

SELECTMEN'S MEETING MINUTES
August 9, 2011

Members Present: James J. DeVellis, Vice Chairman
Mark Sullivan, Clerk
Lorraine Brue
Lynda Walsh

Others Present: Kevin Paicos, Town Manager
Randy Scollins, Finance Director
Michael Johns, Veterans Service Agent
John Mitchell, Boy Scout Troop 7, Eagle Scout Candidate
Peter Solbo & Peter Smith, Volunteer Services for
Foxborough
Debbie Giardino, Director Recreation
Donna Phelan, Certified Pool Operator
Susan Thibedeau, Animal Control Officer
Michael & Beth Fitzmaurice, 50 Adams St.
Dennis Brolin, 8 Charles Samuel Way
Mr. & Mrs. Mahamed, 92 Spruce Street
Tim Cummings – 10 Fairbanks Property
Bob Boette, Conservation Commission
Bill Yukna, Chairman, Building Committee
Kaestle Boos Associates, Architects

The Meeting was brought to order at 7:00 by James J. DeVellis, Vice Chairman.

7:00 – Citizens Input: The Chairman asked the Board to take Action Item #2 out of order at this time. This is a Public Event Application for ceremonies and a 24 hour vigil to be held in honor of National POW/MIA Remembrance Day, September 16th and 17th. Michael Johns, Veterans Service Agent gave a brief explanation of the activities planned to honor National POW/MIA Remembrance Day. He introduced John Mitchell of Troop 7 whose plan it is to hold the 24 hour vigil as his Eagle Scout project. Scout Mitchell outlined his plans for this event. He said the plan includes a 24-hour vigil with “missing man table” and honor guard, in two hour shifts on Town Common. The vigil starts at 6:00 p.m., Friday, Sept. 16th. He explained “missing man table” – representing someone who will not be coming home, the glass – someone who will not be drinking and the silverware - someone who will not be eating dinner. He noted that this Day is a National Day of Recognition and has never been observed by the Town of Foxborough. He submitted detailed plans for the vigil. Michael Johns has acted as consultant and advisor for John as he organized the vigil for this event.

Motion by Mark Sullivan to allow John Mitchell of Troop 7 to hold the 24 Hour Vigil in honor of POW/MIA on September 16th and 17th as requested. Seconded by Lynda Walsh. **Vote: 4-0-0**

Veterans Fund Donation and Patriots' gifts – Bob Siteman, Chairman of the Foxborough Veterans Committee and Marine Corporal Jerome Hanley were present to acknowledge the donation from Ira Siegal, President, of The Ames Rifle & Pistol Club. At the same time a plaque from the Veterans Committee was presented honoring Robert Kraft for actions taken, including donations of team T-shirts and energy bars for Hanley's unit in Afghanistan, by the Kraft organization in support of the service men and women fighting for this Country.

Dick Heydecker came before the Board to express his issues regarding his requests for information that should be made available to the citizens of Foxborough. He has requested a large amount of material and is not satisfied with the responses of "no records available", in particular Executive Session minutes relative to wage increases. He has also requested information regarding Reserve Fund Transfers. He pointed out that he should not be billed for this information. He asked for an answer to the question on who is the custodian of records for the Town. He has not received to his satisfaction the information he has requested and asked if the Town "wants to go to court" over these matters.

Jim DeVellis, Acting Chairman, explained that the Town has been very forthcoming and there had been many very lengthy discussions on these matters. His experience has been that when one question has been addressed there are two or more things that are additionally requested. He pointed out that of the many requests made the Town has been doing its best to respond. Dick Heydecker said he is not questioning the vote of the Board; he is looking for the history behind the vote – the Executive Session minutes, and there are records and he does not see why he cannot get them. Kevin Paicos, Town Manager, pointed out that the Town has spent dozens of hours to try to respond to the many requests. He said the issue is at a point where the Town has to adhere to the public record law. The Town is allowed to charge \$0.25 per copy. Anyone can request to view the records. He pointed out that the Town is not staffed at a level where employees can do extensive research for one citizen; they cannot prepare records where records do not exist.

Massachusetts Interscholastic Athletic Association – Kevin Paicos recognized Peter Solbo, Highway Supervisor, for his participation in a volunteer outreach project in coordination with the Massachusetts Interscholastic Athletic Association and Foxborough Recreation Dept. With the help of student volunteers, Peter Solbo was instrumental in overseeing the painting of the front of Town Hall and cleanup of Cocasset River Recreation area. Those present representing MIAA were Peter Smith, Stephanie Kos, student and John Beary, teacher and coach.

Town Pool – Debbie Giardino, Director of Recreation, was present to recognize the efforts and leadership of Donna Phelan with regard to the operation of the town pool. Debbie explained that this was a very important year for trying to keep the pool open for the season. She said that Donna is a certified pool operator and her expertise has resulted in a \$12,000 saving while keeping the pool open. Kevin Paicos said he felt it was very important to bring this to the attention of the BOS and the Town. Peter St. Laurent, Board of Recreation Chairman pointed out that the Board is very pleased and grateful to have dedicated people like Debbie and Donna running the department.

7:20 – Public Hearing – Restraint of Disposal of a Golden Retriever owned by Beth Fitzmaurice. The Public Hearing Notice was read by Mark Sullivan, Clerk. The purpose of this Public Hearing is to consider the restraint or disposal of a Golden Retriever owned by Beth Fitzmaurice, 50 Adams Street. Kevin Paicos, Town Manager, pointed out that at this time there is no one present to present this issue.

Motion by Mark Sullivan to continue this hearing and to move ahead with the next scheduled public hearing. Seconded by Lorraine Brue.

Vote: 4-0-0

Public Hearing – Restraint or Disposal of Akita owned by Dennis Brolin – The Public Hearing Notice was read by Mark Sullivan, Clerk. The purpose of this Public Hearing is to consider the restraint or disposal of an Akita, a dog owned by Dennis Brolin, 8 Charles Samuel Way, Foxborough. The witnesses were sworn in by Kevin Paicos, Town Manager.

Susan Thibedeau, Animal Control Officer, read the Incident Report as submitted. Mr. and Mrs. Mahamed, 92 Spruce Street, were present. Mrs. Mahamed said the dog had killed 9 chickens that were pets of her daughter. She said Mr. Brolin has not expressed any sign of remorse or apology. She said the chickens were not free range but were in a fenced in area along with rabbits. Mr. Brolin apologized to Mrs. Mahamed and said the dogs had never harmed anyone but that they had “gotten out” on occasion. He said if there was anything he could do; he would pay for the chickens. He would try to keep the dogs confined; he hopes it would not happen again but he could not 100% say that. Mrs. Mahamed said she is not convinced that “everything is being done” to keep the dog confined.

A lengthy discussion ensued concerning the effectiveness of electric control fences, the instinct of the dog to go back to the site of the kill, the concerns for the safety of the Mahamed children, the 14-day interim order and serious consequences should there be any further instances of the dog getting loose again doing any further damage. It was suggested that an electronic fence be installed as well as a secondary electronic fence as backup.

Motion by Lynda Walsh to close the Public Hearing. Seconded by Lorraine Brue. **Vote: 4-0-0**

Motion by Lynda Walsh that as a finding of fact the Akita owned by Dennis Brolin escaped and entered the property at 92 Spruce Street and killed nine chickens. Seconded by Lorraine Brue. **Vote: 4-0-0**

Motion by Lynda Walsh that as a finding of fact the Animal Control Officer instructed that a second electric control fence to be installed. Seconded by Lorraine Brue. **Vote: 4-0-0**

Motion by Jim DeVellis that as a finding of fact this is the second incident on the 92 Spruce Street property. Seconded by Mark Sullivan. **Vote: 4-0-0**

Further discussion was held regarding whether the dog should be muzzled, the proper installation of the electronic fence, a time frame on fence installation – within 30 days and keeping the dogs restrained during that time.

Motion by Lynda Walsh that Dennis Brolin has an electronic control fence professionally installed on his property by September 9, 2011 and to be supervised by the Animal Control Officer. Seconded by Mark Sullivan.

Vote: 4-0-0

7:40 – Public Hearing – continued – Michael and Beth Fitzmaurice were sworn in by Kevin Paicos. Susan Thibedeau, Animal Control Officer read the Incident Report as submitted. Mike Fitzmaurice said that his Golden Retriever had rarely shown aggression with other dogs in the neighborhood. The dog is in the back yard tied up at all times. On this occasion the screen door did not close tightly and the dog ran out of the house. The resident who registered the complaint was unable to attend this hearing. Jim DeVellis read a letter addressed to the Board, dated Aug. 8, 2011 explaining the attack on her puppy by the Golden Retriever, Jack. (see attached letter)

A general discussion ensued. Sue Thibedeau said she would not recommend the electronic fence for this type of dog except for a back up. She explained that the way the property is “set up” there is no way the dog could be shielded from seeing other dogs in the area. She said the owners have been cooperative and taken steps to constrain the dog. It was stressed that consequences of any further incident of this kind would leave no alternative but to have the dog euthanized.

Motion by Lorraine Brue to close the Public Hearing. Seconded by Lynda Walsh. **Vote: 4-0-0**

Motion by Lorraine Brue that as a finding of fact that the Golden Retriever owned by Beth Mitzmaurice, 50 Adams Street attacked two dogs. Seconded by Mark Sullivan. **Vote: 4-0-0**

Motion by Lorraine Brue that as a finding of fact that the Animal Control Officer has suggested that an electronic control fence be installed on the perimeter of the yard as a secondary means of control. Seconded by Lynda Walsh.

Jim DeVellis amended the motion adding that as a precaution the dog be tied when outside in the yard. Seconded by Lynda Walsh.

Motion by Lorraine Brue that as a finding of fact to require an electronic fence be installed at 50 Adams Street property within 30 days of this hearing to be supervised by the Animal Control Officer. Seconded by Mark Sullivan.

Vote: 4-0-0

Susan Thibedeau said the expectation would be that the Fitzmaurices are not going to allow the dogs to be in contact with each other and that if the dog is around on a leash that a responsible adult be in charge and that the leash be a six-foot leash.

8:10 – Town Hall Project – Bill Yukna came before the Board to discuss the Town Hall Project; a visual presentation was made by an engineer from Kaestle Boos Associates. Bill was seeking approval of the Board to move ahead with the plans, either renovation or new construction, in order to bring in hard numbers on cost estimate. A lengthy discussion ensued. Lorraine Brue said she appreciates the work done by the Building Committee and “nailing down” the cost numbers will allow the building of a financing plan that could stand the scrutiny of voters in terms of financing this project. She said the Committee has done a thorough job in evaluating and discussing this project. Lorraine asked if the recommendation of the Building Committee is that new construction is the way to go for the future needs of the Town. Jim DeVellis said Kaestle Boos had done a good job looking at the needs of the departments, etc. but he is concerned about voting to spend money on final plans before knowing how to finance the project. He pointed out that part of the financing depends upon the sale of town owned properties and in the present economy that is probably not going to work. His preference would be to sell the properties, get the financing and then come back to the Board with hard cost numbers.

Bill Yukna pointed out that the design for the building is for the next 25 years. He suggested moving forward with the design plans as the project is not going to change. Kevin Paicos said the questions to ask here are – does this need to be done at all and should it be done sooner rather than later. The third part of this is for the Board to make a decision on which is the most cost effective of the plans presented. Once the Board comes to a logical conclusion, the next

question is can the Town afford it. He said the Board would not move on that at this meeting. He pointed out that it is very difficult to say what property is worth in this economy. Kevin pointed out that to put the plans together is a six to eight month process and in the meantime the Town can continue to work on financing plans. Further discussion was held regarding the possibilities for financing. Kevin Paicos said he did not want people to think something magical is going to happen; the reality is that the building needs to get fixed. He said the Town would not propose an override for this project; there are other ways to look at financing. Kevin pointed out there are certain monies around that can go to offset the costs; the Town may have to look at departmental services for potential cut backs. He said it is likely that some portion of this project will become part of the budget but it would have to fit within the budget. Jim DeVellis recommended postponement of making a decision at this time. He said the bottom line right now is that the Town cannot afford it.

Dick Heydecker said the issue here is that the building needs fixing but the question is how. He said the plan as shown by KBA is "loaded"; heavy by 4,000 sq. ft. and the contingencies are "heavy". He said there is a "lot of flack out there". Jim DeVellis said this conversation is not appropriate for this meeting. Kevin Paicos noted that if the Board is not comfortable with the discussion tonight, they might consider something else. The Building Committee's recommendation is new vs. rehabilitation. If the Board feels comfortable, make a recommendation and go to Town Meeting with plans.

Motion by Lorraine Brue to accept Option #1, new construction to build a Town Hall as recommended by the Building Committee. Seconded by Mark Sullivan. **Vote: 4-0-0**

Lynda Walsh said she would have liked to wait until Larry Harrington could have been present to support the recommendation.

8:30 – Conservation Property at 10 Fairbanks Rd. – The research on this property by Tim Cummings includes a report from Bill Casbarra, Building Commissioner, on the structural integrity of the house; deed restrictions and likelihood for sale or rental. Kevin Paicos said this is a good piece of property and doing nothing with it seems to make no sense. It becomes a negative; the Town would have to insure it, board it up, etc. - it loses its value. He suggested doing some basic repairs and rent the property. He feels the Town could get a return on the investment in 18 months.

A lengthy discussion ensued regarding possible renting of the house and the cost of necessary repairs. Bob Boette said although he does not know figures on renting property, the Conservation Commission does not want to sell the property. He would like to see the property preserved. Mark Sullivan pointed out that he had toured the property and said it is repairable but he strongly questions the rental income as suggested at this meeting. Kevin Paicos

suggested establishing a revolving account; the rent income would be deposited in the revolving account to be used by Conservation Commission for repairs, etc. Other issues discussed were Title 5 requirements, cost of replacement of the septic system and possible issues with the drinking water.

Motion by Lorraine Brue to approve the expenditure of \$20,000 for repairs on the Conservation property 10 Fairbanks subject to review of the septic system by the BOH and Building Commissioner. Seconded by Lynda Walsh.

Vote: 3-1-0 Mark Sullivan voted in the negative.

8:45 – Conservation Commission Request for Legal Services – Bob Boette submitted a formal “Request for Legal Services” for the Board’s consideration and approval. This issue pertains to the wording in the Town Manager Act, Section 4(B)(21). He thinks it is not appropriate for the Town Manager to have the authority to contradict the Conservation Commission in matters relating to land under Conservation protection. Bob would like to have the Conservation Commission added to the list of departments not under the jurisdiction of the Town Manager. Kevin Paicos agreed that the Town Manager should not have authority to contradict the Conservation Commission but in reference to the second part, he believes the Conservation Commission should not be part of a negotiating team. Bob Boette said he would withdraw the second recommendation.

A general discussion followed. Lorraine Brue said this request decentralizes Town management and flies in the face of what the voters voted for in passing the Town Manager Act. She pointed out that the Town spent a lot of money getting the Town Manager to have authority. There has been no abuse of authority. There has been no history of problems between the Town Manager and Conservation Commission, she sees no problem and “if it ain’t broke, don’t fix it”. Lynda Walsh said if the Commission needed legal counsel, the Chairman could go to the Town Manager to request the legal services. Jim DeVellis said land is given to the Commission to be stewards of the land. Kevin Paicos said it takes only ten signatures to put an issue on the Town Meeting Warrant. Mark Sullivan would like to have more time to prepare before voting on this item. This issue was put on hold for a discussion item on the agenda for the next scheduled BOS meeting.

ACTION:

Minutes: The Minutes for the Board of Selectmen’s meeting of July 28, 2011 were reviewed.

A brief discussion was held. The Minutes of July 28, 2011 were put on hold until a full Board is present.

Michael Johns – Veterans Service Agent – See Citizens Input.

Grant Application and MBTA Advisory Board Appointment –

Received from Sharon Wason, Town Planner, a \$25,000 Grant Application for signature of the BOS Chairman. The grant is to fund the preparation of a Housing Production Plan and approval of such a Plan is a priority of the Planning Board for this fiscal year.

Motion by Lorraine Brue to authorize James J. DeVellis, Acting Chairman, to sign the South Coast Rail Technical Assistance Grant Application as submitted. Seconded by Lynda Walsh. **Vote: 4-0-0**

Motion by Lynda Walsh to approve the appointment of Sharon Wason, 238 School Street, Walpole, MA to the MBTA Advisory Board. Seconded by Lorraine Brue. **Vote: 4-0-0**

Constable Appointment – Receive from Stephen Cain, 96 Old Colony Ave. #222, East Taunton, MA an application for appointment as Constable. This application was put on hold.

First & Goal – Fred Smerlas – Received from First & Goal, Fred Smerlas, a request for eight (8) one-day All Alcohol Liquor Licenses for the Patriots Tailgate Party for the 2011 Patriots regular season at 59 Washington Street. A brief discussion was held.

Motion by Lynda Walsh to approve the request for seven (7) one-day All Alcohol Liquor Licenses – 9/18, 10/09, 10/16, 11/06, 11/21, 12/04 and 12/24, 2011, time of day as submitted. Seconded by Lorraine Brue. **Vote: 4-0-0**

Town Manager – Kevin Paicos gave a brief report on the receipt of a \$10,000 check from Waxy O'Connor's.

Motion by Lorraine Brue to accept the receipt of a \$10,000 check from Waxy O'Connor's. Seconded by Lynda Walsh. **Vote: 4-0-0**

NEW/OLD BUSINESS

Kevin Paicos said he is concerned about the weighting of certain goals on the evaluation form. He pointed out that these have been completely flipped around so that goals and objectives would have very little meaning. He asked to have this on the agenda for the next meeting for discussion.

Lorraine Brue asked to have a discussion on Executive Session Minutes on the agenda for next meeting.

Motion by Lynda Walsh to adjourn. Seconded by Lorraine Brue. **Vote: 4-0-0**
Meeting adjourned at 11:15 p.m.

Mark Sullivan, Clerk