conducted by the PVPC. Also postponed was discussion about inactive committees and committees whose charges might need revision. Ms. Brewer said that some months ago she had obtained a binder of all the committee charges from the Select Board office, and she will provide this binder to the dyad to be passed along each month.

**Action:** it was decided that: a new two-person system for making committee appointments would be formed, with overlapping two-month terms as follows: September – Stein/O’Keeffe; October – O’Keeffe/Brewer; November – Brewer/Stein; December – Stein/new member; January – new member/O’Keeffe; February – O’Keeffe/Brewer; March – Brewer/new member; and it was agreed that the system be re-evaluated following the Annual Town Election.

### **Committee Liaison Reports**

Per the Community Choices Committee, Ms. O’Keeffe reported: outreach and education efforts would begin with Co-Chair Bob Saul being interviewed on Isaac BenEzra’s ACTV program *Conversations*, to air 8/27 at 7:00 p.m.; 8/28 at 1:00 p.m.; 8/30 and 8/31 at 8:00 a.m. and 4:00 p.m. on channel 12, with possible additional broadcasts on channel 17. Consulting the schedule at [actvamherst.com](http://actvamherst.com) or in the Amherst Bulletin is advised. Also, the Community Choices committee meetings will soon be broadcast on ACTV.

**No action taken.**

Per the Amherst Housing Authority, Ms. O’Keeffe reported: 11 units of new housing are being constructed on Main Street, for which 173 applications have been received. Occupancy is expected in late October or early November, and all units are expected to be countable under the affordability requirements of Chapter 40B – affordable to those earning less than 80% of the area’s median income. The Chestnut Court kitchen renovation project is underway, with complete overhauls of 30 kitchens dating from 1962. The project is fully-funded through complex grants and Roy Rosenblatt was praised for his work on them.

**No action taken.**

Per the Board of Health, Ms. Stein reported on the work of three meetings: the Board has addressed flooding caused by beaver activity around Hop Brook and Kestrel Lanes, granting a renewable permit to trap beavers for ten days. Beaver

control issue will be discussed further with the Conservation Commission. The Board is dealing with food permits for Farmers Market vendors who are required to have those if they sell prepared foods. The rDNA regulations, which were discussed at Town Meeting, are being sent to local institutions with a registration form, and a list of experts who could serve as committee members on that issue is being compiled. Progress is being made in bringing David Keenan's 28 Shays Street home up to code, and there is a November 1<sup>st</sup> deadline for completion. Neighbors will be speaking to the Board of Health about their concerns with that property in September. There is a local moratorium on the installation of new open wood boilers, due to the particulate matter they generate. The State is creating regulations for this, and a representative from State government may be invited to speak to the Board of Health and the Agricultural Commission about the regulations. The draft of proposed well regulations has been sent to Town Counsel for review, and a public hearing on the issue will be held in September. The Board of Health will hold a retreat to discuss core Board issues and functions, essential services, and how it works with the Health Department.

**No action taken.**

## **LICENSES AND PERMITS**

### **Lunch Cart License – Monkey Business, Inc.**

Mauro Aniello explained his plans to have a lunch cart selling hot dogs, sausages and snacks near the entrance to his Monkey Bar and Grill restaurant. Ms. Brewer suggested that the form used for lunch cart license applications be changed to make the operating hours more clear.

**VOTED** 4 in favor 1 absent (Awad,) to approve the lunch cart license for Monkey Business, Inc., business address 63-69 North Pleasant Street, Amherst, MA, Manager: Mauro Aniello, from 10:00 a.m. to 1:00 a.m., seven days a week.

### **Special Liquor Licenses – UMass**

**VOTED** unanimously with a single vote to approve the Special All Alcoholic Liquor License for the University of Massachusetts for September 19, 2008 from 6:00 p.m. – 11:00 p.m. at the Studio Arts Building for a reception/dinner and to approve the Special All Alcoholic Liquor License for the University of Massachusetts for September 20, 2008 from 12:00 p.m. – 4:00 p.m. at the Studio Arts Building Tent/Atrium for a reception/lunch.

## **CHAIR'S REPORT**

### **Plum Brook Soccer Fields**

Mr. Weiss reported that he had been concerned about the state of the grass at the Plum Brook fields and consulted with a local landscaper who advised strip-seeding in the next week or two with a different type of grass to create a thicker mat. Mr. Shaffer said that the Town has taken over management of the field, a management plan was being created, and Conservation Commission approval would be needed for plans to deal with the weed problem. Mr. Weiss expressed concern about the seeding and weed measures happening early enough to create a viable field for use next spring. Delays in the process including late seeding and

late installation of an irrigation system were cited as reasons for the current field conditions.

**No action taken.**

### **Special Election Update**

Mr. Weiss said that information about the 1975 Appeals Court decision on the *Walgren v. Amherst Board of Selectmen* case had been found following the Select Board's July 28<sup>th</sup> discussion and vote to reschedule the special election from September to November. Mr. Weiss said the decision is more strongly-worded and supports the recollection of former Selectman Merle Howes regarding the promise made in the judge's chambers to not schedule elections when students can't participate – a key point of the Select Board's recent discussion. [At the 9/8/08 meeting, Ms. Stein reported that Mr. Howes had informed her on 8/18/08 that the promise made to the judge had not occurred in the judge's chambers.] Mr. Weiss said he sent the decision to Town Counsel, and read an excerpt from Town Counsel's reply, which said in part:

*“Based on the above, it is my opinion that the Board is properly guided by the Town ‘policy’ represented to the Court in the 1970s proceedings. When we had earlier advised you in this matter (stating that the Board could exercise greater flexibility in scheduling a special election to fill a seat for less than a year), we were unaware of this history, let alone that the federal courts had documented a Town policy on the issue.”*

Mr. Weiss said that this indicates that the Select Board majority had voted correctly to reschedule the election. Ms. Brewer said that the decision cites a policy to not hold elections when students are unable to cast ballots, and noted that the original September 16<sup>th</sup> date would have been in keeping with that. She said that she is concerned that Town Counsel's original opinion would have been made without researching the appeal decision. Ms. O'Keeffe said that the new Town Counsel opinion did not say that keeping the September date would have been wrong, but only that it was not inappropriate to have gone the more cautious route of changing the date. She said that filling a short-term vacancy with a special election was different from the lawsuit's situation of holding the Annual Town Election, and that hewing to student availability for such extenuating circumstances would allow elections to be held only a few weeks out of every year. Mr. Weiss said he didn't think that having a vacancy on the Select Board for six extra weeks would be viewed by the courts to be sufficient justification for going against the policy of accommodating students. Ms. Stein said the matter had been discussed enough and that she was satisfied that the Select Board had done its best to honor the policy. Ms. Brewer requested that this policy be located so that it can guide future Select Boards, and noted that a special election several years ago did not adhere to this policy. Mr. Shaffer said there is no specific repository of Select Board policies, nor is there long-term historical knowledge among the office staff, but said that a compilation of details from this situation would be created and distributed for future reference.

**No action taken.**

### **Greeting UMass International Students**

Mr. Weiss said that he would be representing the Select Board to greet UMass international students on Tuesday, August 26<sup>th</sup> at the Amherst Woman's Club, and said that other Select Board members were welcome to attend.

**No action taken.**

### **TOWN MANAGER'S REPORT**

#### **On-Street Parking Changes for Cottage, Taylor and High Streets**

Mr. Shaffer presented a map and talked about a proposal to limit parking to one side of Cottage and Taylor streets and to eliminate parking on High Street, which he said would be presented to people in that neighborhood for comment at a public meeting to be held by the DPW on September 17<sup>th</sup>. He said that the Public Works Committee has already recommended approval of the plan, the Police and Fire Chiefs have weighed in, and if the neighbors like it, it will be brought the Select Board for approval, perhaps as soon as the September 22<sup>nd</sup> meeting. Ms. O'Keefe apologized for having forgotten about this public meeting when she previously gave a Public Works Committee liaison report and had asked how to make progress on this issue.

**No action taken.**

#### **Blog on Town Web Site**

Mr. Shaffer talked about his new blog on the Town web site and how it would be a useful way to communicate with the community in an era when more people get their information online. He said he would try to update it weekly, and thanked I.T. Director Kris Pacunas for encouraging him to have a blog.

**No action taken.**

#### **Meeting with New UMass Chancellor**

Mr. Shaffer said he had met with Chancellor Robert Holub, welcomed him to the community, offered him a tour, and discussed important areas of partnership and opportunity for the University and the Town, such as economic development, regionalization efforts, and students' off-campus behavior issues. Mr. Shaffer said he looks forward to working with Chancellor Holub. Ms. Brewer asked if brief written summaries could be provided from important meetings, such as those with the Chancellor, and Mr. Shaffer said that could be done.

**No action taken.**

#### **Update on Regionalization Efforts**

Mr. Shaffer reported on discussions about Amherst, UMass and Hadley jointly funding a feasibility study to analyze the costs and benefits of regionalizing emergency dispatch service. He talked about funding being made available through cell phone taxes to encourage such efforts, and said that combined dispatch could save money and help improve efficiency and response time, and reduce redundancy. He said the feasibility study is needed to provide a formal

evaluation, and is expected to cost in the \$10,000 to \$12,000 range, with distribution of that cost proportional to calls generated, expected to be roughly 40% from Amherst, 50% from UMass and 10% from Hadley. Mr. Shaffer said that State Senator Stan Rosenberg was a key part of proposing the cell phone tax legislation, and was able to incorporate the Town's request to make UMass eligible for funding from that tax. Mr. Shaffer said the Town's dispatch operations have a budget of about \$360,000 per year. Mr. Shaffer said that other regionalization efforts include a contract created with Pelham to provide Veterans Services consulting, and that conversations are under way about the possibility of providing Board of Health services to another town. He said that his expectation is that the Town's budget situation will get worse before it gets better, and that regionalization efforts are necessary to reduce and spread costs.

**No action taken.**

### **ADJOURNMENT**

The meeting adjourned at 9:16 p.m.

*Approved at the September 8, 2008 Select Board meeting.*