

SELECTMEN'S MEETING MINUTES
March 24, 2009

Members Present: Paul Feeney, Vice Chairman
Jim Thrasher
Paul Mortenson

Others Present: Andy Gala, Town Manager
Randy Scollins, Finance Director
Marc Resnick, Town Planner
Michael Bobrowski, Blatman, Bobrowski & Mead LLC-40R
Attorney Paul DeRensis, Town Counsel
Dr. Christopher Martes, Superintendent of Schools
Paul Jackson, School Finance Director
Michael McKeon, Kaestle Boos Assoc.
Dan Murphy, Gillette Stadium
George Bell, Stadium Advisory Committee
Joel Angelico, Stadium Advisory Committee
Bob Swanson, Highway Superintendent
Phil Henderson, Chairman, Water/Sewer Commissioners

The meeting was brought to order at 7:00 p.m. by Paul Feeney, Vice Chairman.

7:00 – Citizens Input – Tom Scott and Patrick Mitchell, Foxborough High School students, were present to speak about trash cleanup day the National Honor Society is planning for Foxborough. It is a program in connection with Keep America Beautiful called “The Great American Cleanup of Foxboro”. They are organizing this program, scheduled for May 9, 9:00 a.m. to Noon, rain or shine. Tom outlined how the volunteers would work according to voting precincts to pick up trash on the roadways, parks and schools.

A brief discussion was held. Paul Feeney asked how people would sign up if one was interested in volunteering. Tom explained they were hoping to have people from various community groups such as civic and church organizations. Anyone wanting to sign up could contact the National Honor Society Trash Cleanup Committee or contact himself or Patrick. Signup forms would be made available. Jim Thrasher complimented these students on taking the leadership to arrange this program directed at the beautification of Foxborough. He also congratulated them on being members of the National Honor Society and on being accepted into the college of their choice.

7:05 – Public Hearing – Smart Growth Zoning Application – Paul Mortenson read the Public Hearing Notice. The purpose of this Public Hearing was to discuss the application to determine eligibility of the former State Hospital

property known as Chestnut Green as an overlay zoning district under the provisions of M.G.L. c40R and 760 CMR 50.00 Smart Growth Zoning.

Marc Resnick, Town Planner, explained that the first step is to submit the application, have it accepted by the State and then to adopt the 40R zoning. He said the Planning Board has plans to comply with the requirements of the statute. Mark Bobrowski, Blatman, Bobrowski & Mead, LLC, distributed an informational packet that explains what Ch. 40R is, the importance of the choice of location and density. He explained the zoning incentive for the Town. He said depending on the number of units the Town would receive an incentive payment. As an example, if there were to be 101 to 200 units, the payment would amount to \$200,000. There is also a payment of \$3,000 for each permit issued for the Smart Growth Overlay District. M. Bobrowski pointed out that the application should be submitted by March 31, 2009. Andy Gala pointed out that the zoning amendment has to be on the Warrant for the Annual Town Meeting, May 4th.

Jim Thrasher asked how many units would be included and whether units already permitted would be included as 40R units. Marc Resnick said at this time there are 110 units and those permits already issued could be included providing the developer would be amenable to going through the 40R process. Jim Thrasher pointed out that there are three developers involved and would they be likely to agree to participate and would they be asking for any special compensation from the Town for their participation. Marc Resnick said they are willing to follow through with the submittal for 40R applications and that they are now pulling permits so that the Town would be eligible. Jim Thrasher said he is in favor of Smart Growth zoning, but that he was just anticipating problems. Marc Resnick pointed out that there would be savings for the developer in terms of roadwork. Andy Gala pointed out that the PWED is a separate grant. Jim Thrasher said he wanted to be clear that at a minimum the Town would receive \$75,000 plus the \$3,000 per unit.

Paul Mortenson expressed concern that this is complicated; the amendment being lengthy and somewhat difficult for the average voter to understand without adequate time to study it. Mark Bobrowski said this Smart Growth by-law is taken from the Department of Housing & Community Development model and is tailored specifically to Foxborough. It is "pretty standard". Paul Mortenson asked if this could possibly be "pushed out" for a STM in June. Andy Gala said there are no plans for a STM in June. Mark Bobrowski pointed out that this Article is to authorize submittal only and once the Towns votes, it allows the developer to proceed and there would be another Public Hearing at that time.

Bill Grieder, Planning Board, said the Planning Board had not yet made a decision on this at this time. He said the public would get a chance to make their comments at open meetings of the Planning Board and the Advisory Committee as well as at Town Meeting. He pointed out that the Planning Board was going

to be cautious about things “falling through the cracks”. Bill also expressed concerns about how the original land reuse plan applies to the 40R. He does not want to see that getting pushed back on the time table. The Planning Board is unsure of the restraints of the 40R entitlements to not interfere with the reuse plan as then presented to the Town. He wants to bring that to the forefront. He pointed out that two of the developers talking about being a part of that have not yet purchased the land.

Motion by Jim Thrasher to close the Public Hearing. Seconded by Paul Mortenson. **Vote: 3-0-0**

Motion by Jim Thrasher that the BOS submit the Smart Growth Zoning application to the Massachusetts Department of Housing & Community Development pursuant to M.G.L. c40R and 760 CMR 59.00 for determination of eligibility as an overlay zoning district application for the former State Hospital property known as Chestnut Green by March 31, 2009. Seconded by Paul Mortenson. **Vote: 3-0-0**

7:35 – Discussion of Warrant Articles – Attorney Paul DeRensis was present to discuss Warrant Articles 15, 16, 18, 19, and 20 General By-Law changes.

Article 15 – Amend the Sewer Act – Attorney DeRensis said that Nantucket had recently enacted a similar by-law. He said the DEP is pushing for all communities to have water management plans and to set up areas that are to be sewered and those that are not to be sewered. Attorney DeRensis pointed out that Section 1 of this amendment establishes a mechanism by which the W&S Commissioners can establish a Sewer District. It also states that no other sewers may be privately constructed in any public roads. Section 2 makes it mandatory and compulsory upon the owners of property within a defined sewerage area to connect to the system. The W&S Commissioners would be able to make exceptions. Phil Henderson pointed out that in the five-year study, the critical needs areas were identified. Attorney DeRensis said that Section 3 addresses the expansion of the district and what steps must be taken should that become necessary. This would be accomplished through an amendment and approval by the DEP and enactment by Town meeting. Section 4 allows the Water & Sewer Commissioners to permit extensions or new connections, depending on capacity to serve municipal buildings or public restrooms. Attorney DeRensis said no one would have any entitlement to connect to the system.

Attorney DeRensis emphasized that this Article does not create the sewer district; it would authorize the Town at a future Town Meeting to create sewer districts through a by-law that could be tailored to the needs of the Town. Further comments were made regarding how the 40R development would play into this. Representative Barrows pointed out that if there is a sewage pipe in the district and 40R zoning is created the 40R development could tie into the system but if

the 40R is not in the district, a petition would have to be made to W&S. Such expansion would be subject to available flow.

Article 17 – Right-of-Way By-Law –Vice chairman Paul Feeney made a disclosure statement and recused himself from this discussion. Attorney DeRensis said the revised by-law enables the Town to “know where things are” in the rights-of-way and to provide protection for the Town’s property. He said the present law does not address what to do about cable providers. Attorney DeRensis pointed out that the utilities are exempt by State law. He said the position held by Verizon is that they do not need a cable license because they provide telephone service. Verizon has filed legislation to substantially modify the cable license process. Attorney DeRensis said he does not have a recommendation on this yet, but that it should be put on the Warrant. Further discussion included comments regarding fiber optics, the internet, bundling of services and the opportunity for choice of technology.

Article 18 – Street Opening and Public Work Construction – Attorney DeRensis said this Article adds a paragraph to the existing by-law regarding street openings and public works construction. It puts into the By-Law what has been the policy of the Highway Superintendent in the past to protect newly paved roadways. The BOS has the authority to hear and make exceptions in cases of hardship.

Article 19 – Excavation and Trench Safety – Attorney DeRensis said this Article is to bring the Town’s By-Laws into compliance with State statute.

Article 20 – End of Fiscal Year Transfers - Attorney DeRensis said this is a reflection of an update made previously concerning the transfer of funds within the budget at the end of the fiscal year and should be voted separately.

8:00 – High School Renovation Project – Dr. Christopher Martes, School Superintendent, Paul Jackson, Bill Yukna and Michael McKeon, Kaestle Boos, Assoc. were present to give an update on the Foxborough High School Renovation Project. A power point presentation was distributed. Michael McKeon said the purpose of the renovation project is to upgrade the performance of the school building with window replacement, a new more efficient roof replacement, HVAC upgrades, and a new fire alarm system. In addition there would be accessibility upgrades, replacement of the gym floor and Science lab renovations. He said the total cost for this project is approximately \$20,000,000. The School Dept. has made application for State reimbursement.

A general discussion ensued. Bill Yukna said this would be about a 30-month project and could be accomplished in much the same way as the renovation/addition at the Ahern School. He said the work would be done in phases and could be started this summer. The aim is to work so that disruption is limited as much as possible, therefore, they would be working around vacations

and/or through the night during certain portions of the project. Bill also explained that the State reimbursement, expected to be around 50%, is processed quite differently than when the Ahern School was done. The reimbursement is a more timely process and happens as the phases of the project are completed.

8:30 – Public Hearing – N.E. Revolution Season Games – Paul Mortenson read the Public Hearing Notice. The purpose of this Public Hearing was to review the application submitted by NPS LLC for the New England revolution games including potential international matches and potential playoff games.

Dan Murphy, Gillette Stadium, reviewed the application. Estimated attendance is 12,000 to 15,000, traffic plan has been worked out and Stadium gates would open two hours prior to Kickoff with Stadium closing time one hour after the game. George Bell, Chairman of the Stadium Advisory Committee, reported a unanimous vote to recommend approval of this application. Fire Chief Hatfield and Police Chief O’Leary also recommended approval. A brief discussion ensued relative to an outstanding invoice. Andy Gala said they were working to resolve that issue within a week or two.

Motion by Jim Thrasher to close the Public Hearing. Seconded by Paul Mortenson. **Vote: 3-0-0**

Motion by Jim Thrasher to approve the application as submitted by NPS LLC for the New England Revolution Games on the days specified and dated February 25, 2009. Seconded by Paul Mortenson. **Vote: 3-0-0**

8:45 – Public Hearing – The 14th Dalai Lama – Paul Mortenson read the Public Hearing Notice. The purpose of this Public Hearing was to review the application submitted by NPS LLC for appearance of His Holiness the 14th Dalai Lama.

Dan Murphy, Gillette Stadium, explained that the Stadium would be set up using only one side. The primary event is scheduled to start at 9:30 a.m., gates opening at 8:30 a.m., estimated attendance 5,000 to 19,000. There are two sessions scheduled. George Bell, Stadium Advisory Committee Chairman, reported that the Committee voted unanimously to recommend approval of this application. Chief O’Leary said he has been working with the Stadium and the diplomatic corp. and is not aware of any specific threats. He has no specific concerns with this event.

Motion by Paul Mortenson to close the Public Hearing. Seconded by Jim Thrasher. **Vote: 3-0-0**

Motion by Paul Mortenson to approve the application submitted by NPS LLC for the appearance of His Holiness the 14th Dalai Lama, dated February 25, 2009 and scheduled for May 2, 2009. Seconded by Jim Thrasher.

Vote: 3-0-0

9:00 – Discussion of Warrant Article #17 – Bob Swanson, Highway Superintendent, was present to discuss Article 17 General By-Law changes. Bob explained that Mass Highway had had a 5-year moratorium on street openings, however, they made a change that applies only to roadways owned by the State. The State neglected to inform the towns of this change. He said based on that, he drafted regulations so that the Town would be in line with the Mass Highway regulations. He said most of the language addresses an appeals process. Andy Gala had Town Counsel review this by-law. He questioned whether a notice provision should be part of the by-law. Jim Thrasher asked whether every effort was made to notify residents on the street to be paved. Bob said he could notify anyone connected with any work to be done on a particular street. This could be done on the web site, hand delivered and in the newspaper. Bob pointed out that only where there is new building is this really an issue.

ACTION:

Minutes - The Minutes for the Board of Selectmen's meeting of March 10, 2009 were tabled until the next scheduled meeting when all members would be present.

Invoice – Received from Deutsch/Williams an invoice for Retainer Services in the amount of \$4,083.33

Invoice – Received from Deutsch/Williams an invoice for legal services rendered through 2/28/09 in the amount of \$5,832.80.

Motion by Paul Mortenson to approve the Invoices from Deutsch/Williams for Retainer Services in the amount of \$4,083.33 and for legal services through 2/28/09 in the amount of \$5,832.80 as submitted. Seconded by Jim Thrasher.

Vote: 3-0-0

Change of Manager – Piccadilly Pub Restaurant – Received from James D. Taylor, Director of Operations for the Piccadilly Pub Restaurant, 25 Foxborough Blvd. an application for License for Change of Manager from Dawn Curran to Timothy Cleland.

Motion by Paul Mortenson to approve the application for License for Change of Manager as submitted by the Piccadilly Pub Restaurant. Seconded by Jim Thrasher. **Vote: 3-0-0**

Change of Manager – Red Robin Gourmet Burgers – Received from Red Robin Gourmet Burgers an application for Change of Manager from Michael Morrill to Gail Meyers.

Motion by Paul Mortenson to approve the application for License for Change of Manager as submitted by Missy Mantelli, Red Robin International, Inc. as submitted. Seconded by Jim Thrasher. **Vote: 3-0-0**

Renewal of Class I Auto License – Received from Hedge & Mattheis Company, 3 Phelps Drive, Foxborough an application for Class I License for the sale of second-hand Motor Vehicles.

Motion by Paul Mortenson to approve the application for a Class I License for the sale of second-hand Motor Vehicles as submitted by Hedge & Mattheis Company. Seconded by Jim Thrasher. **Vote: 3-0-0**

Installation of Telephone Pole – Received from Joel H. Fishman, Children's Advocacy Center of Norfolk County, Inc. 12 Payson Rd. a license from Verizon to install a telephone pole at 12 Payson Rd.

Motion by Jim Thrasher to approve the installation of a telephone pole at 12 Payson Rd. by Verizon as requested in the letter dated March 17, 2009 from Joel H. Fishman, Children's Advocacy Center of Norfolk County, Inc. Seconded by Paul Mortenson. **Vote: 2-0-1** (Paul Feeney abstaining.)

Received from The State-Local Partnership notice of the Suburban Coalition Annual Legislative Breakfast, April 14, 2009 at the State House, 9:30 AM to 11:30 AM. No action required.

Received from Attorney Francis J. Spillane on behalf of the Lake View Pavilion a modified Public Dance Hall License allowing the ballroom to operate up to 20 days in one month but not more than 200 days in any calendar year. Andy Gala explained the reasons for the modifications of the license.

Motion by Paul Mortenson to approve the modified license as submitted by Lake View Pavilion in a letter dated March 16, 2009 from Attorney Spillane. Seconded by Jim Thrasher. **Vote: 3-0-0**

Boyden Library Gift – Received from Jerry M. Cirillo, Boyden Library Director notice of the receipt of a gift in the amount of \$550.00 from Mayfair Realty & Development Co., Inc.

Motion by Paul Mortenson to accept the gift in the amount of \$550.00 from Mayfair Realty & Development Co., Inc., to be deposited to the Library Gift Fund. Seconded by Jim Thrasher. **Vote: 3-0-0**

Planning Board – Received from Marc Resnick, Town Planner, a Referral Form for Phase II – Payson Road Recreation Complex for a Site Plan, Public Hearing to be held at 7:45 PM, Thursday, March 19, 2009. Andy Gala apologized that this was out of date. No action required.

NEW/OLD BUSINESS

Andy Gala explained that he was scheduling an additional meeting for next Tuesday to present a balanced budget for next year and finalize an outstanding Police grievance.

Paul Mortenson asked about the application to MEPA regarding Route 1 and to have someone explain what the Town might do. Andy Gala said he would have Marc Resnick at the next meeting.

Paul Feeney said the Renewable Energy Committee has scheduled meetings for April 1, 15 and 29 at the McGinty Room; these are open meetings – anyone can attend.

Motion by Jim Thrasher to adjourn. Seconded by Paul Mortenson.

Vote: 3-0-0 Meeting adjourned at 10:00 P.M.

Lynda Walsh, Clerk