

Board of Selectmen's meeting

September 4, 2008

Present: First Selectman Woody Bliss; Selectman W. Glenn Major; Selectwoman Gayle Weinstein; Town Administrator Tom Landry; Administrative Assistant Judy DeVito.

This meeting was recorded and video taped and the tapes are available in the Selectmen's office.

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

Pledge of Allegiance- Captain Larry Roberts led the meeting in the Pledge of Allegiance

Discussion/decision regarding the appointment of Paul Deysenroth to fill the vacancy (Eileen Lawrence) to the Historic District Commission for a term to expire December 31, 2009. Paul Deysenroth has lived in Weston for about 44 years. He has served on various commissions in Town and is a member of the Weston Historical Society and the Weston Volunteer Fire Department and EMS.

Mr. Major made a motion to appoint Paul Deysenroth to fill the vacancy of Eileen Lawrence on the Historic District Commission for a term to expire December 31, 2009. Ms. Weinstein seconded and the motion passed unanimously.

Accept the resignation of Richard Saltz from the Police Commission effective September 1, 2008.

Ms. Weinstein made a motion to accept the resignation of Richard Saltz from the Police Commission effective September 1, 2008. Mr. Major seconded and the motion passed unanimously.

Discussion of Town's legal obligation regarding culvert replacement.- Kenneth Bernhard. Mr. Bliss had asked the town attorney about the Town's legal obligation with regard to culverts which were installed in the Town and at the time of installation met all code requirements.

Ken Bernhard said that this was not as simple as it sounds since the question is liability. He said the best and short answer to the question is that he believes that the Town does not have any legal obligation to upgrade culverts that today may be undersized, if at the time they were installed, they met code standards.

He said this falls into a ministerial act or a discretionary act. Ministerial acts are obligations that the Town has to carry out, repair, maintenance of a facility that already exists. With respect to the designing, planning or providing of drains, that is called a discretionary act. In those instances, the municipalities have governmental immunity from liability. He said after analyzing all the cases in his opinion ultimately the Town would prevail in the facts that have been given to him in this case.

Mr. Major asked what rights the Town can give to the homeowners to make the repairs, if they choose to do that. Ken Bernhard said that there are no restrictions on that. As far as the control of the project, the Town should be in control, since we are ultimately liable for faulty construction. If the property owner or tax payers wanted to make a dedicated gift of money to the Town for a specific purpose, and the Town wanted to accept the gift for that purpose, then you could proceed and it would then be a municipal project funded by the gift.

Ms. Weinstein said that her concern was that we do not have a policy in place for this. We need to establish one so that we do not handle this on a case by case basis. Ms. Weinstein said that John Conte should set the parameters. Mr. Major said that when he started looking at the numbers that were associated with the project and realized that these were not improvements that the Town needed, but

rather they were for individual properties, he did not have an issue, and since there is no legal obligation, he feels it is inappropriate to be spending Town dollars on this type of project.

Ms. Weinstein said she would be happy to work on getting something in writing. Mr. Bliss said that if we decide to invest tax payers money, we must be very consistent having a set of criteria.

Mr. Zannetti said as the Town evolves and develops he felt it was the responsibility of the town to keep up with that development. He felt it was important for the Town to keep up with certain areas of the Town.

Presentation of final report on Select Committee on Legal Review.- Mr. Bliss thanked the Legal Review Committee for the fine job that they had done on the report. Mr. Bliss summarized the three major finding of the committee. 1. The firm of Cohen & Wolf has served us well. 2. The charges to us with regard to retainer and hourly rates are appropriate and in line with what other Towns are paying and 3. The suggestion for in house counsel is probably not appropriate for a Town of this size, because it is economically not feasible.

Ms. Weinstein said that she had not had a chance to go through it, but she felt that they had made some very good points about the contract with you and letting the left hand know what the right hand is doing. She also thanked the committee and said they had done an outstanding job, and the due diligence was well worth it. Dennis Tracey said that when you go through the report, feel free to get their questions to the committee.

Discussion/decision regarding Lyons Plain Fire House –Curtis Gunn

Curtis Gunn, President of WVFD; John Pokorny, Fire Chief; Dana Coates; Larry Roberts, Captain; made a presentation. They are formally asking the Town for \$900,000 that they originally informally asked for in October 2007. The funds are to be used for the construction of a new firehouse on the existing footprint of the current Lyons Plains firehouse. The goal tonight is to come to a final resolution as to how this will be accomplished.

The Town funds will be combined with \$900,000 from the Weston Volunteer Fire Department, Inc. and will be put towards the construction of the new Lyons Plain firehouse. After much discussion with their architects and members of the fire department, who are in the trades they know they can bring this project in for \$1.8 million.

An engineering firm was hired to consider renovation and the addition of a second floor to the existing building, but due to poor soil compaction, the existing foundation was found not suitable for any renovation. Due to lot size and configuration, there is no additional space to add on to Station 2 without going up. There is a combination of structural failures. The fire department has determined a need to replace the fire house located on Lyons Plain due to unsuitable interior configurations, and state and federal mandates.

The original building was built in 1947 after obtaining the property as a gift from Clarence C. Smith using cinder blocks, a building material now banded from use. The new facility will accommodate training. The fire department owns the Lyons Plain firehouse and has borne the cost of maintaining the Lyons Plain firehouse, housing the Town owned fire trucks and all necessary equipment.

The increase in call volumes has necessitated a larger staff of volunteers to ensure adequate coverage. The increase in volunteer staff has lead to a need for a larger facility for training and meetings. Since its inception the Weston Volunteer Fire Department has had an agreement with the Town of Weston to provide manpower services for the prevention and suppression of fires.

Ms. Weinstein qualified that it was a maximum of \$900,000. Larry Roberts said that the only way they would come back to the Town was if there was a new mandate established by the Town or State that was beyond their control. Anything beyond the \$900,000 that was not a mandate, would be raised through fund raising.

Mr. Bliss asked about the three year schedule. He asked if the first payment would be in the spring of 2009. Mr. Gunn said it would. Mr. Bliss further stated that the proposal would have to be approved by both the Board of Selectmen and the Board of Finance and go to a Town meeting. Curtis Gunn asked if they could ask for the full \$900,000 at one meeting with the understanding that the increments of \$300,000 would be issued every year. Mr. Bliss said yes. Mr. Major said that it would be written in such a way that we do not get into a situation like Lachat where it was approved at a Town Meeting and then turned down at a budget meeting.

Mr. Major said he felt that it was appropriate that they get real hard evidence that was the right number. Dana Coates said that the building is designed and there are no changes scheduled because they have a footprint to work with and they can only do so much with it.

Mr. Major said that they have not seen the financials. They have seen the operating budget, but not the financials. He said that they have been asked that we have a public hearing before a Town meeting and he would like to have a public hearing before the Town meeting. Ms. Weinstein asked if they could tentatively schedule the meeting. Mr. Bliss said that we could take action on this to approve it and set a schedule which encompasses all the steps along the way.

Mr. Major said he needs to see some real numbers, because of what had happened with auditorium. Mr. Bliss said that this is different because from what the fire department said, they would make up the short fall. Ms. Weinstein said she looks at it as a gift or donation to the fire department. If the project comes in under the \$1.8 million the town would fund 50% of the project to a maximum of \$900,000.

Mr. Landry said that they could call the Town meeting after the bids come in. Mr. Roberts said they are looking for the Town's commitment because they are starting to spend real money. Mr. Major asked what the fire department endowment was. Mr. Gunn said that it was \$1.25 million and EMS has a similar amount.

Ms. Weinstein made a motion to approve up to one half of the cost up to a total contribution from the Town of \$900,000, \$300,000 per financial year, to take to a Town meeting for approval, to make a donation to the Weston Fire Department to be utilized to rebuild the fire house subject to Board of Finance approval with a public hearing and two weeks for a Town Meeting. Mr. Major seconded and the motion passed unanimously.

Discussion/decision regarding the Booster Barn and Bleachers. Peter Figliola made a presentation the Board of Selectmen. He first went through where this all started in March of 2001. He said in the Budget that was approved in September of 2001 for 80 million dollars the construction of the Booster Barn and stands were included. When the building committee came back with a cost of the project and it exceeded \$1 million the project fell out of the budget. In September 2004, the turf went down on the varsity field, and September 2005 is when the turf went down on the upper field and the school building project was completed.

Currently where the Booster Barn was supposed to be is a dirt field. In January 2008, the Board of Directors of the Grid Iron Club asked the High School football team members to take a vote as to what

the Grid Iron Club could do for them and they came back with constructing the Booster Barn and the bleachers.

The Board of Education took \$10,000 out of their budget to fund a study by Kaestle Boos which would look at the field behind the stadium complex and identify the proper location for the Booster Barn. Initially it was to be close to the access road, but after the study came back it was determined that was not a good location. Kaestle Boos came back with three different alternatives and the Board of Education had decided that their choice was to locate it behind the bleacher structure.

Dan Clarke was assigned to be the project manager and to oversee the Kaestle Boos project. The placement of the Booster Barn was selected and ADA compliance issues were researched by Kaestle Boos and the issues were identified to them. Kaestle Boos came forward with a rough sketch of an exterior and interior drawing of what the Booster Barn potentially could look like.

The bids went out for the bleachers. Five bids were returned and one was rejected. The winning bid came in at \$236,000 and is the same company that constructed the bleachers at Immaculate, Ridgefield High School and WestConn.

The estimated cost from Kaestle Boos is site work-\$67,000, Booster Barn-\$118,000, bleachers-\$235,870, contingency (10%) \$42,087, soft cost- \$50,504 for a total project cost of \$513,461.

They are requesting the approval of an interest free loan of \$513,000 to fund this project. The loan will be repaid over a number of years by various athletic clubs and High School Athletic Teams. Another source of funding will be sponsorship dollars from bleacher rows. Mr. Figliola went through a breakdown of the sources of funds for repayment. There were letters of commitment attached to the sources of funds from each club.

They are planning on applying for a STEAP Grant. Mr. Figliola went through a payoff schedule that pays the loan off in a little less than nine years. He said there is the potential to accelerate the payoff of the project. He then asked for the Board of Selectmen's commitment.

Ms. Weinstein said that she would like to break up the discussion, one about the bleachers and one about the Booster Barn. She was comfortable with everyone's comfort level with the bleachers and no question about that.

Ms. Weinstein said she is concerned about sticking the Booster Barn in the middle of the field. She said she would like to see it right in front of the bleachers or tucked into the bleachers. She had concerns about the letter that the Selectmen received from the School Building Committee and said we need to keep in mind that the use of the building is to sell hot dogs. She said to make it aesthetically pleasing we can match the bricks that are on the other building then we are okay.

Ms. Uzenoff said as of this afternoon, Kaestle Boos has put forth a tentative plan and the total budget to bring the schematic designs and the bid documents comes to about \$12,200 and for an additional \$8,080 they will offer their services in overseeing the entire project.

Ms. Uzenoff said that the Building Committee is concerned about the esthetics. They are concerned that the field had multiply uses. There is a valid discussion that should take place that if this is a rectangular box and it was recessed as the School Building Committee suggested, the whole thing sits underneath the eye beam construction and it is tucked into bleachers. There would still be space on the other side that can be used for future team meeting rooms, storage space, etc.

Mr. Bliss asked if the \$20,000 included the drawing to put the Booster Barn under the bleachers. Ms. Uzenoff said yes. Mr. Bliss said he would like to see the bleachers installed as fast as possible. He would like the Booster Barn up and running in the spring.

Ms. Uzenoff said the bids for the bleachers expire September 15th and they have already received an extension on it. She said you should approve the money at least for the bleachers.

Scott Terrel said that it was time to get this done. Ms. Weinstein said that she is committed to this project; however, we can not be penny wise and pound foolish.

Mr. Shaner said that he felt the building committee was coming in late in the game and common sense would suggest that putting the Booster Barn under the bleachers was not the most appropriate place to have the cooking of foods and also the toilet facilities.

Mr. Major asked about the reserve account that they talked about in the presentation. Mr. Bliss said that it was just a pass through account. He asked about the caveat in the commitment letters that indicated that they would make the commitment provided everybody else upheld their commitment. Mr. Major said that he is concerned about the Town if the groups back out of their commitment and the Town has already committed. Mr. Figliola said that that was not the intent.

Mr. Shaner said that it was not meant as a negative, but rather it reflects the fact that they are unified in their commitment to move the project forward and is not an escape hatch. Mr. Bliss said that he has a similar concern. The president of the Weston Lacrosse club said that if there was other suitable language that they would like put in they will put that in.

Ms. Weinstein said she would rather see a supplemental appropriation be made for the bleachers so that they can get up and going. As far as the Booster Barn she felt it would be wiser to go to a Town Meeting and not utilize that money out of our supplemental. Mr. Bliss said last year was the first year that we had ever come close to using the Board of Finance supplemental authority of 2%, since he has been on the Board of Selectmen. Mr. Landry said considering our year-to-date commitments, if we add the \$513,000, we have approximately \$350,000 left.

Mr. Bliss made a motion to move forward to the Board of Finance with a proposal to loan \$513,000 to this project with the understanding that: (1) Kaestle Boos will look at the design of an external Booster Barn versus an internal under the bleachers Booster Barn. (2) We get that design together, so that it will enable us to move ahead with the stands and get everything up and running by March 15, 2008. That way, we will have the Booster Barn for next spring. Mr. Major seconded for purposes of discussion.

Mr. Major said going that process you have eliminated any Town participation. He said approve the funds tonight for the bleachers so that project stays on course, approve the funds that are needed for the design review. It does not slow the March date down. It would at least allow the opportunity for the Town to have some input in the process. Ms. Uzenoff agreed with Mr. Major.

Mr. Weinstein recommended that the project stay under the control of the Board of Educations Facilities sub-committee rather than go back to the Town Building Committee to expedite matters.

Mr. Major said he has never opposed this project. He has a duty as an elected official to vet the process. There is a big difference between opposing the project and vetting the process. We just had it happen with the auditorium and we are trying to prevent it from happening here.

Mr. Major asked Mr. Bliss to reconsider the motion to do it in two pieces, we do not affect the time frame and we are able to have some Town input before the Board of Selectmen took the action on appropriating the funds for the balance of the Booster Barn. Mr. Bliss said the advance of approving \$513,000 tonight is we cover the bleachers and we cover a solution that we know works for the Booster Barn. He did not see an advantage to splitting it in two pieces. Ms. Weinstein said she absolutely did see an advantage to splitting it in two pieces. She felt that taking that much money out of the general fund would tie their hands in the future. She suggested that the funds for the Booster Barn go to a Town Meeting.

Mr. Bliss said part of the process is fund raising and by approving the whole package we would send a signal to the Town and people are going to be contributing. Ms. Weinstein said that we were showing an absolute commitment and with the bleachers in place it does not hamper the fund raising efforts. Mr. McMahon said the Boosters were the biggest contributors and without the Booster Barn there are no funds.

Mr. Major made a motion to call the question. Ms. Weinstein seconded and the motion passed unanimously.

Mr. Bliss made a motion to commit \$513,000 on an interest free loan for the purposes of creating the stands and the Booster Barn subject to the Board of Finance approval. Mr. Major seconded and the motion passed unanimously.

Discussion/decision regarding First Night- Denise Torv

Denise Torv made a presentation to the Selectmen and asked for an increase from last year's request of \$7,500 to \$10,000. The reason for the increase is because of the increased cost of providing transportation between venues and increased transit costs facing the entertainers traveling to the region. They provide food for the entertainers and also provide food for visitors.

Ms. Weinstein asked how much it cost to run First Night. Denise was not sure, since she had just been back a few weeks. Since they are non-profit any surplus goes back into the event for the following year. Generally if there is a profit it will be under \$10,000.

Mr. Major asked what other Towns contributed and how much the tickets cost. It is only Weston and Westport and the tickets are \$15 and children under 2 are free. Mr. Major said that he has an issue contributing more than \$7,500.

Mr. Major made a motion that we continue with the \$7,500 contribution. Ms. Weinstein seconded and the motion passed unanimously.

Discussion/decision regarding Fuel Efficient Vehicles Ordinance-

Mr. Major suggested that we approve the ordinance so that it is clear that it is only a new purchased car and that we cap it up to a total abatement not to exceed \$7,500. He said what he was trying to achieve was to have the ability to say that the Town had stepped up to the plate. What he would have thought a rather benign type of proposal, the number of people who have weighed in was astronomical. Percentage wise far more people were opposed to it than in favor of it, but he felt that it was appropriate for the Town to take a positive step.

Ms. Weinstein said that she is still one of those people that are opposed. She would rather see the money air marked towards doing something positive for the Town and being proactive rather than reactive. She did not feel that the State legislative was a good one and was an empty, feel good legislation and the \$7,500 could be used to look into various things that might help with fuel efficiency in the Town.

Martin Strasmore chairman on the Global Warming Committee said that they have money in their budget that can be used for doing a marketing campaign. Mr. Strasmore said his suggestion is if you want to put a cap of \$7500 on it that maybe you make it 50% of the taxes for the first year so more people can take advantage.

Mr. Bliss said if it goes over the \$7,500 we would just prorate. The ordinance applies to anyone who buys a car from September 1, 2008 and November 1, 2008 gets relief in their 2009 tax bill.

Mr. Major made a motion to approve the Fuel Efficiency Vehicle Ordinance as amended. Ms. Weinstein seconded. The vote was Mr. Bliss, Mr. Major yes, Ms. Weinstein no.

Discussion/decision regarding a Cooperative Agreement for Lachat- W. Glenn Major. Mr. Major said that the only change to this from was the last time paragraph 1. (a) he added that the purpose of the committee would review and make recommendations to the Selectmen revisions to the “Cooperative Agreement”.

Mr. Major said he worked on the original charge that was done and rewrote it specifically of how we were looking at the barns, the house, the garage, the trails.

Mr. Major made a motion to approve the Mission Statement for an Ad Hoc Lachat Advisory Committee for the creation of the entrance to Devils Den through the Lachat property as submitted. Ms. Weinstein seconded and the motion passed unanimously.

Discussion/Decision regarding mission statement for the Cemetery Committee- Gayle Weinstein- Ms. Weinstein said that she added that the Commission for the Aging could add a non voting member and she set an expiration date for June 30, 2010. Mr. Bliss suggested that it be called the Select Committee on the Town Cemetery and the committee will be appointed at the October 2nd Board of Selectmen’s meeting. The term will end on June 30, 2010.

Ms. Weinstein made a motion to approve the Mission Statement for the Select Committee on the Town Cemetery as amended. Mr. Major seconded and the motion passed unanimously.

Discussion/decision regarding Fairfield’s recommendation to the State Traffic Commission concerning removing the “1967 through truck prohibition” on Rte 136 in Easton, Fairfield and Westport. Mr. Bliss said that some of our residents are impacted and we might want to weigh in on it. After some discussion the Board decided that they wanted to hear what Chief Troxell had to say about it.

Request for property tax refunds-

Roger Rosenfeld Jr.	\$16,396.12
David Sawyer	\$12,758.41
William J. Chepolis	\$8,644.78
Evan D. Ladouceur	\$7,949.49
BMW Financial	\$1,698.30
Daimler Chrysler	\$1,046.22
Toyota Financial	\$991.40
Edward Okine	\$684.46
Daimler Chrysler	\$535.72
William J. Savage	\$500.48
Honda Lease Trust	\$477.21
Chase Auto Finance	\$383.96
Porsche Leasing Co.	\$179.10

Saab Leasing Co.	\$154.52
Brian D. Fradet	\$140.31
John F. Day	\$108.22
Kevin D. Shea	\$86.27
Mark DeVito	\$82.54
Nissan Motor Acceptance Corp	\$66.55
George Mehos	\$45.57
Ron Simon	\$30.45
Christine Tritchonis	<u>\$6.91</u>
Total	\$52,966.99

Mr. Major made a motion to approve the tax refunds and authorize the First Selectman to sign the same as presented on the agenda. Ms. Weinstein seconded and the motion passed unanimously.

Discussion/approval of the minutes of the Board of Selectmen's meetings of April 3, 2008, May 22, 2008, Special Meeting May 27, 2008, June 19, 2008, Executive Session June 19, 2008, Special Meeting July 2, 2008 and Special Meeting July 15, 2008.

Mr. Major made a motion to approve the minutes of the April 3, 2008, May 22, 2008, Special Meeting May 27, 2008, June 19, 2008, Executive Session June 19, 2008, Special Meeting July 2, 2008 and Special Meeting July 15, 2008. Ms. Weinstein seconded and the motion passed unanimously.

Any other business to come properly before the meeting- None

Executive Session- If needed- None

At 10:25 Ms. Weinstein made a motion to adjourn the meeting. Mr. Major seconded and the motion passed unanimously.

Respectfully submitted
 Judy M. DeVito
 Administrative Assistant
 Approved 11/06/08