

SELECTMEN'S MEETING MINUTES
August 25, 2009

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

Others Present: Andy Gala, Town Manager
Randy Scollins, Finance Director
James Oliver – South Coast Rail
Scott Barbato – Earth Removal By-Law
Bob Boette, Conservation Commission

The meeting was brought to order at 6:00 p.m. by Paul Feeney, Chairman

6:00 – Continuing Discussion on Goals & Objectives - #25 – Fall Town Meeting – Civil Service status, PD Chief. Andy Gala said the possibility of selecting a Chief of Police in much the same manner as when the new Fire Chief was selected had been discussed in the past but it was not supported by the Town. The prospective candidate would work under an employment contract with the Town as does the present Fire Chief. Andy Gala would have a much broader pool from which to select the candidate as it would not restrict him to just three top candidates as under the Civil Service process. It would not prohibit someone from within the Department from applying.

Larry Harrington said that the real key is that the Town should have confidence in the Town administration to hire the best person for the job. He referred to the Fire Chief as a good example of the administration's ability to choose the right candidate. Suggestions were made as to who should be on a committee for recruitment. Andy Gala reminded the Board that under the Town Manager Act, the Town Manager has the responsibility and authority to hire. The BOS is not involved until the prospective candidate comes before the Board for approval. Larry Harrington wanted to make it clear to the public that Chief O'Leary has not said anything about retiring that all this discussion is in terms of planning.

#17 – Liquor License Oversight – Lorraine Brue expressed concern over the number of liquor licenses concentrated in the Town and the demands on the Public Safety Dept. A general discussion was held regarding the number and type of liquor licenses available at present, could they be awarded to businesses at Patriot Place and is it a practice to hold a license for a particular area of Town. The general feeling of the Board was that if there are licenses available, they should not be held but should be put to work for the Town in the way of revenue and jobs. It was noted that the liquor license regulations need to be updated. It was suggested that Chief O'Leary be present during a discussion of that nature.

A brief discussion was held on where the Town is strategically regarding Water & Sewer and the Highway Dept. and how that impacts road repair and maintenance. Lynda Walsh pointed out that Mike Stanton, W&S, would like to see a long range plan in place that would deal with road repair and maintenance and to work with the Highway Dept. along those lines. Bob Swanson said it is not just W&S, it often is the gas company; he never knows when new gas lines are going to be installed. Referring to a restriction on cutting into new pavement, Bob Swanson said that he had to issue a waiver to only one citizen but it is different in case of an emergency. He said coordination with W&S is critical to road maintenance.

#4 – Strategy for maintenance/renovation of all Town Buildings - A lengthy discussion was held on the renovation of the Town Hall and other Town owned buildings including the three elementary schools. Larry Harrington suggested having a separate task force working with the School Department and the Town to determine the approximate cost on all the Town buildings and to plan so that when revenue ratings allow the Town will have a plan and can be proactive. It is a huge project and will require long range planning. Andy Gala pointed out that the Library would come before the Board to discuss alternatives to their original expansion plan. Lynda Walsh pointed out that Mark Sullivan had worked with Bill Casbarra on the cost to renovate the Town Hall. Other suggestions were made on how to approach a project like this, what the priorities are, what the cost would be, how it would be funded and the time frame. Larry Harrington pointed out that these discussions are helpful in understanding the magnitude of such projects. The idea of a sub-committee was put forth to be appointed to work with Andy Gala and Randy Scollins to get things started and to possibly seek help from the Permanent Building Committee.

Motion by Larry Harrington to form a sub-committee of Paul Mortenson and Paul Feeney to work with Andy Gala and Randy Scollins to initiate a long range plan for renovation of all Town buildings. Seconded by Lynda Walsh. **Vote: 5-0-0**

7:00 – Citizens Input – A moment of silence was observed recognizing the passing of George Young former health agent, August 19, 2009.

Chief Edward O'Leary commended his staff for a job well done at the Stadium during the Country Music Festival. He said officers and staff did an outstanding job under difficult conditions all doing their job in a professional manner. He said there were some issues with traffic on some of the roads where citizens had difficulty getting to their homes. He would be working on those problems to resolve them before the next concert. Larry Harrington noted that the Chief had to deal with underage drinking on an island in the Neponset Reservoir over the weekend. The Chief said that in the end everybody was accounted for and there were no tragedies.

The Board questioned the Chief about penalties connected with underage drinking. There is a penalty of a fine of \$200 plus community service as well as an educational program. The discussion continued with thoughts on stronger penalties,

stressing the need for making the right decisions and parents need to accept responsibility.

Hector Ballon, 153 North Street, commented on the re-appointment of Attorney Paul DeRensis for a one-year term as Town Counsel. He said there are too many questions regarding billing that have not been answered and he suggested that the Board have strong discussions in this regard before making a decision and the public should be made aware of what is going on.

Residents on Meadowview Rd. were present to discuss traffic issues on their street. Paul Mortenson met with the residents and concurred that they "have a good case" there are no sidewalks and traffic moves too fast. He suggested a meeting be arranged with Andy Gala, Bob Swanson and Chief O'Leary to seek a solution to the issues raised by the residents. Andy Gala pointed out that Bob Swanson is very familiar with what signage would be approved by Mass Highway and that whatever the answer is, it has to be enforceable by the Police Dept.

7:05 – Update on South Coast Rail – Paul Feeney gave a brief review of the South Coast Rail project. James Oliver is the Foxborough representative on the Task Force of Southeastern Massachusetts Commuter Rail Task Force. Before he gave the update on the South Coast Rail project, he asked to discuss a few other issues that he feels need to be addressed. He asked for input on the unfinished sidewalk on Baker Street to Chestnut Street. Andy Gala explained that the sidewalk is not complete at this time as there is some question regarding the location of utility poles. Jim Oliver asked whether or not the buildings in the Chestnut Green development are handicapped accessible. Bill Casbarra explained that they all have vertical access and that all the residential units are designed to be made accessible. Another issue that concerns Jim is the service provided by GATRA. He said the door to door service is fantastic except for the hours. There is no service after 3:30 p.m. and many doctor's visits go beyond that hour. He explained that the service from the Senior Center via Van Go does not include out of town appointments.

James Oliver distributed copies of a book on the South Coast Rail project. He had marked some pages that give specific information that he felt pertinent to Foxborough. He said there would be no commuter station in Foxborough.

7:20 – Accept Low Bid for High School Bond – Randy Scollins, Finance Director and Lisa Sinkus, Town Treasurer, were present to discuss High School bond process. Randy reported that Fidelity Capital Market had submitted the winning bid at an interest rate of 3.345%. At this point Paul Mortenson recused himself from this discussion. Randy was pleased to announce that the Town has a credit rating of AA+. He handed out financial charts showing the amount to be bonded at \$10,400,000.00 over a twenty-year period, the average cost to home owners works out to be \$98.97 per year. A brief discussion ensued regarding changes in the way

the State reimbursement is paid to the Town and the reason and advantage for switching to Standard & Poor's Rating Group from Moody's.

Motion of the Board of Selectmen. (Text of the motion to follow at the end of the meeting minutes.) Seconded by Larry Harrington.

Vote: 4-0-0 (Paul Mortenson recused.)

ACTION:

Enforcement of Earth Removal By-Law – Andy Gala asked the BOS to move to designate enforcement agents to carry out enforcement of the Earth Removal By-Law. He also asked that the Board ratify the August 5, 2009 cease and desist order to Mr. Scott Barbato, 204 East Street, Foxborough. A brief discussion was held.

Motion by Paul Mortenson to designate the Town Manager, the Building Commissioner and the Chief of Police as enforcement agents to carry out implementation and enforcement of the provisions of the Earth Removal By-Law. Seconded by Lynda Walsh. **Vote: 5-0-0**

As to ratifying the cease and desist order, Larry Harrington does not feel comfortable with that until he knows and understands what he is asked to ratify. He asked why this was not put on the agenda for a public hearing when all persons concerned could have the opportunity to speak. Andy Gala said the Board has to rely on the work that has previously been done about this issue. Paul Feeny would like to have the opportunity to discuss and question those involved. He is not comfortable ratifying something that has been done without putting it on the agenda. Paul Mortenson asked if the Board would be amenable to having someone meet with the parties involved and then come back at a later date to address the issue again. Lorraine Brue pointed out that a cease and desist order has been issued and that nothing can be accomplished by not ratifying the letter. In her opinion, the letter is just a formality. Paul Feeny noted that this is a question of procedure.

Motion by Paul Mortenson that Paul Feeny and Paul Mortenson meet with Scott Barbato, Andy Gala, Police Chief O'Leary and Bob Boette, Conservation, to discuss the cease and desist order with no promises other than to have a meeting. Seconded by Larry Harrington.

Vote: 4-1-0 (Lorraine Brue voting in the negative.)

Conservation Commission Resignation – Received from Bernie Marshall a letter of resignation from the Conservation Commission as he has accepted the position as Water Superintendent for the Town of Tisbury Water Works, dated August 18, 2009. Bob Boette spoke of two people who are interested in being considered as a candidate to fill Bernie's term. Lorraine Brue suggested bringing in candidates for interviews.

Motion by Paul Mortenson to accept the resignation of Bernie Marshall as requested in his letter dated August 18, 2009. Seconded by Lynda Walsh.

Vote: 5-0-0

Minutes – The Minutes for the Board of Selectmen's Meeting of July 28, and August 11, 2009 were reviewed.

Motion by Lynda Walsh to approve the Minutes of July 28, 2009 as amended. Seconded by Paul Mortenson. A brief discussion was held. **Vote: 5-0-0**

Motion by Paul Mortenson to approve the Minutes of August 11, 2009 as submitted. Seconded by Lynda Walsh. **Vote: 5-0-0**

Legal Invoice – Received from Attorney Peter J. Epstein an invoice for services rendered during the month of July, 2009 in the amount of \$2,260.00. A brief discussion was held.

Motion by Lynda Walsh to approve the invoice in the amount of \$2,260.00 for legal services as submitted by Attorney Peter J. Epstein. Seconded by Paul Mortenson. **Vote: 5-0-0**

Legal Invoice – Retainer Services – Received from Deutsch/Williams an invoice in the amount of \$4,083.33 for retainer services for the month of August, 2009. A brief discussion was held. Andy Gala said that in addition to the August invoice, he asked the Board to approve payment for the July, 2009 retainer fee. The July payment had not been made because Deutsch/Williams had neglected to send the invoice until recently.

Motion by Paul Mortenson to approve the invoice in the amount of \$4,083.33 for retainer services for the month of August as well as the retainer services for the month of July, 2009 in the amount of \$4,083.33. Seconded by Lorraine Brue. **Vote: 5-0-0**

Legal Invoice – Received from Deutsch/Williams an invoice in the amount of \$6,506.26 for services rendered through 7/31/09. A lengthy discussion was held regarding the details of this bill. There were questions about the itemized services/charges, the cost of the overall services paid during the 2009 fiscal year and what services fall under the Retainer agreement.

Motion by Paul Mortenson to approve the invoice in the amount of \$6,506.26 for legal services rendered as submitted by Deutsch/Williams dated August 17, 2009. Seconded by Lorraine Brue. **Vote: 2-3-0**

Motion by Paul Feeney to table the invoice from Deutsch/Williams, dated August 17, 2009, in the amount of \$6,506.26 until the meeting of September 9, 2009. Seconded by Lynda Walsh. **Vote: 3-0-2**

Foxboro Cable Access – Received from Foxboro Cable Access a check in the amount of \$5,000.00 to be placed in the TV legal fees fund.

Motion by Paul Mortenson to accept the check for \$5,000.00 from Foxboro Cable Access to be placed in the TV legal fees fund. Seconded by Paul Feeney.

Vote: 5-0-0

Meadowview Rd. – See Citizens Input.

Cable TV Licensing Process – Andy Gala submitted a letter to Geoffrey Why, Commissioner, Mass Dept. of Telecommunications & Cable to be signed by the BOS as the Issuing Authority as notification to initiate the cable television licensing process in Foxborough.

Motion by Paul Feeney to approve and authorize the letter to be sent to Geoffrey Why, Commissioner, Dept. of Telecommunications and Cable as submitted by Town Manager, dated August 25, 2009. Seconded by Paul Mortenson.

Vote: 5-0-0

Commercial Parking – Received from Rodman Ford Sales, Inc. an application for Commercial Parking for Lot #75 with 75 spaces.

Motion by Lynda Walsh to approve the application for a Commercial Parking License as submitted by Rodman Ford Sales. Seconded by Paul Mortenson.

Vote: 5-0-0

Extended Weekend Hours – Lake View Pavilion – Received from Anastasia Tsoumbanos a request for an earlier extension of Saturday and Sunday liquor license, from 12:00 noon to 11:00 a.m. The serving of liquor would be in conjunction with food service. A brief discussion was held concerning the requests from others for extended hours and consistency in granting these requests.

Motion by Paul Mortenson to allow Lake View Pavilion to open at 11:00 a.m. during the Patriots home games with the caveat that liquor would only be served with food. Seconded by Lynda Walsh. **Vote: 5-0-0**

Employee Insurance Advisory Committee Resignation – Received from Arthur F. Reynolds, Jr. notice of his resignation from the Employee Insurance Advisory Committee.

Motion by Paul Mortenson to accept the resignation of Arthur F. Reynolds, Jr. as submitted in his letter of 08/11/ 2009. **Vote: 5-0-0**

Town Asset Review Committee – One Year Appointments:

Bill Casbarra
Kevin Weinfeld
Bill Yukna
Randy Scollins
Lorraine Brue
Gary Whitehouse

Lorraine Brue circulated a proposed two phased approach as a guideline for determining the tax potential for property not currently on the tax rolls.

Motion by Paul Mortenson to approve the appointments to the Town Asset Review Committee to expire May 1, 2010 as submitted. Seconded by Larry Harrington. **Vote: 5-0-0**

Re-appointment of Town Counsel for a One-Year Term – Attorney Paul R. DeRensis' appointment as Town Counsel for a term to expire August 12, 2010 to be approved by the BOS. This action item elicited a lengthy discussion. The discussion included concerns about the publicity regarding billing for services, staying within the budget, some history of legal budget transfers, the value of services provided and a desire for more open dialog regarding the legal budget and services rendered.

Motion by Paul Mortenson to approve the re-appointment of Attorney Paul R. DeRensis as Town Counsel for a term to expire August 12, 2010. Seconded by Lorraine Brue. **Vote: 4-1-0** (Larry Harrington voted in the negative)

Pole Relocations of Chestnut Street – Received from National Grid and Mass Electric a request to relocate Poles 930 and 931 on Chestnut Street.

Motion by Larry Harrington to approve the request from Nationalgrid and Mass Electric to relocate Poles 930 and 931 as submitted. Seconded by Lorraine Brue. **Vote: 5-0-0**

NEW/OLD BUSINESS:

Lynda Walsh commented on the issue of the sound volume for the Town Meeting pointing out that someone should be responsible for making sure everything is ready for a public meeting. She had received some comments that the Advisory Committee recommendations were not published in the newspaper. Paul Feeny raised a question about scheduling an executive session meeting with the Kraft group

concerning the NFL licenses. Brief comments were made regarding by-law changes and input from the Planning Board.

Motion by Lynda Walsh to go into Executive Session to review and approve Executive Session Minutes and to exit for the sole purpose of adjournment. Seconded by Paul Mortenson.

Vote: 5-0-0	Paul Feeney, Chairman	Yes
	Lynda Walsh, Vice Chairman	Yes
	Paul Mortenson	Yes
	Lorraine Brue	Yes
	Larry Harrington	Yes

Meeting adjourned at 10:45 p.m.

Paul Mortenson, Clerk

Vote of the Board of Selectmen to follow on next page.

VOTE OF THE BOARD OF SELECTMEN

I, the Clerk of the Board of Selectmen of the Town of Foxborough, Massachusetts (the "Town"), certify that at a meeting of the board held August 25, 2009, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were passed by a majority of the board, all of which appears upon the official record of the board in my custody:

Voted: that the sale of the \$10,400,000 General Obligation School Bonds of 2009 of the Town dated September 1, 2009 (the "Bonds"), to Fidelity Capital Markets at the price of \$10,492,705.60 and accrued interest is hereby approved and confirmed. The Bonds shall be payable on September 1 of the years and in the principal amounts and bear interest at the respective rates, as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2010	\$520,000	3.00%	2020	\$520,000	3.00%
2011	520,000	2.00	2021	520,000	3.25
2012	520,000	2.00	2022	520,000	3.50
2013	520,000	2.00	2023	520,000	3.50
2014	520,000	2.125	2024	520,000	3.75
2015	520,000	3.75	2025	520,000	4.00
2016	520,000	2.50	2026	520,000	4.00
2017	520,000	2.75	2027	520,000	4.00
2018	520,000	3.00	2028	520,000	4.00
2019	520,000	3.00	2029	520,000	4.00

Further Voted: that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated August 17, 2009, and a final Official Statement dated August 25, 2009 (the "Official Statement"), each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Bonds shall be subject to redemption, at the option of the Town, upon such terms and conditions as are set forth in the Official Statement.

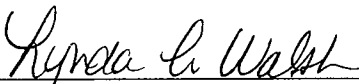
Further Voted: that the consent to the financial advisor bidding for the Bonds, as executed prior to the bidding for the Bonds, is hereby confirmed.

Further Voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a continuing disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Bonds, as applicable, for the benefit of the holders of the Bonds from time to time.

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that notice stating the place, date and time of the meeting was filed with the Town Clerk and a copy thereof posted in the office of the Town Clerk or on the principal official bulletin board of the Town at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Bonds were taken in executive session, and that the official record of the meeting was made available to the public promptly and remains available to the public, all in accordance with G.L. c.39, s.23B as amended.

Dated: August 25, 2009



Clerk of the Board of Selectmen

BOS111 12409576.1

Approved 4-0