

## BOARD OF SELECTMEN

February 8, 2011

### Minutes

The Board of Selectmen met on Tuesday, February 8, 2011 in the Town Hall Clark Room. Those present were Selectmen John D. Williams, Douglas A. G. Stevenson, William R. Tice, Jr., Peter Scavongelli, and John Gorecki. Town Administrator Timothy D. Goddard was also present.

Mr. Williams called the meeting to order at 7:00 p.m.

Mr. Williams thanked DPW Superintendent Gary Davis and his team and Town Hall Custodian Allan Foote for their hard work keeping the roadways and sidewalks clear and safe during the recent bad weather.

### Town Administrator Report

Mr. Goddard said Lee Storrs from the School Building Committee was present to make a recommendation to the Board regarding the award of the construction contract for the CPS additions/renovation project. Mr. Goddard said the Bids were opened on February 4, 2011. Lee passed out a summary sheet [attached hereto] listing all eight of the contractors who submitted bids and the amounts for the *base bid* and the *alternates*. Lee said the bids ranged from \$14,860,000 to \$17,290,000. Lee said the lowest bid was from H.V. Collins Co. from Providence, R.I. He said their references have been rated as good and within budget. It is Lee's opinion that this project is within their capabilities. He said last night the School Building Committee recommended that the Board of Selectmen award the contract to H.V. Collins, Co.

Mr. Stevenson asked Lee about the Budget. Lee responded by saying that the sub-bids are running about 15% higher, the School feels they are in good shape because this bid came in under what they had anticipated. On a motion made by Mr. Stevenson and seconded by Mr. Scavongelli it was unanimously **VOTED** that upon the recommendation of the School Building Committee, the Board of Selectmen award a contract for the addition/renovation of the Carlisle Public School in the amount of \$14,889,000.00 to H. V. Collins Co., of Providence, RI and to authorize the Chairman to execute the contract with H.V. Collins Co. on behalf of the Town of Carlisle.

Mr. Goddard said Finance Director Larry Barton was present with documents for the Board to approve and sign for the sale of Bond Anticipation Notes. Larry said this BAN includes \$1.0million in previously authorized debt, \$410,000 to purchase a new fire Engine (#6) and \$8million for the first phase of construction for the CPS addition/renovation project. Larry added that there were four (4) bidders on this purchase. He said Eastern Bank had the lowest bid with a 1% interest rate and they offered a premium of \$36,032.44 which lowered the net interest cost to .498%. The BAN is due on November 18, 2011.

On a motion made by Mr. Stevenson and seconded by Mr. Tice it was unanimously **VOTED** to approve the sale of a \$9,500,000 1.00 percent General Obligation Bond Anticipation Note(s) (the "Notes") of the Town dated February 16, 2011, and payable November 18, 2011, to Eastern Bank at par and accrued interest, if any, plus a premium of \$36,032.44; and it was further approved that in connection with the marketing and sale of the Notes, the preparation and distribution of the Notice of Sale and Preliminary Official Statement dated

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January 27, 2011, and a final Official Statement dated February 3, 2011, each in such form as may be approved by the Town Treasurer, be hereby ratified, confirmed, approved and adopted; and it was further approved that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a significant events 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 Note for the benefit of the holders of the Notes from time to time; and it was further approved 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, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

Interim Chief Position Mr. Williams said he and Mr. Stevenson and Mr. Goddard met with five (5) qualified applicants who were interested in the interim Police Chief position. He said their choice was narrowed down to 2 and then very recently they made the decision to choose Leonard Wetherbee. Mr. Williams said Mr. Wetherbee is the former Police Chief from the Town of Concord. Mr. Williams said they were of the opinion that coming from a community like Concord; he was a close match for Carlisle.

On a motion made by Mr. Stevenson and seconded by Mr. Scavongelli, it was unanimously **VOTED** to offer the position of Interim Police Chief to Leonard Wetherbee, Jr. for a period up to six months, with total compensation not to exceed \$16,700.

Mr. Goddard said the Board is aware that the Town has been exploring several options for regionalizing departments with other Towns. Recently the Board has been exploring the possibility of regionalizing our Police force with the Town of Concord. Mr. Goddard said however after some investigative work we have concluded that more study is necessary before we would be able to make a full recommendation to the Board. He said a suggestion has been made to jointly pursue grant funding to study the issue in greater depth and detail. Mr. Stevenson said the Town of Concord has offered to write a MAPC Grant. Mr. Tice was greatly concerned that this was a huge change for the Police Department. Mr. Stevenson said if the study came back and showed that there would be no significant financial change, then we would not move forward with this matter.

Mr. Scavongelli said if it is the Board's sense that it is unlikely that it would not really have a positive financial impact, why are we considering the study. He said the Town of Andover went through a Public Safety Commission Study, which he thought was more worthwhile.

Mr. Gorecki said that the timing of this study was conflicting with what we are already trying to do, which is trying to hire a new police chief.

On a motion made by Mr. Tice and seconded by Mr. Stevenson, it was **VOTED 2 YES and 3 NO** to support seeking a MAPC Regionalization Grant.

Mr. Goddard said Chief Flannery, Lt. Crowe and Communications Supervisor Mike Taplin have made a recommendation to the Board of Selectmen to hire a new dispatcher for the Communications Department. Present for this discussion was Lt. Crowe. He said Ronald Sawyer will be the fifth full time dispatcher and he was happy to make this recommendation.

On a motion made by Mr. Stevenson and seconded by Mr. Tice, it was unanimously **VOTED** to appoint Ronald Sawyer as Dispatcher for the Town of Carlisle's Communication Department.

Hazard Mitigation Plan Mr. Goddard said the Town has been informed that FEMA Region I has reviewed and approved the Town's Multi-hazard mitigation plan and that the only thing that remains is for the Board of Selectmen to vote and approve a resolution of approval.

On a motion made by Mr. Tice and seconded by Mr. Gorecki, it was unanimously **VOTED** to approve the Resolution Adopting the Town of Carlisle's Hazard Mitigation Plan, dated February 8, 2011.

Fire Grant Fire Chief David Flannery was present to talk about a grant that he applied for in March 2010 and received in January 2011 from the U.S. Fire Administration. David explained the terms of the grant; the amount of the grant awarded was \$108,075 and the Town's cost share is 5% of that amount. The Grant is for the replacement of 21 Self Contained Breathing Apparatus (SCBA) units. He explained that our current units do not meet the Federal Standards for firefighter safety. David said the SCBA units are used by firefighters to protect them when entering a hazardous environment.

CPA Rescission process Mr. Goddard said Attorney Rich Hucksam from Town Counsel has informed us that the process to rescind acceptance of the Community Preservation Act is the same as that for acceptance; that

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is a Town Meeting vote and then an affirmative vote at the next Town Election must occur. Mr. Goddard said that it is Town Counsel's opinion that the Town Meeting vote must occur first and then the ballot vote may be scheduled, but 35 days later. He said they have told him that it is not possible to have both an article on the May 9<sup>th</sup> Town Meeting warrant and the same question on the May 17<sup>th</sup> ballot. A minimum of 35 days notice is required. Mr. Stevenson did not feel that this information was accurate. He asked Mr. Goddard to pursue this matter further.

Mr. Goddard said the Old Home Day Committee has informed him that the two days of the OHD celebration are July 2<sup>nd</sup> and 3<sup>rd</sup>. He said they misinformed us at the last meeting when the Board had voted on July 1<sup>st</sup> and 2<sup>nd</sup> for this event. On a motion made by Mr. Stevenson and seconded by Mr. Gorecki it was unanimously **VOTED** to amend the previous motion to reflect the Old Home Day Events to be held on July 2<sup>nd</sup> and 3<sup>rd</sup>.

Mr. Goddard said the Board has received a request from Boy Scout Troop 135 to hold their annual Fertilizer Sale at the Transfer Station in March. Mr. Gorecki recused himself from this discussion as he is the Scout Master. On a motion made by Mr. Stevenson and seconded by Mr. Tice, it was **voted 4 yes 1 abstain** to permit Boy Scout Troop 135 to use the Transfer Station on March 12 and March 19 for the purpose of holding their annual fertilizer sale, contingent upon working out all details with DPW Superintendent Gary Davis.

Mr. Goddard said there is a citizens group that was interested in proposing a noise bylaw. He said since the Planning Board feels that more time and information is needed for this matter a Study Group is being formed. So far the following are the members: Michael Epstein - Planning Board, Cathy Galligan-Board of Health, John Luther- Building Department, Gary Davis – DPW and John Bakewell- citizen at large. Mr. Williams said he would work with this group.

Mr. Williams said at the next meeting the Board should address their Goals; one in particular was to establish a Building Committee. The Building Committee would work with the [already established] Energy Task Force.

### **MA Product Stewardship Council**

Launa Zimmaro was present from the Carlisle Household Recycling Committee to ask the Board to pass a resolution in support of Extended Producer Responsibility (EPR) legislation. Launa explained that EPR will require that producers of products pay for the cost of recycling or disposal of the products they sell when those products are discarded. She said this gives brand owners a financial incentive to design products that are more durable, less toxic, and easier to repair or recycle. Launa said the Massachusetts E-Waste and Updated Bottle Bill legislation, both supported by prior Carlisle resolutions, are examples of EPR.

Launa introduced Lynn Pledger, a representative from Clean Water Action. She spoke to the Board about the MA Product Stewardship Council. She said their mission was to shift the Commonwealth's product waste management system from one that is funded by local government and ratepayers to one that relies on producer responsibility to reduce public costs and to drive improvements in product design. She said the goal is to reduce the waste and increase the reuse, repair and recycling.

Lynn re-iterated that the main idea is to relocate the cost of recycling, that is, to give more responsibility to the Brand owner. Local governments are giving the cost back to the brand owner because it is expensive. This will give the brand owners a financial incentive to make packages more environmentally safe, and to bring budget relief to cities and towns. Ms Pledger asked the Board of Selectmen to support and sign the *Resolution of the Town of Carlisle Supporting Extended Producer Responsibility*. The Board had a few questions, specifically how it ultimately would not end up costing the consumer for the recycling costs of these products. The answers did not seem clear to all of the Board members.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was **voted 3 yes 2 abstaining** to support Extended Producer Responsibility, dated February 8, 2011.

### **Cont'd Public Hearing – Modification to Site Plan (Ferns)**

Mr. Williams said the Board of Selectmen will address the Planning Board's determination on the waivers found in Attachment D. He said the Planning Board noted in the Site Plan Review that all waivers of Article

III, Section 1 were justified as being not applicable to this application and therefore in the public interest with the exceptions of subsections (g) signage, (p) traffic, and (r) proposed use and seating capacity.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was unanimously **VOTED** to approve the request to waive all of the waivers of the amended Site Plan Review of the Ferns Country Store, except for g, p and r.

The next discussion was over whether the filing fees should be waived. Mr. Williams said the applicant is of the opinion that there should be no filing fees, and the ConsCom has stated that the filing fee should not be waived. The Planning Board has suggested lowering the filing fee to \$250.00.

Mr. Scavongelli said that Ferns has already paid enough fees. Mr. Williams said he did not agree with that statement. He said he agreed with the Planning Board, that a waiver of the Project review fee is justified because no technical outside consultants were necessary to evaluate this application. The Planning Board noted the Town's Rules and Regulations for Site Plan Approval specifically allowed the waiving of fees for Town Boards, committees or commissions, but not for private commercial applicants, and that Zoning Bylaw Section 7.6.5 states that fees are to cover any expenses connected with a public hearing and review of plans. David Freedman said administrative time has been spent on this application by Planning Board staff alone that would exceed \$250. The Planning Board had voted to recommend a reduced application fee of \$250 to cover staff time in this instance because of the limited nature of the application.

Mr. Stevenson said the Board should be as consistent as we can with the Site Plan Reviews.

On a motion made by Mr. Gorecki and seconded by Mr. Tice, it was **voted 4 yes, 1 no** to set the filing fee for current Site Plan Review of Ferns Country Store at \$250.00

On a motion made by Mr. Stevenson and seconded Mr. Gorecki, it was unanimously **VOTED** to waive the current Project Review Fee the Site Plan Review for Ferns Country Store.

Mr. Williams said the Board of Selectmen went through the Conditions of the Site Plan at the last meeting and decided to hold for discussion Condition 6, 7, 8, and 10. Mr. Williams spoke about condition number 6, which was relative to the hours of BYOB operation. Larry Bearfield, proprietor of Ferns has requested BYOB hours begin M-F 4:00 to 9:00 p.m. and on Saturday and Sunday from 12:00 to 9:00 p.m. Mr. Williams said it was his opinion that the BYOB hours should be pushed back one hour, that is, to 5 o'clock or maybe 6 o'clock.

Larry Bearfield who was present said they chose 4 o'clock because the children, who tend to frequent the store after school, have gone home by then.

Lt. Leo Crowe did not see an issue with the traffic at this time of the day.

Nancy Szczesniak of Aberdeen Drive could not understand why there had to be drinking at a sandwich shop.

Mr. Stevenson said he supported moving the time for BYOB to 5:00 p.m.

On a motion made by Mr. Tice and seconded by Mr. Gorecki, it was **voted 3 yes, 2 no** to accept the hours as written in condition #6.

In regard to Condition #7, and the wording that Ferns employees shall request BYOB customers to park their vehicles at the rear of the store.. Larry said he wanted the word 'suggest' instead. Also he did not like the last sentence in this condition.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was unanimously **VOTED** to adopt condition #7 while changing the word *request* to *suggest* and *deleting the second sentence*.

Condition # 8 was discussed. Larry said the 'signs' the Planning Board has requested to be placed in the store do not apply to this situation. He said they are signs for a Package store and for an establishment that 'pours' alcohol. David Freedman said there are no State regulations relative to BYOB however there are legal penalties for driving under the influence or with an open container.

Larry said they wanted to simplify and narrow the wording down to something straightforward. They presented a sign that he prepared relative to drinking and driving. It was not completely approved by the Board. Mr. Williams said it needed something added to it relative to legal penalties for driving under the influence and or with an open container. He said the condition itself will be a 'sign posted where the alcohol is being consume and it will make reference to the penalties.

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On a motion made by Mr. Scavongelli and seconded by Mr. Tice, it was **VOTED** that a public safety sign shall be posted in the Café seating area designated for BYOB pursuant to the terms specified in the proprietors BYOB license.

Condition #10 referred to having a permit for a television in Ferns. David Freedman explained what some Towns included in a Television permit. Michael Epstein said this condition came about because of the concern the neighbors in the Town Center have over the incremental changes that have occurred. They are concerned that further actions will bubble over quickly and the Center would be overrun. There was a discussion with Mr. Bearfield over what will not be allowed under the terms of the Television, which is no entertainment. On a motion made by Mr. Tice and seconded by Mr. Stevenson it was **VOTED** to omit Condition 10.

On a motion made by Mr. Stevenson and seconded by Mr. Scavongelli, it was **VOTED** to approve Conditions 4, 5, 9 and 10 [which was formerly 11] for the Site Plan Review for Ferns Country Store.

Michael Epstein asked the Board how Conditions 1, 2, and 3 were going to be addressed. Mr. Williams said the Site Plan Review for BYOB and the Carry-In Policy cannot begin until the Zoning Board of Appeals matter has been resolved as it may affect our decision.

In regard to Condition 2, the Board decided to make the following motion and place this in the Finding section of the Certificate of Decision.

On a motion made by Mr. Scavongelli and seconded by Mr. Tice, it was **VOTED** to acknowledge that the use of the facility [Ferns Country Store] is in compliance with the Town's Zoning Bylaws pursuant to Section 7.6.3.1.

On a motion made by Mr. Tice and seconded by Mr. Stevenson it was unanimously **VOTED** to Close the Public Hearing for Ferns Country Store.

On a motion made by Mr. Stevenson and seconded by Mr. Tice it was unanimously **VOTED** to approve the Site Plan Review as it relates to BYOB and Ferns Country Store with the Conditions as previously outlined.

The Consideration of BYOB and Carry-In Policy will be discussed at the February 22, 2011 meeting.

### **FY12 Selectmen Departmental Budgets**

Fire Chief David Flannery spoke about the Communications Department Budget. He said they are at \$292,657.00 for FY2012. David said he has put in for a 2% wage increase and \$313.00 for a longevity payment plus \$644.00 for a probationary period payment. David said right now they have five dispatchers [counting the one that was appointed earlier].

David spoke about the Fire Department budget. He said they are \$5,519 over their budget. David said he did an analysis for the Finance Committee relative to their equipment maintenance line showing how it has been running over. David then spoke about Cistern repairs. David said the Finance Committee increased their budget by 1.76% for repairs for the cisterns. This brought his FY12 budget up to \$281,012. In reply to Mr. Stevenson, David said the Energy Task Force has audited the Fire Department. They have suggested perhaps using infra red heaters.

Police Lt. Leo Crowe was present to review Police Department's budget with the Selectmen. He said he made a few line item adjustments. Lt. Crowe said he will need to speak with the FinCom again in the future because there will be personnel changes. In response to Mr. Stevenson, Lt. Crowe said the Energy Task Force update some light fixtures and assisted in replacing the boiler at the police station.

Mr. Goddard spoke about the General Expenses. He said there were no remarkable increases. He said he is proposing to increase Town Accountant, Priscilla Dumka's hours from 31 to 33 hours in FY12. Mr. Goddard commented that Priscilla does an outstanding job and he feels that she works more hours than that already. In response to Mr. Stevenson's questions relative to Town Counsel's line item, Mr. Goddard said he has averaged the amount spent over the last years and that is how he arrived at this year's figure.

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In regard to the DPW budget, Mr. Goddard said Superintendent Gary Davis was not able to be present tonight to discuss his figures.

### **Appointments**

On a motion made by Mr. Tice and seconded by Mr. Stevenson, it was unanimously **VOTED** to appoint Tracy McArdle Brady to the Carlisle Cultural Council for a two year term that will end on June 30, 2012.

### **Liaison Reports**

Mr. Williams said there was a Joint Chairs meeting about two weeks ago. He said there was a discussion about keeping within the budget regarding the Concord Carlisle School Building project and the separation of the Field House and School. Mr. Tice said the Building Committee was of the opinion that it was too early to apply a cap to the project.

Mr. Tice spoke about the Cable Advisory Committee. He said they are continuing to negotiate the contract with Comcast and they will begin negotiations with CCTV. He said Attorney Solomon advised him that since he is on the CCTV Board of Director he should not be involved with the CCTV negotiations. He asked if another Selectman would be interested in this task. Also in regard to CCTV, Mr. Tice said Charlie Paige has resigned from this organization and has moved on to starting up another business in Acton.

Mr. Williams said there will be a Regionalization Committee Meeting tomorrow night. He said they have realized that Nashoba Health is not a viable option. Mr. Williams also added that the Community Preservation Committee will meet tomorrow night.

Mr. Scavongelli said the Highland Building Committee met with the Architects for the purpose of re-drafting a new RFP. They are hoping for a good response.

Mr. Stevenson spoke about the Honor Roll Committee. He said they have gratefully received almost \$2,000.00 in their Gift fund. He reminded everyone that there was a shortage for the Honor Roll project and they are trying to catch up and save a small amount for up-keep of the Honor Roll area. In response to Mr. Williams, Mr. Stevenson said they are still in need of approximately \$1,500.00.

Mr. Gorecki said at the Financial Management Team this morning the Assessor reported that the Abatement process has come to a close. She has received a total of 26 abatement applications.

### **Minutes**

On a motion made by Mr. Tice and seconded by Mr. Stevenson, it was unanimously **VOTED** to approve the Minutes to the Board of Selectmen meeting of January 25, 2011.

At 10:45 p.m. a motion was made by Mr. Gorecki to enter into Executive Session pursuant to MGL Ch. 30A, §21(a) (3), to discuss strategy with respect to litigation as discussing the matter in open session would have a detrimental effect on the Town's litigating position. The motion was seconded by Mr. Stevenson and the following roll call vote was taken: Williams – aye; Stevenson – aye; Tice – aye; Scavongelli – aye; and Gorecki – aye.

Respectfully submitted by Margaret deMare

