

Regular Session Minutes - Selectmen's Meeting
Selectmen's Meeting Room, Town Hall
Monday, July 2, 2012, 7:30 p.m.

PRESENT: Catherine B. Cordes, Chair, Margot R. Fleischman, William S. Moonan, Michael A. Rosenberg, Mark Siegenthaler, and Town Manager Richard T. Reed

ALSO PRESENT: Fire Chief David Grunes; Facilities Director Richard Jones; Department of Public Works Director Richard Warrington; Finance Director Victor Garofalo; Peter Cone; Jim Shea; Jeff Cohen; Finance Committee member Meredith McCulloch; and Press Representatives Kim Siebert and Mary McBride

Chair Cordes called the meeting to order at 7:30 p.m.

13-001 Reserve Fund Transfer – Fire Department – Salaries – Facilities Department – Facilities Town Operating Budget

Town Manager Richard Reed directed the Selectmen's attention to a memorandum written by Fire Chief David Grunes in which he outlines the reasons behind his request for a reserve fund transfer. This reserve fund transfer of \$29,170 is to cover overtime salary costs mainly associated with numerous paternity leaves and long-term sick leave within the Fire Department.

Mr. Rosenberg made a motion to recommend approval of the Reserve Fund Transfer Request of \$29,170 to the Fire Department Salaries Account. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

Facilities Director Jones was present to request a reserve fund transfer of \$7,565 to fund the cost of replacing the compressor of the Fire Department's air conditioning unit. Mr. Jones explained that during the recent heat wave it was discovered that the compressor broke and noted that in estimating the expected expenses for the remainder of the fiscal year, he believes that the Facilities budget for supplies and services will be over spent if a reserve fund transfer is not authorized.

Mr. Rosenberg inquired as to the typical life expectancy of this machinery. Mr. Jones commented that the last compressor was installed in 1998 as part of the Fire Station renovation project. He hopes that this new compressor will also last between 10 to 15 years.

Mr. Rosenberg made a motion to recommend approval of the Reserve Fund Transfer Request to the Facilities Operating Budget not to exceed \$7,565. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

13-002 Contract Approval – Town Hall Roof Replacement and Chimney Repairs – WPI Construction, Inc. – Webster, MA

Mr. Jones noted that the Selectmen recently approved a reserve fund transfer for the Town Hall roof replacement and chimney repairs project. Tonight he is requesting that the Selectmen approve the contract for this project with WPI Construction, Inc.

Mr. Jones commented on the discrepancy of the first page in regards to the amount of liquidated damages to be paid per day if the contractor does not complete the work on time. Mr. Jones indicated that he will bring this error to the attention of the contractor and amend the first page to reflect the correct amount (\$200).

Mr. Moonan made a motion to approve the contract between the Town of Bedford and WPI Construction, Inc. in the amount of \$70,000 for the Town Hall roof replacement and chimney repairs project with the stipulated amount of \$200 for liquidated damages. Ms. Fleischman seconded the motion.

The motion passed 5-0-0.

13-005 Outdoor Recreation Area Study Committee – Charge Amendment – Increase Membership from 5 to 9 Citizens

Ms. Fleischman made a motion to amend the charge of the Outdoor Recreation Area Study Committee to expand the members to 9 citizens. Mr. Siegenthaler seconded the motion.

The motion passed 5-0-0.

Mr. Rosenberg requested that the appointment of the one remaining vacancy for the Outdoor Recreation Area Study Committee be on the next Selectmen's agenda.

13-003 Proposed FY13 Water and Sewer Rates – Preliminary Review

Mr. Reed directed the Selectmen's attention to the memorandum outlining the proposed water and sewer rates for FY13 as proposed by staff. Mr. Reed noted that the estimated net cost for rate recovery is \$1,951,725 for water and \$3,644,293 for sewer. The proposed water rates represent an increase of 12.2% from FY12, while the proposed sewer rates represent a decrease of 3.6% from FY12.

A brief discussion occurred regarding why a second meter rate was established, highlighting the fact that initially the second rate was requested by residents. The \$8 rate for the second meter was chosen by the previous Selectmen as a way to provide a cost savings to those whose irrigation water was previously being charged through the sewer, while discouraging over-use of this resource.

Peter Cone, 9 Fern Way, commented that he has a second meter and waters his vegetable garden and fruit trees but does not use the irrigation water in excess. Mr. Cone believes that the premium second meter rate should be eliminated and that the same rate should be charged for both indoor and outdoor water use. He suggested that there seems to be no evidence of the rate encouraging conservation of this resource.

Ms. Fleischman asked if it is possible to disconnect a second meter if someone decides that they are not seeing a cost savings. Department of Public Works Director (DPW) Richard Warrington stated that the homeowner could pay a plumber to disconnect the second meter and re-route the plumbing, but that is often not an economical solution.

It was suggested that perhaps a tiered system could be applied to the second meter rates to provide some relief to those that use irrigation water sparingly. Finance Director Victor Garofalo noted that if the second meter is tiered, some people would pay less but another rate will have to increase in order to recover costs.

The Selectmen agreed that they would like to consider pursuing a tiered rate system in the future and asked Mr. Warrington to create an overview of the impacts and tasks required to create such a tiered system.

**13-004 Agreements Related to Bedford Sports Center Expansion (The Edge)
 – Waiver Agreement with Massport and Bedford Sports Center –
 Supplemental Agreement with Bedford Sports Center**

Mr. Reed stated that the agreements related to the Bedford Sports Center (The Edge) expansion have previously been discussed by the Selectmen in Executive Sessions. He noted the major issue with this project stemmed from the fact that the Town feels that this type of development on Massachusetts Port Authority (Massport) property should be subject to local zoning laws, while Massport does not. Although both parties are still in disagreement in this regard, they both acknowledge the fact that they do not want the project to be delayed.

Therefore, a waiver agreement has been drafted between the Town, Massport, and The Edge which acknowledges that the Town has chosen to waive its right to enforce local regulations with respect to the project under certain terms and conditions. A supplemental agreement between the Town and The Edge has also been drafted which addresses the rights of the Town in the event that The Edge does not construct and use the project in accordance with the waiver agreement. It was noted that these agreements provide for the Town to make a declaratory judgment in court while not holding up the project.

Chair Cordes stated that these agreements also specify that both Massport and the Town agree that this does not create a precedent and will not be used in any future legal action or proceedings.

Mr. Siegenthaler noted that he is not in favor of these agreements as he feels that the Town will be losing leverage in court and that Massport should be held accountable to local zoning laws.

Mr. Rosenberg made a motion to approve the Waiver Agreement between the Town of Bedford, Bedford Sports Center, LLC d/b/a The Edge, and the Massachusetts Port Authority dated July 2, 2012. Mr. Moonan seconded the motion.

The motion passed 3-2-0, Ms. Cordes and Mr. Siegenthaler voted against.

Mr. Rosenberg made a motion to approve the Supplemental Agreement between the Town of Bedford and Bedford Sports Center, LLC d/b/a The Edge dated July 2, 2012. Ms. Fleischman seconded the motion.

The motion passed 3-2-0, Ms. Cordes and Mr. Siegenthaler voted against.

13-006 Reappointments – Cable Television Committee – Charles French – Republican Registrar of Voters – James W. Martin – Election Workers

Mr. Siegenthaler made a motion to reappoint Charles French to the Cable Television Committee to a term ending June 30, 2015. Ms. Fleischman seconded the motion.

The motion passed 4-0-1, Ms. Cordes abstained.

Mr. Siegenthaler made a motion to reappoint James W. Martin as the Republican Registrar of Voters to a term ending June 30, 2015. Mr. Rosenberg seconded the motion.

The motion passed 5-0-0.

Mr. Rosenberg made a motion to appoint the election workers listed on the memorandum dated June 22, 2012 to terms ending September 1, 2013. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

13-007 Miscellaneous Action Items – One-Day Special Alcohol License – Carriage House Catering – July 21, 2012 – Chapter 268A, Section 20(b) Exemptions – Mark Bowers – Teen Corner Staff to Summer Adventures Counselor

Mr. Moonan made a motion to approve the One-Day Special Alcohol License for Carriage House Catering for an event to take place at St. Michael's Parish Hall on July 21, 2012. Ms. Fleischman seconded the motion.

The motion passed 5-0-0.

Mr. Rosenberg made a motion to approve the Chapter 268A, Section 20(b) exemption for Mark Bowers. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

13-008 Town Manager's Report

Mr. Reed commented that the Finance Committee has reorganized and Michael Siebert has been appointed as the new Chair. He further commented that the Finance Committee decided that they would like to make Stephen Steele and Richard Bowen the Finance Committee representatives on the Fiscal Planning and Coordinating Committee.

Ms. Fleischman made a motion to appoint Stephen Steele and Richard Bowen to the Fiscal Planning and Coordinating Committee to terms ending June 30, 2013. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

Mr. Reed stated that when the Bedford Woods property was originally developed, a Declaration of Development Restrictions was executed which established several requirements including maintaining the existing conservation area. As the owners of the property are currently refinancing, the financing institution would like to know if the Town is satisfied that the owners of the property have complied with the Declaration of Development Restrictions.

Mr. Reed noted that the question of whether the conservation area has been properly maintained is the only requirement that needs to be confirmed as they have satisfied all other aspects of the declaration. Conservation Administrator Elizabeth Bagdonas will be inspecting the site in the near future; however the financing institution was hoping that the Selectmen would sign the letter stating their satisfaction of the owner's compliance this evening.

Mr. Siegenthaler asked if Ms. Bagdonas had a sense of whether the property owners have been maintaining the conservation area properly thus far. Mr. Reed replied that staff has heard that there might have been an informal trail made on the property and the area was basically meant to remain undisturbed. Other than that instance, the Conservation Administrator has not heard anything of great concern. The Selectmen agreed that a trail does not necessarily disturb the conservation area to a large extent, adding that they believe the intent of the conservation area restriction on the property was to prevent things such as picnic tables, major clearing, baseball fields, ect.

Ms. Fleischman made a motion that the Selectmen certify to General Electric Capital Corporation and its successors, transferees and assigns (collectively, "Lender") and acknowledges and agrees that:

- 1. To the best of the undersigned's knowledge, Mariner Bedford Woods, LLC, successor-in interest to Bedford Woods, is in compliance with any and all obligations of Bedford Woods contained in the Agreement, and no event has occurred which, with the giving of notice or the passage of time, or both, would constitute a violation or default by Bedford Woods under the Agreement.**

- 2. The Agreement contains the entire agreement between the parties thereto with respect to the subject matter thereof, and has not been modified or amended except as follows:**

Amendment of Declaration of Development Restrictions dated as of March 24, 1999 and recorded in Book 30253, Page 488.

Second Amendment of the Declaration of Development Restrictions executed June 26, 2000.

- 3. The Agreement (amended or modified as indicated in paragraph 2 above) is presently in full force and effect in accordance with its terms.**

The Selectmen acknowledge that the Lender has requested this letter in connection with a proposed financing of the parcel of real estate owned by Mariner Bedford Woods, LLC, successor-in-interest to Bedford Woods, and that Lender may rely on the information set forth in this letter, subject to inspection of the Conservation Administrator, to be held by the Town Manager until such time. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

13-009 Open Discussion

Mr. Siegenthaler commented on the proposed development of the property located at 54 Loomis Street. He noted that he talked with Planning Director Glenn Garber and requested that he discuss the possibility of creating access from the property to the narrow gauge bike path with the developer.

Mr. Moonan commented that he received the Planning Board Public Hearing Notice regarding the same development in his mailbox which had a written note on it saying "Vote no, save our neighborhood." Ms. Fleischman noted that this will be the first project in that neighborhood since the Mixed-Use Overlay District was created for that area.

Mr. Rosenberg asked if the Town Manager had an update regarding the proposed housing development on the Veteran's Administration (VA) Hospital's land. Mr. Reed stated that the proposal to build a 70-unit complex primarily for senior veterans who are, or soon will be homeless is still progressing. The Town has started to discuss the municipal impacts of the project with the developer and ways in which they might be mitigated.

Mr. Rosenberg noted his dismay that State Representative Charles Murphy will be moving to the private sector and suggested that the Selectmen send him a letter thanking him for his service. Chair Cordes agreed, commenting that he has served Bedford well over the years and he will be missed.

Mr. Moonan requested that the Selectmen be provided an overview of the financial statistics as it relates to the new automatic refuse system in the near future.

Mr. Moonan made a motion to adjourn. Mr. Siegenthaler seconded the motion.

The motion passed 5-0-0.

The meeting ended 9:05 p.m.