

Board of Selectmen's Meeting**April 3, 2008**

Present: Selectman W. Glenn Major; Selectwoman Gayle Weinstein; Town Administrator Tom Landry; Administrative Assistant Judy DeVito and residents.

This meeting was recorded and video taped and the tapes are available in the Selectmen's office and the Building Department, respectively, for further reference.

Mr. Major called the meeting to order at 7:30pm

Mr. Bliss joined the meeting by telephone.

Pledge of Allegiance – Joanne Pfund lead the meeting in the Pledge of Allegiance

Discussion/decision regarding the appointment of Marianne F. Murray to fill the vacancy (Arthur Hahn) as an alternate on the Zoning Board of Appeals for a term to expire November 10, 2009. Marianne Murray said that she has lived in Weston since 1990. She has been a practicing attorney for 24 years and practiced in New York for 20 years and Connecticut for four years. She has land use experience. She works for a firm in New Canaan where she does some land use work, variance work and special permit work. She also did all the real estate work for the Canadian government for 20 years. She feels that she has expertise to benefit the town.

Mr. Major asked if her firm did any representation of clients in Weston. She said they have not to date and she would recuse herself if that should ever come up.

Ms. Weinstein made a motion to appoint Marianne Murray to fill the vacancy of Arthur Hahn as an alternate on Zoning Board of Appeals for a term to expire November 10, 2009. Mr. Bliss seconded and the motion passed unanimously.

Accept the resignation of Steven Ezzes from the Building Committee effective immediately. Ms. Weinstein made a motion to accept the resignation of Steve Ezzes from the Building Committee effective immediately. Mr. Bliss seconded and the motion passed unanimously.

Discussion with Building Committee regarding ongoing projects – Joe Fitzpatrick

Joe Fitzpatrick, Richard Wolf and Allen Swerdlowe updated the Selectmen on the projects that they are working on.

Town Roof- Mr. Fitzpatrick said that the bids are due April 7th. There were three qualified firms that have picked up bid packages and that is the minimum that they want. The job involves two roof systems and has to be staged in an occupied facility. One thing to add to the design because of the drainage problem is gutters and the new design calls for gutters. In the event we get only one bid, he said we should reject the bid and redo it.

Ms. Weinstein asked if there were any structural things that needed to be done before we did the roof. Mr. Fitzpatrick said that we need the depth of the rafters on the Commission Room and that's solely for the purpose of running ventilation. Ms. Weinstein said she wanted to be sure that we have budgeted enough money. Ms. Weinstein asked if we could do this project this summer. Mr. Fitzpatrick said yes.

High School Auditorium- Mr. Fitzpatrick said they hired a lighting consultant, Bill Waffle, who came up with a retro fit which will be minimal cost and cut a chunk of money out of the budget that he was concerned about. Mr. Fitzpatrick said what they are doing is bare bones and they are trying to bring the auditorium back to life. Weston Arts is raising money for seats, new stage floor, stage extensions. The acoustics are poor and they need to add acoustical treatments in the walls. We need code upgrades, including lighting that we do not have, that is required, insufficient air flow in the facility which has nothing to do with air conditioning. There is no air conditioning currently in the existing facility.

Mr. Fitzpatrick said they have about \$1.5 million left including private donations and they are looking at about \$2 million. He said that there is no fluff in this job. They want to go out to bid on it. Mr. Major said that his understanding was that there were sufficient funds and that is why they cancelled the public hearing that they had planned. He said that since we are spending down the general fund that this would just get put in the mix with other projects. We just need to make sure that we put the appropriate dollar amount into the mix. Mr. Wolf said that they do not want to give a figure until it goes out to bid, which will be in a couple of weeks. Ms. Weinstein said she wanted to be sure that this did not get lost, and that it is as accurate as it could possible be.

Mr. Fitzpatrick said it should be out on the street any day now. It will be a three week cycle. Mr. Major said it will take a month to go through all the meetings. Ms. Weinstein wanted to be sure the project included the lighting issues, utility in the control room, carpeting, stage floor, acoustics, code upgrades, air conditioning, seating and sanding the walls. Mr. Swerdlowe said they were cleaning the place up.

Mr. Bliss asked if the building committee could get the best estimate of a timeline with the dependencies in it. Mr. Fitzgerald said they were going to miss school opening. The critical item is there is a theatre performance in November. They have to hit that. They would have to get the meetings scheduled once they have the bids in. Mr. Bliss asked that Tom coordinate the timeline. Mr. Landry said he would start after the bid opening.

Mr. Fitzpatrick said they will need to do whatever they have to get this project done. Joanne Pfund said that they would like to support the notion that this project go through and not impact the programs going on in the fall. They are concerned about the contributions that they have received, being able to make use of them.

Alternate Energy Consultants- Mr. Fitzpatrick said they have formed a sub-committee on this subject. They agreed to bring on an expert who has no predisposition to it. Ms.

Weinstein asked if they had engaged an attorney. Mr. Wolf said that we had previously approved an appropriation of \$5,000.

Allen Swerdlowe said that there has been a lot of interest in alternative energy. A year or more ago, Don Gary decided to look into photovoltaic panels for the High School roof. He had asked for funding to engage an energy attorney, Jennifer Genil, who would be able to help look into this. Rather than letting it knock around he thought it was a good idea to try to consolidate some of these efforts. After speaking to Jennifer Genil she laid out a program and talked about precedence that she has been involved with where you can actually integrate different forms of alternative energy.

Mr. Swerdlowe said that there was legislation which allows us to take advantage of all kinds of programs, tax benefits etc. Ms. Genil had told them of a project in Middletown Connecticut where she was able to get about 2 million dollars worth of hard and soft cost for there program fully funded. She got so much funding that she had to turn some down. In order to do it, she would have to write an RFP. We would have to engage in an engineering consultant to do an assessment of what we would need.

Mr. Swerdlowe said that Ms. Genil is in the process of producing an RFP, which they will study. If the Town feels it is wise to move ahead, they will then issue the RFP and get proposals. The front cost will have to be fronted by the Town, but she feels ultimately all those cost will come back. Ms. Weinstein said one of her concerns is that the majority of our buildings are not energy efficient. She felt that you need to make the building energy efficient, and making sure that we are doing the best we can there to even see what our photovoltaic or fuel cells needs would be at that point.

Mr. Wolf said that there can be a significant financial cost savings for the Town if we go forward with alternative energy. Mr. Swerdlowe said the numbers are in the neighborhood of just under \$2 million that we are spending on fuel and electricity right now and according to Ms. Genil we should be able to cut that in half if we implemented this program. Ms. Weinstein asked if they had gotten any up front numbers and when we would start seeing some of this come back to us. Ms. Genil has said that we would be able to break even in three years.

Kaestle Boos- Ms. Weinstein asked about prioritizing the Kaestle Boos list and if the building committee was making a list. Joe Fitzpatrick said that they can review and make recommendations, but the user of the facility, the Town and the School, has to look at the particular items and come up with their vision of it. Mr. Fitzpatrick said that the school is doing that. Mr. Major said that this should probably be discussed at a specific meeting with the separate people.

Revson Field- Mr. Major said we hired the contractor to fill the low spots and top dress the field. He asked if it was possible for the pockets to be excavated and properly filled. Mr. Fitzpatrick said you can ask them to take it out, and if they do not you can litigate it. Mr. Landry said that the company is not offering that, they have come out twice to make things playable and if things keep coming up, then we will have to ask them to come back

again. Mr. Landry said there were soil samples done. Ms. Weinstein asked where we go from here with Revson field. Mr. Landry said the contract was for only the work they did and they need the fields to play so if you dig it up you would have to do it after the season.

Mr. Major asked where the decision gets made as to how to proceed. Mr. Bliss said the athletic director at the school is working with Dave Ungar. The Town Attorney has put the company on notice. Mr. Major asked if the contractor thought he was finished at this point. Mr. Landry said he called them the first time and he agreed to come out, he looked at it, and said this is not right, and we will come out and do what it takes to make it right. On the following Wednesday they came out with a crew of ten and raked, hand picked, dragged with a tractor and fertilized and seeded by hand.

On Thursday, Dave Ungar opened the fields. On Friday Mark Berkowitz, the Athletic Director, said that they can practice on the field but they cannot have game conditions on the field. Mr. Landry said he called that day and told them, and they said that they would come out and do more work. The weather was supposed to be rain Monday and Tuesday, so they would come out on Wednesday. On Wednesday, they were out picking things up by hand. Flavio called and said Dave wanted him to rake it, but it was wet and that would rip it up. Flavio said to Mr. Landry that he felt that what he was doing was going to get the field in playable condition, and he did not feel the need to send another crew out there now and we would see what develops.

Mr. Major said he felt it would be prudent to excavate one of the areas that we know that there was glass found on the surface and sift through what is there. Mr. Landry said that would affect playing on the field. Mr. Major asked that they coordinate with Park and Recreation and the school, and look at the fields. Mr. Fitzpatrick said that we have given the company a chance to clean the field, and it does not sound like he has done it. He said send Mr. Landry out there. The minute you find a hunk of glass you put them on notice, and give them whatever the legal notice is, you direct them to come in and scrap everything off, remove all the material and replace it. If he says no get someone else to do it and bring him to court.

Mr. Robert Machson agreed with Mr. Major as to what should be done. He said he was concerned that we have lost our rights by whoever created the first problem. He did not understand why we could not seek litigation redress against the first group. He asked what counsel judgment was on this. He asked if there was a contract and are there parties who can be held accountable. Did we have a strategy for doing so. He asked if any steps have been taken over the last three months to preserve the evidence from the previous problem.

Mr. Tom Low asked if there was any glass found on the infield. Mr. Landry said that they had done no work on the infield grass.

Discussion/decision regarding Weston Sports Group – Brian T. McMahon. Brian McMahon, Mark Berkowitz, Mike Foster and Peter Figliola made a presentation to the

Board. Mr. McMahon said \$1.1 million of Town funds were committed to the project along with the assumption that residents would also provide private funding. Over a period of three weekends they have raised \$210,000 of private funding and put the lights up on the Lacrosse field. In 2003 the plan showed two turf fields, a Booster Barn facility with stands and all we have today is a dirt field. They estimate that we are losing \$50,000 a year in revenue a total of \$250,000 to \$300,000 has been lost.

Mr. McMahon said they estimate the stand on the stadium field at \$200 a seat totaling \$120,000, stands on the lower field \$120,000, press boxes \$30,000 each, Booster Barn \$120,000 and a rough fund of \$8,000 to complete the project. Total estimate is about \$500,000.

They want to fund it by one of two ways. Take the money out of the general fund but they will give the money back. Patriot National Bank has agreed to provide a loan to the Town at an agreed interest rate and a term to be discussed to get the project done.

Mr. McMahon said that the youth of Weston have already paid \$153,000 over the past four years. The Booster Club has committed to \$17,000 a year in terms of funding the field replacement fund. They are going to give an additional \$5,000 to fund this and a personal gift of \$10,000 from someone in the room. They expect the Town to help out and also fundraisers.

Mr. McMahon said the Town has a \$40,000 line item already for bleachers and someone committed to \$10,000. We have the first year already paid for. There is revenue from the different sports clubs and camps that use the field over the summer which totals almost \$17,000 a year that comes in. The Grid Iron club has agreed to give \$5,000. With no money coming from the Town the amount is \$32,500. If we have a place to sit and invite other Towns to games this would bring in about \$7,000 per year which brings the total to \$39,500 per year for 15 years is almost \$600,000 and they are looking for \$500,000 to get the project started and finished. Fifty thousand dollars of this is already in the bank.

Mr. McMahon said that we can have car raffles every couple of years. They are looking for the Town to committee \$25,000 a year, \$5,000 from Parks and Recreation, \$20,000 from the Town. He said this must be a team effort. The vast majority of the funds are not coming from the Town but from the Town's people.

Mr. McMahon said that they were looking for guidance from the Selectmen. Ms. Weinstein asked about the funding of \$1.1 million from the Town. She asked where the shortage of funds came from and asked if the town was still committed to pay the \$300,000. Mr. McMahon said that they do not know and Mr. Bliss was supposed to talk to the Town accountant. Mr. Bliss said the \$1.1 million was the cost of moving the High School football field in order to make room for the 3-4-5 school.

Mr. Major said from his prospective there were three bonding issues and the total of that was \$80 million and with the bonding issues there were projects allocated, but the Town never voted on spending \$1.1 million dollars for the football field. Mr. Foster said his

recollection was the Selectmen made a commitment that in the effort to raise the private funds there was that money there to go towards that project. Mr. Major asked when that commitment was made. Mr. McMahon said 2003. Mr. Major said he was on the board in 2003, and he had never committed to that. Mr. Foster said they are asking the Town to participate whether it is lending the money or signing the loan. Mr. Major said that they were asking \$20,000 a year plus another \$5,000 from Parks and Recreation.

Mr. Landry said that the approach to them was it was \$1.1 million to do the field, a \$500,000 up charge to do fake turf on the field. Mr. Butlein said they wanted to try and raise \$500,000 and put fake turf on the field. If we can do it twice, they will put it on two fields. If they do more than that then they will do a Booster Barn. The Booster Barn was always donated money. He said he remembers because there was discussion at the Building Committee meetings which he went to regularly. Fletcher Thompson had agreed to donate there time to the Booster Club as sort of a pro bono effort to design the facility. They were only able to raise the money for one field.

Mr. Landry said he wrote the STEAP Grant and that was how the second turf field got done. Mr. Bliss said the issue tonight is to put a plan together to complete the project. Mr. Major said take the soccer field stands put them in as a line item in the 2009-2010 Capital Item. Rob Thompson said if they get a commitment from the Board to help then they can go out and start raising the funds. He felt he could raise \$100,000 in a month.

Ms. Weinstein said she was trying to figure out what they needed now and what they could push off. Mr. McMahon said \$300,000 is what they need now. Mr. Major said we need to look at this as part of the money that we want to spend down on the general fund. Mr. Major asked them to get some real numbers to them quickly, because it would help in making a decision in spending the general fund monies.

Discussion/decision regarding supplemental appropriation for drainage improvements on November Trail – John Conte

John Conte said that they are looking for an approval for a supplemental appropriation to correct an erosion problem for a drainage outlet located on November Trail. There is a drainage easement that comes down along the property line. Mr. Conte said that there were a lot of little intermitant brooks that come in. The entire watershed area drains down into 33 November Trail.

There were problems figuring out what type of design they could come up with. The problems were the work area is so far from the road and you cannot drive trucks down the area to work. The very steep slopes going down the channel and steep slopes cross sectional area, there are about ten foot walls caving in.

Mr. Conte talked about the Gabion Structure which are wire baskets that come in varies different sizes and shapes that are filled with six to eight inch stone. They work well for these types of projects and they are cost effective. Mr. Major asked that when it is constructed, if they could be monitored closely.

Mr. Major asked why this had not been put in as a Capital item for the 2008-2009 budget. Mr. Conte said that they had just started working on this a couple of months ago. Ms. Weinstein asked if there were other drainage issues around Town. Mr. Conte said he would be coming in with one for Kettle Creek Road. They are waiting for a study on Deepwood Road, which has not come back yet. Ms. Weinstein asked if the Conservation Commission had any say in enforcing that the Aspetuck Land Trust fix any of the issues on their property. Ms. Kulikowski said if they were building something, yes, but in terms of stuff just moving, no.

Mr. Conte said he sent out nine notices to nine different contractors and only four came back with quotes. Datin Bros came back with the lowest quote and they are a very good company that has worked for the Town in the past. Their bid was \$31,640. Mr. Conte said this was a very good price and would have thought that this would have come back at about \$60,000.

Mr. Major made a motion to make a supplemental appropriation in the sum of \$31,640 to do the November Trail drainage improvements in accordance with the Datin Bros bid dated 02/29/08 subject to Board of Finance review and approval. Ms. Weinstein seconded and the motion passed unanimously.

Ratification of Selectmen's actions regarding Police Settlement Agreement. Mr. Major said that the reason this item was on the agenda was because there was a settlement that was reached concerning a grievance filed by Sgt. Daubert. Mr. Major said under the Charter it was in his rights as acting First Selectman to be able to bind the Town to the agreement however, he felt it appropriate to have it put on the agenda so that the full board could ratify the acts that he has taken, and in the theory of full disclosure so that this would then become part of the record.

Chief Troxell said there was a hearing with a mediator. Prior to going into the step three grievance 07-03 they came to an agreement. As stated in the settlement all the other parts of the grievance will be dropped. There is no monetary payout to settle the agreement. Sgt. Daubert had been forced to take five vacation days towards the end of his time out with his injury, and they found out later that he also accumulated five extra sick days while he was out. Sgt. Daubert came back January 8, on full duty and made the request to switch the sick days with the vacation days. It was denied at that time. Chief Troxell said that he has since agreed to do the change.

Travis Arnette, Union President said that they were satisfied with the outcome. Also the Town has put in writing its practice of light duty which had not been put in writing before. Mr. Bliss asked about the light duty. Travis read the sentence which said "the Town shall continue its existing practice with respect to light duty". Travis said in the past the police department had light duty for its officers; however, there was nothing in writing about it. Management was willing to put in writing that it will continue its existing practice.

Ms. Weinstein made a motion to ratify Selectman Major's actions regarding police settlement agreement. Mr. Bliss seconded and the motion passed unanimously.

Discussion/decision regarding OPEB Trust Fund Ordinance- This item was tabled to the next Selectmen's meeting.

Discussion/decision regarding Tax Relief for the Elderly Ordinance.- Mr. Major said we had the public hearing and the only two people in attendance was Alice Williams and Margaret Wirtenberg. They both spoke in favor of the ordinance. Mr. Major said he still had an issue about not charging interest and they need to have a discussion when this comes back on the agenda next year.

Ms. Weinstein made a motion that they adopt the Tax Relief for the Elderly Ordinance as submitted. Mr. Bliss seconded. Mr. Major made a motion to amend the motion to read, to take effect for fiscal year 2008-2009. Ms. Weinstein seconded and the motion passed unanimously. The amended motion passed unanimously.

Executive Session- Report on results of Midtown Garage Case –Ken Bernhard
At 10:25pm Ms. Weinstein made a motion to enter into executive session. Mr. Bliss seconded and the motion passed unanimously.

ATTENDANCE and DISCUSSION: The meeting was convened at 10:29 pm in the First Selectmen's Office by Mr. Major with Ms. Weinstein present. Chairman Bliss participated by telephone. Also present was Town Administrator Landry.

Town Counsel Ken Bernhard and Associate Counsel Barbara Schellenberg advised the Board on the status and progress in the Midtown Garage law suit.

No votes were taken.

After discussion, the Board voted unanimously (Mr. Major, motion; Ms. Weinstein second) to end executive session at 10:49pm and reconvene in open session.

ADJOURN: At 10:50 pm, a motion (Ms. Weinstein, Mr. Major second) to adjourn the meeting passed by unanimous vote.

Respectfully submitted
Judy M. DeVito
Administrative Assistant
Approved 9/04/08