

Board of Selectmen Minutes
October 19, 2004

Chairmen Gill called the meeting to order 7:15 PM at the Town Hall Auditorium with members Charles Coldwell, Joseph Gill, Doug Sears, Jerome Selissen and John Ryan present. Town Manager Dave Cressman, Town Counsel Charles Zaroulis and Recording Secretary Heather Tecce were also present.

1. State Delegation – Perchlorate: Appearing before the Board was Senator Sue Tucker, Representative Finegold and Tara Coakley (representing Rep. Miceli). Mr. Gill commented that the problem should be fixed at the source and not by diluting the water. Mr. Cressman told the Board through October 1, 2004 the cost to the town is \$48,755.00 from all departments this is direct and indirect cost. The schools amount \$11,413.00 to purchase bottled water. Senator Tucker requested a Representative from the DEP be present tonight. Mr. Cressman explained that to purchase water from other communities the monthly expense would be approximately \$185,885.00 this is based on the last time we needed to purchase water, the offset would be minimal. Mr. Gill said the town is reacting to a problem from the Town of Billerica and City of Lowell. The DEP seems to be going after the recipient not the source. Senator Tucker commented that she agrees this is not Tewksbury's fault and that the town needs financial relief. Senator Tucker explained there is a supplemental budget and she has written to the Ways and Means requesting compensation for those costs, which Mr. Cressman has outlined. She has not requested buying water from other communities because she hopes we don't have to do that and hopes the DEP is going to come up with a solution. Senator Tucker continued if the cost become significant we need to work with Congressman Meagan for Federal Assistance. She gave a copy of the letter she submitted to the Ways and Means to this Board. Representative Finegold echoes what Senator Tucker said and that he and Rep. Miceli are in full support. He is frustrated by the DEP putting mandates on the local communities but not backing them up with the funds and he will continue to make that known to the DEP. Ms. Coakley apologized for the Rep. Miceli not being present and she continued Rep. Miceli is very concern because this is a public health issue and he does support the 1.00 standard that the DEP implemented for many reasons. The study in California was based on (1) study with healthy adults; Mass. DEP did (2) studies. Rep. Miceli is working closely with the DEP. He will contact the Speaker and the Ways and Means on the supplemental budget. Mr. Gill spoke with the Speaker the other night and he was receptive to our problem. The town is deeply appreciative to the Hospital for their support in this matter. Mr. Ryan asked the Senator what is the time frame for the supplemental budget. She doesn't know but she thought maybe before Election Day. Mr. Ryan stated that this is \$48000.00 now but this is on going. Rep. Finegold explained that this is not a one shot deal. We can apply again for more money at a later date. Mr. Selissen said the FDA has not established guidelines for perchlorate and that the scientific community has not come to an

agreement of a safe level of perchlorate. Mr. Sears questioned where the money would be coming from. Rep. Finegold there is money air marked for the DEP. Mr. Coldwell noted this has an effect on the restaurants in town and also the seniors who have to buy water and that they can't even afford their medication. He continued that the DEP needs to fix this problem at the source.

2. David Plunkett- Planning Board. Appearing before the Board are Dave Plunkett, Steve Sadwick and Bob Fowler representing the Planning Board. Mr. Plunkett proceeded that at Special Town Meeting in October and that the Senior Village lost by a narrow margin. There was a printing error in the warrant. The warrant article was printed more as an executive summary than printing the complete article. Mr. Plunkett feels that if the warrant was printed correctly and that voters were informed than the article would have passed. The planning board is requesting a Special Town Meeting to have a new election with the voters having all information before they arrive to vote. Mr. Sears has a problem with this stating that it seems that if something doesn't pass at town meeting, another election is allowed for a re-vote. Mr. Ryan respects Mr. Sears but disagrees stating this project is a result of three year planning and that the town should correct the mistake that was made and move forward. Mr. Selissen asked Town Clerk Liz Carey how much this would cost the town. Ms. Carey responded only her payroll about \$400.00 and Mr. Cressman stated the expense of printing new warrant about \$2500.00 total being \$3000.00.

Motion by Mr. Ryan to hold the special town meeting, second by Mr. Coldwell and the Board voted 4 in favor and 1 opposition. Mr. Sears voted against.

Mr. Plunkett said that the planning board and the Board of Selectmen would co-sponsor the article.

Mr. Ryan clarified that his original motion was only to hold a special town meeting.

Motion by Mr. Ryan to open and close the warrant on this item as submitted by Planning Board co-sponsored by the Board of Selectmen and hold the Special Town Meeting on November 30 2004 at 7 PM at the Memorial High School Auditorium and second by Mr. Coldwell for discussion from Mr. Selissen he needed clarification whether or not the finance committee need to involved, Mr. Cressman will investigate. This Board voted unanimously. The Chairman polled Mr. Sears, Mr. Ryan, Mr. Selissen, Mr. Coldwell, and the Chair all polled yes.

3. Sewer Advisory Committee - Appearing before the Board is Mike Walsh, Mike Retzky of CDM, Lisa DiMeo Town Engineer and Dan Coughlin and John Avnes of Tutela Engineering. Mr. Walsh proceeded with a progress report of how the sewer project is going along with a slide presentation. He presented a map showing the (6) phases of the program an \$80 million program and presently they are working on Phase 6 and Phase 7. The intent of the program is to provide

sewer service to the balance of the town who does not have service. The program is aggressive and is expected to be completed in 2010. CMD has spent a good portion of time on traffic issues and coordinates with the police. Mr. Gill is very happy with the communications with project but is concerned with the contractor and the bad repave on Shawsheen Street. Mr. Selissen is pleased with the job so far and also has concerns about Shawsheen Street. Mr. Sears wanted to know when Lowe Street would reopen. Mr. Retsky responded in a week to a week in a half.

4. Donna Walsh Town Finance Director – Sewer Update Donna Walsh appeared before the board to give and update on the Sewer Enterprise Fund as of June 30, 2004. In May at town meeting a sewer budget was voted for the Sewer Enterprise Fund. Ms. Walsh proceeded the Sewer Enterprise Fund on our books is made up of an operating fund and that is the budget we vote on and a capital fund is the money we borrow to do the construction. The budget voted in May was revenues of 2,042,000.00. We are building up surplus needed to pay debt service in the future. Mr. Gill wanted to know if she is happy with this report, Ms. Walsh responded yes. Mr. Selissen said that the project is moving as expected if not better than expected.
5. Green Mangoes – Show Cause Hearing: Appearing before the board is Steven Malatesta and his Attorney James Gaffney. Mr. Gaffney informed the board that the restaurant has opened. There will be not reason to continue the hearing.

Motion by Mr. Coldwell to close Green Mangos Hearing, second by Mr. Sears and the board voted unanimously.

6. **Motion** by Mr. Coldwell and second by Mr. Sears to approve change of manager at the VFW to Mr. Robert Briggs, Sr. the Board voted unanimously.
7. Northeast Cycle – Appearing before this Board was Building Commissioner Dick Colontuoni, Lisa Higgins, Peter Pappas owner of Northeast Cycle and his Attorney Scott Consaul. Town Counsel began jurisdiction of the Selectmen issuing the license is not related to any zoning issue. In the past Northeast Cycle obtained a special permit and part of the special permit to repair they have the ability to store the repaired vehicles outside the shop in that particular area. Atty. Zaroulis continued the original permit is not entirely clear and after reviewing the minutes it is his impression that the person repairing vehicles can store them in certain areas outside, the Board of Selectmen separately said that they can only display (2) outside for sale. If in fact, there is any thing pending and the board was to commence with a hearing to revoke for zoning or another reason it may be appropriate at that time, that as part of the suspension you could impose a condition limiting the number of “for sale” and repair outside but presently as the special permit reads it doesn’t restrict number of repair motorcycles outside. Mr. Colontuoni the issue is we have a license from the Selectmen and the Board of Appeals. There are issues at the site and he is not sure that Mr. Pappas should

have them all put on him. Mr. Colontuoni is looking for some direction from this Board. Mr. Sears received clarification that the litigation problems are with the owner of the property not Mr. Pappas. Mr. Sears said whatever we do to this permit it needs to be done to all throughout town. Attorney Zaroulis gave clarification on the difference between Auto dealership and this permit. Mr. Coldwell gave clarification of minutes of 1984 that he could have 15 motorcycles for sale but only 2 on display. Mr. Colontuoni said he seems to be complying with that. Ms. Higgins spoke of hours of operation. **Mr. Coldwell** will meet with this group (Higgins, Colontuoni, Pappas) in an informal way and try to come up with a solution to this on going problem and will report back to this Board.

8. Tuk Tuk Thai – Show Cause Hearing: Appearing before the Board is Mr. Sakda Sopchockchai, Owner and Manager. The show cause hearing is for failure to exercise said license at 1699 Shawsheen Street. Mr. Sopchockchai will get back to this Board on a date when he will be opening and also he will contact the Board of Health about their issue.

Motion by Mr. Coldwell that upon hearing from Mr. Sopchockchai we set a hearing date from the date Mr. Sopchockchai informs this Board he will be opening, second by Mr. Selissen and the Board voted unanimously.

9. Andover Estates 40B: Appearing before this Board is Steven Dresser, Joe Phelen and Steve Sadwick. Mr. Dresser is here to present this plan as Site Approval Process for Mass. Housing. They have met with neighbors and realize the concerns about drainage and density. They are more than willing to sit down with the Board of Appeals when that time comes. The Project will consist of 24 units on the property and the 2 homes on Andover Street. Mr. Sears received clarification that there will be 6 affordable units. Mr. Ryan has concerns of the project. These units look like barracks; the design is a very poor and the buffer. He asked them to go back seriously look at the Housing Partnership specific recommendations. Mr. Selissen asked if they considered MD 55 rather than 40B. Mr. Dresser said he wouldn't dismiss that idea. Judith Jardis, 55 Deering Drive spoke in opposition for the reasons of drainage, traffic, and impact on schools. Virginia Salem, Deering Drive said the original plans were much nicer and that traffic is an issue.

Motion by Mr. Ryan to send this to Mass. Housing with the Local Housing Partnerships comments and a specific buffer be added for the residents of Deering Drive and look into making this MD 55 and seriously consider redesign, second by Mr. Selissen and the Board voted unanimously.

10. Bacci's Change of Manager/Directors/Entertainment License Appearing before this Board is Owner Richard LoSanno, Atty. Scott Consual and Lisa Coughlin. Mr. Consual explained that Mr. LoSanno is now the sole owner of Baccis and hopes to change the direction of the restaurant. The change in the entertainment license would be for a dinner theater, comedian, etc. He met with the neighbors on 9-13-04 and the neighbors are on board. This Board has concerns including the police chief is not in agreement with this entertainment license and would like

to see a “problem free track record” with the new management. Atty. Consual said Bacci’s would withdraw the application for the entertainment license without prejudice.

Motion by Mr. Sears to change manager/director at Bacci’s second by Mr. Selissen and the board voted unanimously.

11. Public Hearing for Multiple Hazard Mitigation Plan opened. There was no discussion. **Motion** by Mr. Ryan to close hearing, second by Mr. Selissen and the Board voted unanimously.
12. Residents - none
13. **Motion** by Mr. Ryan, second by Mr. Selissen to approve Town Counsel Invoice and the Board voted unanimously.
14. **Motion** by Mr. Ryan, second by Mr. Sears to approve Labor Counsel Invoice and the Board voted unanimously
15. Capital Improvement Plan will be put on next meeting agenda 11-9-04
16. Perchlorate – Blending Water: This Board is in agreement that blending of the water may not be a good idea.
17. **Motion** by Mr. Coldwell, second by Mr. Sears to post position for Public Works Heavy Motor Equipment Operator and the Board voted unanimously.
18. Public Works Staffing - Motion by Mr. Ryan to discuss closer to budget time, Mr. Coldwell second and the Board voted unanimously

Executive Session:

19. Superior Officers Grievance – Mr. Cressman and the Board agree that there isn’t a need to have this executive session this evening.
20. **Motion** by Mr. Selissen to approve minutes of 8/17/04 (reg. sess), second by Mr. Coldwell and the Board voted unanimously

Motion by Mr. Ryan to approve minutes of 9/7/04 (reg. & exec. sess.), second by Mr. Coldwell and the Board voted unanimously.
21. Reports **Mr. Ryan** the 911 committee has 2 events coming up. The first is 10-24-04 a road race walk-a-thon and the second is on the 10-27-04 at the country club. **Mr. Selissen** on Oct. 12, 2004 Sewer Meeting went well. On 10-27-04 award being presented to Mark Wood for his great work on the food pantry. Also new recycle stickers. **Mr. Gill** the town will be setting up a clinic as soon as the town

gets the vaccines. Prisoner are painting fire hydrants. The Board of Appeals has 2 openings. Town manager will look into defibrillators in the all the town buildings. Workers compensation insurance to be reviewed.

22. **Motion** by Mr. Ryan to extend deadline for applications for the Board of Appeals, second by Mr. Selissen and the Board voted unanimously
23. **Motion** by Mr. Coldwell, second by Mr. Sears to sign election warrant and the Board voted unanimously.
24. **Motion** by Mr. Selissen to approve Halloween Hours 6-8 PM, second by Mr. Sears and the Board voted unanimously.
25. **Motion** by Mr. Coldwell to approve VFW Buddy Poppy Drive, second by Mr. Sears and the Board voted unanimously.
26. **Motion** by Mr. Coldwell to approve Tewksbury Fire Dept. Long Range Planning Committee, second by Mr. Sears and the Board voted unanimously.

The next Board of Selectmen meeting will be November 9, 2004 at 7:30 PM at the Town Hall Auditorium.

Motion by Mr. Coldwell to adjourn at 11:30 PM and second by Mr. Sears and the Board voted unanimously. Polled all yes.

John Ryan, Clerk