

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: (none)

Present: Town Manger Larry Shaffer, Assistant Town Manager/Finance Director John Musante

Town Staff: Roy Rosenblatt, Nancy Pagano, Maura Plante, Linda Chalfant, Barbara Bilz, Claire McGinnis, Mike Kent

Members of the public: Phil Jackson, Jonathan Karas, Alyssa Lubin, Alex King

OPENING REMARKS/ANNOUNCEMENTS

Mr. Weiss read the schedule of upcoming precinct meetings, provided by Town Meeting Coordinating Committee in the Town Meeting member packets.

Ms. O'Keeffe said she believes that the deadline for public input for the Community Choices budget priority process is November 13th. She urged people to go to the AmherstChoices.org web site, view the PowerPoint presentation, and fill out the online survey.

Mr. Shaffer said that voters will not need to wait in line twice in order to vote with both State and local ballots November 4th, dispelling rumors to the contrary. He explained that there would be separate check-ins and check-outs for each ballot, with the process coordinated for a single voting booth visit.

PUBLIC COMMENT

Phil Jackson thanked the Select Board for approving the Halloween street closures in the Lincoln, Sunset and McClellan neighborhood. He also thanked the Town Manager, DPW and Police Department for assistance with the arrangements. Mr. Jackson cited the DPW's traffic calming proposal for that neighborhood, presented at a recent public meeting, and said he hopes the proposal will soon come to the Select Board for approval and action.

SELECT BOARD'S ACTION

Approval of Minutes – October 25th meeting

It was agreed that hard copies of the departmental budget materials would be attached to the hard copy of the minutes in the official file, and that Ms. O'Keeffe would work with Kate Seaman to create a way to append or link the documents to minutes on the Town web site.

VOTED unanimously to approve the minutes of the October 25, 2008 Select Board meeting without amendment.

Postponement of Consideration of Minutes – October 27th meeting

Ms. Brewer asked that consideration of the October 27th minutes be postponed to the next meeting.

Action: Without a vote, it was agreed to postpone consideration of the October 27th meeting minutes until November 10th.

Departmental Budget Presentations

The Select Board heard budget presentations from the following departments. These presentations had been postponed when the October 25th meeting ran long. Prior to that meeting, Select Board members received documents from each Department Head providing answers to a common set of questions. Mr. Weiss noted that in keeping with the format of the previous presentations, no questions or comments from the public would be taken.

Community Development
Senior Center
LSSE and Cherry Hill Golf Course

Select Board members asked questions, but took no votes.

No action taken.

Implementation of Nuisance House Bylaw

APD Captain Mike Kent explained the status of the Nuisance House Bylaw's implementation. He said it had gone into effect on September 30th, and that implementation did not take place until after officers received training on it in mid-October. Since then, seven violations have been issued: five to people at one residence and two at another. He said that a letter is sent to property owners for every noise complaint or more serious infraction. A new letter with text from the nuisance bylaw is now sent via certified mail, due to the potential civil penalty for a nuisance violation. He said the law has no arrest powers, but allows \$300 tickets to be issued for the third and subsequent offenses. Mr. Shaffer said the bylaw was intended as a tool to help change behavior. Ms. O'Keeffe noted the upcoming community meeting with the UMass Greek councils, aimed at improving communication and problem solving with the Town. Ms. Brewer recommended that all property owners who have registered rental properties with the Town be sent a letter with the bylaw information. Captain Kent emphasized police officers' ability to exercise discretion in how to handle most situations. There was discussion with UMass students in the audience about the bylaw and the process leading to its creation. Inter-Fraternity Council President Alex King talked about the disciplinary and governing steps within the Greek community, and asked that they be notified of nuisance issues regarding fraternities and sororities. The Select Board expressed appreciation for the willingness of the Greeks to address such issues internally.

No action taken.

WARRANT ARTICLES

November 10, 2008 Special Town Meeting Articles

Article 1 – Reports of Boards & Committees

Mr. Weiss said reports were expected from the Facilitation of Community Choices Committee and from the Finance Committee.

VOTED 3 in favor (Weiss, Stein, O'Keeffe) and 1 absent (Brewer) to recommend Article 1 – Reports of Boards & Committees. The newly-elected Select Board member will speak to this article.

Article 2 – Transfer of Funds – Unpaid Bills

Mr. Musante said that there are no unpaid bills, and recommended dismissal of this article.

VOTED unanimously to recommend dismissal of Article 2 – Transfer of Funds – Unpaid Bills. Ms. Stein will speak to this article.

Article 3 – Collector Demand Charge

Mr. Musante and Ms. McGinnis explained the article: it would allow for a \$10 demand fee for bills more than 30 days late for property tax, personal property tax and motor vehicle excise tax, up from the current \$5 fee. State law allows charges up to \$30, and ambiguity in the law suggests that Town Meeting, rather than the Collector, should establish the fee amount. Subsequent late bills beyond the first already have set fees of \$22 and \$33. Late fees for property tax bills only take effect after the fourth quarter billing. The bulk of the collector demands are for motor vehicle excise tax, and those late fees are expected to total \$20,000 with the increase, up from \$11,000. Water and sewer charges are considered utility rates rather than taxes, and are covered under different legislation, with 14% late fees. **VOTED** unanimously to recommend Article 3 – Collector Demand Charge. Ms. Brewer will speak to this article.

Article 4 – FY 2009 Budget Amendments

Mr. Musante explained the different parts of Article 4. **Part A** is to transfer funds already appropriated from the General Fund and distribute them to the Public Works; Public Safety; Planning, Conservation and Inspections; and Community Services budgets to cover salary adjustments for those departments. The original General Fund appropriation occurred before the salary increases were known, and settlements with all but one bargaining unit are now in place, as is the increase for non-union employees. This transfer allows departmental budgets to accurately reflect staffing costs.

VOTED unanimously to recommend part A of Article 4 – FY 2009 Budget Amendments, to transfer funds from the General Fund to the functional areas of Public Works; Public Safety; Planning, Conservation and Inspections; and Community Services for salary adjustments. Ms. Stein will speak to all parts of the article.

Part B transfers \$10,262 from the Transportation Enterprise Fund surplus account to the Transportation Enterprise Fund to cover costs of the outreach bus routes that were higher than original estimates, largely due to fuel costs. A preliminary bill of approximately \$24,000 was reduced to \$10,262 after discussions between the Town Manager and UMass Transit. The Public Transportation and Bicycle Committee and the Parking Task Force recommended this as the best course for covering this expense.

VOTED unanimously to recommend part B of Article 4 – FY 2009 Budget Amendments, to transfer \$10,262 from the Transportation Fund Surplus, to the Transportation Fund. Ms. Stein will speak to all parts of the article.

Part C is an appropriation from the Solid Waste fund to cover settlement of a lawsuit between the Town and an abutter to the former landfill. Mr. Shaffer explained that the complaint originated in 2001, that the insurance company that would typically handle such settlements had gone out of business, and that the State's insurance insolvency fund had run out of money and could not to pay more toward this case at this time. Mr. Shaffer said that the settlement amount of \$80,000 is considerably less than the \$400,000 originally sought in damages; that settling ends the escalating attorney costs; that he believed the Town faces exposure on this case; and that reimbursement through the insolvency fund will continue to be pursued. Mr. Shaffer said the settlement was not believed to set a precedent or increase vulnerability to suits from other abutters. As the settlement has already been paid, it was not known what the consequence might be of Town Meeting failing to pass this appropriation.

VOTED unanimously to recommend part C of Article 4 – FY 2009 Budget Amendments, to transfer \$80,000 from the Solid Waste Fund Surplus to the Solid Waste Fund, to satisfy a legal settlement. Ms. Stein will speak to all parts of the article.

Article 5 – Stabilization Fund: Appropriate/Transfer from Free Cash

Mr. Musante explained that this transfer of \$460,000 from Free Cash to the Stabilization Fund was in

keeping with the approved Finance Committee guidelines of transferring Free Cash amounts in excess of 5% of annual revenues to Stabilization. He said that this is part of a broader goal of replenishing and maintaining total reserves at 5-15% of annual revenues, to provide a buffer against emergencies and economic downturns. A 2/3 majority vote is required to transfer money in to or out of Stabilization. Ms. Brewer asked that the 2/3 vote requirement also be included on the motion sheet for Town Meeting. **VOTED** unanimously to recommend Article 5 – Stabilization Fund: Appropriate/Transfer \$460,000 from Free Cash to Stabilization. Mr. Weiss will speak to this article.

LICENSES AND PERMITS

New Common Victualler’s License – Alpha Pizza Pi

Jonathan Karas explained that Alpha Pizza Pi will be located in the former Pizzarama location on College Street. He said that his business partner’s brother first opened the original Pizzarama at that location many years ago, and said this new venture brought the location back in to the family pizza business. Mr. Karas said they hope to open Alpha Pizza Pi on November 5th.

VOTED unanimously to approve the Common Victualler’s License for Istrois Corp., d/b/a Alpha Pizza Pi, 356 College Street, Managers Jonathan Karas and Mark Avgoustakis.

CHAIR’S REPORT

Article Scheduling for Town Meeting

Mr. Weiss said that it had been suggested at the motion review meeting that Article 6 (establishing a municipal housing trust) be moved to 7:35 p.m. on November 17, following the one-article Special Town Meeting. He said the goal was to finish all the housekeeping articles (articles 1 -5) and the zoning articles (articles 7-10) on November 10, and then adjourn to the 17th, cancelling the November 12th meeting. He said that the cancellation decision would wait until 10:00 p.m. on the 10th. Ms. Brewer noted that Article 11 (land legalities for Hitchcock Center expansion) should be moved to the 17th as well. Mr. Shaffer said that Town Counsel Shirin Everett will be at Town Meeting on the 17th to answer any legal questions related to articles 6 and 11.

Action: Without a vote, it was the sense of the Select Board to support assigning articles 6 and 11 to November 17th in an effort to finish the other nine articles on the first night of Town Meeting.

TOWN MANAGER’S REPORT

Emergency Management Exercise

Mr. Shaffer described a five-hour exercise he and other Town representatives had taken part in at UMass with the Regional Emergency Management Bureau. He praised Assistant Fire Chief and Emergency Management Director Mike Zlogar for his work on scene, and for rewriting the Town’s emergency management plan. Mr. Weiss praised Mr. Shaffer for his attention to emergency management issues. It was suggested that emergency management efforts and preparedness be a topic of discussion for a future agenda, after Fall Town Meeting. Mr. Shaffer said the discussion would inform the public and help identify any areas that need more attention, as per a recent citizen’s inquiry regarding readiness for financial or food supply disasters. Ms. Brewer requested that Mr. Shaffer learn more about what is required for making an appointment to the Hampshire Regional Emergency Planning Committee.

No action taken.

CPA Soccer Field Opinion Update

Mr. Shaffer said that Town Counsel is still working on an opinion regarding the impact on Amherst of the Supreme Judicial Court Decisions regarding Newton Community Preservation Act spending. He said that Town Counsel had noted that Amherst is not vulnerable to a 10-tax payer lawsuit on the issue.

No action taken.

Larch Hill (Article 11) Compensation Update

Mr. Shaffer said that compensation will be required by the State for taking land out of conservation use for the Hitchcock Center’s expansion project. He said that passage of Article 11 by Town Meeting is not expected to commit the Town or encumber the property if an acceptable compensation plan can’t be achieved. Mr. Weiss said that Town Meeting may be concerned about who has the power to approve the compensation arrangement. Mr. Weiss said that Conservation Director Dave Ziomek will keep the Select Board apprised of this issue if details change prior to Town Meeting.

No action taken.

Police Costs for Halloween Street Closure

Mr. Weiss asked Mr. Shaffer to find out about the cost of using Police Department resources for the Halloween evening street closures for trick-or-treating in the Lincoln and Sunset Avenue neighborhood.

No action taken.

Legal Fees – Solid Waste Settlement

Ms. Stein asked Mr. Shaffer to find out about the cost of lawyers’ fees incurred for the solid waste settlement in Article 4. Mr. Shaffer said that the State’s insurance insolvency fund had paid out more than \$170,000 towards it, and that the case was soon to move into depositions and other pre-trial expenses. He said he would find out the amount spent by the Town.

No action taken.

Election Parking for Bangs Center

Mr. Shaffer said that parking would be free on the lower level of the garage for voting at the three Bangs Center precincts, and said the arrangements would be managed by the Police Department. Ms. Brewer expressed appreciation for the closing of the Town Clerks office to non-election business from noon Monday to the end of the day Tuesday.

No action taken.

ADJOURNMENT

VOTED unanimously to adjourn the open meeting at 9:43.

-- Respectfully submitted by Stephanie O’Keeffe