

**SELECTMEN'S MEETING
SEPTEMBER 10, 2007**

Chairwoman Brunelle called the meeting to order at 7:00 PM.

Selectman Rogers, Selectman Bond, Selectman Spataro, and Selectman Perkins were present.

SELECTMEN'S MINUTES

Upon motion by Selectman Perkins and seconded by Selectman Bond, the Board

VOTED: To approve the Minutes of August 27, 2007.

VOTE 4 - 0 - 1 (Selectman Spataro abstained)

Selectman Perkins noted that the Minutes had indicated there would be further discussion of the proposed Casino Study Committee at tonight's meeting, but it was not placed on the agenda.

Chairwoman Brunelle suggested it be scheduled for next week.

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board

VOTED: To approve the Minutes of September 4, 2007.

VOTE 4 - 0 - 1 (Selectman Bond abstained)

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board

VOTED: To approve the Executive Minutes of September 4, 2007.

VOTE 4 - 0 - 1 (Selectman Bond abstained)

HEARINGS, MEETINGS & LICENSES

Hearing - Request for WRPD Special Permit - Pavestone Company - 18 Cowan Drive

Chairwoman Brunelle read the following: "The Board of Selectmen will hold a public hearing in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, September 10, 2007 at 7:05 PM, for the purpose of discussing an application filed by Merrill Associates, Inc., 427 Columbia Road, Hanover, MA 02339, on behalf of Pavestone Company, for a Special Permit under the Water Resource Protection District By-law, to allow work within 25 feet of a wetland resource area at 18 Cowan Drive in association with site work for additional outdoor storage space and improved interior access. The property is shown as Assessors Map 102 Lot 4042 and Map 103 Lot 4989, zoned GUX, W.R.P.D. "Z4". Anyone wishing to be heard on this matter should appear at the time and place designated." The hearing was opened.

Jack O'Leary, Merrill Associates, was present. He returned the green cards.

Mr. O'Leary told the Board that the proposed work has recently been permitted through the Conservation Commission.

Mr. O'Leary told the Board that the property was originally developed by Reeds Screen-All. Pavestone purchased the property in 2001 as a factory to build concrete blocks. The Company is based in Texas. The product is made through a "dry process" and marketed to Home Depot, homeowners, and developers.

At the time Pavestone took over, a Special Permit from the ZBA was obtained for the change in use. Equipment is stored inside the building and there are outside bins. The blocks are piled on pallets and stored outside the building. The business has been there for 6 years and has expanded.

Wetlands surround several areas of the site, and a wetland associated with a Mass Highway Department drainage ditch crosses the site, leaving a significant area of usable upland landlocked. Work will be kept at least 25 feet from the Bordering Vegetated Wetland for most of the site. However, the applicant is requesting a permit under the WRPD bylaw to cross the narrow wetland associated with the drainage ditch to access the landlocked land. The ditch will be maintained by using a culvert, and the amount of disturbance of the wetland will be kept to a minimum with the use of retaining walls. Wetlands will be restored by a ratio of 2:1.

Mr. O'Leary told the Board that the company is proposing to use 'pervious pavers' as opposed to blacktop. A large percentage of the run off would infiltrate during most storms which would help with the water balance. This is a product Pavestone is hoping to market.

Chairwoman Brunelle read correspondence from the Health Officer and Building Commissioner who expressed no concerns with the request. There are no outstanding taxes due on the property.

Selectman Perkins noted that the Bylaw requires a 2:1 replication of the wetlands. He asked what the procedure would be.

Mr. O'Leary said the areas will be grade changed, lower than the adjacent wetlands, to insure the wetlands stay wet. 6" of loam will be used and it will be planted with wetland plants. The replication area is done under the supervision of wetland scientists who monitor for 2 years. 70% of the vegetation has to be established at that point, and the ConCom would sign off.

Selectman Rogers said he was familiar with the site. He said when the project went to the ZBA in 2001; he was working with the Executive Office of Environmental Affairs, who was concerned with the site. He said the project has turned out to be a "wonderful business". His concern was that the business was to be involved with fly ash used for the closing of the Rezendes Landfill in Lakeville. He said there is no drinking water supply

in the area, but there are community wells for local residents. There are also cranberry bogs. He said assurance was given at the time that the trucks would not be open trucks. He also thought test wells were going to be put in to be periodically tested. He said he has no objection to the request for the WRPD permit, but said he had driven around the site and had a major concern regarding dust. He said it is everywhere. He could not tell if it was from the concrete, or fly ash. He said he was disappointed that the area is not being kept clean. He said he didn't know if Pavestone was still receiving material from SEMASS, but felt obligated to bring his concerns up. He said he was concerned that the material could wash down into the system and leach onto the area. He wanted to make sure none of the material finds its way to the groundwater. He said he is not an "alarmist", but noted residents would not know if wells are contaminated because testing is not required.

Mr. O'Leary said he didn't know if the fly ash was still being used, or if test wells were installed. He said he would find out.

Selectman Rogers said the ZBA Order of Conditions needs to be reviewed. He said the company also owes the Town an explanation for the dust. He said he would be in favor of postponing tonight's hearing until answers were provided as this directly affects the stormwater drainage system that is being proposed.

Selectman Bond asked if a construction plan had been formulated.

Mr. O'Leary said not at this time. The applicant is seeking the WRPD Permit first. Mass Highway will also need to give approval for the crossing.

Selectman Bond noted that there have been complaints from neighbors regarding noise at inconvenient hours coming from the site.

Mr. O'Leary said the construction activity would be during the hours allowed by the Building Department.

Mike Burroughs, 636 Wareham Street, asked if it would be possible to have trucks leaving the construction area make a left turn out of Cowan Drive.

Chairwoman Brunelle said she didn't know if that would be under the purview of the Board.

Selectman Perkins said that would not be under the WRPD Bylaw.

Selectman Bond suggested Mr. O'Leary ask the company if it would be possible to limit the exiting of the property.

Mr. O'Leary said he could ask, but said he thought it would be a problem because the trucks might need to go the other way to get to the highway. He said it is very hard to restrict trucks on highways. He noted that the expansion of on-site storage would

probably help with the truck traffic that is now shipping the blocks to another site for storage.

John Burroughs, 621 Wareham Street, complained about the noise from the site. He was concerned with removed trees that provide a buffer.

Chairwoman Brunelle said a buffer zone is required within the Order of Conditions issued by the ConCom.

Mr. Burroughs asked why he hadn't been notified of the hearing.

Chairwoman Brunelle explained that abutters, within 300 feet, are notified by certified mail. A legal ad is also placed in The Gazette.

Richard Whitman, 653 Wareham Street, complained of the noise from the truck traffic which runs day and night. He also expressed concern for his water and septic system.

Chairwoman Brunelle said she understood the complaints, noting the Board is asking the company to respond. She said the well and dust concerns are within the jurisdiction of the hearing.

Robert Alger, 631 Wareham Street, said he started a petition a year ago regarding the noise. He was concerned with additional noise with the expansion. He said he was a previous employee of Pavestone, and had been told to wear a respirator around the materials which has been known to cause cancer. He said he has dust in the gutters of his house.

Chairwoman Brunelle noted tonight's hearing has nothing to do with noise. The concerns will be relayed to the ZBA once the Board receives the Order of Conditions that were issued to see what restrictions were put on it.

Mr. Alger asked if he should contact the EPA or DEP.

Selectman Rogers asked for some "leeway" to get the conditions. He said he would go to the plant and meet with the operator to find out what's going on. He said he would do some investigation and come back to the Board.

Selectman Spataro suggested a letter be sent to the ZBA with the concerns, asking them to comment.

Mr. Alger asked if the replication would cause more pollution.

Mr. O'Leary said it wouldn't cause any pollution. He said it is usually a beneficial activity.

Brian Giovanoni asked about using the bricks on 5 acres of surface near the wetlands. He was concerned with possible spills.

Paul Veloze, 637 Wareham Street, noted that the Board had placed conditions upon Costello Dismantling including hours and direction of travel.

Chairwoman Brunelle noted that the conditions were placed in conjunction with an Earth Removal Permit.

Selectman Bond asked about the special pavestones that would be used, and where the water goes when it is absorbed.

Mr. O'Leary said it infiltrates to the ground.

Selectman Bond asked if there was a diesel leak, where would it go.

Mr. O'Leary said into the ground. He noted that the area is being used exclusively for storage. Propane forklifts are use. He said the area could be paved if the Board so ordered.

Selectman Bond asked if the dust could also get into the water table.

Mr. O'Leary said, yes, with hypotheticals.

Upon motion by Selectman Bond and seconded by Selectman Perkins, the Board
VOTED: To continue the hearing to October 1, 2007 to allow the applicant to respond to concerns that were brought up including dust in the area that is not being cleaned up, the use of fly ash, and the question of whether or not ground water test wells were required.
Unanimous Vote.

Public Hearing – Proposed Bylaws – Animal Control Officer

Jayson Tracy was present. He told the Board that there are currently three (3) Town bylaws concerning animals.

Hearing (cont.) – Request for Class II License – Hollstein – 217 Center Street

This hearing had been continued from June 25, 2007 to allow the applicant to apply for a Special Permit through the Zoning Board. The Board has received a copy of the approval from the ZBA.

Selectman Bond recused himself from the hearing.

Bob Hollstein was present. He handed out a revised drawing of the proposed layout of the property. He said he has eliminated some parking spots and has created a buffer zone in the rear.

Selectman Spataro asked if the property line is fenced.

Mr. Hollstein said it is on the right side. He is going to extend the fence behind the home of the abutters. The fence is 6'.

Chairwoman Brunelle noted the ZBA approved hours are Monday through Friday, 8 AM to 4:30 PM, and Saturday 8 AM to 12 noon. She noted the property is shared with the Veterans Outreach Center.

Selectman Perkins asked how the Outreach Center would be accommodated.

Mr. Hollstein said that the Veterans operations have been scaled back. There is only 1 employee present to provide transportation. There are no meetings or congregating on the premises.

Selectman Perkins asked how many vehicles Mr. Hollstein was requesting his License for.

Mr. Hollstein said there is room for 17.

Selectman Perkins said he would not be in favor of the request. He said the area is very congested and that type of business would not fit in the downtown.

Chairwoman Brunelle asked if there would be consideration to lowering the number of vehicles.

Mr. Hollstein said he does some sales on the internet. Maintenance is done at a facility in Bridgewater.

Selectman Rogers agreed with Selectman Perkins. He said the request "seems inappropriate for downtown". He also referenced a letter from Anna Nalevanko, Director of the Office of Economic & Community Development, who was not in favor of the request.

Mr. Hollstein said he was trying to make the building sustain itself, noting the income from the Outreach Center is not sufficient.

Selectman Spataro asked if there was parking on the street.

Mr. Hollstein said not legally.

Selectman Spataro said he was concerned with the blocking of the intersection, but noted no one is supposed to park there.

Selectman Spataro asked how many cars Mr. Hollstein could scale back to.

Mr. Hollstein said maybe 10.

Selectman Spataro noted the property used to be a gas station.

Chairwoman Brunelle asked who would be present at the business.

Mr. Hollstein said he would.

Selectman Spataro asked if Mr. Hollstein would be willing to park vehicles in the back of the property, leaving the first 7 spaces open.

Mr. Hollstein said it may be too far back, but he would try to work with it.

Selectman Spataro asked what type of vehicles Mr. Hollstein would have for sale.

Mr. Hollstein said late model vehicles. Others would go to auction.

Neil Rosenthal said he has known Mr. Hollstein for a long time and believed the business would "be a class act". He said he was part of the Committee working on the downtown. There were limitations as to what could go downtown, but there was no agreement to eliminate Class II.

Hearing no further comments, Chairwoman Brunelle closed the hearing.

Upon motion by Selectman Spataro and seconded by Chairwoman Brunelle, the Board
VOTED: To approve the request of Bob Hollstein for a Class II License for 10 vehicles, to be accommodated at the back of the lot to the best of his ability, with other standard conditions and requested hours.

VOTE 2 – 2 (Selectman Rogers and Selectman Perkins against.)

Motion does not pass

Selectman Spataro asked if Mr. Hollstein had the capability to make the request to anyone other than the Board.

Chairwoman Brunelle said no.

Selectman Spataro asked if there would be any scenario that the "no" vote would convert to a "yes" vote.

Chairwoman Brunelle said it appeared there would not be any.

Selectman Perkins said he didn't believe it is a good location. He was also concerned with the dual use. He said there is no plan other than the drawing that was provided as to what would be done with the property. He said he also didn't think the gate enhanced the property.

Mr. Hollstein said he had to put the gate up because the property wasn't being policed.

Selectman Perkins noted the Director of the OECD's recommendation was that it was not a good use for the property. He noted that the Trustees at Massasoit have approved the "St. Luke's project" and this will have a major impact on the downtown.

Mr. Hollstein said he is also interested in keeping the downtown looking nice, and asked if there was a mechanism to deal with a tie vote.

Chairwoman Brunelle said, even if she had abstained, the result would be the same.

Selectman Spataro asked if it would make a difference if the Veterans' Outreach Center wasn't there.

Selectman Perkins said it is a combination of things. He said Mr. Thomas has not indicated that he won't be keeping the Outreach Center there, and he is unaware that there are no group meetings held there. He said there are too many unanswered questions. He said he would like to see something more definitive as to what the property would look like to decide if it would enhance or detract from the downtown.

Chairwoman Brunelle said she wasn't sure what more the applicant could do to make the plan more definitive.

Selectman Spataro asked about putting a fence on the left side of the property to hide the vehicles and working by appointment. He asked if there was concern that the autos would be an eyesore.

Selectman Perkins said that was part of it, along with the traffic.

Mr. Hollstein asked if there would be consideration for 5 vehicles and business through the internet.

Selectman Perkins said he might look at that differently.

Chairwoman Brunelle said the vote has already been taken, and Mr. Hollstein would need to reapply.

NEW BUSINESS

Request to Fill Vacancies – Fire Chief

Discussion ensued on the Fire Chief's request to hire 2 firefighter/paramedics to fill 2 vacant positions.

Selectman Bond asked if the retirees had been paramedics.

Chairwoman Brunelle said there are no paramedics on staff.

Selectman Bond asked if it would be less expensive to just hire firefighters. He said there needs to be discussion with the Tribe as far as timing for an ambulance service.

Chairwoman Brunelle said she thought the Town would be getting a report.

Jane Lopes asked if a stipend is giving for paramedics. She also said she was unclear as to why we would need a back up ambulance up and running prior to taking over the ambulance service.

Selectman Bond explained that a basic service is needed to run for one year in advance of having an advanced service.

Ms. Lopes asked where the ambulance would come from.

Selectman Bond said he assumed it would be part of the agreement with the Tribe.

Ms. Lopes noted that the last conversation with the Public Ambulance Service Evaluation Committee (PASEC) had said a town-run ambulance service would be a losing proposition. She said this has never been taken up again in public.

Selectman Bond said the Board needs to find out the time frame from the Tribe as well as determining the cost and layout from the Fire Department. He believes the previous report's negative recommendation had something to do with the overhead costs being incurred by the Town.

Selectman Rogers agreed the Town needed the firemen. He said a timeline needs to be developed of events that need to occur. He said the request is for 2 budgeted firemen. He said the trend with all departments is to hire firemen with some type of certification.

Selectman Perkins said there are 2, funded, openings. He said if the Chief wants to hire firefighter/paramedics for the same money, there would be no reason not to. He said there is nothing in the current contract to provide specialty pay for a paramedic.

Tom White suggested the EMS Committee that was appointed by the Moderator should be involved in making recommendations regarding a Town ambulance service.

Upon motion by Selectman Bond and seconded by Chairwoman Brunelle, the Board
VOTED: To involve the EMS Committee for discussions about having a Town ambulance service.
Unanimous Vote.

Request to Post Position – Health Officer

Upon motion by Selectman Spataro and seconded by Selectman Perkins, the Board
VOTED: To approve the request of the Health Officer to fill a 20 hour clerk's position that is currently funded.
Unanimous Vote.

Request to Support Mass. Recycles Paper Campaign – Highway Superintendent

Upon motion by Selectman Spataro and seconded by Selectman Perkins, the Board
VOTED: To pass and adopt a resolution in support of the Mass. Recycles Paper Campaign.
Unanimous Vote.

Selectman Perkins said there are a lot of questions regarding recycling. He suggested Mr. Boucher be invited to the meeting on September 24th to clarify recycles for the Landfill and curbside.

Request to Appoint Representative – Plymouth County Advisory Board

Upon motion by Selectman Spataro and seconded by Selectman Perkins, the Board
VOTED: To appoint Selectman Steven Spataro to serve as their Advisory Board Representative for fiscal year 2007-2008
Unanimous Vote.

Request to Issue Proclamation – Lydia Cobb Quequechan Chapter – Daughters of the American Revolution

Upon motion by Selectman Perkins and seconded by Selectman Bond, the Board
VOTED: To issue a proclamation for the two hundred twentieth anniversary of the drafting of the Constitution.
Unanimous Vote.

Town's Option to Purchase Chapterland – Timberland Trust Realty – Highland Street

Upon motion by Selectman Bond and seconded by Selectman Perkins, the Board

VOTED: To forward this request to the Water Superintendent to research the chapterland being offered to the Town to see if there is any value in the property as a potential aquifer.

Unanimous Vote.

Request to Rent Selectmen's Meeting Room – Department of Environmental Protection

Upon motion by Selectman Perkins and seconded by Selectman Bond, the Board
VOTED: To approve the request of the DEP to rent the Auditorium of the Town Hall for a training session to be held on Tuesday, November 13, 2007 from 8:30 AM to 3:30 PM.

Unanimous Vote.

Request to Sign Water Abatements – Assistant to Town Manager

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board
VOTED: To authorize Chairwoman Brunelle to sign a water abatement for property located at 822 Plymouth Street.

Unanimous Vote.

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board
VOTED: To authorize Chairwoman Brunelle to sign a water abatement for property located at 620 Plymouth Street.

Unanimous Vote.

Request to Sign Agreement – American Red Cross

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board
VOTED: To authorize Chairwoman Brunelle to sign an Agreement with the Red Cross in regards to Emergency Shelters in Town.

Unanimous Vote.

Request to Appoint Inspector of Earth Removals – Assistant to Town Manager

Chairwoman Brunelle said she will speak to Don Boucher about taking over Earth Removal inspections in the absence of the Town Manager.

Discussion – Casino/Resort – Attorneys

Upon motion by Selectman Perkins and seconded by Selectman Rogers, the Board
VOTED: To send a letter to Attorney Jon Witten and Attorney Dennis Whittlesey asking what they anticipate is the necessary legal work required to move forward with the casino, including a time frame and estimated costs, and to ask that they do not act on behalf of the Town without first notifying the Board.

Unanimous Vote.

Request to Approve & Sign Order of Taking for Willowtree Lane

Upon motion by Selectman Spataro and seconded by Selectman Perkins, the Board
VOTED: To approve and sign the Order of Taking for Willowtree Lane.
Unanimous Vote.

Request to Approve Walk – Middleboro Education Association

Upon motion by Selectman Spataro and seconded by Selectman Perkins, the Board
VOTED: To approve the request of the MEA to conduct a fundraising walk on
Sunday, October 21, 2007.
Unanimous Vote.

Request to Sign Letter to Renew Comcast License – Permanent Cable Committee

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board
VOTED: To authorize Chairwoman Brunelle to sign a letter requesting to renew
the Comcast Cable License.
Unanimous Vote.

Request to Sign Septic Betterment Notes – Treasurer/Collector

Upon motion by Selectman Perkins and seconded by Selectman Rogers, the Board
VOTED: To sign Septic Betterment Notes for the Treasurer/Collector.
Unanimous Vote.

Request to Sign Septic Betterment Documents – Health Department

Upon motion by Selectman Spataro and seconded by Chairwoman Brunelle, the Board
VOTED: To authorize Chairwoman Brunelle to sign the documents subject to
receiving a cover letter from the Health Officer.
Unanimous Vote.

OLD BUSINESS

12 Highland Street (waiting for decision)

No Discussion.

Downtown Parking

No Discussion.

Lakeville IMA

No Discussion.

TOWN MANAGER'S REPORT

MMA Survey

Upon motion by Selectman Perkins and seconded by Chairwoman Brunelle, the Board
VOTED: To send the MMA Fiscal Pressures and Service Delivery Survey to each department to complete and return.
Unanimous Vote.

Plymouth County Cooperative Extension - Potential Hazardous Trees

Correspondence from the Plymouth County Cooperative Extension will be forwarded to the Health Officer and Tree Warden.

SELECTMEN'S BILLS

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board
VOTED: To pay three bills submitted by Middleboro G&E Department in the amounts of \$33.19, \$10.46, and \$24.52, totaling \$68.17.
Unanimous Vote.

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board
VOTED: To pay the bill submitted by Thevenin, Lynch, Bienvenue, LLP in the amount of \$38,000.00.
Unanimous Vote.

Upon motion by Selectman Perkins and seconded by Selectman Spataro, the Board
VOTED: To forward the bill submitted by Dickinson Wright in the amount of \$96,316.04 to the Middleboro G&E Department for payment, asking for the outstanding balance due.
Unanimous Vote.

Chairwoman Brunelle said the balance due on the bill will have to be supplemented at Town Meeting.

OTHER

Town Charter

Selectman Rogers suggested a committee should be appointed to obtain the appropriate number of signatures to direct the Board to elect a 9 member Charter Commission.

Motion was made by Selectman Rogers and seconded by Selectman Perkins to appoint an ad hoc committee to obtain the signatures.

Discussion ensued.

Neil Rosenthal said he wasn't sure that there was a need to change the Charter. He said Charter Commissions have been appointed in the past but become "bogged down". He the current Charter is a good one. The Town Manager duties may have to be expanded, but he wasn't sure of the need to go through the process Selectman Rogers referred to. He also noted this was not a scheduled agenda item tonight and suggested it should be put on a future agenda for discussion.

Chairwoman Brunelle said the Town Clerk's office has the proper procedure. She agreed with Mr. Rosenthal that this should be an agenda item for a full discussion. She noted that some of the suggestions in the DOR Report would require a Charter change.

Selectman Rogers withdrew his motion.

Discussion will be scheduled for September 24th.

Vic Sylvia said he has been involved with 5 past Charter Commissions. He said 2 people had obtained all necessary signatures.

Selectman Rogers said he was surprised at how many communities have adjusted their Charters over the last 10 years.

Discussion ensued on the DOR Report.

Chairwoman Brunelle reminded the Board that discussion was postponed until a new Town Manager and Town Accountant were hired.

Upon motion by Selectman Rogers and seconded by Selectman Spataro, the Board
VOTED: To put the DOR Report on the September 24th agenda for discussion,
and to ask Judy MacDonald and Sandy Bernier to be present.
Unanimous Vote.

Selectman Bond suggested that comments, in writing, be provided to the Board in next week's packets.

CORRESPONDENCE

Upon motion by Selectman Perkins and seconded by Selectman Rogers, the Board
VOTED: To hold correspondence until tomorrow night's meeting.
Unanimous Vote.

Upon motion by Selectman Perkins and seconded by Selectman Rogers, the Board
VOTED: To enter into Executive Session at 10:10 PM, not to return to Open
Session, for the purpose of discussion Contract Negotiations and Litigation.

Selectmen's Meeting
September 10, 2007

A poll vote was taken. Selectman Bond, Selectman Rogers, Selectman Spataro,
Selectman Perkins, and Chairwoman Brunelle approved.

VOTE 5 -0



Diane Henault, Secretary
BOARD OF SELECTMEN