

SELECTMEN'S MEETING MINUTES
June 23, 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
Lori McDonald-Nolan
Robert Hickey, Neponset Reservoir Dam
Conservation Commission Members
Attorney Ross
Lynn Foell, Cable TV Advisory Committee
Attorney Peter Epstein

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

7:00 – Citizens Input - No one present for Citizens Input.

Larry Harrington asked about notifying the Town Manager by July 1st regarding renewal of his contract or the intent to renew. He noted that it was not on the agenda. He asked if it could be discussed at this point or under new business. Larry pointed out that the Board should make sure there is enough time to do it. If nothing is done, the contract automatically extends for a full year. Larry feels the Board owes it to Andy to discuss what the intentions of the Board rather than just let it automatically roll over. Paul Feeney said it would be discussed under New Business.

7:05 – Curbside Collection and Recycling Contract – Randy Scollins, Finance Director, reported that successful renegotiations had been completed with American Waste Services for a three year renewal contract for curbside trash collection and recycling. The Town has had good experience with this company for several years. Changes are 3% increase in the first year with 2nd and 3rd years increases based on CPI adjustment. The disposal cost remains at \$86 per/ton for the first year. This rate would be renegotiated next year. Once the transfer station is approved, Randy said, he wants American Waste to renegotiate a lower disposal rate. A brief discussion was held with questions from the Board regarding whether anything has changed in the services rendered in previous years. Randy said this contract is in line with the previous contract. A question was raised about whether this contract had to be put out to bid. Randy said he had spoken the Town Counsel and that some contracts are exempted from the bidding process, this being one. Some discussion was held on comparison with what other communities pay for similar services. It was

suggested that when the three years with this contract are up it would be a good idea to have some comparison numbers.

Motion made and seconded to approve and sign the three-year contract with American Waste Services, LLC as submitted by the Town Manager.

Vote: 5-0-0

Bad Debt Write-Off – A brief discussion was held regarding an unpaid bill amounting to \$10,625 in bags and tags for the Town's Trash program. Collection efforts to the previous owners of the General Store have proven to be unsuccessful. Randy Scollins requested that this amount be written off; he has instituted a new policy that Bag & Tag stock be paid for when received. At present there are no amounts due more than 30 days to the Town for this program.

Motion made and seconded to formally write off the amount of \$10,625 as uncollectible owed by the former proprietor of the Foxborough General Store.

Vote: 5-0-0

Recommendation to Reduce Trash Bill – Randy Scollins reported that the Solid Waste Enterprise Fund has built up a surplus of over \$400,000. He explained that a new 3-year Trash contract has been negotiated and this eliminated uncertainty about future costs. He distributed a fact sheet showing why he feels the Trash bills can be reduced for the next three years. Based on these calculations he recommended that the Annual Trash Bill be reduced from \$180 to \$160 – a \$20 reduction. This proposed reduction reflects a bi-annual billing as opposed to the former quarterly, the billing being done in house and the fact that residents are recycling at a high rate which in turn results in reduced disposal costs. The goal is to return the surplus to the residents. This reduction will be effective July 01, 2009.

ACTION:

Minutes: The Minutes for the Board of Selectmen's Meeting of June 9, 2009 were reviewed.

Motion made and seconded to approve with one correction the Minutes of the BOS Meeting of June 9, 2009. **Vote: 5-0-0**

Legal Services Invoices – Received from Collins, Loughran & Peloquin, P.C. an Invoice in the amount of \$315.00.

Motion made and seconded to approve the Invoice in the amount of \$315.00 as submitted by Collins, Loughran & Peloquin, P.C. **Vote: 5-0-0**

Received from Deutsch Williams, Town Council an invoice in the amount of \$4,983.54 for legal services rendered through 05/31/09.

Motion made and seconded to approve the Invoice submitted by Town Council in the amount of \$4,983.54 for legal services rendered through 05/31/09.

Vote: 5-0-0

Received from Deutsch Williams, Town Council an invoice in the amount of \$4,083.33 for retainer services.

Motion made and seconded to approve the Invoice submitted by Town Council in the amount of \$4,083.33 for retainer services. **Vote: 5-0-0**

Audit Committee Appointments – Received a request to re-appoint Charles McAlister and Frank Souza to the Audit Committee for a term of three years. A brief discussion was held relative to whether or not the Finance Director should be the chairman on the Audit Committee creating a possible conflict of interest.

Motion made and seconded to re-appoint Charles McAlister and Frank Souza to the Audit Committee for a term of three years. **Vote: 5-0-0**

YMCA Road Race – Received Kimberly Cohen, on behalf of the Hockomock Area YMCA, a request to hold the 7th Annual YMCA Road Race on Sunday, Sept. 20, 2009.

Motion made and seconded to approve the request to hold the 7th Annual YMCA Road Race on Sept. 20, 2009 as requested. **Vote: 5-0-0**

Farm Stand Opening- Received an invitation to attend “The Farmstand” opening on Saturday, July 11, 2009 at 10:00 a.m. A brief discussion was held.

Library Gift Fund – Received notice of the receipt of a gift in the amount of \$300.00 from the Foxboro Lions Club to be deposited in the Library Gift Fund.

Motion made and seconded to accept the gift to the Boyden Library in the amount of \$300.00 to be deposited in the Library Gift Fund donated by the Foxboro Lions Club. **Vote: 5-0-0**

Cow Chip Bingo – Received notice from Susan Thibedeau, Animal Control Officer, of a donation to the Animal Control Gift Fund in the amount of \$915 representing the results of a fundraiser held on Founder’s Day.

Motion made and seconded to accept the donation of \$915 raised from fundraiser on Founder’s Day to be deposited in the Animal Control Gift Fund.

Vote: 5-0-0

Mass Recycling Coalition – Received a request for support for an update of the old Bottle Bill sponsored by Representative Alice Wolf as outlined in the letter of June 4, 2009. A brief discussion was held; the item was put on hold for discussion at a later meeting.

Sandwich Generation Month – Received from Jane Rabinovitz, Chairperson, Sandwich Generation Month, a request to proclaim July as Sandwich Generation Month in Foxborough, Griswold Special Care is the sponsor. This is to recognize and heighten awareness of adults who are caring for their children as well as their own aging parents. A brief discussion was held.

Motion made and seconded to proclaim July as Sandwich Generation Month as requested in the letter from Jane Rabinovitz. **Vote: 5-0-0**

A brief discussion was held regarding renewal of the Town Manager's contract. Larry Harrington felt that it should be an agenda item. He pointed out that if the Board does not notify the Town Manager, the contract automatically rolls over for one year. He said that every employee deserves the feedback from the process that was discussed earlier. Larry pointed out that Andy Gala has worked for the Town 29 years and he feels the automatic roll over is somewhat of an insult and he feels a dialogue should be scheduled to work with the Town Manager on a renewal contract and bring it back to the Board for a vote. This issue will be put on the agenda for the June 30th meeting.

7:45 – Letter of Restraint - Lori McDonald-Nolan was present to discuss the violation of the Foxborough General By-Laws, S.3, Dog Control Regulations. She did receive the certified letter sent to her, dated May 5, 2009. Lori explained the actions of her dogs at the time of the incidents identified in complaints reported by Natalia Stasiewicz and Animal Control Officer. For purposes of clarification Lori was reminded of the specific violations for all three dogs – dogs must be on a leash by a responsible adult, they must be secured by a cable or in a chain link pen...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 possible banishment of the dogs. Lori made several statements in defense of her dogs. A discussion was held regarding what steps Lori would take to resolve this issue including training of the dogs and installation of a fence. Other comments were made by persons in the audience. After several comments from the Board no decision was made.

8:05 – Neponset Reservoir Dam – Robert Hickey and Conservation Commission members were present to discuss the Neponset Reservoir Dam repairs and acceptance. Larry Harrington recused himself from this discussion. Bob Hickey gave a brief history of activities leading up to tonight's meeting that follows up to the MOU signed last year. Tonight's meeting would be to formalize the Agreement and to create the actual transfer agreement. Bob explained that

RFPs have been sent out, received a number of bids back and are ready to award the contract. Before contracts are awarded there are some actions that need to be taken by the Board – the Conservation Commission has to vote to become a party to M.O.U., the BOS and ConCom to place in escrow the deed for the Reservoir and Dam and a release by the Town of all Parties from future claims and liabilities, the BOS and ConCom to execute an escrow agreement governing how and when the deed is delivered to the Town the Release is delivered to the Parties and the ConCom execute a license to grant NRC access to property for use during the repairs to the dam. Bob Hickey explained that the dam property has a deed and 80 of the acres have deeds and that it is unlikely that anyone would come forward to claim the land that remains un-deeded, approximately 160 acres. Attorney Ross pointed out that the relative risk to the Town at this time is low. Bob Hickey referred to the time line of November, 2009, imposed by the BOS, by which time repairs had to be completed. The request, Bob said, is that the transfer and the release be placed in an escrow account in order to meet the time line so that if either side fails to meet their obligation, there is protection for the Town. The State provides a Certificate of Compliance after the repairs are complete. Lorraine Brue asked what actions the Town could use should there be a question of ownership of the land because there is no deed. In response to a question from Paul Mortenson, Attorney Ross said the Town has no obligation to accept the dam until the repairs are complete.

Attorney Ross said from the conversation he assumed the Town's position is that it would wait for the issuance of the Certificate of Compliance in the Spring. Attorney Ross said the BOS needs to consider the escrow agreement, the final terms of which have not yet been completely finalized, he feels the Board should vote on the agreement, then the next time to meet would be to just have the Board sign the agreement. He said at this point there is no negotiation between NRC or the other parties but it does seem to be very close to final form.

Motion by Paul Mortenson that the Board ask Attorney Ross to draft the agreement that would place in escrow the deed for the Reservoir and Dam and the release by the Town of all parties of all future claims and liabilities associated with the dam and the reservoir. Seconded by Paul Feeney.

Lynda Walsh pointed out that this agreement has to be signed by Conservation Commission as well. Bob Hickey clarified that point - Conservation would sign it and bring it back for the Attorneys to complete. Lorraine Brue again referred her question about this going to Town Meeting and how that was changed. She feels this will impact the entire community and felt it would have been wise to go before the Town. She would like people to know that it is a Town issue and should have been voted on at Town Meeting.

Vote: 4-0 Larry Harrington recused from this discussion.

Motion by Paul Mortenson that the Board vote to execute an escrow agreement to be agreed upon governing on how and when the deed is delivered to the Town and the Release is delivered to the parties as discussed tonight. Seconded by Lynda Walsh. **Vote: 4-0** Larry Harrington recused from this discussion.

Attorney Ross explained that the acceptance would be consideration #4, one of the items placed in the escrow agreement that the Board just moved to accept. It is basically a written record of this meeting of the Town's acceptance of the Dam and the Reservoir pending finalization of the deed between the parties and the attorneys. This is a document for the BOS and Conservation Commission to execute and sets forth a record for the Registry of Deeds so there is no question in the future as to the Town's ownership to the property.

Motion by Lynda Walsh for the Board accept the acceptance of the deed to be held in escrow to confirm its approval of the Commission's acceptance of the gift of the Dam and the Reservoir under G.L. c. 40, 8c. Seconded by Paul Mortenson.

Vote: 4-0 Larry Harrington recused from this discussion.

Attorney Ross explained that the Town should have clear ownership of the property. He asked if the Town had any concerns with the fact that the title to this property is not 100% clear. Bob Hickey said that if he were on the Board he would be concerned. He explained that this is a unique property created in total by an act of the Legislature. Although Attorney Ross made some very good points, there is a tacit agreement among the attorneys that the cost doing full title search could be about \$10,000. He acknowledged that perhaps it would be good for the Town to listen to what Attorney Ross is suggesting. Further comments were made regarding the cost of title search and what are the risks to the Town should they move forward with repairs, etc. After brief discussion, the Board agreed to let the title question remain as it is without further search. Members of the Board were comfortable with the risk of future challenges to the Town's ownership of the Dam and Reservoir due to lack of authority as discussed by Attorney Ross.

NEW/OLD BUSINESS

A heated discussion was held regarding the actions of two Board members by attending a meeting of some employees of the Kraft Organization. Larry Harrington expressed his concerns about the ethics of that action; although not a violation, Larry feels it is a perception of poor judgment and that they (Paul Mortenson & Paul Feeney) crossed the line of responsibility. He feels Paul Mortenson exercised poor judgment and that Paul Feeney jeopardized his ability to act as lead negotiator representing the Town in issues with the Kraft organization based on the actions taken. Paul Mortenson and Paul Feeney made statements supporting their actions. Paul Mortenson answered directly

some of the questions put forth by Larry. Paul Feeney defended his position in that he made a clear disclaimer before speaking at that meeting. His opinion is that the unionization of employees is entirely separate from the employer and his support of those employees does not impact on his ability to remain impartial during negotiations.

Motion by Larry Harrington that the Board replace Mr. Feeney in negotiations with the Kraft organization, the decision that was made on May 26, 2009. No second, the motion failed.

Lynda Walsh said that perhaps this is something that the Board should look at but not right now with emotions running high. At some point she said Paul needs to “let us know where you are with that whole thing”. Paul pointed that this would be discussed in Executive Session. Ginney Coppola commented that this is the perception, it is not a union issue nor is it a Kraft issue. The BOS elected by the Town of Foxborough to represent all the citizens, you have to be very careful of your actions.

Motion by Paul Mortenson to go into Executive Session for the purpose of discussing Potential Litigation with Lynn Foell, Cable TV Advisory Committee and Attorney Peter Epstein and Deployment of Security Personnel at Gillette Stadium and to exit from Executive Session for the sole purpose of adjournment. Seconded by Lynda Walsh.

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

Paul Mortenson, Clerk