

**PRESENT:** Selectmen Joseph A. Sergi, Patrick J. McNabb, and Joseph Hallisey; Robert Hanson, Town Administrator; Peggy Mazzola, Administrative Assistant

The meeting was called to order at 6:46 PM.

**EXECUTIVE SESSION:** At 6:46 PM, Mr. McNabb moved that the Board of Selectmen enter into an Executive Session for the purpose of reviewing and reducing the number of applicants for the position of Town Accountant. Mr. Hallisey seconded. Mr. Sergi announced that the Board would return to open session following the executive session, and that Robert Hanson, Town Administrator, and Peggy Mazzola, Administrative Assistant, would be included in the session. A roll call vote was taken as follows:

Joseph Sergi	Aye
Patrick McNabb	Aye
Joseph Hallisey	Aye

At 7:12 PM the Board voted to exit the executive session and return to open session as noted in the Executive Session minutes of August 10, 2009.

**ACCEPTANCE OF MINUTES:** On a motion by Mr. Hallisey and seconded by Mr. McNabb, the minutes of the meetings of July 20, July 21, July 22, and July 23 were unanimously approved.

**APPROVE WARRANT/SIGN PURCHASE ORDERS:** The Board signed the warrants.

**PUBLIC COMMUNICATIONS:** Mr. Sergi announced there would be a donor drive on Saturday, August 15<sup>th</sup> from 9 a.m. to 1 p.m. at the Senior Center, to seek donor matches for stem cell/bone marrow for Systems Administrator Den Connors. Further information can be obtained by contacting COA Director Sharon Mercurio.

Mr. McNabb read a proclamation honoring James & Muriel Pillsbury on the occasion of their 70<sup>th</sup> wedding anniversary.

**APPOINTMENTS/RESIGNATIONS:**

**Item #1 – Joint Appointment: Planning Board Associate Member, with Planning Board:** Present were Planning Board members Nick Cate, Steve Themelis, Mark Marston, Dennis Kane, Richard McHugh, Associate member Steve Brittain, and Planning Administrator Susan Snyder. Following a brief discussion, and on a motion by Mr. Cate and seconded by Mr. McNabb, it was unanimously voted to reappoint Stephen Brittain to the position of Associate member to the Planning Board, term to expire 6/30/2010.

**Item #2 – Appointment: Todd Russell, to Agricultural Advisory Board:** The Board reviewed a Citizen Activity Form from Todd Russell, who is requesting appointment to the Agricultural Advisory Board. On a motion by Mr. McNabb and seconded by Mr. Hallisey, it was unanimously voted to appoint Mr. Russell to the Agricultural Advisory Board, term to expire 6/30/2012.

**ACTION ITEMS:**

**Item #1 – Discussion: with Planning Board, re: legal counsel:** Planning Board Chairman Nick Cate explained this is a joint request of the Planning Board and Building Inspector for a zoning issue at 75 Groton Street. The Planning Board and Building Inspector are of the opinion that Town Counsel would have a conflict of interest in this case since he represented the Board of Appeals. Mr. Cate is requesting they retain Brackett & Lucas, which has represented the Planning Board in the past. Atty.

Heather Kingsbury was present for any questions. Atty. Kingsbury explained the judge declined to enter judgment on this case, and the Special Permit will be allowed to stand. There are enforcement issues outside of the context of an appeal from the issuance of the special permit, and the Building Inspector intends to investigate issues of compliance with the conditions of the special permit, provisions of the Zoning Bylaw, and the State Building Code.

A lengthy discussion ensued. Mr. Hanson stated it is appropriate to appoint Special Counsel, and suggested the Board approve an initial expense of \$1,000.

Mr. McNabb remarked this is a small business open two or three days a week, and felt it was a waste of money and should not be pursued. Mr. Marston stated this would be setting a precedent if we allow this; it is necessary to defend the Zoning Bylaw.

Mr. Sergi stated the decision tonight is not that Mr. Cullinan will use counsel, but whom. Mr. Cate stated that Mr. Cullinan wants to proceed cautiously going forward. Mr. McNabb commented he is anticipating a problem that may not happen, and didn't understand why lawyers need to be involved. Planning Administrator Susan Snyder provided additional background and explained the process involved.

On a motion by Mr. Hallisey and seconded by Mr. McNabb, it was voted, with two in favor and one opposed, to authorize the expense of up to \$1,000 for special counsel with regards to this case.

Item #2 – Discussion: with Finance Team: Present were Treasurer/Collector Michael Hartnett, Assistant Assessor Susan Smith, and Town Accountant Theresa Walsh. Mr. Sergi explained he wished to expand on last week's discussion with the Finance Committee. Ms. Walsh provided for the board a spreadsheet showing budget to actual for FY '09, which indicates that \$300,000 will be returned from all budgets to the general fund. Mr. Hanson stated the Board should keep in mind that we cut \$500,000 from the town budgets for FY '10. Mr. Sergi stated that the Finance Committee should look for any adjustments we can make to the FY '10 budgets. Ms. Walsh stated the FinCom could look at each budget and go through this exercise. Mr. Sergi remarked it warrants another look, and should involve department heads. We are dealing with an ongoing deficit. Highway Superintendent Peter Shattuck stated he struggled to come in under budget. Mr. Sergi stated the deficit has not gone away. Mr. McNabb agreed, stating we still have a major problem, and it would be appropriate to look at the budgets and see if there is any way to cut.

Mr. Shattuck stated it is hard to predict what will happen with his two departments, because we can't say how many fires or snowstorms there will be. To cut the budgets further would make him very nervous. Mr. Shattuck remarked that a few months ago we were before the Board for a reserve fund transfer for the Fire Department. Mr. Sergi stated this is a reasonable concern.

ON a motion by Mr. Hallisey and seconded by Mr. McNabb, it was unanimously voted to remand the FY '10 budgets to the Finance Committee for another review.

Mr. Sergi remarked the projected increase for the schools is 4% for North Middlesex and 2 ½% for Nashoba; he would like to have these forecasts level funded. Mr. McNabb remarked that everything should be zero except the Enterprise Funds. Ms. Walsh commented it is not possible to forecast zero increase for debt service and retirement.

Mr. McNabb asked how comfortable the team is with new growth. Ms. Smith stated it will come in a little higher, possibly by \$10,000. We are waiting for the final schedule from the State. Ms. Walsh stated they also need to revisit local receipts. Mr. Hartnett stated he is predicting a healthy tax title collection. Ms. Walsh remarked this goes into Free Cash.

On a motion by Mr. McNabb and seconded by Mr. Hallisey, it was unanimously voted to direct the Finance Team to zero out annual increases for operating budgets as well as school budgets, with the exception of the Enterprise Funds. The Board directed Mr. Hanson to send a letter to the schools notifying them of this decision. Mr. Hanson remarked this may be considered baiting. Mr. McNabb stated he is not concerned that the schools will see this as confrontational.

Mr. Sergi asked for quarterly reporting of the Finance Team. Mr. McNabb suggested the team should meet monthly. Mr. Hartnett remarked that we prepare quarterly reports now, which coincides with the trust funds; these can be conveyed to the Board. Mr. McNabb asked what the meeting schedule was for the Finance Team. Mr. Hanson stated they will meet the last week of the month.

Mr. Sergi asked if there was any need to discuss the audit report. Mr. Hartnett stated he did not see any reason for the auditor to come to a meeting. Mr. McNabb asked for an updated 5-year projection by next week.

The Board thanked the members of the Finance Team for attending the meeting.

Item #3 – Discussion: Town Administrator selection: Mr. Sergi announced that one of the finalists, Charles Blanchard, withdrew his name from consideration because of the commute and because he is a candidate for Town Administrator in another community. Mr. Sergi thanked the members of the Town Administrator Search Committee for their efforts in bringing forth quality finalists. Mr. Sergi stated this is a difficult decision, and is indicative of the qualifications of the candidates. Mr. McNabb and Mr. Hallisey echoed Mr. Sergi's statement. Mr. Hanson stated that both names are in nomination, and the Board needs only to vote on their candidate. All three members of the Board voted for Kyle Keady. The Board will meet with Mr. Keady at a future date for contract negotiations.

Item #4 – Discussion: Fall Town Meeting date: On a motion by Mr. McNabb and seconded by Mr. Hallisey, it was unanimously voted to set the date for the fall Special Town Meeting on Monday, October 26, 2009 (and Tuesday, October 27, 2009 if necessary) at 7:30 PM at the Nissitissit Middle School. Warrant articles are due to the Board of Selectmen's office no later than 2:00 PM on September 9, 2009.

### **OLD/NEW BUSINESS:**

Item #1 – Proposed LIP, with A. Patnaude: Present were developer Al Patnaude and Atty. Ray Lyons. Atty. Lyons provided a brief history of this project, and stated Mr. Patnaude is here to ask the Board to sponsor this project as a LIP. By sponsoring the project as a LIP, construction can begin faster and the Town will see tax revenue sooner. A LIP also gives the Town more control. Mr. Patnaude will offer priority to Pepperell residents. The Board will know the name and face of the person moving forward with this project, as Mr. Patnaude is a long-time Pepperell resident.

Mr. Sergi stated he wants to make sure the Town has viable input. He supports this site for a 40B, but the design could be problematic due to the close proximity to the DPW garage. Mr. Sergi asked for input from Highway Superintendent Peter Shattuck.

Mr. Shattuck stated that Mr. Patnaude came to him with this plan long ago. Future expansion of the Highway Garage will be gone due to the construction of a berm between the highway department property and the development. Mr. Shattuck stated that Mr. Patnaude came forward with ideas. He understands the property will be completely fenced in to keep people from the shooting range and highway materials. Mr. Shattuck stated that winter operations are 24/7, and would encourage that homes be built as far away as possible.

Atty. Lyons stated the plan is to have some sort of berm and fence, which will help with sound. He stated there could be two fences – one on the Town's property and one between the two storage buildings. Mr. Shattuck remarked this would add maintenance to his operation in the long term. Atty. Lyons stated the privacy fence could be installed on the development property, and asked if Mr. Shattuck was open to the idea of a fence between the two storage buildings. Mr. Shattuck stated he would not be open to that idea.

Conservation Agent Ellen Fisher stated she has given comments regarding this project, and the whole basis of her comments have to do with the density of the project and the way the wetlands are set up. This wetland is linear with a lot of edge. This effect results in a buffer zone along every edge; when you use up that entire buffer, it will affect the wetland. In addition, this is a water protection zone and affects what happens to our water supply. The amount of disturbance and density of the project are her biggest concerns, and the number of units dictates the amount of disturbance.

Mr. Shattuck asked what the width of the pavement will be. Atty. Lyons stated the width of pavement will be 24'. Mr. Shattuck asked if the gate at the highway garage is still proposed. Atty. Lyons stated it is, and would be under the Town's control.

Mr. Hallisey stated after walking the property, his concern is the close proximity to the highway garage. People may move in thinking they can change the fact that the garage is there; within six months, the complaint calls will start. Mr. Hallisey asked what the distance was from the highway garage to the closest unit. Mr. Patnaude stated the distance is 40'; Atty. Lyons stated the closest unit would be 80' from the salt shed. Mr. Patnaude remarked there are ways to create sound barriers in homes.

Mr. Hallisey asked if this would be a private road or public road, and asked for Mr. Shattuck's input on the road design. Mr. Shattuck responded he doesn't need any more roads, and the dead-ends are problematic. Mr. McNabb asked if there would be a Homeowners' Association and maintenance plan, and whether this would be submitted to the Town. Atty. Lyons stated this would be part of the approval process with the Zoning Board of Appeals.

Mr. McNabb stated his concern with the project is the noise from the Highway operations. Mr. McNabb asked what the fees and permits would be for this project. Mr. Patnaude stated the sewer connections would be \$7,000 to \$10,000 each; water connections would be \$2,600 to \$3,500; total assessments would be approximately \$400,000 and permits and inspections are not included in this total.

Mr. Sergi asked how many bedrooms would be included in each unit. Mr. Patnaude stated most units would be three bedrooms; the units would range from 1,100 square feet to 2,000 square feet. Mr. Sergi asked if Mr. Patnaude would object to a restriction in the number of bedrooms. Mr. Patnaude remarked he didn't understand what this would accomplish.

Mr. Cate stated he supports this project as a 40B for this property, and feels that Mr. Patnaude is a good developer to build this project. A LIP is a partnership between the Town and the developer, and we need to address issues of both sides equally. The Board needs to make sure they are taking all concerns into consideration and that this is a true partnership.

Mr. Sergi stated the problem he has with the project is with the design. Mr. Patnaude stated one of the first things he did was to work with the VFW to prevent a second wetlands crossing. Everyone is not going to agree with every aspect of this project. He is trying to take all the information and make a financially feasible project within the State guidelines.

Ms. Fisher remarked there is a big difference between a LIP and standard 40B to the Board of Appeals. If the Board of Selectmen endorses this plan, it greases the way for this project to go through the ZBA. If the Board decides it's not a LIP, Mr. Patnaude can still move forward. Mr. Sergi asked what would happen if the Board does not approve the project as a LIP. Mr. Hanson stated the developer can go through the State for a standard 40B project. Atty. Lyons stated if the Board endorses the plan, it will move quicker in the State; the advantage to the Town is timing and quicker tax revenue.

Mr. Sergi stated he is not convinced that the units closest to the Highway Department aren't going to be a problem. Mr. Patnaude stated he is trying to work with the noise issues and create something he feels is the correct solution. Atty. Lyons remarked a sound study could be done as part of the process with the ZBA.

Mr. Sergi asked Mr. Hanson if he agreed that a Board endorsement would "grease the skids" for this project. Mr. Hanson stated it would with the ZBA.

Mr. Shattuck asked why the 12 multi-family units were clustered together rather than spread throughout the development. Mr. Patnaude responded his goal was to create some single family units with handicapped access that would be lower cost. He stated he could reduce the number of units, but he would have to increase the price of all the units and wouldn't have the opportunity to offer handicapped units at this cost.

Ms. Snyder asked if the developer would be willing to do a traffic study. Mr. Patnaude stated this could be included in the MOU.

Mr. Sergi asked if Mr. Patnaude would consider trying to reconfigure the units closest to the highway operations elsewhere. Mr. Patnaude stated he would prefer to get a sound study done to get a true answer on what would be best for this area.

Ms. Fisher stated she would like to see an alternative analysis with significantly fewer units.

Mr. Hanson remarked that the Town can't get into the financial implications of this project, and can't ask him to disclose financial matters.

Mr. McNabb asked when this review would end, and whether this discussion is best left to the ZBA. He questioned whether the Board should agree with the concept and endorse the project knowing there area issues. Mr. Sergi stated the plan coupled with the process has held this up; we're not endorsing the project – we're endorsing the plan.

Fire Chief Toby Tyler stated he is concerned with the fact there is only one way in or out of this development, and whether fire trucks would be able to maneuver on the roads. Mr. Patnaude remarked there was a second entrance on an earlier plan that was removed because he was told the location wasn't appropriate; he could look at this again.

Atty. Lyons stated he would ask the Board to vote tonight; he will add the sound study and revisiting the layout of the multi-family units to the MOU. Mr. Shattuck remarked the sound study would be most effective in the winter. Atty. Lyons stated that the highway department could simulate winter operations for the sound study.

Mr. Hanson stated that process-wise, the Board can accept the location and general parameters in principal; once the developer has gone through the process with DHCD, the Board and developer can meet to negotiate the details of the project prior to submission to the ZBA.

Ms. Fisher stated she does not see what the town gains by approving this as a LIP. She stated her recommendation that the Board not approve the project as a LIP still stands. Atty. Lyons stated the comments he is hearing are telling him to go in another direction rather than a LIP; they can do that. Mr. McNabb stated he is supportive of this project moving forward as a LIP.

Discussion ensued relative to process. On a motion by Mr. McNabb and seconded by Mr. Hallisey, it was unanimously voted to endorse the project in principal with regard to its location and general outline with the MOU to be signed following receipt of a revised version reflecting the agreements of the current meeting.

Item #2 – Discussion: Efficiency Committee: Mr. Sergi stated this is a follow up on discussions at the Finance Committee meeting last week; both the Board and the FinCom agreed to create this committee. Both the FinCom and Selectmen will choose three members; the Town Administrator will be the seventh member of the committee. Mr. Sergi would like to post these vacancies with a two week deadline. The purpose of the committee will be to look at alternative ways to deliver town services; the committee will work with the FinCom and Board of Selectmen.

Item #3 – Discussion: Farming on Town-owned Land: Mr. Sergi stated it is his understanding that Mr. McNabb raised this concern. Mr. Sergi asked what the agreement was regarding the farming of two parcels of land, and whether the farmer was still in arrears with his payments. Mr. Hanson stated the farmer has paid half of what he owes the Town, and will pay the balance by December 1<sup>st</sup>. The agreement will be severed on January 1<sup>st</sup>, after which time a new RFP will be solicited. The farmer owed a total of \$9,500; he was allowed a reduction of \$1,500 due to damage to his crops caused by the Sewer Department.

Mr. McNabb stated a local farmer is interested in farming the Lawrence Street property, and wondered if it made sense to bundle the two properties into one RFP. Mr. Hanson stated they can be addressed separately. Mr. Hanson stated he will get the new RFP out in a few weeks; but it will not be effective until January 1.

Item #4 – Discussion: FIOS: Mr. McNabb stated that Groton was able to secure an agreement with Verizon to provide FIOS to the Town, and he is wondering if now is the time for us to have Mr. Hanson reach out to Groton to see what they did to get FIOS in town. Mr. McNabb remarked that residents want competition in town.

Mr. Hanson stated that Groton was re-wired by Verizon five years or so ago; only ½ or ¾ of the Town was re-wired. Verizon resolved its technical problems, after which Verizon completed the re-wiring of the Town. Mr. Hanson stated he gave the name and phone number of a contact at Verizon to Mr. McNabb; the bottom line is that Pepperell is not on Verizon's radar for FIOS. Mr. McNabb stated he wanted something in writing. Mr. Hanson replied the Verizon representative declined to put anything in writing; she also will not attend a Board meeting. Mr. Sergi asked Mr. Hanson to provide him with the contact name and phone number; he will follow up.

Item #5 – Any other Old/New Business: The Board acknowledged that the next step with the new Town Administrator would be to conduct contract negotiations. Mr. Hanson reminded the Board this must be done in Executive Session. A meeting will be scheduled with Mr. Keady.

**BOARD OF SELECTMEN MEETING MINUTES**  
**6:30 PM**

**August 10, 2009**  
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**ADJOURNMENT:** On a motion by Mr. McNabb and seconded by Mr. Hallisey, it was unanimously voted to adjourn at 10:24 PM.

Respectfully submitted,

Peggy Mazzola, Administrative Assistant

**APPROVED:**

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Joseph A. Sergi, Chairman

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Patrick J. McNabb, Clerk

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Joseph Hallisey