

SELECTMEN'S MEETING MINUTES
May 26, 2009

Members Present: Paul Feeney, Chairman
Lynda Walsh, Vice Chairman
Paul Mortenson, Clerk
Lorraine Brue
Larry Harrington

Others Present: Andy Gala, Town Manager
Rep. Jay Barrows
Judee Harrington – “Unsung Heroine”
Sue Thibedeau, Animal Control Officer
Conservation Commission Candidates – James Rehill and
David Will
William Varkas, Jr. – Central Wine and Spirits
Police Chief Edward O’Leary
Sergeant Richard Noonan and Michael Mackenzie
Attorney Daniel Deutsch, Town Counsel

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

Paul Feeney acknowledged Bernie Marshall, 38 Walnut Street, who asked to speak to the Community. He made a short statement about the Town and the people who work and volunteer their time to make it the place that it is. He has worked as Assistant Superintendent in the Water Department and has also been a member of the Conservation Commission. It was through his work with the Conservation Commission that he met Valerie Bataille. He asked Valerie to come forward and on bended knee he proposed to her. Of course, she said “yes”! Congratulations were extended to the couple.

7:00 – Citizens Input – Representative Jay Barrows introduced Judee Harrington as the “Unsung Heroine” of Massachusetts as she was recognized by the by the Commission on the Status of Women. He said he is so proud to have someone from Foxborough so recognized on the State level and he wanted to give her the same recognition from Foxborough. He went on to extol her service to her community and to the State, noting particularly her activity with the FACES program, raising funds for Discretionary Fund and donating her time to the Winslow Animal Sanctuary.

Bob Boette, Foxborough Conservation Commission Chairman, asked to read a letter into the record from Virginia M. Coppola, 74 Fairway Lane. A copy of the letter is attached.

Bob Hickey, 14 Baker Street, said that experience has taught him that in fairness to all applicants, the questions should be the same in spirit and the number of questions should be the same. As Chairman of the NRRC, he has had many occasions to interact with Judy Johnson and pointed out that she has been an integral member of the Commission on many occasions going above and beyond duty for the benefit of the Conservation Commission and the Town.

Bernie Marshall, 30 Walnut Street, said he met Judy Johnson when he became a member of ConCom. He said she is absolutely the most competent person that could possibly be on the Conservation Commission. All decisions that she has been involved with have been in the Town's best interest.

Debbie Giardino, 151 Main Street, questioned whether the interviews were going to cause a delay in making appointments by the Board. She pointed out that Conservation Commission does not set policy as far as she knows. She asked why this is being brought up at this time.

Paul Feeney explained that the comment made regarding Conservation Commission being a policy making board was in error; it is a statutory board and the only board that makes policy is the BOS. The ZBA, the Planning Board and Conservation Commission are boards that make differences in Town because many of their decisions are related to environmental issues, protection of wet lands and land development. A decision was made last year by the Board on a vote of 5-0 to look at these boards at the time for making appointments and to interview candidates and two weeks ago the Board decided to follow this policy. Larry Harrington said the Board is trying to establish a policy which would be available to those serving on boards and commissions so that all would know how this Board is operating.

7:05 – Dog Complaint – Ms. Natalia Stasiewicz, 15 Beach Street, came before the Board to discuss the complaint concerning violation of Dog Control Regulations. Ms. Stasiewicz stated that two dogs owned by Lori McDonald-Nolan are allowed to freely roam the neighborhood. The dogs come into her yard several times a day and they are large dogs weighing about 150 pounds each. She has young children who play in her backyard. She is very worried for the safety of her children that there would be an encounter. Ms. Stasiewicz said the owner of the dog has an electric fence in place but that does not seem to work.

Chairman Feeney asked the Board if they wished to continue with this hearing because the owner of the dogs, Lori McDonald-Nolan was not present even though a notification of the hearing was sent by certified mail to her address. The Board agreed to proceed with the hearing.

Sue Thibedeau, Animal Control Officer, gave a summary of the number of times she has received complaints against these dogs and the number of times she

has gone to Lori McDonald's home in response to complaints. Several citations have been issued and none of them paid. She said the dogs are not licensed. Ms. Thibedeau said she is requesting a criminal complaint be issued as there has been no response to the citations issued.

A discussion ensued. Andy Gala pointed out that the owner is opening herself up to great liability if the dogs cause damage. Larry Harrington commented on the matter of public safety – the dogs crossing the streets causing automobile accidents, injury to the children or damage to property. Paul Mortenson asked whether the dogs being outside made them a nuisance under the Dog Control Regulations. Sue Thibedeau recommended that an order of restraint be issued by the Board. Andy Gala asked that the recommendation by the Board should include wording of consequence if the dog licenses are not renewed.

Motion by Lynda Walsh to close the public hearing. Seconded by Larry Harrington. **Vote: 5-0-0**

A further discussion was held concerning consequences of noncompliance to further citations including banishment.

Paul Mortenson motioned that the Board find as fact, based on the testimony of Natalia Stasiewicz and Sue Thibedeau, Animal Control Officer, that the three dogs, Taz, Frosty and Roxy, have been permitted to roam in violation of Foxborough By-Laws, Article 5, Section 3, and as such are a nuisance. Seconded by Lynda Walsh. **Vote: 5-0-0**

Motion by Lynda Walsh that it be noted that Lori McDonald-Nolan was not present for the Public Hearing after being notified by certified mail. Seconded by Paul Mortenson. **Vote: 5-0-0**

Motion by Paul Mortenson that a Letter of Restraint be issued to the owner of the dogs, Lori McDonald-Nolan, which currently are a male Great Pyrenees named Taz, a male Samoyed named Frosty and a female Beagle mix named Roxy. The dogs must be at all times held on a leash by a responsible adult, secured by a cable or in a chain link pen at least 12'x12'x6' high with a solid floor, the gate padlocked to prevent release by any individual not responsible for the dogs and that non-compliance should be viewed as reason for this action including banishment of the animals and furthermore that all three dogs' licenses must be renewed. Seconded by Lynda Walsh. **Vote: 5-0-0**

8:00 – Conservation Commission Interviews – Selectwoman Lorraine Brue recused herself for personal reasons from the discussions with candidates for appointment to Conservation Commission. James Rehill, 16 Meadowview Road, came before the Board as a candidate for appointment to the Conservation Commission. He has lived in Foxborough all his life. Areas where he would like

to see changes or improvements included improved signage and walkways, a requirement that developers install catch basins for street runoff and a more practical approach to conservation. He briefly reviewed his background as a licensed master electrician. Lynda Walsh said she wanted to be sure the Board would ask the same questions as were asked of Judy Johnson although many of the questions for her related to her experience on the Commission. Paul Feeney asked what unique skills Jim would have to bring to Conservation Commission. Jim Rehill pointed out his understanding of rules and regulations and how to apply those to Conservation issues. Other than that, is his desire to be involved in issues facing Conservation. When asked about how he would act on a donation of land for conservation, he said he would consider the benefit to the Town, whether there would be expense involved for clean-up and he would look at what the land could be used for. He has helped out in other ways in Town although he had never applied for membership on any other committee. He would like to serve on Conservation and to move ahead in the areas he feels need to be addressed. He said he has not attended any of the Conservation meetings. He would be willing to accept an appointment as an alternate.

David Will, 12 Milton Lane, came before the Board as a candidate for appointment to the Conservation Commission. He has been a resident for seven years. He would like to contribute to the Town in a way other than the sports programs where he has been involved. He feels it is important to protect the land at the Town level and not be entirely dependent on protection from the State. He is interested in protecting wet lands, keeping the water resources clean and protecting property from developers to make sure they do the right thing. Lynda Walsh asked what his main objective for conservation is right now. He said to bring another voice to the Commission and make sure the lands are available for use by the residents and keeping the lands in their natural state. He has read the rules and regulations and has attended about ten meetings in the last year. He explained what he meant by natural state. He feels conservation land should be used for passive recreation. When considering whether or not to accept a gift of land for conservation he would look at any pre-existing conditions such as unpaid taxes and the gift should be something in line with the goals of the Commission. He would be willing to accept an appointment as an alternate.

8:30 – Public Hearing – Liquor License Violation – Paul Mortenson read the Public Hearing notice. The purpose of this Public Hearing is to discuss an alleged violation of the Liquor License for VARK, Inc. d/b/a Central Wine and Spirits at 50 Central Street, Foxborough, MA.

Chief O'Leary explained that a compliance check was conducted by Sergeant Richard Noonan. A violation was discovered as a result of that activity. Sergeant Noonan gave a brief description of how the compliance check was conducted. He introduced Michael Mackenzie as the underage person used for this compliance project. Mr. Mackenzie followed the guidelines established by the Alcoholic Beverage Commission.

William Varkas, Jr. said he had not had a violation in twelve years and that he was the one who committed the violation. He said he had read the report on what happened and at the "end of the day" the youth walked out of his establishment with an 18-pack of beer.

A general discussion was held with questions from the Board whether Central Wine & Spirits had been a target for these checks, how people are chosen who act as undercover agents, the time of day the incident occurred and who was in the store at that time. Mr. Varkas pointed out that he disagreed with a minor statement in the report, but that he did allow the customer to leave the store without checking an ID.

Motion by Lynda Walsh to close the Public Hearing. Seconded by Larry Harrington. **Vote: 5-0-0**

Chief O'Leary said Mr. Varkas had attended the educational seminars and over the 12 years of operation there have been no issues. He said Mr. Varkas and his employees have been on top of things and notified officers when action needed to be taken. The Chief felt a written warning is an appropriate reminder that owning a liquor license is a great challenge.

Motion by Lynda Walsh to send a Letter of Reprimand to Central Wine & Spirits, 50 Central Street Foxborough. Seconded by Lorraine Brue.

A discussion followed on whether or not a letter of reprimand would hold up in court should this violation be challenged and the fact that a three day suspension could be imposed. Larry Harrington felt that anything other than a letter of reprimand at this time would be inconsistent and would violate the Boards policy to go with the recommendation of the Chief of Police. Attorney Daniel Deutsch said to bring this to the Board of Appeals would seem unlikely given the circumstances in this instance. A Letter of Reprimand from the BOS and a recommendation by the Chief of Police would be a reasonable penalty.

Vote: 5-0-0

Discussion on Conservation Commission appointments - Lynda Walsh commented that it is great to have people fighting over being appointed to a volunteer board. She said it is also important to attend meetings of boards or committees that are of interest; it is the best way to get to know how they work. The Conservation Commission would appreciate any attendance. Lynda said she feels it would be in the Town's best interest to re-appoint Judy Johnson to the Conservation Commission. Paul Mortenson agreed that Judy Johnson is very well qualified. He thinks it is time for Conservation to go in another direction and the time is now. He would vote for one of the other candidates that have come before the Board. Larry Harrington noted that two new people have been appointed in the last two months. However, he said it is important to have someone with the appropriate background. He mentioned the fact that he had four calls objecting to

re-appointing Judy Johnson. Bob Boette also mentioned that he had a call from the Chairman of the Mansfield Conservation objecting to Judy's re-appointment. Bob was told one of the reasons among others for objection is that she is not willing to listen to the opinions of others. Bob still feels that Judy Johnson is the right person. Paul Feeney said this year the Board would look for the best person to fill a vacancy considering what is best for the future of the Town. That is the way it will be done this year.

Motion by Lynda Walsh to re-appoint Judy Johnson to the Conservation Commission, term to expire May 2012. Seconded by Paul Feeney.

Vote: 3-1-0 Paul Mortenson voting in the negative.

Valerie Bataille said she felt the Board was making a decision not on the qualifications but because they were upset with the Conservation Commission. She felt that decisions should not be made based on someone's happiness.

ACTION:

Minutes – The Minutes of the Board of Selectmen's meeting of May 12, 2009 were reviewed.

Motion by Lynda Walsh to approve the BOS Minutes of May 12, 2009 as submitted. Seconded by Larry Harrington. **Vote: 5-0-0**

Invoices – Received from Deutsch/Williams an Invoice for Retainer Services rendered during the month of May, 2009 in the amount of \$4,083.33.

Motion by Lynda Walsh to approve the Invoice from Detsch/Williams for Retainer Services rendered during the month of May, 2009 in the amount of \$4,083.33 as submitted. Seconded by Larry Harrington. **Vote: 5-0-0**

Received from Collins, Loughran & Peloquin an Invoice for services rendered April 1, 2009 through April 30, 2009 in the amount of \$4,860.00.

Motion by Lynda Walsh to approve the Invoice for services rendered during the month of April, 2009 in the amount of \$4,860.00 as submitted. Seconded by Larry Harrington. **Vote: 5-0-0**

Founders Day Invitation – Received from Monica Fisler, Parade Chairman, an invitation to the BOS to march in the Founders Day Parade scheduled for June 13, 2009.

A brief discussion was held. Larry Harrington noted that the Schools have never been invited to march. Andy would pass that suggestion on to the Parade Chairman.

Court of Honor – Received an invitation to attend a Court of Honor scheduled for May 30, 2009 to award the rank of Eagle Scout to Patrick J. Mitchell, Timothy J. Loftus and Thomas C. Scott. A member of the Board will attend. Andy Gala will have citations for each Scout.

Common Victuallers License – Received from Nicholas Panagopoulos an application for a Common Victuallers License for Honey Dew Donuts at 211 North Street.

Motion by Lynda Walsh to approve the application for a Common Victuallers License for Honey Dew Donuts at 211 North Street as submitted by Nicholas Panagopoulos. Seconded by Paul Mortenson. **Vote: 5-0-0**

Committee Appointment Renewal – Received from James F. Oliver an application for renewal of his appointment to Southeastern MA Commuter Rail Task Force, expiring 6/01/2010.
A brief discussion was held.

Motion by Paul Feeney to approve the renewal appointment for James F. Oliver to Southeastern MA Commuter Rail Task Force, expiring 6/01/2010 as submitted. Seconded by Paul Mortenson. **Vote: 5-0-0**

Committee Resignations – Received from Rita Martin notice that she declined the renewal of her appointment to the State Forest Advisory Council.

Motion by Larry Harrington to accept with gratitude the resignation of Rita Martin from the State Forest Advisory Council as submitted. Seconded by Paul Mortenson. **Vote: 5-0-0**

Received from Michael J. O'Driscoll notice that he declined the renewal of his appointment to the Renewable Energy Advisory Committee.

Motion by Larry Harrington to accept with gratitude the resignation of Michael J. O'Driscoll from the Renewable Energy Advisory Committee. Seconded by Paul Mortenson. **Vote: 5-0-0**

Joint Pole Location on North Street – Received from Paul Schneider, Verizon Manager of Right of Way a request for a Joint Pole location on North Street, Poles #7 and #8 and to remove the existing #8 pole. Andy Gala explained that a public hearing had been held on this, there were no objections.

Motion by Larry Harrington to approve the request for a Joint Pole location on North Street, Poles #7 and #8 as outlined in the letter from Verizon, dated May 6, 2009. Seconded by Paul Mortenson.
Vote: 4-0-1 (Paul Feeney abstaining)

Office Supplies Contract – Andy Gala explained that these contracts are through SERSG consortium; there are 17 participating municipalities. The contract for Office Supplies was awarded to W.B. Mason Co., Inc., Brockton for a two-year period beginning July 1, 2009.

Motion by Lynda Walsh to approve the contract for office supplies awarded to W.B. Mason Co., Inc, Brockton, MA for a two-year period commencing on July 1, 2009. Seconded by Lorraine Brue. **Vote: 5-0-0**

Paper Supplies Contract – W.B. Mason Co., Inc. was awarded the contract for Paper Supplies for a twelve month period commencing July 1, 2009.

Motion by Lynda Walsh to approve the contract award to W.B. Mason Co., Inc, Brockton, MA for a twelve month period commencing on July 1, 2009. Seconded by Larry Harrington. **Vote: 5-0-0**

SERSG DPW Supplies – Contracts for DPW Supplies were awarded under the SERSG for a twelve month period commencing July 1, 2009 as indicated on the list submitted by the Town Manager.

Motion by Paul Feeney to approve the twelve month contract awards for DPW Supplies as indicated on the list submitted by the Town Manager. Seconded by Lynda Walsh. **Vote: 5-0-0**

Ch. 40B Technical Review Assistance Application – Received from Marc Resnick a Ch. 40B Technical Review Assistance Application to be signed by the Chairman of the BOS. Andy Gala explained that this application has to be signed and filed so that a consultant can be hired. Andy said he had checked with Town Counsel on this matter.

Motion by Lynda Walsh to approve and sign the Ch. 40B Technical Review Assistance Application as submitted by Marc Resnick, Town Planner. Seconded by Larry Harrington. **Vote: 5-0-0**

Public Hearings for Special Permits – Received from Marc Resnick notice of Public Hearings for Special Permits for temporary commercial parking lots – Lot #96 – Red Fox Motel; Lot #103A – Metropac Industries and Lot #200 – Calvin and Ellen Davis. For review by the Board.

NEW/OLD BUSINESS

Larry Harrington noted from the Permanent Building Committee things are coming in under budget on the High School project. He said the Board needs to keep on top of this as there is no sense in borrowing more than is needed. Larry also distributed a list of suggested goals for the BOS for the coming fiscal year such as Strategic Planning, Budget updates, Meetings with boards and committees to which the BOS appoints members, review of possible taxpayer relief, completion of

union negotiations in a timely manner and evaluations for the Town Manager and Finance Director.

Paul Feeney asked the Board to review the minutes for the meeting of April 28, 2009. He said that on page 3, paragraph 6, a statement was recorded that was not accurate. He pointed out that Jim Thrasher had said he had concerns about the reappointment of Judy Johnson but those concerns had nothing to do with a conflict of interest. He asked that the minutes accurately reflect the statement by Jim Thrasher and asked that the referral to conflict of interest be deleted.

Motion by Paul Feeney to reconsider the earlier vote of approval for the minutes of April 28, 2009. Seconded by Paul Mortenson.

Vote: 3-0-2 (Larry Harrington and Lorraine Brue abstaining)

A brief discussion was held to amend the minutes to state that Jim Thrasher had concerns about reappointment of Judy Johnson and to strike the wording "based on possible conflict of interest".

Motion by Paul Mortenson to approve the minutes of April 28, 2009 as amended. Seconded by Lynda Walsh.

Vote: 3-0-2 (Larry Harrington and Lorraine Brue abstaining)

A further discussion ensued regarding the content of the recorded minutes, the release of Executive Session minutes and whether to establish a sub-committee to develop policy regarding appointments and re-appointments. Lorraine Brue volunteered to work with Andy Gala matter.

Motion by Lynda Walsh to go into Executive Session to discuss Deployment of Security Personnel at Gillette Stadium and to exit from Executive Session for the sole purpose of adjournment.

Vote: 5-0-0 Paul Feeney, Chairman Yes

Lynda Walsh, Vice Chairman Yes

Paul Mortenson, Clerk Yes

Lorraine Brue Yes

Larry Harrington Yes

Motion to adjourn by Larry Harrington. Seconded by Paul Mortenson

Vote: 5-0-0 Paul Feeney, Chairman Yes

Lynda Walsh, Vice Chairman Yes

Paul Mortenson, Clerk Yes

Lorraine Brue Yes

Larry Harrington Yes

Meeting adjourned at 11:00 p.m.

Paul Mortenson, Clerk



Conservation Commission

40 SOUTH STREET

FOXBOROUGH, MASSACHUSETTS 02035

MEMORANDUM

TO: Andrew Gala
Town Manager

FROM: Robert W. Boette, Chairman *RWB/elt*
Foxborough Conservation Commission

DATE: May 19, 2009

RE: Re-appointment position to Conservation Commission

The Foxborough Conservation Commission passed a unanimous motion last night at their meeting for the Conservation Commission Chairman to request the Board of Selectmen that the Commission be given an opportunity to interview the applicants that applied for a position as a Conservation Commission member during the BOS meeting on Tuesday, May 26, 2009.

The Board of Selectmen indicated at their last meeting that they would consider and support the recommendation of the Conservation Commission regarding the current position that is up for re-appointment. The Conservation Commission's process for recommending Conservation Commissioners to the Board of Selectmen has always consisted of an interview with the Conservation Commission. Therefore, in order to maintain our current process and to be able to make a fully informed recommendation, the Conservation Commission is requesting an opportunity to interview the candidates with the Board of Selectmen on May 26, 2009.

RWB/eh