

## MINUTES

### CALL TO ORDER

Meeting called to order by Mr. Weiss at 6:33 p.m.

### ATTENDANCE

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

Absent: (none)

Present: Town Manger Larry Shaffer

Town Staff: John Musante, Helen Vivian, Rob Detweiler

**Finance Committee:** Brian Morton, Kay Moran, Andy Steinberg, Marilyn Blaustein, Marylou Theilman, Barry Federman, Doug Slaughter

**School Committee:** Andy Churchill, Elaine Brighty, Kathleen Anderson (*absent: Catherine Sanderson, Sonia Correa Pope*)

**Library Trustees:** Molly Turner, Anne Grose, Chris Hoffmann, Louis Greenbaum, Pat Holland (*absent: Kathy Wang*)

State Senator Stan Rosenberg

Town Counsel Brian Riley

Members of the public: Bill Elsasser, Larry Kelley, Calvin Brower

### OPENING REMARKS/ANNOUNCEMENTS

Mr. Weiss said that Senator Rosenberg would be discussing the State budget situation and information about budget implications if Question 1 (to repeal the State's personal income tax) passes in November. He said that this would not be the time to discuss reasons to vote for or against the question, but rather that such a discussion could take place at the October 20<sup>th</sup> meeting, which representatives from the Committee for Small Government ([smallgovernmentact.org](http://smallgovernmentact.org)) have been invited to attend.

### PUBLIC COMMENT

There was no public comment.

### FOUR BOARDS MEETING – INTRO BY SENATOR ROSENBERG

*From the Finance Committee minutes of this meeting, approved by that body 10/16/08:*

“Senator Rosenberg addressed the issues of state finances, local aid, the effect of the current recession, and the potential effect if the voters approve ballot question 1 in the November election. Local aid cuts were necessary in the last two recessions. Currently there are reserves but budget cuts will be necessary. The Senator did not project whether there will be cuts in local aid. The Governor needs authority from the legislature to cut local aid. Rosenberg talked about the effect of the revenue reduction on the budget if Question 1 passes. Since some sections of the budget cannot be reduced, other sections will be affected more severely. About 40% of state revenue is from the income tax. The Senator described legislative initiatives to consider support for local communities and talked about the continuing need to seek more efficient ways to provide local services. He responded to questions about the timing of the budget process for 2010, the prospect for a local meals tax and other new revenue options for cities and

towns, efficiencies in the provision of state services, and other matters related to the budget.”

#### **FOUR BOARDS MEETING – PRESENTATION BY JOHN MUSANTE**

*From the Finance Committee minutes of this meeting, approved by that body 10/16/08:*

“Musante presented his current projections for the Town for 2010. His report began with a report about the 2008 operating results and the success at bringing stability to the Health Claims Trust Fund. He then discussed the 2009 budget, the current situation and outlook for the future, the Community Voices/Budget Choices long-term planning process, and budget projections for the next year.”

“The projections do not assume any loss of state revenue because of the recession or possible impact of Question 1, if it were to pass. He projects that revenues will be \$2.68 million less than what will be required to maintain level services. They are only sufficient to increase budgets by 2.1% in 2010. Churchill asked whether reserves can be used as a rainy day fund. Musante compared the available reserves to the amounts in reserve at the start of prior recessions. O’Keefe asked about the county retirement system and the validity of assumptions about the return on investments. Musante described how the system is funded and the statutory requirement that it be fully funded by 2028. An increase in contributions from towns or an extension of the date to fully fund the obligation may be necessary. Steinberg asked about the timing for the budget process relative to the report from the long-term planning process and any action that might follow that report. Churchill asked whether there is any possibility for cooperation between the University and Town police departments that will affect the budget. Theilman asked if the regional schools are prepared to use excess and deficiency reserves to support operating expenses in 2010.” (*End of Finance Committee minutes*)

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

##### **Town Manager Evaluation Process/Legalities**

Town Counsel Attorney Brian Riley of the firm Kopelman and Page addressed Select Board questions on several issues related to the Town Manager evaluation process:

***Segregating public submissions*** – Per the fact that public comment was solicited with the promise of confidentiality, it was advised that those submissions be segregated this year in a separate file. As personnel records, these can be private; but would typically be part of employee’s file. With the Town Manager’s agreement, these can be kept separate and away from his access. Mr. Shaffer agreed to that.

***Per e-mail as public record***: E-mails are covered by public record law, but those submitted as part of a personnel evaluation would be expected to be exempted from having to be made available to the public.

***Individual evaluations by SB members***: Each member would write one and submit it to the Chair, who would then create a composite evaluation. The individual Select Board evaluations would go in the Town Manager’s personnel file, and be available to him. Other Select Board members would not see those, because that would be considered deliberation by the body, and once a document is part of deliberation, it becomes a public document. Concern was expressed that the Chair gets to decide what goes into the composite, which might be “sanitized” for the public, while the Town Manager is being “directed” by the individual comments of individual evaluation forms that the rest of the SB has no knowledge about. It was suggested that the way to handle that would be to agree to put all comments in the composite, without the individual SB member’s name.

***Executive Session for contract negotiation***: Contract negotiation is allowed in Executive Session. Mr. Shaffer would have to be there. Per Attorney Riley: “If he’s not there, you’re not negotiating.”

***Further discussion without Attorney Riley***: Considered pros and cons of releasing full Select Board comments to the public. Discussed whether staff feedback should be signed or anonymous, and confidential or not.

**ACTION**: Agreed, without votes: to segregate public submissions this year, and not make them available to the Town Manager; to reconsider the expectation of confidentiality of public submissions

for the future; and to include all the individual comments from Select Board members in the composite evaluation; to solicit staff feedback anonymously, with those documents available to Mr. Shaffer but not available to the public because they are personnel documents; that Ms. O’Keeffe will handle the logistics of the employee questionnaires

### **Crescent Moon Garden Request**

There was discussion of a proposal from Crescent Moon Gardens of Millers Falls to beautify with plants the North Amherst traffic island, just north of the traffic lights, and before the split of Sunderland and Montague roads. Mr. Weiss explained the proposal to beautify and maintain the island in return for a permission to display an 8.5 by 11 inch sign there, and said that DPW Superintendent Guilford Mooring approved of the plan. Mr. Shaffer said that there was no existing policy for such an offer, but suggested trying it out for a year, and creating a policy in the interim. Ms. Brewer suggested that a formal mechanism for tracking pending policies and other follow-up items. Mr. Shaffer said this Crescent Moon proposal will be put in a “tickler file” for revisiting next summer, and that Mr. Mooring and Town Engineer Jason Skeels will be asked to create a policy for the Select Board’s consideration for the one-year anniversary of this request.

**VOTED** unanimously, consistent with the Amherst Town Government Act, Section 3.244, to authorize the placement of flowers in the traffic island that exists at the intersection of Pine Street, Meadow Street and Sunderland Road consistent with the plan provided by Guilford Mooring and dated September 30, 2008, for a period of one year expiring on October 31, 2009 or upon removal by the town, whichever is the latter.

### **Charge Update – Facilitation of Community Choices Committee**

Mr. Weiss said that the FCCC needed to have its charge updated to reflect the new timeline for expected completion of its work from October 15 to December 1. Ms. Brewer recommended that future proposals to update charges show the existing and proposed changes for clarity.

**VOTED** unanimously to update the charge for the Facilitation of Community Choices Committee, to changing the completion date from October 15, 2008 to December 1, 2008, and removing the wording about the BCG’s recommendation for Special Municipal Employee status.

### **Creation of Local Historic District Study Committee**

Mr. Weiss wrote a draft motion for creating a Local Historic District study committee and Ms. Stein wrote a draft committee charge, based on relevant language from Mass. General Laws. The printed draft charge disappeared between this meeting and the earlier meeting, so Ms. Stein read her copy and it was agreed that the Select Board approved the sense of the charge. Ms. Stein said she would run the draft charge by Jim Wald of the Historical Commission and the Select Board could approve it at the next meeting. Ms. Brewer noted that invitations to specific organizations are required before appointments can be made. Mr. Shaffer said that he would meet with Judith Arcamo, Mr. Wald and Ms. Brewer (as liaison to the Historical Commission) to coordinate the next steps.

**VOTED** unanimously to establish, under the provisions of Massachusetts General Law Chapter 40C, General Laws, a Local Historic District Study Committee consisting of (3-7) members, which shall make an investigation and report on the historic significance of the buildings, structures, features, sites or surroundings included in such proposed local historic district or districts as the committee may recommend, and shall submit a final report with its recommendations after a public hearing, together with a map of the proposed district or districts and a draft of the proposed bylaw to the Amherst Town Meeting.

### **Update on Questions for Department Heads**

Ms. Brewer said she was still working on her portion of the compiled questions for Department Heads

for the October 25<sup>th</sup> meeting, and would soon be getting them to Ms. Stein, as part of their collaboration on the topic. It was reaffirmed that each Department Head would be asked the same several general questions; that the Select Board members' individually-directed questions would be forwarded to the appropriate Department Heads; and that Ms. Stein and Ms. Brewer would also be identifying the questions that each Department Head should answer in writing and provide prior to the meeting.

**Action:** No action taken.

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

Mr. Shaffer reported on the following:

- His recent attendance at the International City Managers Conference in Richmond, Virginia
- The groundbreaking earlier in the day for the new LEED-certified New England Environmental building
- An intern from Isenberg School of Management cataloging undeveloped and underdeveloped properties downtown, with the goal of Mr. Shaffer meeting with owners to consider redevelopment possibilities
- A reorganization in the Police Department enabled by vacancies: shifting two mid-management positions to patrol, and shifting the dispatch director to a dispatch role, with dispatch management taken over by a Captain, to address budget issues; no layoffs were involved and no reduction in service to the community is expected
- New audio and video equipment has been installed in the Town Room for improved broadcast, paid for through the Town's contract with Comcast
- An update on a settlement of a lawsuit by an abutter to the landfill: the insurance company handling the settlement went bankrupt, the insolvency fund taking over the obligation ran out of money, and the Town has paid the final settlement through the Solid Waste Fund, which will be a Fall Town Meeting appropriation article (The Town is pursuing redress of the \$80,000 with insolvency fund.)

### **CLOSING DISCUSSION**

Mr. Weiss expressed condolences to the Espinoza family for the tragic loss of 2 year-old Abraham in last week's school bus accident.

Mr. Weiss noted that the Fall Town Meeting warrant would be signed at the October 14<sup>th</sup> (8:00 a.m.) meeting, and that the start date for Town Meeting had been moved from November 5 to November 10 at the brief non-televised Select Board meeting preceding this meeting.

### **ADJOURNMENT**

**VOTED** unanimously to adjourn the open meeting at 10:24 p.m.

-- Respectfully submitted by Stephanie O'Keeffe