

A Regular meeting of the Board of Selectmen was held on Tuesday, November 2, 2010, beginning at 7:30 p.m. in the Main Meeting Room of the Town Hall. Mr. Timson was absent. The following member were present.

Nancy Mackenzie, Chairman  
Eric Kraus, Vice Chairman  
Michael Berry, Clerk  
Clifton Snuffer

Also Present  
Michael Boynton, Town Administrator

Mrs. Mackenzie called the meeting to order at 7:30 p.m.

### **ANNOUNCEMENTS**

Veteran's Day Observance, November 11 at 11 a.m. on the common. The guest speaker is LT Col Phil Macchi Jr.

8:30 p.m. OPEN FORUM

No one present.

### **AGENDA**

#### 11-1 Bernie Goba, Seeking Housing Partnership Membership

Bernie Goba Serves on PBC and Chairman of the EDIC. He does have the time and experience to volunteer his time and would like to serve on this committee.

MOTION moved by Mr. Kraus to appoint Bernie Goba to the Housing Partnership Committee as a regular member, seconded by Mr. Berry, VOTED 4-0-0

#### 11-2, 11-3 Ponds Committee Membership

Both Michael Mansen and Matthew Fearnley are seeking appointment to the Ponds Committee.

Michael Mansen was a big part of the Turner Pond clean up. Matthew would like to contribute, and use the ponds and trails. I love to be part of it.

MOTION moved by Mr. Kraus to appoint Michael Mansen to Ponds Committee as associate member, seconded by Mr. Berry, VOTED 4-0-0

MOTION moved by Mr. Kraus to appoint Matthew Fearnley to Ponds Committee as an associate member, seconded by Mr. Berry, VOTED 4-0-0

#### 11-4 Hollingsworth and Vose (H&V), Curb Cut Permit

Attorney Macchi representing H&V introduced Deidra Murphy and Del Mayer who works with her. He submitted a memo in September to the Board and H&V feel they own the property adjacent to and the blocks are partially on it. There was a comment made at the last meeting J. Anderson did search back to 1898 it appeared that some were on H&V and some on Chestnut. A 1941 Plan shows all the blocks on H&V property.

There had been some question about negotiations with Mr. Viano raised at the previous meeting on September 21. Only gave you that what we could document in writing, there were also multiple phone calls. They have asked Mr. Viano provide them with something to show he owns it, and the only thing he would show were the agreements with the town and we do not feel that is sufficient. This issue came up with the ZBA. They continued to negotiate with Mr. Viano and he said he wanted \$100,000. Nothing was ever given to them showing proof that Mr. Viano owns the blocks.

They are asking for a curb cut permit, and some blocks will be moved. To impose conditions upon H&V would be an unconscionable act. They plan to abide by the stie plan.

Mr. Kraus wanted to know what proof they have that he does not own it. Attorney Macchi stated if you went and bought a house, you will get a deed, the only one that has a document like that is H&V. By the deed it says together with. If you wanted to retain, you would have to reserve a right. I have some blocks on the land, I want to reserve rights. There is no such thing. The reason they met with Mr. Viano was the Town's agreement with Mr. Viano. The original agreement expressed Mr. Viano's interest in the blocks.

Mr. Snuffer stated that it his opinion, the town did not enter into the agreement with appropriate amount of evidentiary. We have nothing that proves he owns it. How does the Town be held harmless in this disagreement, you have an agreement and amended, it is not binding on a subsequent board. If there is a public safety issue you can terminate it.

The board members felt it was difficult to make a decision without proof of ownership. To determine ownership a full blown title search back to the 1800's would be necessary. The funds for the PWED were very limited and the document looked good, so the town did not do a title search. It was asked why H&V does not do a title search.

Attorney Macchi questioned why Mr. Viano is not being asked to do the same thing.

Mr. Kraus noted that H&V is asking the Board to do something without definitive proof, we just want proof you own it. He wants to develop that site, he wants definitive proof about ownership.. If it is \$4,000 dollars to do it, why not just do it and get it over with.

Deidra from H&V explained they have already spent a significant amount of money on title search. They would be happy to provide any of the Title search they did. They have a deed. They feel they are on solid ground with the deed from Bird

Mr. Berry during 2006 you were in negotiations with Mr. Viano and then broke off. Attorney Macchi explained they were looking for proof of ownership and he could not produce anything but the agreement with the town. If you look at your own records, the town has not proof that he owns what he conveyed to you.

Attorney Macchi noted the question is you have 1898 plan and a 1941 plan that differ. The foundation blocks are going to be on H&V property. Relying on the 1941 plan I would say they own them all. The 1898 plan is the blocks are owned by the town.

Mr. Viano stated he got a deed in 1989 from Consolidated Rail, the bridges, tracks and appurtenance. It is the law, Consolidated was careful to convey out the bridges to February Realty Trust, I conveyed by release deed and bill of sale and that was recorded and Attorney Macchi was counsel. The deed of the land that H&V owns from February Realty is a parcel of land and appurtenance located on the parcel. The bridge was not located on the parcel. H&V did not get that bridge and they did not want it. There have been no negotiations.

Talked about the agreement with the town we wanted to maintain this access. That is what the town said at the time, My counsel who has reviewed it. The only way they could have gotten this is through me. The blocks are in the public way, the town has acknowledged their mine. It is not my place to proof that I own what I own. They could have asked the curb cut permit three years ago. They are trying to get this access for nothing. We have title and we will defend if someone tries to take it away.

Mr. Viano explained at the urging of the E. Walpole Civic Association he contacted Attorney Macchi and told him he is willing to meet with them. Attorney Macchi stated they have asked for proof of ownership and they will not bargain against themselves.

Attorney Macchi informed the Board his clients wish to withdraw the curb cut permit application and will not go forward with the project. Mr. Snuffer asked if he is withdrawing without prejudice. Attorney Macchi responded yes.

MOTION moved by Mr. Snuffer to accept the withdrawing of the application of the curb cut permit from Hollingsworth and Vose without prejudice, seconded by Mr. Berry, VOTED 4-0-0

11-5 General Obligation Municipal Purpose Loan, 2010 Bonds

Mark Good, Finance Director explained he received three bids for a \$1, 150,000 10-year bond issue. Proceeds from the Bond will fund the Delaney Treatment Plant Phase II, the Bird Middle School Roof Repair, and Road Repair III. Moody’s Investors Service has affirmed the bond rating of A22 after an examination of Town’s financial position. He explained a grant in the amount of \$200,000 was approved by the School building Authority and proceeds from the grant will fund the balance of the project cost.

Mr. Snuffer commented on the nice work on the consolidation, with respect to the treatment plant and our S&W runs on a enterprise fund, borrowing costs do they come out of the enterprise fund? Mr. Good explained if we were doing a straight band it would come out of enterprise fund.

Mr. Snuffer wanted to know how should the rate payer look at this. Mr. Good explained the 1.2 million in retained earnings is inflated because of the Chambers. In 2002 we were running a deficit. If we have a balance of \$500,000 I think it is adequate, you got 53 million in appreciated equipment. You have critical assets there, you may want to have a rainy day fund,

Mr. Snuffer would like to have discussion on the enterprise fund.

**MOTION** moved by Mr. Kraus that the sale of the \$1,150,000 General Obligation Municipal Purpose Loan of 2010 Bonds of the Town dated November 1, 2010 (the "Bonds"), to Eastern Bank Capital Markets at the price of \$1,203,927 and accrued interest is hereby approved and confirmed. The Bonds shall be payable on November 1 of the years and in the principal amounts and bear interest at the respective rates, as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2011	\$130,000	2.00%	2016	\$100,000	3.00%
2012	130,000	2.00	2017	100,000	3.00
2013	130,000	2.00	2018	100,000	3.00
2014	130,000	2.50	2019	100,000	3.00
2015	130,000	2.50	2020	100,000	3.00

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 October 13, 2010, as amended on October 19, 2010, and a final Official Statement dated October 20, 2010, 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 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 maybe approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Bonds 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.

seconded by Nancy Mackenzie VOTED 4-0-0

Gift Acceptance

MOTION moved by Mr. Kraus to accept with gratitude the gift in the amount of \$25 from Vikki Cunningham for the Pond Gift Account, seconded by Mr. Mackenzie VOTED 4-0-0

11-7-11-9 Adopt a field Policy, Sponsor an Island and Field Use

Mr. Kraus thanked everyone for their involvement. This in no way is saying that our DPW does not do a great job. Mr. Snuffer agreed that they are great working with others.

\*\*Note that the proposed new Sections need to be renumbered as there is already a Section 408. They will be 409, 410 and 411.

Adopt-A-Field Policy

11-7 MOTION moved by Mr. Kraus to adopt Section 410 Adopt a Field Policy and insert into the Board of Selectmen's Policies and Procedures, seconded by Mrs. Mackenzie, VOTED 4-0-0

Sponsor an Island Policy

11-8 MOTION moved by Mr. Kraus to adopt Section 409 Sponsor an Island Policy and insert into the Board of Selectmen's Policies and Procedures, seconded by Mr. Berry, VOTED 4-0-0

Field Use & Scheduling Policy

11-9 MOTION moved by Mr. Kraus to adopt Section 411 Field Use & Scheduling Policy and insert into the Board of Selectmen's Policies and Procedures, seconded by Mrs. Mackenzie, VOTED 4-0-0

11-11 Revised Job Descriptions

Senior Clerk, Asst. Supt of Highway, Veteran Agent and Deputy Police Chief.

Mr. Boynton spoke to the amendments to the aforementioned job descriptions. The Senior Clerk position has been changed to Town Clerk/Animal Control and is no longer assisting the Veteran's Agent. The Veteran's Agent is a full time position. The Asst. Superintendent of Highways now must cover for the Superintendent in his/her absences and the Board had already approved the changes to the Deputy Police Chief description.

MOTION moved by Mr. Kraus to approve and sign the job description for Senior Clerk, seconded by Mr. Snuffer, VOTED 4-0-0

MOTION moved by Mr. Kraus to approve and sign the Asst. Superintendent of Highways, seconded by Mr. Snuffer, VOTED 4-0-0

MOTION moved by Mr. Kraus to approve the change to the Veterans Agent and sign, seconded by Mr. Snuffer, VOTED 4-0-0

11-12 2011 Meeting Schedule

The Board was presented with a draft 2011 meeting schedule. It continues with every other Tuesday from this year.

MOTION moved by Mr. Kraus to approve the meeting schedule, seconded by Mr. Berry, VOTED 4-0-0

11-13 Special New Years Eve Hours

MOTION moved by Mrs. Mackenzie that on New Year's Eve, no alcoholic beverages be served after 2:00 a.m. that all outside lights be turned off at a closing hour of 2:00 a.m.. All patrons to have vacated the premises both in and out by 2:30 a.m. and doors locked. The only persons permitted on the premises after 2:30 a.m. would be the licensee or the employees to perform some task or other work pertaining to the premises' business seconded by Mr. Kraus, VOTED 4-0-0

11-14 One Day liquor

MOTION moved by Mr. Kraus to approve the one day liquor license for the Knights of Columbus, seconded by Mrs. Mackenzie, VOTED 4-0-0

Labor Counsel

Kevin Feeley has left Collins, Loughran & Peloquin, PC and the town has had him since he was with the previous firm. Mr. Boynton noted the board had appointed him temporarily at the last meeting and he asks the Board to appoint Kevin Feeley, Feeley and Brown as Labor Counsel.

MOTION moved by Mr. Kraus to appoint Kevin Feeley, Feeley and Brown as the Town of Walpole Labor Counsel, seconded by Mr. Berry, VOTED 4-0-0

11-10 Towing Regulations

Mr. Boynton spoke to the last discussion about towing regulations it was noted the regulations have not been updated since 1978. They have added an application process and consider the cost of the process, administrative fee of \$250. The Board has one incomplete application. These regulations should be in place. They are more update changes.

Chief Stillman had contacted surrounding towns to review their regulations and he noted theirs were just as outdated as Walpole's and they are asking for us to send them a copy of our new regulations once they are finalized. They reached out to the current vendors, Chris's Towing and Assured Collision and asked for input from them as well. Some of their suggestions have been incorporated.

Mr. Boynton noted they did not have an application process. By putting this in place you have established there is an application. It requires an affidavit, that all regulations are in effect are complied with at time of application.

Mr. Berry questioned if the Town was limiting the number of companies that could tow. The Chief felt that was the Selectmen's purview. Mr. Snuffer noted that suitability of the site is part of the process. He would like to see the application go to the Police Chief and Town Administrator as well.

Mrs. Mackenzie would like to see design review. She is concerned the applicants will retrofit a building and on not meet limited site plan. She feels it is site specific.

Mr. Kraus spoke to aesthetics being his concern. What would the Board do if the site begins to look like a junkyard? He would like something in the regulations which reflect that. He does not want to create an eyesore for the town. He would want to know what type of fencing, what you would see in the front of the facility etc.

Mr. Kraus wants to see something in regards to aesthetics.

Mr. Boynton will incorporate the recommendations of the Board members.

Town Administrator's Update

MIIA insurance safety grant award- our premiums have gone down

Norfolk St- Maggie Walker and Stephanie Mercandetti have been working to put together the FEMA document. We are soliciting funds from Federal Government to design flooding mitigation

MPIC Downtown & Campus Revitalization Grant Filing- Stephanie Mercandetti and Don Johnson worked on the downtown and campus revitalization grant.

FY2012 Budget Process- Personnel will be looking at recommendations for non union raises.

Electronic Billing- Suggestion to do electronic billing, Mr. Good will come in to talk about that. Mr. Snuffer noted security would be a must. We will develop two major policies one about securities and major disaster recovery policy.

Veterans Day-Celebration will take place on the common at 11a.m., Senator Brown will be in attendance.

Town of Walpole business breakfast is Thursday November 18<sup>th</sup> at the Walpole Country Club at 7:30 a.m.

**OLD BUSINESS**

Mr. Snuffer is opposed to females staying at HFLW overnight. Mrs. Mackenzie would like to find out from the state how they can be involved.

**NEW BUSINESS**

Mr. Snuffer spoke of the public hearing on stopping the sale of cigarettes at stores that sell pharmaceuticals. He finds it an infringement on our civil liberties, I am going to push that issue with the Board of Health.

Mr. Snuffer spoke of a recent article he read about the Town of Randolph. Their public safety unions reached an agreement that was tied to the income growth of the town. He has asked that we bring that up at some point.

Mr. Boynton explained the cost of living raises would fall ½% behind what the actual growth is. What are they determining on revenue growth? Are they using the DOR number. I am not sure what benchmark they are using.

Mr. Berry echoes Mr. Snuffer's thought on the Board of Health and happy to join him advocating on that. I think those issues are left on Beacon Hill. Mr. Snuffer had called all four of the managers of the stores involved and you can imagine the gag orders on the people.

Mrs. Mackenzie suggested we have one meeting a year to invite all the Eagle scouts to get their proclamations.

**MINUTES**

MOTION moved by Mr. Kraus to accept the minutes of September 21, 2010, September 28, 2010, Oct 5, 2010 and October 19, 2010, seconded by Mrs. Mackenzie VOTED 4-0-0

MOTION moved by Mr. Kraus to approve the executive session minutes of September 7, 2010, #2 and not for release, seconded by Mr. Snuffer, VOTED 3-0-1, (Mrs. Mackenzie abstained as she was not present at the meeting).

Approved November 30, 2010

MOTION moved by Mr. Kraus to adjourn at 9:10 seconded by Mr. Berry, VOTED 4-0-0

Respectfully submitted,

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Michael Berry, Clerk

Prepared by Cindy Berube, Administrative Secretary